



TESTIMONY OF

**CHIEF ART ACEVEDO
CHIEF OF POLICE
AUSTIN, TEXAS**

**FIRST VICE PRESIDENT
CHAIRMAN OF HOMELAND SECURITY COMMITTEE
MAJOR CITIES CHIEFS ASSOCIATION**

BEFORE THE

EMERGENCY PREPAREDNESS AND RESPONSE SUBCOMMITTEE

COMMITTEE ON HOMELAND SECURITY

UNITED STATES HOUSE OF REPRESENTATIVES

**“Stopping the Next Attack:
How to Keep Our City Streets from Becoming the Battleground”**

September 21, 2016



Chairman McCaul, Ranking Member Thompson and Members of the Committee

The central purpose of this hearing is the paramount responsibility of the Department of Homeland Security (DHS) –to prevent a terrorist attack on the American people. The events of this week remind us that the threat is real and we must be more vigilant than ever before.

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I appear before you today on behalf of law enforcement executives in every major urban area of our Nation, where each of us has taken a solemn oath to protect the communities we serve.

It is my honor to serve as the First Vice President and as the Chairman of the Homeland Security Committee for Major Cities Chiefs. Major Cities Chiefs is an organization of the 68 largest cities in the Nation, representing virtually every significant target of a terrorist attack.

I come before you today as the Chief of Police in Austin, Texas and will begin by thanking my Congressman, your Chairman, for the opportunity to testify about what is on the minds of every American, “where will terrorism strike next and what measures will we take to help keep us safe?”

The “Lone Wolf” - an Ongoing Threat

Radicalized persons living in the United States can no longer be called “An Emerging Threat.” Everyone recognizes the threat of an individual or a small group of radicalized individuals, who are either acting alone or as agents, are inspired by a foreign terrorist organization. Persons vulnerable to radicalization can be easy prey and ISIS has made headway in recruiting via the internet . While we can occasionally track those who go overseas for terrorist training, we will never be able to determine how many here in the United States that succumb to internet propaganda.

We have witnessed with horror how one or two armed terrorists can prey upon the innocent public with catastrophic consequences. While the incidents over the past weekend included explosive devices, we have seen massive casualties without explosives and fully automatic weapons. The widespread availability of firearms in our country makes it possible for potentially dangerous persons to legally acquire weapons to cause mayhem and colossal casualties. We have witnessed this carnage in a California county office building and a Florida nightclub. Whether it’s ISIS abroad or home-grown extremists, the threat exists and haunts police chiefs every day.



Community Engagement- Our Best Defense

An isolated extremist or small group of radicals are likely to be noticed during everyday community life. We must redouble our efforts to form partnerships with community leaders, especially in the Muslim community. Law enforcement executives like myself are reaching out across the Nation to establish working relationships to counter violent extremism. We commend the Appropriations Committee for establishing a grant program that is now underway at the Department of Homeland Security (DHS) to fund innovative community-based programs to counter violent extremism. Best Practices must be replicated and pilot efforts must become a widespread policy in every community.

Key actions to stop a “lone wolf” are less likely to come from Federal intelligence or international communication intercepts. Our defense against violent extremists is the community itself. Information is received when we have the trust of the community we serve. We may hear this information from neighbors, co-workers and family members –. We have but to look back on the events of the past few days:

- The explosive devices in New Jersey were found by members of the public who called police; and
- The suspect arrested on Monday was identified by a business owner who called police.

These current cases show what police chiefs and sheriffs already knew – nothing is more important than public awareness and public reporting. Sadly, we have seen examples where information about suspicious behavior came after the incident making it too late to prevent an attack. More must be done to encourage the public to enforce “See Something, Say Something.”

Suspicious Activity Reporting Program (SAR) was developed and piloted with Major Cities Chiefs and provides critical information to the FBI to this day. Mr. Chairman, we recommend that you consider how to strengthen this vital program.

The Criminal Intelligence Enterprise (CIE) – Local Intelligence Officers

Major Cities Chiefs has joined with Major County Sheriffs to form a network of senior intelligence officers from every urban area, an organization without precedent in this country. Each jurisdiction has designated an Intelligence Commander. I am pleased to be with one of them today at the witness table, Deputy Commissioner John Miller of New York City. Working as a team, these Intelligence Commanders exchange information and share intelligence about threats, how to prevent attacks, and how to respond. We coordinate these efforts with the FBI JTTF in each urban area, the fusion centers, and DHS. DHS I&A has provided support to develop a system for sharing information between the Intelligence Commanders.

How do our local operations relate to those of the FBI and DHS? Chiefs and Sheriffs must determine how and where to deploy personnel for both prevention and response.



- If there is an attack in Europe on public transportation or intelligence that we face such a threat, who decides if there should be armed tactical teams to deter and respond at key transportation points? Local law enforcement makes that decision.
- If there is an attack in Europe at a major sporting event or intelligence that we face such a threat, who steps up surveillance and ramps up security measures at these venues? Local law enforcement makes that decision.
- If there is an attack in the public area of a European airport or intelligence that we face such a threat, who takes measures to strengthen airport security? Local law enforcement makes that decision.

While we are partners with DHS and the FBI, neither Federal agency can take the steps I have described in these examples. That's why we established the Criminal Intelligence Enterprise (CIE) - so we can collaborate on measures to protect the public from harm - the very purpose of this hearing.

Law Enforcement Terrorism Prevention – Our Common Purpose

There is no more important and no more neglected program than LETPP – the Law Enforcement Terrorism Prevention Program. Once a hallmark of Congressional intent to prevent a terrorist attack on the Homeland, LETPP has become little more than a bureaucratic requirement, Governors must “check the box” for their funding from the Federal Emergency Management System (FEMA). There is no national coordination and no designated official at DHS with responsibility to prepare and implement a terrorism prevention plan. The Committee must share in the blame - because Congress has never empowered the Assistant Secretary for Law Enforcement to assume this responsibility. Worse yet, FEMA has downgraded terrorism prevention from the program established by Congress to a bureaucratic definition now call “Law Enforcement Terrorism Prevention Activities”. FEMA has renamed LETPP to LEPTA, merely “Activities”, thus confirming there is no FEMA commitment and no DHS program to coordinate local law enforcement efforts to prevent terrorism.

Law Enforcement Programs and Funding at FEMA – An Ongoing Mistake

So long as this Committee leaves FEMA in charge of law enforcement grants and programs, critical priorities will be neglected and public safety will suffer. Consider the background, mission, culture, and leadership at FEMA, and try to find anything that relates to law enforcement and terrorism prevention.

Let me offer a recent and compelling example – the funding which the Appropriations Committee has provided in response to recent terrorist attacks in Paris, San Bernardino, Brussels, and Istanbul. Termed Complex Coordinated Terrorist Attacks, this is the worst of the worst. But we heard nothing from FEMA about what has been planned and we were given no opportunity for input. The Federal agency focused on natural disasters did not have the right approach to stop terrorists. We learned that FEMA had no plans to use any of the \$50 Million for law enforcement operations or prevention of a terrorist attack. Thanks to the Deputy Secretary and the Assistant Secretary for Law Enforcement, FEMA has been asked to reconsider and recast the planned program.



Neither the Administration, nor DHS can correct this misplaced responsibility. Only Congress can put law enforcement programs and terrorism prevention on the right track, which is not under the direction of FEMA. We turn to this Committee today and ask that you consider a new way forward where law enforcement and terrorism prevention would be extracted from beneath the FEMA bureaucracy and placed in an appropriate and prominent position at DHS – empowered to address the highest priority for us all – protection of the American people from any terrorist attack.

Law Enforcement Leadership at DHS

Congress established the position of Assistant Secretary for Local Law Enforcement, but the vision of Congress remains unfulfilled to this date. The position you created has been unable to realize even a small fraction of the potential foreseen by Congress. The position cannot deliver needed results because it lacks authority, budget and staffing. On behalf of every major city in America, we ask the Committee to consider legislation to remedy this critical weakness in the organization of DHS. Unless Congress acts to empower this position, the Assistant Secretary represents a token gesture toward public safety and only a hollow shell of law enforcement at DHS. But this need not continue, with your leadership and partnership, DHS can do so much more for public safety. We implore you to legislate appropriate authority and resources for this key position at DHS.

Incumbent Assistant Secretary for Law Enforcement Heather Fong has been extremely effective because her efforts have had the strong support of Deputy Secretary Mayorkas. At the time of his nomination, the Deputy Secretary pledged to law enforcement that he would listen to us and direct needed changes at DHS. I am here to report that he has kept his word on a wide range of critical issues, including his strong support to empower the Assistant Secretary. Without his leadership and personal commitment on law enforcement issues, the Committee would hear loud complaints indeed. So long as this Committee leaves law enforcement programs buried under the FEMA bureaucracy and fails to grant authorities to the Assistant Secretary for Law Enforcement, our priorities are addressed only when directed by the Deputy Secretary. Mr. Chairman and members of the Committee - please know that our successes at DHS are **not** because of the current organizational structure – progress has been made **in spite** of it.

Encryption – A Threat to Public Safety

Law enforcement leaders embrace encryption and respect privacy rights. Police agencies themselves have been the victim of unlawful intrusions, cyber-attacks, and the theft of sensitive data. To protect privacy and unreasonable searches, police are trained to follow strict procedures and required by law to obtain court orders when obtaining protected evidence. These established laws and procedures have served Americans well, and represent the balance between individual rights and protection of the public.



New measures designed to safeguard data security and privacy have thrown off the balance and have had an unintended result – they prevent local emergency responders from helping persons in danger and apprehending offenders who prey on the public. Both encryption technologies and proposed privacy measures have crossed over the point of balance and go to such extremes that police and sheriffs are prevented from discharging our most fundamental duty – protection of the public.

When police and sheriffs have a court approved warrant, or there is an immediate threat of grave harm, service providers should respond with urgency, but that is not the reality we now face. Until the recent refusal by Apple to assist the FBI with a phone recovered by the San Bernardino terrorists, the public was not aware that police routinely face delay and roadblocks when attempting to obtain information from service providers and cellular device manufacturers – even when that information is needed to save lives and has been directed to be provided through a court order.

When lives are in danger and violent offenders seek to prey upon the public, the industry should not be permitted to ignore court orders – no entity is above the law and no business model purposefully crafted to thwart criminal investigations should be acceptable to this Committee. We are grateful for the efforts of the Chairman to address this issue and we pledge our continuing support to restore the balance between privacy and public safety.

Emergency Communications – An Ongoing Priority

We commend the Committee and wish to express our appreciation for your response to our concerns about the priority of emergency communications. When five national associations, including the Major Cities Chiefs, expressed our grave doubts about the proposed DHS reorganization – you responded with legislation that did exactly what is needed – your reorganization bill would remove emergency communications from beneath cyber security and place it in the prominent position where it belongs, with a line item budget so that first responders can see the level of funding devoted to our lifeblood – emergency communications. Our grateful thanks to Congressman Donovan and Ranking Member Payne for their leadership on these vital issues.

Urban Area Security Initiative (UASI)- A Greatly Diminished Resource

Urban Area Security Initiative (UASI) represents the responsibility that each of you shares with a Chief of Police – protecting the American people from harm. Major Cities Chiefs counts every one of the UASI cities in our membership and that means we have a direct tie to the important work of this Committee, but the UASI program designed to support preparedness and prevention efforts has been diminished as the threat has increased. UASI is a small shadow of what it once was. The President's budget cuts UASI to \$330 Million, if you add the State Homeland Security Grant Program proposal for \$200 Million, that is a total of \$550 Million, just a third of the more than \$1.6 Billion in 2009 and 2010. These cutbacks have severely hampered the critical efforts of fusion centers and homeland security programs in the major urban areas – at a time when they are needed more than ever before.



The Way Forward

Mr. Chairman and members of the Committee, Chiefs of Police and Sheriffs are grateful for all you do. We look to you for leadership, we cannot accept the status quo, that is not leadership. Thanks to Chairman McCaul and the Committee, today's hearing is an opportunity to take a fresh look at what can be done to strengthen the security of our Homeland. From here I will go to meet with Chairman Carter to encourage the mutual efforts of your colleagues on the Appropriations Committee. We call upon you to legislate needed changes that will strengthen the partnership between law enforcement and the Department of Homeland Security. Our common bond is the safety of the public we have sworn to protect.



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Major Cities Chiefs will continue to work with the Committee on these important measures:

The Terrorist Threat

Going Dark

The MCCA appreciates Chairman McCaul's continued leadership and the work of the Committee to support lawful law enforcement investigative requirements, including recovery of encrypted data pursuant to a court order and during emergencies. No technology provider should be above the law and refuse to obey a lawful requirement to assist law enforcement.

H.R. 5859, Community Counterterrorism Preparedness Act

The MCCA *supports* H.R. 5859, which establishes the major metropolitan area counterterrorism training and exercise program.

The City of Austin appreciates the delegations' past assistance in securing urban area security initiative (UASI) designation in FY 2009 and 2010. Under this designation, first responders received valuable assistance in the form of equipment and training. Additionally, it led to the creation of the Austin Regional Intelligence Center (ARIC) and improved regional cooperation and communication.

H.R. 5308, Terrorist Asset Seizure Reform Act of 2016 (TASR)

The MCCA *supports* H.R. 5308 and the proposed use of interest on funds seized and frozen by the Department of the Treasury. We support adding these funds to current homeland security grant programs. Special thanks to Subcommittee Chairman Donovan for his leadership on this critical issue.

H.R. 5471, Countering Terrorist Radicalization Act

The MCCA *supports* H.R. 5471, which combines three previously passed House bills – H.R. 4401 (ALERT Act of 2016), H.R. 4820 (Combating Terrorist Act of 2016) and H.R. 4407 (Counterterrorism Advisory Board Act of 2016) – and enhances our security here at home and helps prevents Americans from being recruited by terrorist organizations.

H.R. 4408, The National Strategy to Combat Terrorist Travel Act of 2016

The MCCA *supports* H.R. 4408 which requires the development of a national strategy to combat terrorist travel. Chiefs look forward to participating in this effort.



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H.R. 4407, Counterterrorism Advisory Board Act of 2016

The MCCA *supports* H.R. 4407 which calls for the formation of a board in the DHS to coordinate and integrate departmental intelligence, activities and policy related to counterterrorism.

H.R. 4404, The Terrorist and Foreign Fighter Travel Exercise Act of 2016

The MCCA *supports* H.R. 4404, which requires DHS to develop and conduct exercises to evaluate national preparedness against foreign fighters and terrorist travel to the U.S.

H.R. 4401, The Amplifying Local Efforts to Root Out Terror Act of 2016

The MCCA *supports* H.R. 4401, authorizing the Secretary of Homeland Security to provide countering violent extremism training to DHS representatives at state and local fusion centers.

H.R. 4402, The Foreign Fighter Review Act of 2016

The MCCA *supports* H.R. 4402, requiring review of information on persons who have traveled or attempted to travel from the U.S. to support terrorist interests in Syria and Iraq.

H.R. 4403, The Enhancing Overseas Traveler Vetting Act of 2016

The MCCA *supports* H.R. 4403, authorizing the development of open-source software on certain systems of DHS and the State Department to facilitate the vetting of travelers against terrorist watch lists and law enforcement databases.



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H.R. 5390, Cybersecurity and Infrastructure Protection Agency Act of 2016

The MCCA *supports* HR. 5390, which amends the Homeland Security Act of 2002 to authorize the Cybersecurity and Infrastructure Protection Agency of the Department of Homeland Security. We commend the Committee for this comprehensive plan to reorganize NPPD.

H.R. 615, The Department of Homeland Security Interoperable Communications Act

The MCCA *supports* amending the Homeland Security Act of 2002 and all actions taken to achieve and maintain interoperable communications capabilities. The MCCA supported H.R. 4289 in the previous Congress.

H.R. 2206, SWIC Enhancement Act

The MCCA *supports* H.R. 2206, which amends the Homeland Security Act of 2002 to require a state to include in its application for State Homeland Security Grant Program funding a certification that the governor of the state has designated a Statewide Interoperability Coordinator (SWIC) or that a state is performing the functions of such coordinator and has identified a primary point of contact for those functions.

H.R. 3583, PREPARE Act

The MCCA *supports* H.R. 3583 which promotes resilience and efficiency in preparing for attacks and responding to emergencies through increased grant funding. Moreover, this important bill provides support for interoperable communications.

H.R. 5459, Cyber Preparedness Act of 2016

The MCCA *supports* H.R. 5459, which enhances preparedness and response capabilities for cyber-attacks, bolsters the dissemination of homeland security information related to cyber threats, and for other purposes.