



**Statement of John C. Dean, President
National Association of State Fire Marshals
March 21, 2007**

**Senate Subcommittee on Consumer Affairs, Insurance, and Automotive Safety
Oversight Hearing on the US Consumer Product Safety Commission**

My name is John Dean. I am the current President of the National Association of State Fire Marshals, and have served as the Fire Marshal for the State of Maine since 1998. I have served as a fire chief, a firefighter and an EMT for most of the past three decades. Thank you for the opportunity to appear before the Subcommittee this morning to share the views of NASFM on the U.S. Consumer Product Safety Commission.

With all due respect, an oversight hearing lasting a few hours is not adequate to cover this morning's topic. But I would like to convey our sense of urgency about the current state of the CPSC and the need for immediate action to address both short-term and long-term needs. We have many safety issues before the Commission, but rather than bemoaning the lack of progress in each, we think it would be more useful to approach this hearing from a broader perspective and address the Commission's basic ability to fulfill its mission.

Before there even was a United States of America, Scottish moral philosopher and political economist Adam Smith wrote, "The chief purpose of government is to preserve justice. The object of justice is security from injury."¹ Security from injury is the mission of the Consumer Product Safety Commission, and we believe that it is an appropriate function of good government.

However, many of the ills of the Commission have been documented and are well known to this Committee: the budget that has not even kept up with inflation, much less been increased on the basis of the work that needs to be done; the attrition of longtime experienced staff, leaving a skeleton crew of capable but junior technical employees to do most of the work without guidance, expertise, historical memory or the means to acquire these necessary resources; a management top-heavy with Senior Executive Service employees; a lack of quorum that has contributed to paralysis on many issues. We have even heard that the Commission is making plans to consolidate offices to save on rent, cramming the staff into ever-smaller spaces and, in the process, throwing out active records because there is no room to store them.

¹ *Lectures on Jurisprudence*, originally delivered at the University of Glasgow in 1762-1763.
<http://oll.libertyfund.org/Home3/Book.php?recordID=0141.06>

To use an analogy from the emergency responder community, the CPSC over the past several years has been hemorrhaging to the point where it is now in critical condition: The resources and leadership no longer exist to allow the Commission to fulfill its very important mission, and it is no longer functioning. It moves slowly at its best, but in most cases is completely paralyzed.

We believe the patient can be saved, but immediate and decisive action is needed by Congress to address both the short-term survival and the long-term viability of the Agency. We know that the Congress is already considering legislation to extend the Commission's quorum until such time that a new chairman is in place.

For the other concerns, we recommend a two-part approach.

First, we suggest a short-term infusion of additional funding above current services to get the patient's heart beating and the blood flowing. We realize that the Commerce Committee does not appropriate funds, but we believe that it is appropriate for you to ask that this be given serious consideration by those who are responsible. The current CPSC budget breaks out to only about 21 cents per person in the United States. This is entirely inadequate for an agency charged with assuring the safety of products in America's homes. It is certainly not a bargain for consumers.

So how much more should the CPSC be given to do its job? This could and probably should be done incrementally over the next several years. But we would respectfully suggest a starting point of \$75 million for the coming fiscal year – which is \$12 million above the FY08 budget request and would amount to spending only about 25 cents per person in the US. This relatively small additional expenditure now – and similar modest increases over the next few years – would result in several benefits: It would help the Agency get back on track to rebuilding and training the staff so that they can, in time, develop the expertise to become the product safety leaders they should be. It would allow the Agency to pay for office space for staff and storage space for working records. It would allow them to complete work on projects that have been languishing for years, and to do a proper job of the projects they are addressing.

Second, we believe it is time for the Congress to ask the Government Accountability Office (GAO) to conduct a head-to-toe examination of the Agency to determine how the CPSC can best continue to fulfill its mission to consumers and recover the viability and the relevance it had in the early days of its existence.

A GAO study must consider whether the Commission has the resources to fulfill its mission. According to the Commission, deaths, injuries and property damage from consumer product incidents cost the nation more than \$700 billion annually. The Commission clearly lacks the authority and resources to address losses of this magnitude. The Commission's budget request for fiscal year 2008 is about \$63 million. Again, that's \$63 million and about 400 full-time employees to prevent \$700 billion annually in losses from incidents involving consumer products within the Agency's jurisdiction.²

² <http://www.cpsc.gov/about/about.html> and <http://www.cpsc.gov/cpsc/pub/prere/phtml07/07118.html>

A GAO study might compare the Commission's funding and staffing levels to those of other federal agencies with the same mission. For example, the GAO might look at the Food and Drug Administration, which has 9,000 employees and a budget of over \$1.8 billion to oversee products in its jurisdiction that total about \$1 trillion a year in retail sales.³ The CPSC has less than 1/20th the number of employees of FDA, with a budget about 1/29th as large as FDA's, to oversee products in its jurisdiction whose economic losses alone equal 70% of the retail value of FDA's products.

A GAO report might consider how well other government agencies are supporting the Commission's mission. If preventing injury is a legitimate role of government, the GAO might question why the USDA was given \$16.7 million to promote the sale of cotton – when the Commission lacks the funds to properly review its 1953 general wearing apparel flammability standard, which was recently tweaked only to update some definitions and laundering procedures. Meanwhile, we continue to see many fires, horrific burns and tragic deaths involving everyday clothing, much of it made of cotton, especially among children and the elderly. The standard is so weak, newspaper and facial tissue can pass it.

A GAO report might consider how the Commission and other agencies manage the same function: product recalls, as well as the Commission's ability to compel recalls. Again, comparisons may be useful. The FDA, Federal Aviation Administration, National Highway Traffic Safety Administration, Department of Justice and US Environmental Protection Agency have broad powers to ensure public safety. Does the Commission have sufficient authority and the resources to properly research, test and deal with manufacturers of products that have been designed and constructed in an inherently dangerous way?

A GAO study could address the question of whether it is time for the CPSC to be transformed from a commission structure to an agency headed by a single administrator – like all of the other government agencies I have mentioned in this statement.

And, finally, a GAO study could answer the basic question: should there even be a US Consumer Product Safety Commission, or should we rely entirely on litigation to address the \$700 billion in losses from incidents involving consumer products?

Firefighters care deeply about public safety. Our view of the Commission is that if it is to continue to exist – and we strongly believe that it should – it must have the authority and resources to protect human life and property from consumer products within its jurisdiction. It must have leadership committed to public safety and unwilling to accept constant erosion of the Agency's human and physical resources. We urge the Subcommittee to ask GAO to take a hard look, because a hard look is what is needed now.

I earlier quoted Adam Smith and will conclude, with apologies to the Majority, by quoting Ronald Reagan, who said, "Don't be afraid to see what you see." Thank you, Mr. Chairman.

³ <http://www.fda.gov/oc/history/historyoffda/default.htm>