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**STATEMENT OF RICHARD L. SKINNER**

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**BEFORE THE**

**SUBCOMMITTEE ON EMERGENCY COMMUNICATIONS,  
PREPAREDNESS AND RESPONSE**

**COMMITTEE ON HOMELAND SECURITY**

**U.S. HOUSE OF REPRESENTATIVES**

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Good morning Chairman Cuellar, Ranking Member Rogers, and members of the subcommittee. Thank you for inviting me to testify today about the *Post-Katrina Emergency Management Reform Act of 2006* (*Post-Katrina Act*) and how implementation of the Act has strengthened the Federal Emergency Management Agency's (FEMA) position in the Department of Homeland Security (DHS) and has helped FEMA enhance its preparedness and response functions. For my testimony, I will draw primarily from a report recently released by my office titled, "FEMA: In or Out?" This report examines the arguments for why FEMA should remain a part of the department, but also outlines the arguments being made by some for making FEMA an independent agency.

### **Post-Katrina Emergency Management Reform Act of 2006**

Recognizing FEMA's shortcomings in preparing for and responding to hurricanes Katrina and Rita in 2005, Congress passed the *Post-Katrina Act* in October 2006. The Act contained numerous provisions to help strengthen FEMA's position and capabilities. I would like to outline just a few of them here. But before I do, I want to highlight the enactment date of the *Post-Katrina Act*- October 4, 2006. This is just under two and a half years ago. FEMA is certainly making progress in implementing provisions of the Act, but major changes take time.

The *Post-Katrina Act* brought change to FEMA, both structurally and operationally. Some of the structural changes are absolutely critical to FEMA's success as a component of DHS. First, the Act specifies that the FEMA Administrator is "the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States." It also requires that the FEMA Administrator report directly to the Secretary of Homeland Security without having to report through another official. Both of these provisions set the tone for the important role that FEMA and the FEMA Administrator play in the Department and in the nation's emergency management framework.

Additionally, the Act requires that FEMA be maintained as a distinct entity within DHS, exempts FEMA from the scope of the secretary's reorganization authority, and affords FEMA specific protections from changes to its mission, including functional or asset transfers; and, the Act returned to FEMA many of its functions that had been moved into DHS' Preparedness Directorate. This last provision, in particular, addressed the concern that had been expressed by many in the emergency management community that preparedness and response functions were being separated under DHS, to the detriment of both FEMA and citizens who may face a disaster.

Responsibility for allocating and managing DHS grants is also now assigned to FEMA, a matter of importance when considering whether FEMA should remain a component of DHS. This question, "FEMA In or Out," is the subject of the rest of my statement.

## **FEMA: In or Out**

How the federal government should engage with state, local and tribal partners in the realm of emergency management has been the subject of debate for at least the past 60 years.<sup>1</sup> Whether FEMA should be a part of DHS or whether it should be pulled out and made a stand-alone agency has been debated since the concept of a Department of Homeland Security was introduced, not post-9/11, but by the Hart-Rudman Commission earlier in 2001.

Congress debated the “FEMA In or Out” question, most notably, during consideration of two crucial pieces of legislation, the legislation that created the department, the *Homeland Security Act of 2002*, and the legislation passed in the wake of Hurricane Katrina, the *Post-Katrina Act*. In both instances, after much consideration and debate, Congress voted to include FEMA in DHS. There are good reasons for this decision, and I will outline some of them here, including the nation’s current vulnerability to terrorism, the synergy and resources FEMA enjoys as part of DHS, and the importance of avoiding the stovepiping of preparedness and response functions. But before I turn to these, let’s look at what some are calling for regarding FEMA’s placement in the government.

## **Arguments for Making FEMA a Stand-Alone Agency**

Despite generally positive reviews of FEMA’s performance in recent disasters, calls to return FEMA to its independent-agency status have been renewed. In November 2008, the U.S. Council of the International Association of Emergency Managers (IAEM-USA) formally adopted the position that FEMA’s independent agency status should be restored, with the agency reporting directly to the President. The organization further urged that the FEMA Director/Administrator be included as a member of the President’s Cabinet.

Don Kettl, a Professor of Political Science at the University of Pennsylvania, makes an interesting argument, suggesting that calls for FEMA’s removal may be based on a faulty premise— that James Lee Witt transformed FEMA from a troubled agency to a successful one— under Witt, FEMA was independent— therefore, FEMA should be restored to independent status. Kettl points out, however, that FEMA did not always perform well in the past, even when it was an independent agency. FEMA was an independent agency when it was roundly criticized for its response to Hurricane Andrew in 1992. Problems were also recognized during the TOPOFF 2000 exercise, again while FEMA was an independent agency.<sup>2</sup>

Kettl suggests that Witt’s success in managing FEMA flowed from his leadership abilities.<sup>3</sup> Restructuring FEMA in and of itself does not translate to better leadership. I

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<sup>1</sup> Henry B. Hogue and Keith Bea, *Federal Emergency Management and Homeland Security Organization: Historical Developments and Legislative Options*, Congressional Research Service (RL33369), June 1, 2006, p. 4.

<sup>2</sup> Donald F. Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *National Emergency Management: Where Does FEMA Belong?* June 8, 2006.

<sup>3</sup> Ibid.

will note that David Walker, when he was Comptroller General, also stated when discussing FEMA's placement in government, that it is leadership and resources that have more influence on the success of an agency.<sup>4</sup>

Those who would like to see FEMA removed from DHS are calling for three basic elements: (1) independent agency status, (2) including the FEMA Administrator in the President's Cabinet, and (3) giving the FEMA Administrator a direct line to the President.

Addressing the third element first, the FEMA Administrator already has a direct line to the President during a disaster. Congress recognized this shortcoming in the aftermath of Hurricane Katrina and legislated this relationship in the *Post-Katrina Act*. GAO, in its report being discussed today, found that the FEMA Administrator does give advice directly to the President during meetings.<sup>5</sup>

The critical thing to note here, however, is that having a direct line to the President does not necessarily equate to having the ear of the President. By most accounts, James Lee Witt did have the ear of President Clinton, but this likely stemmed more from his personal relationship with the President than from his status as FEMA Director. The Chairman of this committee, Mr. Thompson, pointed out in a recent letter to President Obama, that the *Post-Katrina Act* "assures that there will be direct access but it cannot assure that the relationship with the President will be strong or that the Administrator will have the president's confidence."<sup>6</sup>

The second element, including the FEMA Director in the Cabinet, is a decision that cannot be legislated. While not defined in law, the Cabinet traditionally includes the Vice President and the heads of 15 executive departments. The President has the discretion to accord Cabinet-level rank to other officials. Currently, in addition to the heads of the 15 executive departments, Cabinet-level status has been given to the White House Chief of Staff, the Director of OMB, the United States Trade Representative, the Administrator of the Environmental Protection Agency, and the Director of the Office of National Drug Control Policy. Executives who do not currently have Cabinet-level status include the Director of the Central Intelligence Agency, the Administrator of the Small Business Administration, and the Administrator of the National Aeronautics and Space Administration. The *Post-Katrina Act* does explicitly state that the President "may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters," but Cabinet-level status, just like direct access, does not by itself lead to more or less success for an agency.

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<sup>4</sup> Aimee Curl, "Senate Panel Unlikely to Recommend Taking FEMA Out of DHS," *FederalTimes.com*, March 15, 2006, available at <http://www.federaltimes.com/index.php?S=1598146>.

<sup>5</sup> Government Accountability Office, Letter to Congressional Requesters, Actions Taken to Implement the Post-Katrina Emergency Management Reform Act of 2006 (GAO-09-59R), November 21, 2008.

<sup>6</sup> Memorandum from Congressman Bennie G. Thompson to President-elect Barack H. Obama, Re: A Strong, Effective Federal Emergency Management Agency, December 19, 2008.

The first element of the argument, granting FEMA independent agency status, will not necessarily solve FEMA's problems or address the concerns of those who would like to see FEMA removed from the Department of Homeland Security. I mentioned before that FEMA did not always perform well even when it was an independent agency. According to Kettl, "Structure matters. But leadership counts far more."<sup>7</sup>

All of these elements— independence, Cabinet-level status, direct line to the President— can have an impact on an agency, but I believe Comptroller General Walker was right in stating that the bigger impact comes from leadership and resources.

## **Arguments for Keeping FEMA in DHS**

### **Vulnerability to Terrorism**

Our past two presidents, Bill Clinton and George W. Bush, and the current U.K. Prime Minister, Gordon Brown, all had to deal with a major terrorist attack in their respective countries during their first year in office. While there have been no recent reports of a specific imminent threat, some argue that the United States faces an increased risk of a terrorist event during the first year of the new presidency.<sup>8</sup> Since last fall, then-Director of National Intelligence Mike McConnell,<sup>9</sup> then-Vice President-elect Biden,<sup>10</sup> and then-President-elect Obama have each made statements to this effect. Then-President-elect Obama said in an interview last November that it was "important to get a national security team in place, because transition periods are potentially times of vulnerability to a terrorist attack."<sup>11</sup>

We simply cannot predict whether there will be a terrorist attack in this country in the next year. Given that there is an elevated risk of this happening, however, we must consider whether it makes sense to make major changes to our homeland security apparatus during this period.

I want to note here that the talk of removing FEMA from DHS generally focuses on the perceived benefits to FEMA—on which not all sides agree. What is not always included in the debate is consideration of the effect that FEMA's removal would have on the department.

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<sup>7</sup> Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, National Emergency Management: Where Does FEMA Belong? p. 3.

<sup>8</sup> Homeland Security Presidential Transition Initiative, *Protecting the Homeland from Day One: A Transition Plan*, Prepared by Third Way and the Center for American Progress and Action Fund, November 2008.

<sup>9</sup> Peter Bergen, "Safe at Home," *The New York Times*, December 14, 2008.

<sup>10</sup> Michael Abramowitz, "Biden Warns World Will 'Test' Obama, Prompting McCain Response," *The Washington Post*, October 20, 2008, available at [http://voices.washingtonpost.com/trace-trail/2008/10/20/biden\\_warns\\_world\\_will\\_test\\_ob.html](http://voices.washingtonpost.com/trace-trail/2008/10/20/biden_warns_world_will_test_ob.html).

<sup>11</sup> Don Gonyea, "Obama: Seamless Security Transition A Priority," *Morning Edition*, November 17, 2008, available at <http://www.npr.org/templates/story/story.php?storyId=97078485>.

Since 2003, a number of support functions for the different components of DHS have been interwoven. These include financial management, information technology systems, and some procurement functions. A reorganization would impact not only FEMA, which would have to reconstitute itself as a stand-alone agency, but also DHS as a whole, which would have to adjust to losing an important component. Professor Kettl warned in 2006 that “FEMA has gone through a long and wrenching series of reorganizations.... Change for the sake of change could simply induce organizational whiplash and further destabilize an already unstable organization.”<sup>12</sup> John Harrald, co-director of the Institute for Crisis, Disaster, and Risk Management at The George Washington University, testified at a hearing that pulling FEMA out of DHS would mean a difficult transition period and the rewriting of doctrine and the redesign of systems, and warned that “natural hazards and terrorists are not going to wait for us to reorganize yet again.”<sup>13</sup>

### **Ongoing Reviews**

It is clear that removing FEMA from DHS at this point would cause considerable upheaval, to both FEMA and the department. Such action should not be taken without very careful consideration.

At this time, the Quadrennial Homeland Security Review (QHSR) is underway at DHS, and the first QHSR report is due in December 2009. This comprehensive review of the department was mandated by Congress in the *Implementing the Recommendations of the 9/11 Commission Act of 2007* (P.L. 110-53).

The National Academy of Public Administration has just begun an independent assessment of preparedness and response integration with a focus on FEMA’s 10 regional offices, and will provide recommendations on the integration, synchronization, and strengthening of preparedness programs between FEMA and its regional offices.

Experts have cautioned that making major structural changes involving the Department of Homeland Security should only take place following a detailed strategic review and should not occur early in President Obama’s term.<sup>14</sup> The formal recommendation of the Homeland Security Presidential Transition Initiative is that, “A decision to remove FEMA should be deferred until the completion of the Quadrennial Homeland Security Review in late 2009. Maintaining the status quo in the first year avoids unnecessary instability and confusion at a time of elevated risk. It also provides time for the new administration to consult with congressional leadership and build support for any major changes that may be contemplated within the QHSR process.”<sup>15</sup>

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<sup>12</sup> Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *National Emergency Management: Where Does FEMA Belong?*, p. 2.

<sup>13</sup> John R. Harrald, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *National Emergency Management: Where Does FEMA Belong?* June 8, 2006.

<sup>14</sup> Homeland Security Presidential Transition Initiative, *Protecting the Homeland from Day One*, Introduction.

<sup>15</sup> *Ibid*, p. 15.

## **Synergy and Resources**

A primary benefit to FEMA of being part of the 200,000-plus person Department of Homeland Security is the wealth of resources available to FEMA through other DHS components. These connections create synergies that were never available to FEMA as a stand-alone agency. In DHS, FEMA is coupled with components that have far-reaching responsibilities and capabilities, including search and rescue, communications, law enforcement, intelligence, and infrastructure protection.

The Government Accountability Office (GAO) has cited areas of interconnectedness, including grants, through which Urban Area Security Initiative and State Homeland Security Program funding can be used for mass evacuation planning; interoperable communications; DHS Science & Technology expertise for the Equipment Standards Program; and a huge surge capacity of personnel that can be tapped in case of a disaster.<sup>16</sup> And in fact, FEMA did tap into DHS' vast personnel resources during last year's hurricane season.

Until DHS was formed, interagency planning for disaster response was not well-coordinated. In contrast, Admiral Thad Allen testified in 2006 that since DHS' creation, the relationship between the Coast Guard and FEMA has been greatly strengthened. Prior to the establishment of DHS, Coast Guard and FEMA interaction was infrequent. By 2006, however, the number of joint exercises had increased 354%, from 13 in the years 1999-2002 to 59 in the years 2003-2006.<sup>17</sup>

Another way FEMA and DHS mutually benefit from FEMA being part of the department, is the DHS components, including FEMA, have opportunities during "down times" to plan, train and exercise together and to build capabilities. These capabilities now span throughout DHS components and allow for better coordination when disaster strikes. Those joint capabilities were evidenced in recent disasters.

In the wake of Hurricane Katrina, the Coast Guard, the Transportation Security Administration (TSA), U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and the Secret Service were all vital players in the response and recovery effort.<sup>18</sup> More recently, in responding to Hurricanes Gustav and Ike, FEMA was supported by multiple components of the Department of Homeland Security. CBP provided security for the transit of life-sustaining goods and provided aerial assets that allowed surveying of damage. In the past, FEMA relied on DOD for aerial surveillance, which cost considerably more than using CBP. TSA supported 20 FEMA commodity distribution locations, augmenting FEMA staff with 366 additional

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<sup>16</sup> Government Accountability Office, Letter to Congressional Requesters, Actions Taken to Implement the Post-Katrina Emergency Management Reform Act of 2006.

<sup>17</sup> Admiral Thad W. Allen, FEMA's Placement in the Federal Government, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, June 8, 2006.

<sup>18</sup> Homeland Security Secretary Michael Chertoff, Building an Integrated Preparedness and Emergency Management System: The Case for Keeping FEMA Within the Department of Homeland Security, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, June 8, 2006.

employees in the field. The Coast Guard performed land, maritime, and air search-and-rescue missions. As Secretary of DHS, Michael Chertoff argued that when it is necessary for FEMA to quickly call upon other agencies, the quickest way to accomplish this is not by reaching to other departments, it is when the Secretary can immediately order assistance from all of the elements and capabilities of the entire Department of Homeland Security.<sup>19</sup>

Finally, it is important to discuss DHS grants and their importance to the emergency management community. When FEMA initially joined DHS, many of its grants functions were transferred to other parts of DHS. Since Hurricane Katrina, FEMA administers almost all DHS grants, both those focused on natural hazards and those focused on terrorism. Pulling FEMA out of DHS would almost certainly disrupt the grants function in the short term, and it could result in once again separating out “emergency management” grants from “terrorism” grants, which we know from experience leads to inefficiency, duplication, and waste. The synergies that have been realized in homeland security grants should be an important consideration when debating the merits of removing FEMA from DHS.

### **Preparedness and Response**

The well-recognized cycle of emergency management includes preparedness, response, recovery, and mitigation. This is true of all emergency management, whether for natural or manmade hazards. I like to think of these elements as a four-legged stool. Remove one of the elements, and the stool becomes unstable. Some would suggest that we need two stools— one labeled crisis management and one labeled consequence management. The problem is that we know from the past that this structure simply does not work well. It is evident in the “stovepipes” that existed prior to the creation of DHS.

Some in the emergency management community suggest that FEMA is involved with consequence management, dealing with the response, while the rest of DHS is focused on preventing or protecting against a response (crisis management). They suggest further that these different functions should be under different roofs. Former Secretary Chertoff argues, and I agree, that this “is a profound misunderstanding of how one plans and prepares and executes in the face of a possible emergency and an actual emergency because the truth is emergencies don’t come neatly packaged in stovepipes and if there’s any lesson we’ve learned in dealing with terrorism or dealing with any other crisis, it is that stove-piping is the enemy of efficient and effective response.”<sup>20</sup> Mr. Chairman, it is just common sense. We have tried stovepipes. They don’t work, and in fact they put us in a worse position when it comes to preparing for, preventing when possible, responding to, and recovering from disasters. And it does not matter whether the disaster is a hurricane, a terrorist bombing, or the pandemic flu.

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<sup>19</sup> Remarks by Homeland Security Secretary Michael Chertoff at Johns Hopkins University, December 3, 2008, available at [http://www.dhs.gov/xnews/releases/pr\\_1228482474306.shtm](http://www.dhs.gov/xnews/releases/pr_1228482474306.shtm).

<sup>20</sup> Ibid.



The Hart-Rudman Commission also warned against the stovepiping of crisis management and consequence management, saying it is “neither sustainable nor wise.”<sup>21</sup> The duplicative command structures that are fostered by this division lead to confusion and delay. I would add that this duplication wastes time, energy, and resources. Preparedness and response are fundamental to homeland security. If FEMA is removed, a duplicate agency would most certainly be created in DHS, because preparedness and response are so fundamental to DHS’ mission that it could not operate effectively without them.

Finally, on this topic let me point out that for local frontline first responders, there is no line between terrorist and non-terrorist hazards; first responders must focus on all-hazards-plus. The federal approach and structure should match this local approach.<sup>22</sup>

### **It Takes Years for a Complex Organization to Develop**

When DHS was created 5 years ago, 22 disparate agencies were merged into one large organization. These agencies brought their own missions, processes, systems, and cultures. Merging them into a single organization was a complex undertaking, and this type of undertaking is not accomplished quickly. GAO has reported that its work on mergers and acquisitions shows that successful transformation of a large organization can take at least 5 to 7 years, even for organizational mergers that are less complex than DHS.<sup>23</sup>

As an example, GAO points to the creation of the Department of Defense. The most recent major DOD restructuring began 20 years ago with the *Goldwater-Nichols Act of 1986*, but DOD continues to face serious management challenges. DHS is only six years old, an infant in organizational development. Pulling FEMA out of DHS will take both FEMA and the department back years in development, impeding our progress in building a strong homeland security structure in this country.

The *Post-Katrina Act* was enacted just a little over 2 years ago, bringing major changes to DHS, and to FEMA in particular. These reforms have not had time to work, and restructuring now would only set the department and FEMA back further.

### **Success Depends on Leadership More Than Structure**

The success of an organization is often more about the organization’s leadership than its structure. The Hart-Rudman Commission recognized this when first considering a restructuring of national security policy. “Organizational reform is not a panacea. There

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<sup>21</sup> The United States Commission on National Security/21st Century, *Road Map for National Security: Imperative for Change: The Phase III Report of the U.S. Commission on National Security/21st Century*, February 15, 2001, p. 20.

<sup>22</sup> Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *National Emergency Management: Where Does FEMA Belong?* p. 7.

<sup>23</sup> Government Accountability Office, *Department of Homeland Security: Progress Report on Implementation of Mission and Management Functions* (GAO-07-454), August 2007.

is no perfect organizational design, no flawless managerial fix. The reason is that organizations are made up of people, and people invariably devise informal means of dealing with one another in accord with the accidents of personality and temperament. Even excellent organizational structure cannot make impetuous or mistaken leaders patient or wise, but poor organizational design can make good leaders less effective.”<sup>24</sup>

It is interesting to note that when people talk about FEMA’s “successful years,” these years are invariably linked with James Lee Witt. Credit for turning the organization around is generally ascribed to Witt personally, not to an outside force mandating reorganization. The President has announced his intent to nominate Craig Fugate as the next FEMA Administrator, and I believe this will provide a strong leader for the agency. Leaving FEMA in DHS will couple this important leadership with the considerable resources of the department.

## Conclusion

In 2001, the Hart-Rudman Commission, addressing the topic of military intervention abroad, warned that in policymaking it is important to avoid the “CNN effect.”<sup>25</sup> This admonition is all the more important today, when the country faces an increased threat of terrorism and has experienced a number of serious disasters over the past few years.

Just over 5 years ago, the approach to and structure for homeland security were completely revamped. Have things gone perfectly since? Clearly, the answer is no, but that is not enough justification to undertake a major reorganization that would have far-reaching effects, particularly before a careful study of the potential consequences can be carried out.

Former Secretary Chertoff has pointed out the dangers of thinking short-term, stating, “I would say that one of the lessons I’ve learned, maybe ‘the’ lesson I learned in the last eight years is we’ve had three major catastrophic events, 9/11, Hurricane Katrina, and the financial meltdown. In each case, the real nub of the problem was [that] leaders made decisions looking only at the short term and sacrificing the long term.”<sup>26</sup>

Now is not the time to think short term, particularly when it comes to our homeland security. Terrorism is not a threat only in the short term, and natural disasters certainly are not, so we need to be thinking long term. Thinking long term requires giving the Department of Homeland Security the time any large organization needs to mature. Thinking long term means giving the reforms introduced by the *Post-Katrina Act* time to work. Thinking long term means resisting the “CNN effect” and ensuring that FEMA is

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<sup>24</sup> The United States Commission on National Security/21st Century, *Road Map for National Security*, p. vi.

<sup>25</sup> The United States Commission on National Security/21st Century, *Seeking a National Strategy: A Concert for Preserving Security and Promoting Freedom: The Phase II Report on a U.S. National Security Strategy for the 21st Century*, April 15, 2000, p. 7.

<sup>26</sup> Remarks by Homeland Security Secretary Michael Chertoff at Johns Hopkins University, December 3, 2008.

positioned to continue as a vital component of our homeland security and emergency management infrastructure.

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Chairman Cuellar, this concludes my prepared remarks. I would be happy to answer any questions that you or the Committee Members may have. Thank you.