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April 12, 2006

The Honorable Michael J. Chertoff
Secretary
United States Department of Homeland Security
Washington, D.C. 20528

Re: Docket Number FEMA-2004-0004, Legacy ID DHS-2004-0029, and Z-Rin
1660-ZA02

Dear Mr. Secretary,

On behalf of the 238,000 sworn law enforcement officers represented by the National Association of Police Organizations ("NAPO"), please accept these comments on the proposed Guidance titled, "Preparedness Directorate; Protective Action Guides for Radiological Dispersal Device (RDD) and Improvised Nuclear Device (IND) Incidents. (See, Federal Register, Vol.71, No.1, January 3, 2006/Notices, beginning at page 174)

Appendix 1- Radiation Protection for the Responder and Planning for Implementation of the Protective Action Guides.

America's Police and other first responders play a critical role in all phases of response to both terrorist and natural disasters. The radiation limits proposed in this Federal Register notice are far higher than acceptable and would *unnecessarily* threaten the health and lives of our members. We respectfully object to the language in Appendix 1(e), Table 1B titled, "Response Worker Guidelines", that effectively allows workers to be involuntary exposed to unlimited radiation levels far in excess of 10 or even 25 rems. The second category of the table, that of "Protecting valuable property," lists a guideline for total effective dose equivalent (TEDE) of 10 rems. Yet the footnote that follows immediately adds: "For potential doses >10 rems, special monitoring programs should be employed, and exposure should be tracked in terms of absorbed dose (rad) rather than TEDE (rem)." This raises cause for concern. In the event of an actual detonation or deployment of an RDD or IND, there is zero likelihood of real-world first responders, America's police, having in place any "special monitoring programs." Officers' health and lives ought not be placed *unnecessarily*¹ at risk in such a situation if the TEDE is clearly greater than 10 rems, yet no special monitoring program is in place, nor is information as to

¹ Law enforcement officers do accept the *necessary* and known risks of the job every day.

actual rads available in the quickly developing and chaotic aftermath of an RDD or IND. At a minimum, if the intent of this guideline and footnote is to provide for greater safety for first responders and not to act as a loophole allowing greater exposure, the language should be revised and expanded to clearly state that in the absence of proof to the contrary, a TEDE greater than 10 rems is not allowable for the mere protection of property.

Similarly, the third category in Table 1B provides a guideline of 25 rems for “Lifesaving or protection of large populations.” Yet this standard is immediately vitiated by the second footnote to Table 1B, which reads, “**In the case of a very large incident such as an IND, incident commanders may need to consider raising the property and lifesaving response worker guidelines in order to prevent further loss of life and massive spread of destruction.” Given that these standards will come into play by definition in the event of any such incident, the language of this footnote means that there is really no limit at all to what an officer can be exposed to at the complete discretion or whim of his or her supervisor. Significantly, the footnote encourages this stripping of limits even to protect mere property from further “spread of destruction.” We urge you to reconsider this language. America’s police, and the public they serve, would be better protected by firm guidelines set low enough to protect the officers’ lives and health. A premature grant of and encouragement of unfettered discretion to on scene supervisors is unwise. The fact that the proposed language encourages the setting aside of limits in only one direction, that of increased exposure for the officer, is a recipe for grievous harm. It is also unsound, we believe, to encourage this type of upward departure from the guidelines on the part of incident commanders whom, we may safely predict, will be themselves immersed in a chaotic, dangerous, confusing and rapidly changing situation. Hardly the type of environment within which to encourage them to make seat-of-the-pants decisions with profound implications for the lives and health of the officers involved.

The text following Table 1B explains that emergency missions which will expose a first responder to a radiation level greater than 25 rems should only be undertaken when the responder has “full awareness of the sub-chronic and chronic risks involved” and understands the “potential acute effects of radiation”. Markedly absent from this language is the term “voluntary”. The Environmental Protection Agency (EPA) published guidelines in the “Manual of Protective Action Guides and Protective Actions for Nuclear Incidents” (EPA 400-R-92-001, May 1992). Table 2-2 of the EPA manual, titled “Guidance on Dose Limits for Workers Performing Emergency Services”; specifically states that dose limits for emergency personnel may exceed 25 rems “only on a voluntary basis to persons fully aware of the risks involved.” We submit that the EPA guideline recognizes our culture’s insistence that our brave men and women in law enforcement who may be going to their potential death in the service of their community and nation do so only voluntarily and with a full awareness of the risk.²

It is not enough that emergency personnel are told at some point of the risks involved with a particular action that their incident commander is instructing them to perform. Any action taken by officers in an environment with radiation exposure levels above 25 rems should be done only

² It would be both inaccurate and insulting to infer that officers will refuse to do their duty, even to the point of death, on a voluntary basis. Every Port Authority and New York City Police Officer who died on September 11, 2001 did their duty and stayed at their post knowing what was likely to happen to them. Each was also a member of this association, NAPO.

on a voluntary basis. Any language which does not include voluntary action when the radiation level is so potentially deadly is unacceptable.

The Supplementary Information of the January 3, 2006 Guide, Section (d), is titled, "Specific Questions for Reviewers." Among the questions asked is, "Does Appendix 1 of the proposed guidance provide an adequate discussion of expectations and the use of the alternate response worker guidelines for life and property saving situations?" The answer is unequivocally "No." If the radiation level exceeds 25 rems, then the expectation is that this risk to officers be encountered solely on a knowing and voluntary basis. This expectation is true not only for the emergency personnel following the commands of the incident commanders, but for the commanders themselves. The commanders certainly do not expect to be required to order emergency personnel into an area without full voluntary cooperation.

Our law enforcement officers have played and will continue to play the single most important role part in safeguarding the domestic security of so many Americans. We ask that your guidelines be responsive to the welfare of these workers who have already demonstrated, at great personal cost, their willingness to put their lives on the line. The guidelines promulgated by the Department should countenance only the knowing and *voluntary* exposure to minimally *necessary* radiological risks.

Sincerely,

William Johnson
Executive Director