Appendix B

Project On Government Oversight,
“Protective Force Lacks Necessary Tools,”

March 2008
Protective Force Lacks Necessary Tools

Because of Lawrence Livermore National Laboratory’s location, it is nearly impossible to adequately protect the site’s special nuclear material (SNM). In light of this, the Lab should immediately be de-inventoried of its Category I and II (CAT I and II) SNM. That said, DOE has been dragging its proverbial feet for the past 13 years (and shows every sign of continuing to do so). Until the SNM is moved, the National Nuclear Security Administration (NNSA) needs to provide the protective force officers with the tools they need to perform their job as effectively as possible.

There are currently a number of issues undermining the protective force’s ability to function effectively: lack of authority, lack of necessary equipment and personnel, insufficient training, and inadequate benefits.

Lack of Authority

Livermore Lab’s protective force officers are just that: security officers hired by private corporations to protect a limited area. They are not sworn law enforcement officers, and therefore their power to make arrests is limited.¹

This limitation was recently highlighted when a Livermore Lab protective force patrol came across a vehicle inside the confines of the off-site power station that provides the Lab’s power. With the suspects under gunpoint, the Lab’s protective force officer had to call the license plate number into the Alameda Police Department. The plates came back as belonging to an individual with outstanding warrants. The Lab’s protective force officer described the incident and phone conversation with the Alameda Police Department as follows:

I ordered the driver out of the vehicle and had him stand facing the fence line while I conducted a pat down search for weapons. I then did the same with the passenger…. Additional Livermore Officers also arrived on scene. The Livermore Officers searched the 2 subjects and proceeded to search the truck. Alameda County was notified to respond because it is the County’s jurisdiction. Alameda County Deputy ____________ requested that I place the subjects under Citizen’s arrest. Protective Service Sergeant ____________ notified Captain ____________ of the request. Captain ____________ notified Division Leader ____________ who authorized me to execute a citizen’s arrest.²

The Lab’s protective force officer had to call the supervisor (the Sergeant), who then had to make contact with the next supervisor (the Captain), who then had to make contact with the next supervisor (the Division Leader). Imagine for a moment what would have happened if theft of SNM occurred during this absurd chain-of-permission.

The DOE will likely point to its *Guidelines for Fresh Pursuit* to claim that all sites have the capability to recapture stolen SNM.\(^3\) *Guidelines* gives non-sworn, non-law enforcement, private contract protective force officers’ permission to commit the following acts while trying to recapture stolen SNM outside of the DOE facility from which any SNM was stolen:

firing at or from a moving vehicle, aircraft or watercraft; the ramming and disabling of pursued vehicles ….

If hostages are present in a pursuit situation in which recovery of SNM is involved, the safety and welfare of hostages must be considered; however, due to the ramifications of unauthorized use of SNM to the national security, the public, and the environment, the hostages’ presence must not deter or impact, immediate pursuit or recovery of the SNM.\(^4\)

The title should itself be a huge red flag. The document is just a “Guideline” and does not supersede the jurisdictional and legal barriers that prohibit the protective force officers from engaging in fresh pursuit off their property. This problem was also raised in the NNSA-commissioned report by retired U.S. Navy Admiral Richard W. Mies in 2005:

Local law enforcement and FBI cooperation with NNSA sites is severely deficient. Sites do not have memorandums of understanding/memorandums of agreement (MOUs/MOAs) with outside agencies to respond to potential contingencies.\(^5\)

*Lack of Necessary Equipment and Personnel*

Further undermining the protective force’s ability to adequately secure the site is its limited ability to communicate with outside responders, including local law enforcement officers. As a result, coordinating an effort to recapture stolen SNM is virtually impossible. While the protective force has its own encrypted radio network so that its officers can securely communicate with each other, the Lab’s officers do not have a channel on the California Law Enforcement Mutual Aid Radio System (CLEMARS). If there is a situation in which security officers are pursuing a suspect off-site (and possibly “firing at or from a moving vehicle, aircraft or watercraft…”), they are incapable of informing responding units from local agencies of their identities or their intentions.

Further exacerbating communication problems, *Guidelines* lays out an unwieldy communications chain of command for the protective force (PF):

The PF dispatcher, supervisors in the PF command structure, and the officer in charge of on-site PF operations must coordinate the pursuit efforts of PF officers with other

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Federal, State, and/or other local law enforcement authorities who assume primary responsibility.\(^6\)

This communication hierarchy is potentially disastrous. According to the *Guidelines*, the responding protective force officer will disregard any and all orders from outside agencies to call off a fresh pursuit until they are instructed to do so by their security dispatcher or supervisor.\(^7\) If the protective force officers’ superiors are killed or otherwise incapacitated, or if the communication structure itself is compromised, the system would break down leaving no-one to coordinate with outside responders.

Another concern shared by Livermore Lab protective force officers is that they are not supplied with or trained on Self Contained Breathing Apparatus (SCBA) gear, which provides a source of oxygen in an oxygen deficient atmosphere. POGO has been told by protective force officers that, if the Lab’s glove boxes are damaged or destroyed, cryogens and gases (argon) could be released and could incapacitate the protective force officers if they were not wearing SCBA gear.\(^8\)

However, DOE refuses even to discuss providing SCBA gear to its protective force officers, as made clear in a letter from Richard Haddock, NNSA’s Occupational Health and Safety Manager in the Environmental, Safety, and Health Division:

> The concern about whether [Security Police Officers (SPO)] should be trained on and wear self-contained breathing apparatus falls under the realm of a security issue that should not be discussed. However, [Livermore Lab] will continue to evaluate changing security tactics where SPOs may be exposed to airborne hazards and provide appropriate respirators. [See Attachment]

While law enforcement officers breaking up crystal meth labs and firefighters across the U.S. are trained and equipped with SCBA gear, Livermore Lab’s protective force officers who protect SNM are not. Given that the officers believe they would be unprotected from this hazard, the issue should be evaluated by an independent group of scientists. If the issue is not resolved, the officers may be reluctant to enter certain areas, seriously degrading their ability to respond to a security incident.

Yet another issue creating unease in the protective force is that the Lab has not integrated tactical medical units into its protective force. Although there is a medical clinic on site, the protective force should also be supported by medics specifically trained to respond while under

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\(^6\) *Protective Force Program Manual*, Attachment 2-5g. (Coordination with other law enforcement Authorities).

\(^7\) *Protective Force Program Manual*, Attachment 2-5g.

\(^8\) Department of Energy by University of California Lawrence Livermore National Laboratory. *Environment, Safety, and Health Manual*, September 9, 2003. Various forms of SNM are pyrophoric, which means they ignite when exposed to oxygen, and require the introduction of an inert and heavy gas to displace the oxygen. Cryogens are also used within the RMA as a way to stabilize various forms of SNM. *Environment, Safety, and Health Manual*, Document 18.5, p 5. “A small liquid spill produces a large Volume of gas and displaces the air in a confined space, thus creating a serious oxygen deficiency that can suffocate occupants of the area.”

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fire. Knowing that the specially-trained medics are right on hand in case of attack makes protective force officers more willing to go into battle, knowing their chances of surviving the battle are significantly increased. The absence of trained tactical medics, or at least emergency medical kits, goes against law-enforcement industry standards.  

The protective force is also not equipped with breaching explosives (used for breaching doors or blowing holes in the side of the building), which would be essential if terrorists barricaded themselves in a storage vault to construct an IND or prepare a radiological dispersal device.

**Insufficient Training**

A protective force Special Response Team (SRT) is the equivalent of a police force or FBI SWAT team. Because of a number of problems, the SRT at Livermore Lab is compromised in its ability to prevent the loss of the facility or special nuclear material. For instance, although the Lab may state that it has a fully-manned SRT, the team is missing such key personnel as a full-time counter-sniper and specifically-trained breacher. Furthermore, some of the SRT members have been there for three to five years, but have never trained or exercised with the same teammates on a consistent basis, which limits the ability of the officers to build trust and faith in each other’s capabilities. SRT members have to know exactly how their fellow officers are going to respond to certain critical events. Any misinterpretation can result in unnecessary fatalities and, possibly, the success of a terrorist attack.

In addition to not training with each other, the Lab’s SRT members do not train with outside responders on a regular basis. Despite regulations that require annual training exercises with outside responders, SRT members at Livermore say that the Lab’s team has not trained with the FBI or the Alameda County Sheriff’s Department since 1996. While DOE may claim it has conducted exercises, those have only been table-top exercises, and did not involve simulations with officers on the ground. This lack of practical training creates at least two problems.

First, without such training, the SRT is not able to practice critical skills that would make it truly effective as a SWAT-type force, and therefore more self-sufficient. This self-sufficiency is important because tests have shown it would generally take one to two hours for an outside SWAT team to respond to a request for help. Simulations show that an attack would most likely be over in minutes, not hours, leaving the SRT and the rest of the protective force on their own during the actual attack.

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9 California Commission on Peace Officer Standards and Training. *SWAT Operational Guideline and Standardized Training Recommendations*, POST2005TPS-0369.1. August 2006. http://www.post.ca.gov/training/swatmanual/swatmanual.pdf (Downloaded March 13, 2008). In addition, the National Tactical Officer Association, with its 30,000 members, including more than 1,600 SWAT teams, has for years been championing the need for a tactical medical unit in every SWAT team. National Tactical Officer Association. *NTOA History*. http://ntoa.org/about.html (Downloaded March 13, 2008). Unlike federal law enforcement agencies such as the Immigration and Customs Enforcement unit (ICE) and the FBI, DOE sites and its officers do not count themselves as members of the NTOA.

10 A “breacher” is a person trained in various methods of barrier penetration, or breaking through to barricaded areas.
The second problem is that, in cases of drawn-out attacks, outside responders won’t be prepared to deal with the situation once they do arrive, such as how to communicate with the protective force inside or how to best provide support. In addition, if the outside responders don’t work with the Lab’s protective force on a regular basis, they may actually be perceived by the remaining protective force as another wave of attackers.

As a former Lab SRT member told POGO, training with outside agencies gives both entities an opportunity to see how the other would behave in varying situations and to identify any missing components of a response plan.

**Inadequate Benefits**

Unlike firefighters and other first responders, DOE protective force officers do not receive benefits that ensure they and their families will be taken care of in the event of a serious injury or death. This lack of first responder benefits dampens the protective force officers’ willingness to accept higher levels of risk, and raises the question about whether or not they will stay and fight if real bullets fly at Livermore Lab. Mandated testing of security, performed at all DOE facilities, shows that up to 50 percent of the guard force would be killed while reacting to or trying to prevent the theft or sabotage of nuclear material.\(^1\) This leaves protective force officers asking themselves each time they go to work, “Who is going to look after my family if I am disabled or killed saving the day?”

As one officer pointed out, if a Livermore Lab protective force officer and a Livermore Lab firefighter both respond to an incident and both get killed, the firefighter’s family gets a whole package of benefits including health, disability, and life insurance, while the protective force officer’s family does not. The firefighters also receive retirement benefits, whereas the protective force officers do not. The disparity is not a result of the different policies of different employers because Livermore Lab protective force officers and firefighters are both employed by the same contractors. And the disparity is not because the firefighters are more at-risk than the protective force officers: in the course of their jobs, DOE protective force officers must be prepared to face the dual threat of terrorists and nuclear material.\(^2\)

The Livermore Lab’s protective force officers tried five years ago to bring their concerns about the lack of first responder benefits to the attention of Congress. Yet, they still have not received life or disability insurance, or other benefits equivalent to those provided to Livermore Lab firefighters or to local and state police forces. In order to gain these benefits, protective forces at other sites have in the past resorted to striking for them. Protective force officers at Pantex went on strike in summer 2007 for retirement benefits, as did the force at Rocky Flats in 1997, when they were unable to get their concerns addressed in any other way. As a result, the security at these plants was seriously compromised.

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\(^1\) The Protective Force and Program Manual M473. 2-2. This mandatory testing only reflects “life” or “death” results; it does not indicate how many of the “surviving” protective force officers may suffer significant or career-ending injuries.

Federalizing DOE’s Protective Force

The fact that Livermore Lab protective force officers are being asked to die for their country, but are not given full protections from the government, creates a security vulnerability at the Lab. Federalizing the protective force, including SRTs, would address a number of issues.

There are a number of different security contractors protecting the various sites, each with their own standards for personnel, equipment, and benefits. Transitioning the protective force officers to federal employee status would standardize front-line medical availability; equipment and training for the protective force; the retirement system and health, disability, life, and other benefits; and prohibit the striking of the protective force, which could seriously undermine the security of the nuclear weapons facility. (In fact, if authority, equipment, training, and benefits are standardized, there would be no need to strike.) Federalization would also provide the protective force with law-enforcement authority and the power to make arrests, eliminating a whole raft of jurisdictional and legal barriers.

There is a precedent within DOE for federalizing protective forces. Office of Secure Transportation officers, who protect DOE’s truck convoys, are federal agents and receive all of the authority, equipment, training, and benefits associated with the status.

While federalization of the guard force is not yet a reality, its importance has not been lost on DOE. A 2004 NNSA memorandum, “Review Options for the Protective Force: Phase II,” concludes that:

In the final analysis, the fundamental argument for federalization is that being asked to die or to kill for one’s country should mean having the unmistakable full measure of government involvement and support. Protective force members deserve nothing less.

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13 This is true for all DOE sites housing SNM.
15 Ibid.
Attachment

Letter from Richard Haddock,
Occupational Health and Safety Manager of the
Environmental, Safety, and Health Division of
the National Nuclear Security Administration
to
Mr. Matthew Zipoli
regarding
Safety and Health Concerns at
Lawrence Livermore National Laboratory

March 25, 2002
Mr. Matthew Zipoli  
3430 Schooner Drive  
Stockton, CA 95219

Subject: Safety and Health Concerns at Lawrence Livermore National Laboratory (LLNL)

Dear Mr. Zipoli:

The concerns you expressed to DOE were investigated carefully. We did not find that Security Police Officers (SPOs) were required to work in an unsafe manner. We found SPOs are adequately monitored for hazards they may be potentially exposed to while performing their duties. We also found changes have been made in the last year that satisfied some of your concerns.

Based on 10 CFR 835 requirements, and after a review of SPO routine activities, it is concluded that SPOs do not need to be placed in the routine bioassay program. The LLNL policy of providing bioassays on request, as a voluntary program, will continue as a best management practice. We have recommended that the Facility Safety Procedure and the area posting be reviewed to ensure they are in complete agreement.

You pointed out that some other DOE facilities train their security personnel to the more extensive Radiation Worker Two levels. The pre-CY2000 training program appeared to have been short of the radiation training and examination required for all possible situations by CFR 835.901c.

The radiation safety training program has been improved since CY 2000, however, we have recommended LLNL review the radiation training program for SPOs to ensure it can be certified to meet all the requirements of 10 CFR 835.901.

The concern about whether SPOs should be trained on and wear self-contained breathing apparatus falls under the realm of a security issue that should not be discussed. However, LLNL will continue to evaluate changing security tactics where SPOs may be exposed to airborne hazards and provide appropriate respirators. The respirators being stored were found to be in good condition and safe for use; however we have recommended that LLNL more thoroughly document respirator servicing and inspections.
Your concern about the need to provide permanent nuclear accident dosimeter (NAD) monitoring badges to SPOs was evaluated and, though the temporary NAD badges available to SPOs were adequate for anticipated exposures, NAD monitor chips have been added to the badges issued to SPOs as a best management practice.

The basic training provided to SPOs who observe the radiography program you mentioned is adequate. We have recommended training for that specific activity be reevaluated to ensure all aspects are covered. Further discussion falls under the realm of a security issue that should not be discussed.

We appreciate you bringing these safety concerns to our attention. We take them seriously and have spent a great deal of time investigating and considering their application to present and future security operations. Changes have been made or are being recommended based on some of your concerns to ensure our security personnel work in a safe and secure environment.

Please contact me if your concerns were misinterpreted or have not been resolved to your satisfaction. You may also contact:

Mr. Tom Rollow, EH-21
19901 Germantown Road
Germantown, MD 20874-1290
(202) 586-7449

Sincerely,

[Signature]
Richard Haddock
Occupational Health and Safety Manager
Environmental, Safety, and Health Division