



An Open Letter to Congress:

Dear Representative / Senator:

On behalf of more than 2 million first responders and public safety personnel across the United States of America, we are writing to applaud the leadership of Senators John (Jay) Rockefeller, IV (D-WV), Kay Bailey Hutchison (R-TX), Joseph Lieberman (I-CT), Susan Collins (R-ME), John Kerry (D-MA) and John McCain (R-AZ) and Representatives Fred Upton (R-MI), Henry Waxman (D-CA), Greg Walden (R-OR), Anna Eshoo (D-CA), Peter King (R-NY), and Bennie Thompson (D-MS), who have worked long and hard with public safety over the past two years to introduce legislation that would allocate the D Block and significant funding of up to \$11.75 billion to build out a nationwide Public Safety Broadband Network (PSBN).

Currently there are twelve (12) different bills in Congress that would do just that, but only two of these bills have moved forward in the committees of jurisdiction – S.911 and the Walden JOBS Act (as Title IV of H.R. 3630). **S. 911; Public Safety Spectrum and Wireless Innovation Act of 2011** was overwhelmingly reported out of Senate Commerce, Science and Transportation Committee by a bipartisan vote of 21-4, and has been included in the Senate and House versions of the **American Jobs Act of 2011 (H.R. 12 and S. 1549)**. In contrast, the Walden draft **“Jumpstarting Opportunity with Broadband Spectrum (JOBS) Act of 2011”** was voted out of the House Energy and Commerce Subcommittee on Communications and Technology along party lines, and was quickly added to **H.R. 3630; Temporary Payroll Tax Cut Continuation Act of 2011**. We are concerned, that the two primary bills currently being considered by Congress (S. 911 and the Walden JOBS Act) differ significantly with regards to governance, levels of funding, and provisions that would require public safety to give back spectrum.

We ask you to support the following 3 principles in considering any final bill for enactment:

1. There should be **NO** requirement to give back spectrum in the 700 MHz band, which is currently allocated, heavily invested, and in widespread use for state and local public safety interoperable mission-critical voice communications. Public safety strongly believes that there will be future opportunities to give back spectrum in other bands, **however** give back of any spectrum must be conditioned on three principles:
 - (1) open standards for LTE mission-critical voice communications have been adopted by 3GPP and IEEE;
 - (2) manufacturers are able to produce field-tested, proven and reasonably priced standards-based LTE equipment that can meet or exceed the

functionality of existing land mobile radio voice communications equipment, and;

(3) there are sufficient safeguards to ensure the give back of spectrum would not put the public's safety at risk. Such provisions are included in ***S. 1040; Broadband for First Responders Act of 2011*** and ***S. 911***, which are supported by all of the leading public safety associations.

We are very concerned that more than 234 Representatives voted (Roll Call Vote 923) to approve H.R. 3630, which threatens to force public safety to vacate 14 MHz of recently cleared 700 MHz spectrum, currently used for mission-critical public safety interoperable voice communications in at least 35 states. Title IV Section 4102 of H.R. 3630 would be disastrous for first responders across the country already building out and utilizing this spectrum to assist in day-to-day voice communications. Close to \$2 billion in federal, state and local funding has been dedicated to establishing multi-state regional interoperable systems in the Gulf States and the National Capitol Region alone since 2009. Many of the law enforcement agencies that serve the National Capital Region and various local, state and federal facilities in and around Washington, D.C. use 700 MHz narrowband systems. Taking away this 14 MHz of public safety spectrum in exchange for 10 MHz of broadband spectrum in the same band is completely illogical, destructive, dangerous and fiscally irresponsible. We urge you to work with your colleagues in the House to amend Title IV of H.R. 3630 and delete section 4102 in its entirety.

2. The 10 MHz of Public Safety broadband spectrum and the 10 MHz of D-Block spectrum should be combined under a single license that will be issued to a single **non-profit, independent and transparent governing body that is comprised of state and local Public Safety First Responder delegates, which constitute a majority of the governing body.** The governing body, which should include private sector representation from commercial and other stakeholder groups, shall:
 - a. set the rules and enforcement for network operation and facilitate nationwide build-out of an interoperable PSBN;
 - b. be authorized to receive and distribute federal, grant, and other funds designated for its operation and for creating and facilitating operation of the nationwide broadband network;
 - c. provide accommodations for regional or large entity sub-governance (local presence but under the single license for purposes of technology, etc.) to facilitate regional access and presence;
 - d. have the authority to enter into contractual agreements – either public or private – and the responsibility to delegate the authority to regional, state, Tribal or local operators; and
 - e. assume the responsibilities of the current public safety licensee.

The Walden JOBS Act, as Title IV of H.R. 3630, proposes to establish an “administrator” governance model to hold the Public Safety Broadband License (PSBL), oversee the build out of the PSBN including state and local contracts to

construct their portions of the PSBN and to develop the nationwide public safety broadband standards. Public safety has significant, recent experience with this governance model in dealing with the 800 MHz rebanding initiative, which was necessitated by commercial interference with public safety emergency communications systems nationwide. While the 800 MHz rebanding initiative is paid for by a commercial entity, what was supposed to be a 3 year effort has stretched into its eighth year, at a cost that was significantly more than estimated. The current administrator has no incentive to expedite the process and both industry and public safety have found this governance model entirely unsatisfactory. Therefore, we urge you to oppose its inclusion in the final bill, and instead ask that you support the governance language included in ***S.911; Public Safety Spectrum and Wireless Innovation Act of 2011***, a bipartisan bill introduced by Senators John “Jay” Rockefeller and Kay Bailey Hutchison. The legislation establishes an independent, non-profit corporation with a governing board that includes a majority of state, local and public safety representatives, which is strongly supported by all stakeholders.

- 3. The PSBN must be able to provide access to other users including commercial carriers, critical infrastructure, state and local agencies and federal partners** through established and transparent Network Sharing Agreements (NSA) to ensure full utilization and sustainability of the spectrum of the network. The NSA must also ensure local and state public safety agencies are able to control access to the PSBN and have the ability to ruthlessly preempt network access during incidents and events that require higher bandwidth consumption by first responders when mitigating incidents and other large scale events. We are very concerned for provisions in Title IV that would threaten long-term sustainability of the nationwide PSBN by unduly restricting state and local government’s ability to establish public and private partnerships that best meet their regional needs, including the restricting of “secondary use” of public safety networks even more so than current law (section 337 of Communications Act of 1934). We urge you to allow state and local government the flexibility they need to allow non-public safety use of the PSBN, as well as to award contracts to any entity that they deem most beneficial to them, consistent with the established nationwide standards and requirements necessary to ensure interoperability.

Like Title IV of H.R. 3630, S.911 allocates the D Block to public safety and provides funding (\$11.75 billion) for the PSBN. Unlike Title IV of H.R. 3630, S.911 provides governance through an independent, non-profit corporation that holds the PSBL and includes state and local government, and public safety representation on its governing board. S.911 also does not include undue restrictions on state and local flexibility to allow for “secondary use” and public and private partnerships. Furthermore, S.911 does not include mandated giveback of the vital 14 MHz of 700 MHz spectrum that public is using for its mission critical narrowband voice communications today.

Therefore, we urge you in the strongest possible terms to:

- (1) ask the House leadership to eliminate the 700 MHz narrowband giveback;

(2) support the governance principles identified above;

(3) allow for full utilization of the PSBN while ensuring local control and preemption, and;

(4) provide sufficient funding of the PSBN, particularly in rural America.

Please know that this is the top federal legislative priority for public safety communications. Our Nation's more than two million first responders and public safety officials will not soon forget whether their Member of Congress stood up for them on this matter. Thank you for your time and anticipated continued support of public safety and the safety of every citizen in our nation.

Sincerely,

Chris Moore
Chief of Police, San Jose (CA) Police Department



International Association of Chiefs of Police | International Association of Fire Chiefs
National Sheriffs' Association | Major Cities Chiefs Association
Major County Sheriffs' Association | Metropolitan Fire Chiefs Association
Association of Public-Safety Communications Officials (APCO) International
National Emergency Management Association and the National Association of State EMS Officials.