

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

July 19, 2012

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Napolitano:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is investigating the BioWatch program, the nation's first early detection and warning capability for biological attacks, and its impact on the nation's public health system. On July 8, 2012, the *Los Angeles Times* reported that the BioWatch air samplers have been plagued by false alarms and other failures. In particular, Federal agencies documented 56 BioWatch false alarms, and State and local health officials have expressed their lack of confidence in BioWatch.

On July 12, 2012, Dr. Alexander Garza, Assistant Secretary for Health Affairs and Chief Medical Officer at the Department of Homeland Security (DHS), posted a blog on the DHS website entitled "The Truth About Biowatch: The Importance of Early Detection of a Potential Biological Attack." In his posting, Dr. Garza wrote: "Recent media reports have incorrectly claimed that BioWatch is prone to 'false positives' or 'false alarms' that create confusion among local officials and first responders. These claims are unsubstantiated. To date, more than 7 million tests have been performed by dedicated public health lab officials and there has never been a false positive result."

We note that Dr. Garza's representation that BioWatch has never had a false positive result is at odds not only with the incidents reported by the *Los Angeles Times* but also with the observation in an October 2010 report on the BioWatch program by the National Academy of Sciences (NAS). The NAS report stated:

From the wider perspective of public health authorities responsible for determining whether a confirmed positive laboratory test (a BAR) represents a plausible indication of a bioterrorist attack meriting initiation of mass dispensing of prophylaxis, the committee concluded that all BARs to date have been "BAR false positives," meaning they have signaled the potential occurrence of a terrorist attack when none has occurred.

To assist the Committee in finding out how the BioWatch program is actually performing, and whether it is meeting public protection goals without unduly disrupting the public health system and local emergency responders, please provide the following by August 2, 2012:

1. All documents (including emails, meeting minutes, slides) since January 1, 2008, in the possession of Dr. Tara O'Toole, Dr. Alexander Garza, Dr. Michael Walter, Dr. Jeff Stiefel, and/or Dr. Segran Pollai relating to BioWatch or any generation of the BioWatch program.
2. All documents containing data (including inconclusive data) showing whether the BioWatch program or any test used by the BioWatch program can accurately detect traces of dangerous pathogens.
3. Evidence for the DHS claim that there has never been a false positive result, including the basis for concluding that the incidents reported in the *Los Angeles Times* and the BAR false positives referenced in the NAS report as not being false positives.
4. Information on any program improvements that have been made based on lessons learned from past BioWatch incidents.

An attachment to this letter provides additional information about how to respond to the Committee's request.

If you have any questions regarding this request, please contact Alan Slobodin with the Committee staff at (202) 225-2927.

Sincerely,



Fred Upton
Chairman



Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations

Letter to the Honorable Janet Napolitano
Page 3

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

Attachment