NASCO

National Association of Security Companies

Testimony of Stephen Amitay, Esq.
Executive Director and General Counsel

National Association of Security Companies (NASCO)

Before the
The House Committee on Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management

HEARING:
"Examining the Federal Protective Service: Are Federal Facilities Secure?"

May 21, 2014

Testimony of Stephen Amitay, Esq.
Executive Director and General Counsel
National Association of Security Companies (NASCO)
Before the
House Committee on Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management
Hearing on
"Examining the Federal Protective Service: Are Federal Facilities Secure?"
May 21, 2014

Introduction

The DHS website states that "the FPS mission is to render federal properties safe and secure for federal employees, officials and visitors in a professional and cost effective manner" and FPS is the primary agency responsible for providing law enforcement and related security services for the approximately 9,600 federal facilities under the control and custody of the General Services Administration (GSA). FPS has about 1,200 full-time employees and about 13,500 contract "Protective Security Officers" (PSO's) -- from approximately thirty contract security companies -- deployed at thousands of GSA controlled federal facilities (generally Federal Security Level III and IV facilities).[1] Other federal buildings and structures are protected by some three dozen other federal executive branch agencies many of whom also utilize security officers from contract security companies. Not including the military services, there are approximately 35,000 contract security officers deployed at federal facilities. [2] While the GAO and Congress have identified problems and challenges that FPS faces in ensuring federal facilities are secure, FPS and its contract security partners are working together to address these issues, and federal agency use of contract security officers is a proven cost effective means to safeguard federal facilities, employees and visitors. [3]

---

[1] GAO: FEDERAL PROTECTIVE SERVICE: Challenges with Oversight of Contract Guard Program Still Exist, and Additional Management Controls Are Needed GAO-13-694, Sep 17, 2013 http://www.gao.gov/assets/660/657920.pdf As to which facilities actually have PSO's onsite, a 2011 GAO Report stated that "FPS provides security personnel to about 2,360 (GSA) facilities..." GAO: FEDERAL FACILITY SECURITY: Staffing Approaches Used by Selected Agencies GAO-11-601 June 2011. http://www.gao.gov/assets/330/320625.pdf

[2] The largest amount of contract security officers work for FPS (approx. 13,500), the United States Marshal Service (approx. 5,000), and the Department of Energy (approx. 5,000). Other federal agencies/instrumentalities that use contact security include: IRS, NASA, FAA, USDA, DOT, DOC, HHS, SSA, NARA, DOL, FDIC, US Coast Guard, State, DIA, NRC, Holocaust Museum, and Smithsonian. Private screening companies/personnel are also being utilized successfully at various airports around the United States under the TSA Screening Partnership Program.

[3] Some have suggested that better security at federal facilities could be achieved by "federalizing" the majority of FPS PSO's (who are stationed at Level III and Level IV facilities). However, federalizing PSO's would not only be cost-prohibitive but there is no performance-based evidence supporting this notion. In a 2009 hearing before the Senate HSGAC ("The Federal Protective Service: Time for Reform" April 19, 2009), then FPS Director Gary Shenkel estimated that on an annualized cost basis (thus not including retirement benefits) federalizing FPS security

NASCO is the nation's largest contract security trade association, whose member companies employ more than 300,000 security officers across the nation servicing commercial and governmental clients. NASCO member companies and companies who are members of the NASCO "Government Security Contractors Caucus" provide security officers to numerous federal agencies, including the majority of Protective Security Officers (PSO's) at FPS.

As FPS readily recognizes, "Protective Security Officers (PSO) are the front line of the Federal Protective Service in our mission to protect federal facilities, tenants and visits. PSOs are the most visible security presence and the first public contact with security most individuals have upon entering a building...The PSO Program is critical to FPS in ensuring the safety and security of Federal facilities and offices located through out the United States. (PSOs) are given a number of important responsibilities that include but are not limited to: facility access control; identification of criminal and suspicious activity, detection of prohibited and other hazardous items and situations; emergency response and evacuation assistance."[4]

Therefore it is also critical that FPS and its security contractors address issues and challenges identified with the PSO Program. Since 2007, NASCO has been working with FPS, Congress, the GAO, and GSA on various issues and legislation related to the PSO Program, and FPS and its security contractors need to continue to work together to make improvements to the Program.

There also needs to be improvement in the lines of communication between FPS headquarters, the regional officials, contract officers, contracting officer representatives, GSA, and federal tenants so there is a greater uniformity in the treatment of security contractors and PSO's and greater understanding of what exactly (as specified by the Statement of Work) is required of contract security companies and PSO's. On such issues as firearms qualification standards, facility screening requirements, contractor self-testing, and others contract security companies and PSO's can caught in the cross-fire of conflicting directives. FPS must also continue to work with GSA and federal tenants to gain a better understanding of their facility security needs and expectations.

FPS is well aware of the various PSO Program issues (and is constantly reminded by GAO) and progress is definitely being made to address them. Since the appointment of Director Patterson in 2010, the degree of dialogue and breadth of cooperation between FPS and security contractors has been unparalleled. With Director Patterson's approval and support, NASCO and FPS security contractors have been working closely with both the FPS Assistant Director for Training and the PSO Program Manager on a variety of

---

officers would increase costs by about 35% or an extra $400M per year and converting PSO's to federal police officers would cost two to three times as much per officer. More so, in terms of performance, a 2011 GAO Report (GAO: FEDERAL FACILITY SECURITY: Staffing Approaches Used by Selected Agencies GAO-11-601 June 2011. http://www.gao.gov/assets/330/320625.pdf) looked at federal agency use of federal security officers and contract security officers and found no differences in performance (but found that using federal officers was more expensive and provided less personnel flexibility and more difficulty in disciplining non-performing officers). [3] One can also look at the current performance problems of the federalized TSA screener force as well as performance comparisons between federal screeners and private screeners at non-federal airports. "Federalization" is clearly not the prescription for better screening performance.

[4] Federal Protective Service, *Protective Security Officer SMART Book (Security Manual and Resource Tool),* 2014. Chapter 1, "Mission and Organization." Pages 5-7.

topics. While on some issues the progress being made might not be as fast as GAO and security contractors would like; nonetheless, FPS' commitment to improving the PSO Program is unquestionable.

Additionally, in the field there have been improvements, driven from headquarters, which have brought greater standardization in the contract process. There is still much work to be done, but FPS's attention to and management of its contract security force has come a very long way in the past decade. NASCO looks forward to continuing to work closely with Director Patterson and others at FPS to improve various aspects of the PSO Program which in turn will improve federal facility security.

Below are some of the issues and areas related the PSO Program that FPS is currently addressing.

PSO X-ray and Magnetometer Screening Training

In the critically important area of providing x-ray and magnetometer training for PSO's, a deficiency GAO has highlighted on numerous occasions, FPS, working with NASCO, developed and is now implementing a pilot program for training and certifying security contractor instructors to provide x-ray and magnetometer training to PSO's. Until now, unlike at most other federal agencies that use contract security officers where the security companies provide the x-ray/mag training, at FPS all the PSO x-ray and magnetometer training had to be provided by FPS personnel. However, the same FPS Inspectors responsible for providing the training are also responsible for conducting facility security assessments (FSA's), post-inspections, PSO performance and record oversight, patrols, response, and other duties. As a result, as GAO has noted, FPS has struggled to provide the training and some PSO's never receive the required training. Security contractors already provide 90% of all PSO training and have dedicated trainers. Therefore, turning over the x-ray/mag training to the companies, under FPS oversight, will result in more effective and efficient training and close the current training gaps. With FPS increasing the PSO screener training to 16 hours (with an annual 8 hour refresher), the need for its security contractors to be conducting this training is imperative.

Active Shooter Training

GAO has noted that while other agencies are already providing active shooter training to its contract security officers, the current FPS "training" is light to non-existent.[5] However, FPS is moving rapidly to address this issue on several levels.

First, late last year, FPS provided PSO's with "Active Shooter Instructions" that are now part of their post orders.

Second, in the new PSO SMART Book (Security Manual and Resource Tool) --- the PSO bible --- there is a new section on "Active Shooter" that spells out PSO actions in an active shooter situation. While some of the language in the Active Shooter section can probably be further refined and /or clarified (something the PSO program management said it is more than willing to do), it does make it clear that in a "life or

[5] DoE, State, Commerce, Holocaust Museum, NASA, Pentagon Force Protection Agency, IMF and World Bank all provide active shooter training for contract security officers. See Sept. 2013 GAO Report (footnote 1).

death" situation like an Active Shooter, an PSO "will defend self and others as necessary" and has authority to "stop the threat."

Third, and most importantly, FPS is also developing actual active shooter training for PSO's, which could be incorporated into or added to the contractor provided portion of PSO training. FPS says it is reviewing the active shooter training other federal agencies require of contract security officers --- something GAO has recommended and NASCO strongly encourages --- and FPS has already called in NASCO and security contractors on several occasions to discuss the training being developed. FPS should continue to work with security contractors to develop or adopt an appropriate and effective active shooter training course for PSO's. Any active shooter training should be building specific, scenario specific, incorporate actual drills on a regular basis after the initial training, and consider if there are armed federal employees in the facility (i.e. DEA, FBI, DHS, ICE or other armed federal agents).

PSO Authority

While active shooter situations are likely more "black and white" in terms of the extent to which a PSO can use force, in other instances of aberrant behavior, a PSO's authority is not as clear. The SMART Book says that a PSO "shall detain a person only when absolutely necessary, and use the force necessary and reasonable to control the situation. " However it then says, "You should be aware that using an 'unreasonable level of force' to detain a person could result in a civil lawsuit filed against you. An 'unreasonable level of force' is defined as "the level of force that is not appropriate to control a situation." [6] This is quite confusing and could condition a PSO to err on the side of not acting until things get out of control.

For instance, PSO's are sometimes required to pat down individuals and if something is found the individual is asked to remove it. However, in cases where the individual refuses, there is a lack of guidance. Also, FPS officials in the field are giving PSO's detention instructions that differ from what is in the PSO manual. In the past, both PSO's and their security companies have been sued and held in violation of contract for a PSO's good faith action in a potentially dangerous situation.

PSO's are required to carry and if necessary apply handcuffs, they are required to carry and if necessary use intermediate force weapons (e.g., baton, OC pepper spray) to temporarily incapacitate a violent individual and they are required to carry and if necessary discharge their firearm to protect self or third parties. While the new SMART Book does contain better language conveying that FPS will not restrict a PSO from taking action legally provided for under state law (pursuant to a security officer license and/or weapon permit) FPS needs to continue to work to make it clear what its expectations are with respect to how a PSO can and should in various situations.

Another possible strategy for dealing with active shooter and violent/criminal situations is for DHS to authorize PSO's to make arrests. Other federal agencies, such as Department of Energy, under federal statutory authority, authorize their contract security officers to make arrests for certain crimes committed in their presence or if they reasonably believe such a crime was committed. [7] The Homeland Security Act

---

[6] FPS SMART BOOK

[7] For DoE, arrest authority is provided to contract security officers under 10 CFR 1047 - LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS. Arrest is defined as any act, including taking, seizing or detaining of a person, that indicates an intention to take a person into custody and that subjects the

provides for similar arrest authority to be given to employees of DHS "to make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony."[8] This section could be amended by Congress to provide such authority to PSO's. If PSO's were given arrest authority (and expected to use it) additional training would be required. Providing PSO's with arrest authority on federal property could lead to faster containment of dangerous situations at federal facilities.

Standardized Training and Certified Trainers

FPS is also working with NASCO and security contractors to review, revise and standardize the PSO training (Lesson Plans) in a new and better format. FPS contractors through NASCO have provided FPS with various contractor PSO training lesson plans from which FPS is determining "best practices" and then "cross walking" them against the new SMART Book and the Interagency Security Committee Armed Security Officer Standard. Standardizing the PSO training will result in greater assurances that all PSO's, regardless of the company that trained them, will be trained to specific standard. As to training revisions, NASCO recommends that any new lesson plan needs to be able to incorporate training for new and developing threats and should contain training that is performance based instead of time or knowledge based.

On a related issue, NASCO fully supports FPS certifying security contractor instructors. The 2013 ISC "Best Practices for Armed Security Officers in Federal Facilities" recommends that certified trainers provide the training for armed security officers (including PSO's). [9] Already numerous state governments "certify" private trainers to provide the required security officer training (firearms, handcuff, baton, "pepper spray") that they require for security officers to obtain state licenses and certifications. Also, other federal agencies such as NASA and DoE require security officer instructors to be certified. This would provide for greater confidence in and consistency of PSO training. GAO also recommends that FPS security contractor instructors "be certified to teach basic and refresher training courses to guards and evaluate whether a standardized instructor certification process should be implemented."[10] FPS concurred and it envisions using a standardized lesson plan being taught by certified instructors.

---

person to the control of the person making the arrest. http://www.gpo.gov/fdsys/pkg/CFR-2012-title10-vol4/pdf/CFR-2012-title10-vol4-part1047.pdf The U.S. Marshall Services, deputizes its Court Security Officers giving them full law enforcement authority. http://www.usmarshals.gov/duties/ However, CSO's are required to have a law enforcement background or law enforcement training (but this can be a double edged sword).

[8] 40 U.S.C. § 1315 : US Code - Section 1315: Law enforcement authority of Secretary of Homeland Security for protection of public property http://codes.lp.findlaw.com/uscode/40/I/13/1315#sthash.saToUhla.dpuf

[9] ISC Best Practices for Armed Security Officers 2013 Chapter 6.4 Providing Armed Security Officer Training. "All training, whether required or as a refresher, should be done with a certified trainer and/or training organization for: Defensive Tactics, Empty Hand Control Techniques, Firearms (Initial and Requalification Training), Handcuffing Techniques Intermediate Weapons/Compliance, and Use of Force."

[10] September 2013 GAO Report (See Footnote 1.)

Another training issue that FPS needs to address is refresher training. At FPS a PSO's initial training (132 hours) never expires and the refresher-training requirement is currently 40 hours every three years. Other agencies provide more initial training and provide substantially more refresher training. FPS needs more refresher training (perhaps 24 hours annually) and should consider at least one annual scenario drill run on site during off hours. These active drills, similar to force on force training currently executed at DoE sites nationally, keep the skills already provided to the contract security personnel fresh and allow for better and safer weapons handling skills. FPS should also consider requiring and sequencing refresher training throughout the contract period; rather than only requiring it be conducted once every three years. For instance, security skills and knowledge refresher training could be conducted on-site at federal facilities via an OJT (on-the-job training) methodology throughout the contract period of performance by company trainers. These additional hours of refresher training and active drills will allow PSO's to learn from and immediately be adjusted for any minor corrections in tactics or technique that will then be perfected for use during a time of emergency such as an active shooter situation.

On all issues related to training, FPS should be actively reaching out to other federal agencies, to see how they are training and managing their contract security officers.

New PSO Manual

FPS has very recently released a much needed revision and update of its 2008 "Security Guard Information Manual" (SGIM). The new versions, called the Security Manual and Resource Tool "SMART" Book, is a PSO's "go to reference book" that provides PSO's with information on the policies, practices, and standards required for the PSO's. Not following the SMART Book is considered a contract violation.

While the degree of contractor input into the latest revision process was minimal, and in some areas, further work and/or clarification may be needed, the new SMART book is a version control document that is founded on a quality management process that will allow for incorporating improvements and updates more easily. The PSO Program management office plans to provide briefings and webinars to contractors on the SMART book and has asked NASCO to solicit feedback too on possible areas that require revisions or greater clarification.

Related to the new SMART Book, FPS is also conducting a comprehensive review of all PSO Post Orders and looking to standardize and update them. NASCO commends this effort, as many current post orders are fairly nebulous and vague and tend to reflect a "cut and paste" approach from other post orders. However, new post orders, in addition to being standardized, need to be facility specific and tailored to the specific post.[11]

PSO Drills and Testing

An important part of keeping a security workforce sharp is to conduct regular drills and scenario testing. FPS, through its Operation Shield, conducts penetration tests at federal facilities that test PSO's ability to

[11] For instance, in some facilities there will be a "duress button" that sets off an alarm; however, there is nothing in the post orders about what to do upon setting off the alarm. Post orders should also have information on the closest fire alarm, and other location/post specific information.

detect prohibited items. Often, FPS will provide remedial on the spot training during these exercises. However, a persistent problem related to these tests is that FPS is unwilling or does not in a timely fashion, share the results of the Operation Shield exercises with the security contractors. This makes it difficult to determine which PSO's were posted at the time, the conditions, and other information that can be helpful to the security contractor to take corrective and remedial action.

FPS security contractors also have the ability to perform their own penetration exercises of PSO's that are very productive. In these cases, with prior notice to the Government, a company can test a PSO's ability to identify weapons or contraband being introduced to the facility. While Operation Shield exercises by FPS are excellent testing tools, PSO's need to use their skills or they will degrade. Infrequent FPS testing in the field infrequently is less valuable than allowing the company to test them more frequently. FPS security contractors conduct such drills with their security officers at other federal agencies and such drills are encouraged by those agencies. However, FPS is inconsistent on allowing security contractors to conduct drills with their PSO's and the policies vary by region to region, COR to COR. There does not seem to be any valid arguments against allowing, under set FPS parameters and safety guidelines, security contractors to conduct drills on their PSO's and NASCO strongly encourages FPS to issue guidance in this area.

PSO and Contractor Records Oversight

In the area of security contractor oversight and the verification of PSO training and certifications (an often raised issue by GAO) in many instances the issue is not that a PSO did not receive one of the 24 required PSO training segments and/or certifications, but instead it is an issue of poor recordkeeping, incomplete file inspections and conflicting interpretations of contract requirements. Contractors are well aware that putting a PSO on duty without the required training and certifications can result in serious monetary penalties, fines and other negative consequences. However, if a contractor has deployed a PSO without proper training and certifications in violation of the contract, then, as GAO has recommended, "there should be stepped up uniform enforcement against companies that are not complying with the terms of the contract.

FPS is taking steps to improve its contractor records oversight and recordkeeping capabilities. FPS has revised its Contractor Officer Representative (COR) training and is bringing on board 39 dedicated Contracting Officer Representatives. This new COR cadre will not be spread thin doing other FPS duties as many current FPS Inspectors doing COR duties are now, and they will be able to provide better contractor and compliance oversight and more quickly resolve contract issues.

A central problem in FPS' ability to provide oversight of PSO data is that it does not have a comprehensive PSO data management system. As is well known, a previous attempt by FPS to create one failed. However, as GAO noted, "Although FPS does not have a system to track guard data, 13 of FPS's 31 guard companies maintain training, certification, and qualification data in either proprietary or commercially available software programs with various management capabilities. For example, one system used by multiple companies tracks the training and certification status of each guard and prevents the company from scheduling the guard to work if the guard is not in compliance with requirements." [12]Without a doubt, for reasons of effectiveness, in addition to cost-efficiency, FPS should be looking to set up a data

[12] Sept 2013 GAO Report (see Footnote 1).

management system that will sync with commercially available and other data management/tracking systems. Also, contractors need to be able to upload information directly to the FPS PSO database, as often mistakes are made during the transfer of data from a contractor to FPS who then has to manually load the data.

Coordination with Local Law Enforcement

With less than 1000 FPS law enforcement personnel and thousands of buildings to protect, it is very important that FPS has good coordination with local law enforcement authorities who may be called by PSO to a respond to an incident at a federal facility. FPS should also include the security contractor in this coordination. However, FPS Law Enforcement Personnel do not train with PSO's and do not typically invite local LE to participate in training. Therefore, when a large-scale incident or emergency event such as an active shooting does occur, it is unclear how anyone will react. Responsible parties have not discussed action plans in advance let alone conducted drills involving the security/law enforcement stakeholders who would be responsible for responding. This leads to confusion during an incident, the worst possible time to have a breakdown in communications. The simple solution is to have more and better communication and coordination (including drills and dry-runs) between the contract security companies/PSO's, FPS and local law enforcement.

There also can be better sharing of threat and risk information between FPS and security contractors. FPS does not share Facility Security Assessments (FSA's) with contractors providing security for a facility. Additionally, FPS also does involve security contractors in the identification and prioritization of threats, thereby losing their potentially valuable input and preventing valuable information from being distributed up and down the chain of PSO command.

FPS Mission Refinement

As stated at the outset, "the FPS mission is to render federal properties safe and secure for federal employees, officials and visitors in a professional and cost effective manner". FPS though has limited monetary and personnel resources to accomplish a mission that spans the entire nation and involves thousands of properties. The 13,500 contract PSOs from 31 companies are the "front line" of the FPS mission and the performance and management of this force should be FPS' number one priority. FPS should consider concentrating more on improving the PSO program and its relationship with GSA and federal tenants while de-emphasizing law enforcement and investigative related activities and responsibilities that may be duplicative of the activities and responsibilities of other law enforcement agencies. Program and contract management, working with building security committees, maintaining security systems, and coordinating drills may not be as appealing as providing special event protection, conducting criminal investigations or being on a special ops team, but with a mission to protect thousands of federal buildings, what is the more effective use of FPS personnel resources? Accordingly, NASCO strongly supports FPS' creation of a dedicated COR force (mentioned above), and in any congressional legislation that may seek to set a minimum FPS personnel number or increase FPS personnel numbers, the type of personnel should not be specified (e.g. just increase the number of Inspectors).

Other Challenges that FPS Faces with Federal Facility

Federal Facility Security Assessments

The GAO has found that several agencies, including FPS, do not use a methodology to assess risk at their facilities that aligns with the Interagency Security Committee's (ISC) risk assessment standards, and as a result, "FPS and the other non-compliant agencies GAO reviewed may not have a complete understanding of the risks facing approximately 57,000 federal facilities located around the country (including the 9,600 protected by FPS)." Risk assessments (facility security assessments) are the foundation upon which an effective facility security policy is built and FPS needs to improve its FSA capabilities in terms of compliance with ISC Standards being able to do FSA's in a timely fashion, and more so, doing them well. The current FPS risk assessment tool (MIST) in addition to not being aligned with ISC standards also has other limitations according to GAO. In addition, in a recurring theme at FPS, the FPS personnel responsible for doing FSA's (inspectors) are also responsible for doing a myriad of other duties at FPS, and the quality of the assessment, even if the model is improved, can suffer. As FPS is now doing with the creation of a much needed dedicated COR force, it might consider creating a dedicated FSA force, but such a force would need better training, tools and quality control management. As to better tools, FPS should look to the private sector and other agencies to find an effective risk assessment tool instead of trying to develop one. There are commercial off the shelf risk assessment tools available. More so, FPS could free up Inspectors and increase the amount of FSA's completed by outsourcing FSA's to companies that have experts who specialize in such work and are currently doing FSA's for nuclear facilities, critical infrastructure, and high risk commercial buildings. As GAO has found, other federal agencies are already turning to non-governmental experts to establish their physical security plans.[13]

Federal Facility Security Committees

A critical player in prioritizing and mitigating threats to federal facilities is the "Facility Security Committee (FSC)." As explained in the ISC Risk Management Process Standard, the FSC consists of representatives of all Federal tenants in the facility, the security organization (Federal Protective Service for General Services Administration (GSA) owned and operated facilities), and the owning or leasing department or Agency. The FSC is responsible for determining the Facility Security Level for the facility, addressing the facility-specific security issues addressed in the facility security assessment and approving the implementation of security countermeasures and practices recommended by the security organization.[14] These are very serious facility security responsibilities.

In GSA owned/leased building, FPS is responsible for doing the FSA and then recommending (and explaining) the appropriate countermeasures to the FSC. However, it is clear that "the decision to

[13] GAO Facility Security Report January 2013. One official told GAO that "his agency contracts with a security company that has extensive knowledge and experience in providing security and law enforcement to high profile institutions across the federal government, and that this knowledge is used in managing the agency's security program." Page 8. ..." GAO: FEDERAL FACILITY SECURITY: Staffing Approaches Used by Selected Agencies GAO-11-601 June 2011. http://www.gao.gov/assets/330/320625.pdf

[14] ISC Standard for "The Risk Management Process for Federal Facilities" August 2013.

implement those recommendations and mitigate the risk or to accept risk as part of a risk management strategy is that of the FSC."[15]

In past GAO Reports, and in contractor dealings with FSC's and tenant agencies, there have been serious issues as to whether FSC's are making "informed risk-based decision regarding the mitigation or the acceptance of risk" as required by the ISC Risk Management Process Standard. In a 2010 GAO Report, GAO noted something that FPS and security contractors have experienced first-hand at federal facilities; "tenant agency representatives to the FSC generally do not have any security knowledge or experience but are expected to make security decisions for their respective agencies." [16]

Security contractors working at federal facilities have observed that often at FSC meetings the lead agency will call the shots and ignore FPS recommendations. Tenant representatives do not want to be there, are disinterested and therefore FSC meetings are also not well attended. In addition, for some FSC's there is a greater interest in providing "customer service" than building security. [17]

While GAO also opined that tenant representatives on the FSC may not be getting adequate information from FPS (and some observers believe that FPS needs to do a "better sales job" with the FSC's); nonetheless, the bottom line is that security decisions for federal facilities are often being made by persons with no education or training in risk mitigations and security. Also, with shrinking agency budgets combined with the fact that "many of the FSC tenant agency representatives do not have the authority to commit their respective organizations to fund security countermeasures"[18] it is becoming increasingly more likely that recommended and necessary security countermeasures are being voted down solely because of cost concerns.

Whether it is for a lack of understanding of the risks or a lack of a funding commitment, both of these scenarios are a prescription for increasing risks at federal facilities. There are though solutions to the above described FSC problems.

Last Congress, the Senate Homeland Security and Governmental Affairs Committee passed a bill (endorsed by NASCO), that addressed both the FSC member lack of training/education issue as well as the refusal of an FSC (for whatever reason) to implement recommended countermeasures issue. In S.772, `Supporting Employee Competency and Updating Readiness Enhancements for Facilities Act of 2012' (SECURE Act) there was a provision that said that if the DHS Secretary in coordination with the ISC, "determines a Federal facility (protected by FPS) to be in noncompliance with Federal security standards established by the Interagency Security Committee or a final determination regarding countermeasures" and the facility loses an appeal and still does not implement the countermeasure, then "The Secretary

---

[15] ISC RM Process Standard. 6.0 "The Risk Informed Decision Making Process"
[16] GAO: HOMELAND SECURITY "Addressing Weaknesses with Facility Security Committees Would Enhance Protection of Federal Facilities" GAO 10-901 August 2010 http://www.gao.gov/new.items/d10901.pdf
[17] At some federal building PSO's are not allowed to "hand check" employee ID's when necessary.
[18] GAO Report: See Footnote 16.

may assess security charges to an agency that is the owner or the tenant of (the) Federal facility... for the costs of necessary security countermeasures."[19]

Also in the SECURE Act, there is a provision that requires that "before serving as a member of a Facility Security Committee, an employee shall successfully complete a training course that meets a minimum standard of training as established by the Interagency Security Committee" that is "commensurate with the security level of the facility." [20]

The ISC Risk Management Standard has FSC education requirements too. However, with no way to monitor/enforce compliance it is likely the percentage of current FSC members at federal facilities who have taken required training courses is small.

Congress should work with DHS, who chairs the ISC, FPS and all federal agencies to make sure that FSC members are taking the required training. The safety of the employees and visitors in federal facilities also needs to be a funding priority. FPS will need to work harder with it federal clients to identify and implement the most cost-effective countermeasures appropriate for mitigating vulnerability, but in the end, necessary security should never fall victim to budget cuts.

Conclusion

While there continue to be issues with the Protective Security Officer Program, under the direction of Director Patterson, FPS is actively working with its contract security partners to address these issues. Importantly, every element of the Program is subject to potential review and revision if necessary and FPS' oversight and review processes are being reformed to provide for better quality management. All of these efforts will increase the performance and effectiveness of the FPS PSO force.

Some of the needed changes and improvements such as the addition of Active Shooter training or the need to deploy more PSO's at a facility will likely require additional funding. In such instances, if FPS can explain to federal agencies and Congress the rationale for the additional funding, Congress needs to support FPS.

NASCO looks forward to continuing to work with FPS, Congress, GAO, and GSA to improve the PSO Program and increase security at federal facilities.

---

[19] S. 772 "Supporting Employee Competency and Updating Readiness Enhancements for 4 Facilities Act of 2012" http://thomas.loc.gov/cgi-bin/query/z?c112:S.772.RS:/ SEC. 247. COMPLIANCE OF FEDERAL FACILITIES WITH FEDERAL SECURITY STANDARDS.

[20] S. 772 SECURE Act of 2012, SEC. 264. FACILITY SECURITY COMMITTEES (c) "Training for before serving as a member of a Facility Security Committee, an employee shall successfully complete a training course that meets a minimum standard of training as established by the Interagency Security Committee" that is "commensurate with the security level of the facility." [20]

Stephen D. Amitay, Esq.

Stephen Amitay is Executive Director and General Counsel for the National Association of Security Companies (NASCO), the nation's largest contract security association. Mr. Amitay is also the president of Amitay Consulting, a government affairs firm in Washington D.C.

Since 2006, Mr. Amitay has led NASCO efforts in working with Congress, federal agencies and the GAO on programs, legislation and other issues related to private security in general and the use of private security by the federal government. He has done considerable work related to the FPS and TSA contract security programs. Other efforts include the successful enactment of legislation to provide federal authority to employers to request FBI checks for security officers, the development of the Interagency Security Committee "Best Practices for Armed Security Officers in Federal Facilities," and the development of the DHS and DOJ suspicious activity reporting training for private sector security personnel.

Additionally, for the past thirteen years, Mr. Amitay has represented ASIS International, the world's largest association of security professionals. For ASIS he has worked on a variety of issues such as federal adoption of standards for business resilience, employer background check restrictions, cybersecurity, and the DHS PS Prep, CFATS and Protective Security Advisor programs.

Through his work for NASCO and ASIS International, and as a member of the U.S. Chamber National Security Task Force, Mr. Amitay is involved in many issues at the intersection of government policy and security.

Previously, Mr. Amitay was a professional staff member on the then Senate Governmental Affairs Committee Subcommittee on Government Efficiency, Federalism and D.C. where his work centered on federal government procurement issues.

Mr. Amitay has a B.A. from Columbia University and J.D. from Georgetown University, and is a member of the Maryland and D.C. Bars.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of Rule XI of the Rules of the House of Representatives, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name:

Stephen Amitay

(2) Other than yourself, name of entity you are representing:

National Association of Security Companies (NASCO)

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES **If yes, please provide the information requested below and attach your curriculum vitae.**

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:

$0

Signature

05/12/14
Date