TESTIMONY OF

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CHIEF OF POLICE
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EASTERN REGION REPRESENTATIVE
MAJOR CITIES CHIEFS ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON EMERGENCY
PREPAREDNESS, REPONSE, AND RECOVERY
COMMITTEE ON HOMELAND SECURITY
U.S. STATES HOUSE OF REPRESENTATIVES

"STATE AND LOCAL PERSPECTIVES ON
DHS PREPAREDNESS GRANT
PROGRAMS"

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Chairwoman Demings…Raking Member Cammack…and Distinguished Members of the Subcommittee:

Thank you for the opportunity to participate in today's hearing. I appear before you today as the Chief of Police in Orlando, Florida. It is also my privilege to testify on behalf of the Major Cities Chiefs Association (MCCA), a professional association of Police Chiefs and Sheriffs representing the largest cities in the United States and Canada, of which I currently serve as a member of the Executive Board. It is particularly special to testify in front of a panel led by two Congresswomen from my home state of Florida. It is also an honor to appear before Chairwoman Demings, who is the former chief of the police department I am now privileged to lead.

Local law enforcement is on the front lines of responding to any emergency, whether it be a terrorist attack, natural disaster, or global pandemic. FEMA preparedness grants are critical resources that bolster law enforcement's ability to prevent and respond to terrorist attacks and other associated threats. The Homeland Security Grant Program (HSGP), which includes the Urban Area Security Initiative (UASI) and State Homeland Security Grant Program (SHSP), are particularly valuable for local law enforcement.

These programs have only grown in importance as the threat environment facing the homeland becomes more complex, especially as local law enforcement is consistently asked to take on more responsibilities and stretch limited resources further. My testimony will provide a local law enforcement perspective on these critical programs and offer a few suggestions on how they may be improved. More specifically, I will touch on recent changes that have been proposed to these grant programs, outline ways to enhance the predictability and integrity of the funding formulas, and discuss some of the challenges law enforcement has faced over the past year.

Proposed Changes to FY 2021 Notice of Funding Opportunity
As you likely are aware, in advance of the release of the Fiscal Year (FY) 2021 Notice of Funding Opportunity (NOFO), FEMA considered making a few significant changes to UASI and the State Homeland Security Grant Program. These changes would have impacted how funding gets distributed and the amount of funding that some jurisdictions receive. While not implemented in Fiscal Year 2021, I understand that some of the changes are still being considered for inclusion in future Notices of Fundings Opportunities. The MCCA has voiced concerns about some of the proposed changes and calls on FEMA and Congress to work closely with stakeholders throughout the entire process to ensure potential changes to these grant programs are carefully vetted and considered.

Changes to Risk Calculation Formula
One proposed change would have altered how FEMA calculates risk. FEMA uses three components—threat, vulnerability, and consequence—to determine risk. Currently, consequence is weighted more heavily than threat or vulnerability. Under the proposed change, each component would have an equal weight.

By statute, UASI funding is limited to the urban areas that comprise 85% of the national risk. Since the input for consequence in FEMA's risk methodology is driven primarily by a jurisdiction's population and population density, this risk is currently consolidated in roughly 30 cities. By weighting consequence equal to threat and vulnerability in the formula, the number of cities that

comprise 85% of the national risk will more than double. This will force FEMA to spread already finite funds more thinly, thereby impacting the program's effectiveness. Should this change be included in future Notices of Funding Opportunities, Congress must ensure there is a requisite increase in appropriations for UASI.

Competitive Funding
Another proposed change would have made UASI funding one hundred percent competitive. Currently, UASI jurisdictions receive a targeted funding range based on their risk. As part of the proposed change, UASI funding would be split into one of three buckets, and cities would compete for funding with the other cities in their same bucket.

There are several challenges associated with making UASI funding fully competitive. First, it will likely result in funding inconsistencies and complicate preparedness planning since it will be nearly impossible for cities to predict how much funding they'll receive in a given year. This challenge will only be exacerbated during years that cities move into a new bucket. Second, having the cities with the most considerable amount of risk compete against each other will leave gaping holes in risk mitigation for some of the most attractive targets for terrorism throughout the United States. Finally, a competitive UASI program could very well result in a situation where funding is skewed toward those cities that can write the "best" grant application. UASI is designed to enhance preparedness, and awards should be made based on applicants' risk, not the quality of their grant writers.

Dedicated Funding Requirements
To receive their full allocation of UASI and State Homeland Security Grant Program funds, grantees must dedicate a certain percentage of funds to projects that meet the criteria outlined in statute or the grant program's Notice of Funding Opportunity. Congress and FEMA must ensure that these requirements align with the threats facing grant recipients. The percentage of a recipient's award that must be dedicated to these obligations has continued to grow year after year. If this pattern continues, Congress and FEMA should also consider establishing separate funding streams for specific activities to help ensure grantees have sufficient funding to invest in projects to address risks outside of the program-mandated priorities.

Law Enforcement Terrorism Prevention Activities Threshold
Following the 9/11 attacks, Congress created the Law Enforcement Terrorism Prevention Program to help build state, local, and tribal law enforcement's capabilities to respond to terrorist attacks. This program has been steadily weakened over the years, and in 2007, it stopped receiving funding as a standalone grant program. It was replaced with Law Enforcement Terrorism Prevention Activities (LETPA), and states are now required to use 25% of all UASI and State Homeland Security Grant Program funds for Law Enforcement Terrorism Prevention Activities.

Despite the program being reduced to what is essentially a bureaucratic requirement for states to receive FEMA funding, the required spending on Law Enforcement Terrorism Prevention Activities still provides value. For example, one MCCA member uses this specific carve-out to help fund its fusion center and Chemical Biological Radiological Nuclear Explosive (CBRNE) teams.

There have been recent efforts by some to remove or further reduce the Law Enforcement Terrorism Prevention Activities requirement. If successful, this would significantly impact the amount of federal funding dedicated to local law enforcement's unique role in preventing terrorist attacks. This undoubtedly would be detrimental to homeland security overall, especially in the current budget environment where law enforcement is continually asked to respond to new threats and do more with fewer resources. If Congress is not willing to restore the existing Law Enforcement Terrorism Prevention Activities threshold to an independently funded program, it must, at minimum, ensure the current requirement in statute is not weakened further.

National Priority Areas
Beginning in Fiscal Year 2020, FEMA began to require that grant recipients use specific percentages of UASI and State Homeland Security Grant Program funds to address certain National Priority Areas. In Fiscal Year 2021, grantees will be required to spend 30% of their funds on these National Priorities Areas, a 10% increase over the Fiscal Year 2020 requirement. Notably, funding projects in these areas can also be used to meet the Law Enforcement Terrorism Prevention Activities threshold, potentially limiting the ability of law enforcement to utilize the Law Enforcement Terrorism Prevention Activities set aside for terrorism prevention activities that fall outside of these priorities. While the establishment of National Priorities Areas can undoubtedly help ensure that limited grant funding is used to help address the most significant threats facing the country, these priorities must be developed in consultation with key stakeholders to ensure they reflect the needs of UASI and State Homeland Security Grant Program grantees.

Direct Funding Streams for Fusion Centers
Created initially to break down silos of intelligence among partner agencies and enhance information sharing, the fusion center network has taken on a primary role in intelligence and information sharing at the local, state, and federal levels. As the threats that local law enforcement is asked to mitigate metastasize, the need for robust information sharing has only increased. Fusion centers play a critical role in ensuring law enforcement personnel across the Nation, at all levels of government, can access the information they need to keep our communities safe.

Despite fusion center's critical role in the homeland security enterprise, there are currently no direct funding streams to maintain the network of fusion centers. While Homeland Security Grant Program funding can be used for this purpose, it does not explicitly carve out designated amounts. As a result, fusion centers may need to compete with other priorities and projects for grant dollars. This can produce uncertainty and potentially put vital programs and capabilities at risk. While FEMA recognizes the important role fusion centers play and preparedness grants have prioritized fusion centers for several years, Congress should consider establishing a separate funding stream for fusion centers.

Predictability and Integrity
It is not uncommon for projects funded by FEMA preparedness grants to be multi-year efforts. Grantees often engage in years-long planning processes to ensure they can use grant funding to address threats and priorities in their jurisdiction in a timely manner. For these efforts to be successful, there must be predictability and integrity in the risk calculation and funding allocation process FEMA uses each year.

Engagement with Stakeholders
Strong partnerships across all levels of government are critical if preparedness grants are to be as effective as possible. FEMA is an essential partner, and improvements can be made concerning stakeholder engagement. More specifically, there needs to be a more formal process for soliciting local law enforcement input on preparedness grants. For example, FEMA's consultation with MCCA members while developing the National Priorities Area included in the FY 2020 Notice of Funding Opportunity was limited. The engagement regarding the proposed changes to the FY 2021 Notice of Funding Opportunity was also haphazard. This is concerning given that nearly every UASI jurisdiction is a MCCA member.

Providing local law enforcement and other key stakeholders with the opportunity to ensure their voices are reflected in the policymaking process will help ensure transparency in grant directives and guidance. Working with stakeholders ahead of time will also help mitigate situations where a FEMA policy change forces grantees to make last minute pivots in their planning processes, which can inhibit their ability to effectively allocate the resources these grants provide.

The MCCA was pleased to hear that Secretary Mayorkas recently instructed FEMA to host a series of listening sessions and other engagement events with Homeland Security Grant Program stakeholders, including law enforcement associations like the MCCA. The MCCA looks forward to collaborating with FEMA to provide our perspective and input on future grant guidance.

Transparency in Risk Profile Calculation
There is a need to inject additional transparency into the risk validation process that is used to determine funding allocations for UASI and the State Homeland Security Grant Program. While states, territories, and UASI-eligible Metropolitan Statistical Areas (MSA) are allowed to review and comment on their risk profiles, there is a lack of detailed information. For example, while the risk profile explains how each element of the profile is calculated and notes the sources used, grantees are unable to see the specific data utilized. This makes it challenging to provide substantive feedback, confirm the calculations are accurate, or raise other concerns. For example, after a historical data call, one MCCA member learned that several of their critical infrastructure assets had been omitted, resulting in the Metropolitan Statistical Area's risk being miscalculated.

In light of these challenges, FEMA should let personnel from each jurisdiction, with the appropriate clearances, see the specific data used to formulate the risk profile. This will help increase transparency, further FEMA and stakeholder engagement, provide another opportunity for state and local threat information to be incorporated, and ensure the risk to communities across the Nation are being calculated accurately.

Accounting for Tourism in the Risk Formula
Orlando and several other MCCA members that receive UASI grants are unique in that the number of annual visitors is significantly greater than the local population. For example, in 2018, Orlando was one of America's most-visited destinations, welcoming 75 million visitors.[1] The U.S. Census

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[1] "Orlando Announces Record 75 Million Visitors, Solidifies Ranking as No. 1 U.S. Travel Destination," *Visit Orlando,* May 9, 2019. <https://www.visitorlando.com/media/press-releases/post/orlando-announces-record-75-million-visitors-solidifies-ranking-as-no-1-u-s-travel-destination/>

Bureau estimated that the population of the entire Orlando-Kissimmee-Sanford Metropolitan Statistical Area in 2018 was only 2.6 million.[2]

The sheer number of tourists coupled with the fact that many of them are visiting soft targets—such as Orlando's many theme parks—represents a substantial risk that should be accounted for in FEMA's risk methodology. Until recently, tourism-related metrics, such as special events and daily visitors, were not included. Once these factors were incorporated, several prominent tourist destinations saw significant increases in their UASI funding allocations. FEMA must continue to review and update its risk formula as necessary to ensure it properly weights the unique needs of tourist destinations.

It is also important to ensure the risk methodology is resilient and flexible enough to account for challenges related to being a tourist destination. This point has been underscored by the COVID-19 pandemic, which has significantly impacted tourism and the number of special events held throughout the country. Jurisdictions who rely on such factors to ensure their risk is accurately represented should not face the prospect of decreased funding due to acts of God or other incidents that are outside of human control and impossible to predict. The MCCA understands that FEMA made slight changes to its Fiscal Year 2021 risk methodology to account for the impacts of COVID-19 and encourages FEMA to continue to exercise discretion, as necessary, to account for the effects of future incidents and crises.

Timely Disbursement of Funding

Once a project using UASI and State Homeland Security Grant Program funding is approved, it is important that FEMA disburses the necessary resources expeditiously. Several MCCA members have expressed concern with navigating FEMA's bureaucracy and getting the funding released for some projects quickly. Things become even more complicated when grantees are trying to fund a project that requires additional levels of approval from FEMA, such as the acquisition of controlled equipment. Failure to disburse funds in a timely manner is not only detrimental to homeland security as it inhibits recipients from mitigating risks as efficiently as possible, but it also can cause challenges as grantees work to coordinate project delivery with other public safety entities, vendors, and other stakeholders.

Additional Preparedness Challenges

Although today's hearing is focused on FEMA's grant programs, a conversation on preparedness would not be complete without mentioning some of the other challenges facing local law enforcement. A global pandemic, a national conversation on policing, widespread civil unrest, and the emergence of new threats have created one of the most challenging environments for local law enforcement in recent memory. I am proud of how the brave members of local law enforcement rise to meet these challenges every day to keep our communities safe.

COVID-19

Local law enforcement has remained on the front lines throughout the COVID-19 pandemic. Especially early on in the pandemic, MCCA members had to make drastic changes to their operations in order to continue offering essential services and ensuring public safety.

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[2] "Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2019," *United States Census Bureau.* <https://www.census.gov/data/tables/time-series/demo/popest/2010s-total-metro-and-micro-statistical-areas.html>

Furthermore, nearly every major city in the country experienced upticks in violent crime throughout the pandemic. Local law enforcement continued to address these calls for service, despite at times having large segments of the workforce quarantined. Finally, the strain COVID-19 placed on local budgets will undoubtedly impact local law enforcement well beyond the end of the pandemic. Federal assistance, provided through legislation such as the *CARES Act* and the *American Rescue Plan*, has been instrumental as communities across the country continue to respond to and recover from this crisis.

Cybersecurity

Over the past decade, law enforcement agencies have experienced an increase in cyberattacks by both criminal entities and "hacktivists." Considering their prominent public role and the sensitive information on their systems and networks, police departments, including many MCCA members, have become popular targets for ransomware, denial of service, and doxing attacks. As law enforcement relies more and more on technology systems to carry out its mission, these attacks can have catastrophic effects. For example, a ransomware attack could deny police officers access to critical records and investigative files, and denial of service attacks could take 911 dispatch centers offline, making it more difficult to get help to citizens in need. During the civil unrest that occurred throughout the summer of 2020, many MCCA members also struggled with having personnel and their families subjected to harassment and other threats to their safety as a result of being doxed.

Law enforcement agencies can be especially vulnerable if their technology systems are outdated, or they do not adequately train their personnel to mitigate cyber threats. These challenges can be exacerbated by police departments' connections with larger municipal networks, which may be less secure and provide an alternative vector for attacks. We are lucky in Orlando to have a great Chief Information Officer that understands the seriousness of these threats and has taken numerous steps to secure our city's systems from infiltration.

Congress can take a few steps to help local governments, including local law enforcement agencies, better mitigate cyber threats. First, Congress must ensure the grant programs that help build local cyber capacity, such as the Homeland Security Grant Program, are fully funded. Congress should also continue to ensure agencies such as DHS's Cybersecurity and Infrastructure Security Agency (CISA) have the authorities and resources needed to continue programs and efforts designed to help law enforcement prevent and respond to cyberattacks.

Domestic Violent Extremists

The recent rise in domestic violent extremism (DVE) is another threat that local law enforcement is currently working diligently to address. Local law enforcement, including MCCA members, is no stranger to addressing extremist threats, having been a key stakeholder in responding to the rise in homegrown violent extremism just a few years ago. Unfortunately, Orlando knows just how dangerous extremism can be and how extremist violence can devastate a community. The Orlando Police Department has been able to apply many of the lessons learned from the Pulse Nightclub tragedy to mitigate other threats and prevent extremist violence.

The importance of developing strong relationships between federal, state, and local law enforcement authorities cannot be emphasized enough. These relationships often manifest themselves in joint investigations, increased information sharing, and other initiatives that are

critical in addressing threats such as domestic violent extremism effectively. Through its oversight efforts, Congress must continue to ensure federal agencies work closely with their local counterparts and that mechanisms for promoting this collaboration, such as fusion centers, are adequately funded. The MCCA also commits to continue to serve as a conduit between our membership, the federal government, and other key stakeholders to help build those relationships.

Congress must also ensure that law enforcement retains access to the tools and technology that assist with investigations, including domestic violent extremism investigations, such as facial recognition. Facial recognition is a valuable tool that helps generate leads and makes law enforcement operations more effective and efficient. Congress must also address the threat posed by the ability of extremists and other violent criminals to "go dark." These challenges have frustrated ongoing investigations and hindered law enforcement's ability to detect additional extremist activity and combat everyday violent crime.

Conclusion
FEMA's grant programs undoubtedly provide critical resources and help ensure that local law enforcement is prepared to prevent and mitigate the variety of threats that fall under our purview. On behalf of the Major Cities Chiefs Association and the Orlando Police Department, I'd like to thank the Committee for both its support of the Homeland Security Grant Program, including UASI, and continued oversight efforts to ensure the program meets the needs of local law enforcement. I also must thank the Committee for the support it has shown for the brave members of local law enforcement during one of the most challenging years in the history of our noble profession. The MCCA looks forward to continuing to work closely with all of you to achieve our shared goal of securing our communities from all threats.

I look forward to answering any questions the Committee may have.