



Department of Justice

STATEMENT OF

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ASSOCIATE DEPUTY ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE ON TERRORISM AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

“GOVERNMENT PREPAREDNESS AND RESPONSE TO A TERRORIST ATTACK
USING WEAPONS OF MASS DESTRUCTION”

PRESENTED

AUGUST 4, 2010

**Statement of
James A. Baker
Associate Deputy Attorney General**

**Before the
Subcommittee on Terrorism and Homeland Security
Committee on the Judiciary
United States Senate**

**Entitled
“Government Preparedness and Response to a Terrorist Attack
Using Weapons of Mass Destruction”**

August 4, 2010

Thank you, Mr. Chairman and Members of the Subcommittee. The Department of Justice appreciates the opportunity to appear at today’s hearing to discuss its ongoing efforts to address the many important issues identified in the Inspector General’s recent report concerning the Department’s preparation to respond to an incident involving a weapon of mass destruction (“WMD”).

The Department is grateful for the Inspector General’s work in preparing the report and highlighting areas in which the Department can — and must — improve its planning to respond to a WMD incident and other catastrophic events. As we explained in our official response to the report, “The Department of Justice believes the fundamental conclusion of the report is sound: The Department should do more in order to formally and centrally coordinate emergency response activities of all appropriate [Department] components.” In addition, we concur with the Inspector General’s conclusion that every component in the Department, not just the FBI, must be prepared for a WMD incident. We agree that the Department should review its existing emergency preparedness policies and, as appropriate, tailor those policies to meet the unique challenges posed by WMD attacks. Finally, we also agree that the Department must ensure that it is prepared to meet its responsibilities under the National Response Framework, particularly its responsibility under Emergency Support Function 13 (“ESF-13”) to coordinate the use of Federal law enforcement resources to maintain public safety and security if an incident overwhelms State and local resources.

Thus, the Department agrees with the report’s recommendations and conclusions, and, as explained below, we are already in the process of implementing those recommendations. I do not want to suggest, however, that every component in the Department should or will respond to the concerns identified by the Inspector General in an identical manner. Although every component of the Department must be prepared for a possible WMD attack, some components naturally have greater WMD expertise and responsibilities than others. The FBI, for example, has primary responsibility within the Executive Branch for preventing and investigating domestic WMD incidents. Given these critical responsibilities, the FBI’s planning and training

for WMD events will inevitably be different in some respects from other components, which are farther removed from the on-the-ground, day-to-day investigative response to a WMD incident. Similarly, though the report highlights steps the Department should take to improve its management of emergency preparedness issues, it would be unfortunate if these observations overshadowed the excellent preparedness work done on a day-to-day basis by career staff in components across the Department.

With those caveats, let me reiterate that the Department agrees with the Inspector General's essential conclusions and recommendations. The Department of Justice must improve its management of emergency preparedness issues, it must ensure that all components understand how to respond to a WMD incident, and it must fulfill its responsibilities under the National Response Framework and ESF-13.

Since the Inspector General issued his report on May 28, 2010, Acting Deputy Attorney General Gary Grindler has ordered a comprehensive, across-the-board review of the Department's emergency preparedness policies and procedures. The review includes, among other things, the Department's management of emergency preparedness issues, its plans for addressing a WMD incident, its roles and responsibilities under the National Response Framework and ESF-13, and its plans for continuity of operations in the event of a catastrophic event. The Acting Deputy Attorney General has been clear: The crush of other business is no excuse. The Department must review and resolve the issues identified by the Inspector General.

To manage this review, and to address some of the coordination concerns raised by the Inspector General's report, the Acting Deputy Attorney General ordered the establishment of a new Department committee, the Emergency Preparedness Committee ("EPC" or "committee"), which I chair. The EPC is comprised of representatives from every law enforcement component in the Department, as well as many of the Department's management, policy, and litigating components. The committee and its various working groups have been meeting throughout the summer to develop plans for addressing the issues identified by the Inspector General. The Acting Deputy Attorney General has instructed the committee to complete its review by October 10, 2010.

While the EPC's review is ongoing and, in many ways, evolving as it progresses, the committee is already taking concrete steps to address the issues raised by the Inspector General's report:

WMD: In June, the EPC appointed a WMD working group. This group is comprised of representatives from every DOJ law enforcement component, as well as the Office of the Deputy Attorney General, the National Security Division, and the Executive Office for U.S. Attorneys. The WMD working group is examining the Department's current all-hazard preparedness procedures and exploring how they might be adjusted to address a WMD incident. In particular, the WMD working group has begun using WMD scenarios (focused on the National Capitol Region) to test how our current plans would address a WMD attack. Some of the objectives of these exercises are to examine the adequacy of existing plans to deal with a WMD incident, to index specific assets that the Department might have available to handle a WMD response, and

to determine how we might integrate and apply to other components the excellent WMD-specific planning and training already conducted by the FBI.

ESF-13: The EPC has also appointed a working group consisting of representatives from all law enforcement components in the Department, as well as some of the Department's senior leadership offices, to evaluate (1) the Department's roles and responsibilities under ESF-13, (2) whether the Bureau of Alcohol, Tobacco, Firearms, and Explosives, should continue to manage the Department's ESF-13 responsibilities (both during the next few months and on a longer-term basis), and (3) the type of resources the Department must devote to ESF-13 — both in the short-term and the long-term — to ensure that the Department is prepared at the national and regional level to respond adequately in the event of an ESF-13 activation. This group, which has been meeting on a nearly weekly basis, has already identified preliminary steps that the Department can take at relatively little cost to improve its ESF-13 posture. For example, to promote Department support of the ESF-13 mission, it has asked all law enforcement components in the Department to designate a primary representative for ESF-13 issues. In addition, it is increasing the Department's outreach to State emergency management officials to identify and resolve in advance as many issues as possible that may complicate the use of Federal law enforcement officials in the event of an ESF-13 activation.

COOP: The EPC has also established a continuity of operations (“COOP”) working group and charged it with auditing components COOP plans to ensure that they are in compliance with existing National Response Framework and National Incident Management Systems requirements, as well as with identifying specific, relatively inexpensive steps the Department could take in the next few months to ensure that components are regularly testing their COOP plans and procedures, as they are already required to do. More generally, this group is in the process of reviewing the Department's internal authorities and delegations on preparedness issues to ensure they are up to date. We anticipate the Department will issue a number of new directives in the coming months regarding COOP issues.

Management and Coordination: As part of its review, the EPC is also exploring how the Department can better manage the numerous planning, policy, training, exercise, and interagency coordination requirements associated with emergency preparedness. While the creation of the Emergency Preparedness Committee is a solid first step for improving coordination, the consensus thus far in our review (which was also reflected in the Inspector General's report) is that the Department should consider establishing a permanent office (perhaps within the Office of the Deputy Attorney General) led by a senior-level Director with overall responsibility for coordinating and managing emergency preparedness issues on a daily basis.

Resources and Training: In an effort to better ensure that the Department is using all of its preparedness resources as efficiently as possible, the EPC is also conducting a comprehensive review of how the Department deploys those resources. Accordingly, the committee is reviewing the number of employees in the Department who currently work on emergency preparedness issues and the various preparedness-related committees and working groups in which components in the Department participate. Likewise, the EPC is reviewing the type of

emergency preparedness training programs currently employed around the Department. Drawing upon this information, the EPC hopes to develop a basic emergency preparedness training program that could be used throughout the Department. Similarly, the committee is also in the process of collecting information from existing databases to identify all Department of Justice employees by geographic region, so that we are quickly able to identify the people and other resources the Department may have available (and may have lost) in the event of a catastrophic event, such as a WMD attack.

Certainly, these are initial steps, and they do not yet address all the issues identified by the Inspector General's report. The Department is determined to resolve the concerns raised by the Inspector General's report, and it is committed to working with the Inspector General and Congress until we are all confident that the Department is fully prepared to respond to a catastrophic event like a WMD attack.

Thank you again, Mr. Chairman, for the invitation to appear today. I am happy to answer any questions.