

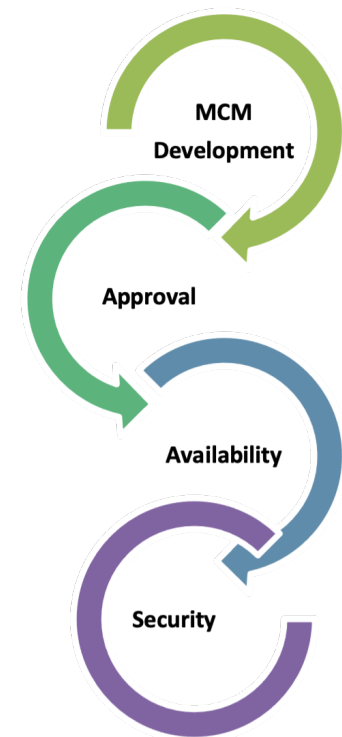
# FDA's Emergency Use Authorities

**BARDA Industry Day**

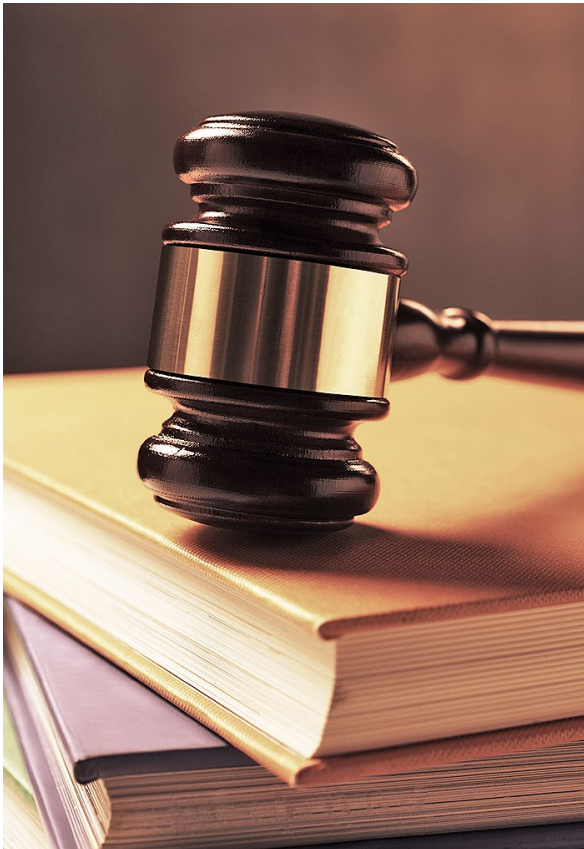
November 2021

# FDA's Public Health Emergency Response

- **Collaborating closely with interagency partners** as well as with international partners and medical product developers and manufacturers and to help **advance response efforts**
- **Expediting the development of medical products** needed to diagnose, treat, and prevent COVID-19 including **providing regulatory advice, guidance, and technical assistance** to clarify regulatory and data requirements to rapidly advance the development and availability of medical products
  - COVID Examples:
  - CAG (Countermeasures Acceleration Group) (formerly known as Operation Warp Speed) support
  - Established CTAP (Coronavirus Treatment Acceleration Program) to prioritize, and obtain data for candidate therapeutics with highest potential for clinical use
  - Real World Evidence Initiatives
- **Enabling access to available medical products** as necessary through an appropriate mechanism such as under an Emergency Use Authorization—or EUA—or under expanded access mechanisms

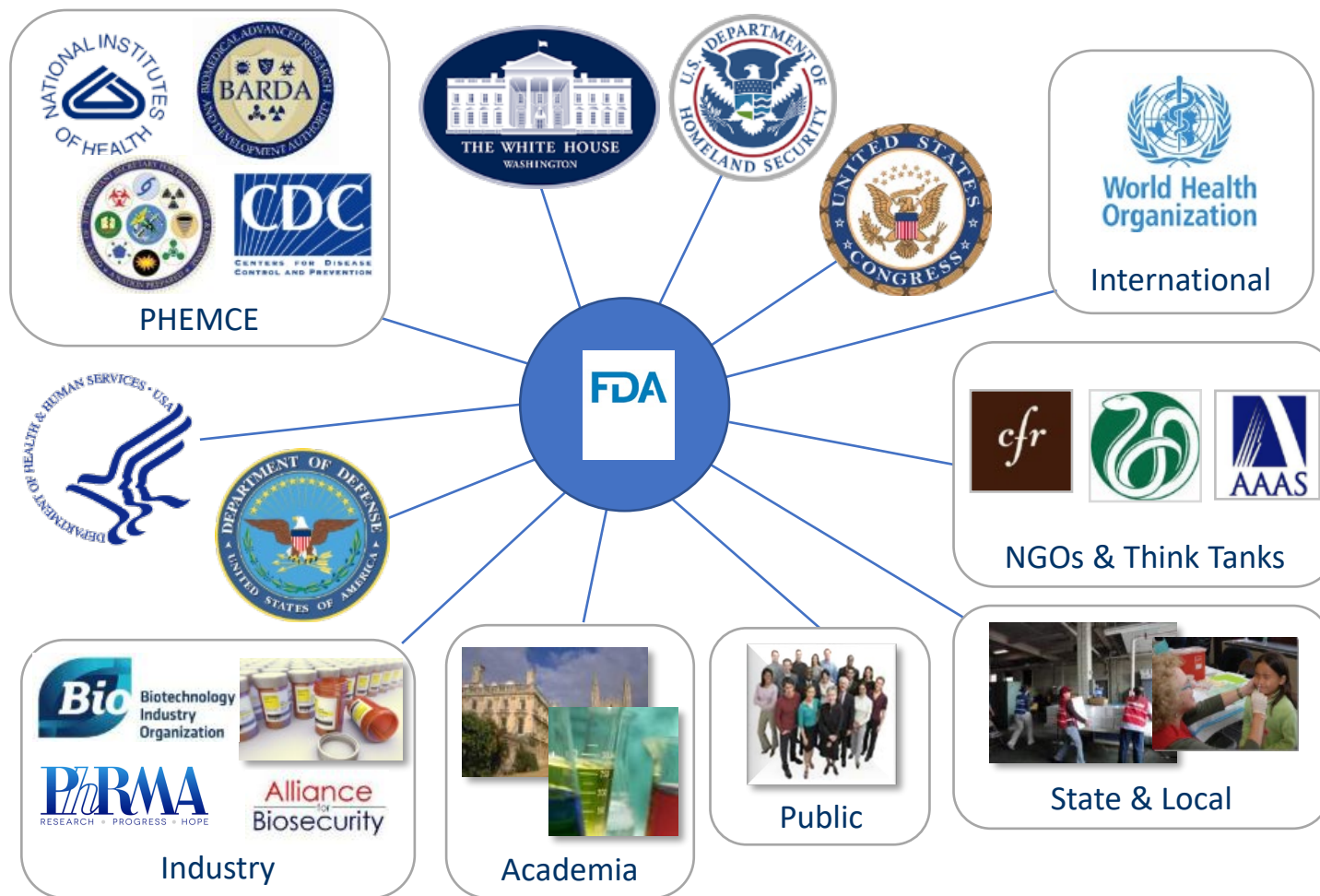


# FDA's Public Health Emergency Response

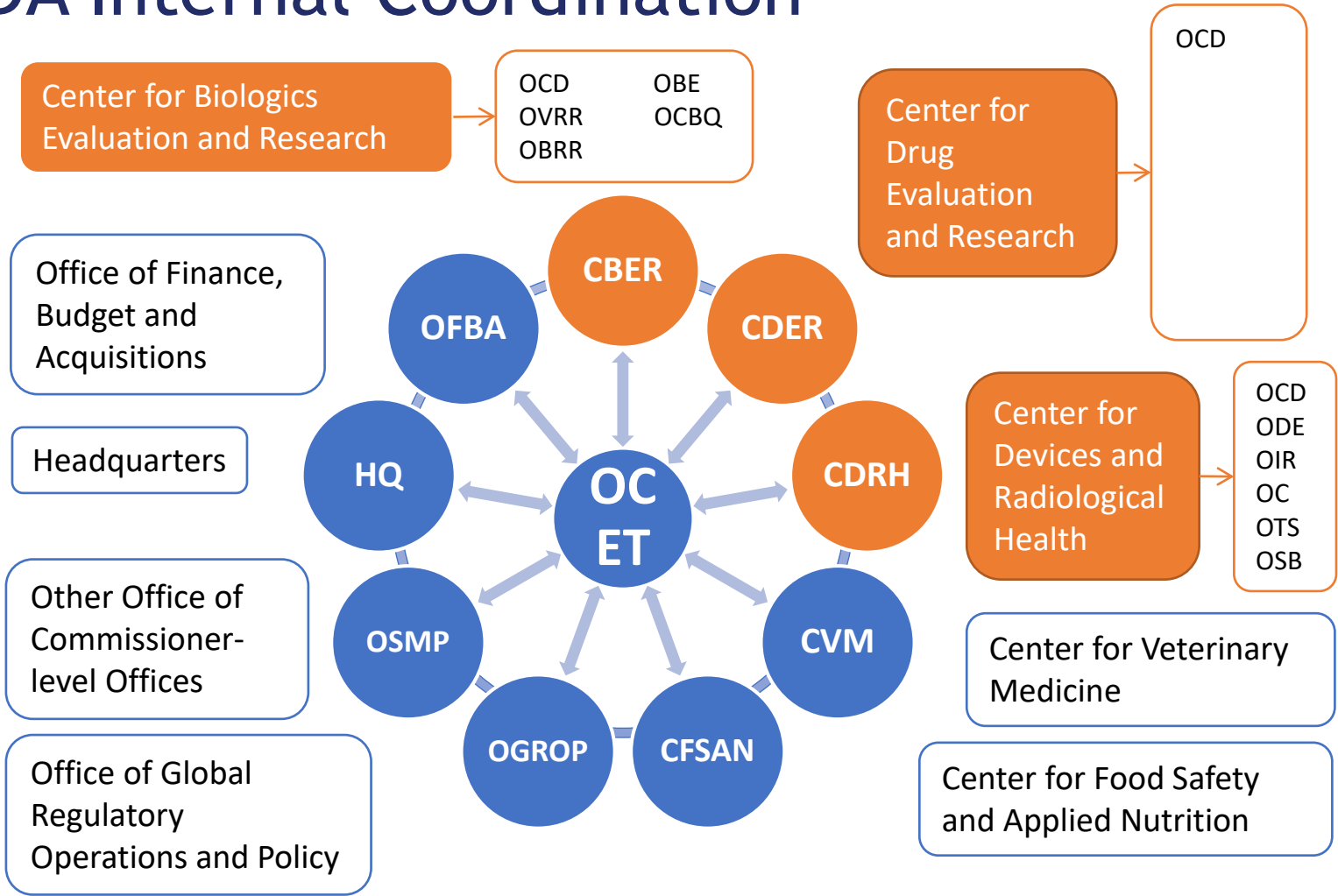


- **Supporting the supply chain** by working closely with manufacturers, supply chain partners, and USG partners to help identify and prevent or mitigate potential product shortages of FDA-regulated products
- **Protecting the safety of the nation's blood supply** and human cells, tissues, and cellular and tissue-based products used for medical, surgical, or reproductive procedures
- **Protecting the public from fraudulent products** that claim to prevent, diagnose, treat, or cure COVID-19
- **Advancing regulatory science** to support regulatory decision-making
- **Communicating to consumers and health care providers** about FDA's actions to promote and protect public health

# External Stakeholders



# FDA Internal Coordination



# Why are legal/regulatory mechanisms for emergency use of MCMs needed?

**Goal: FDA approval before stockpiling and use**

**Emergency mechanisms enable activities that otherwise could violate provisions of the Federal Food, Drug, and Cosmetic (FD&C) Act because:**

- MCMs might not be approved, licensed, or cleared by FDA
- An approved product might need to be used in an unapproved way (e.g., for a new indication, age group, without a prescription)
- There might be shortages of approved products
- Clinical trial environment might not be feasible or practical
- To ensure any available HHS Public Readiness and Emergency Preparedness (PREP) Act protections apply
- Import and Export considerations



# Legal/Regulatory Mechanisms for Emergency Use of MCMs



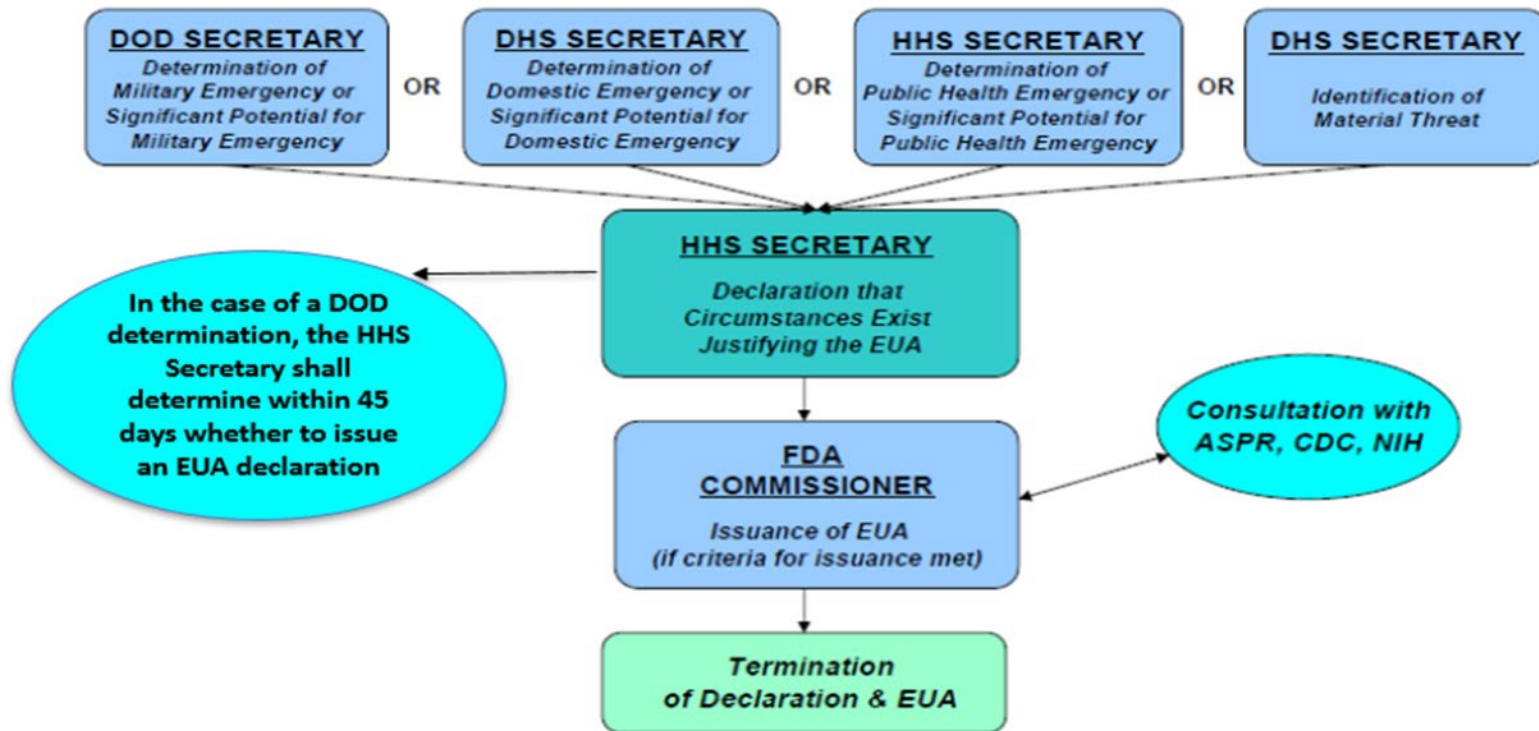
- **Expanded Access (EA) to Investigational Drugs and Devices**
  - FD&C Act § 561
  - Investigational New Drug Application (IND) (21 CFR Parts 312.300-320)
  - Investigational Device Exemption (IDE) (21 CFR Part 812)
- **Emergency Use Authorization (EUA)**
  - FD&C Act § 564
- **Other Emergency Use Authorities**
  - FD&C Act §§ 564A, 505-1, and 564B
  - Only applicable to FDA-approved MCMs

# EUA (FD&C Act § 564)

- **Established by Project BioShield Act of 2004**
  - Amended 3 times (2013 (PAHPRA), 2016 (CURES), 2017 (P.L. 115-92))
  - Delegated to the Commissioner of Food and Drugs (FDA)
- **For use in emergencies involving chemical, biological, radiological, or nuclear (CBRN) agent(s), including emerging infection diseases (and for DoD, agent(s) of war), FDA can authorize for use to diagnose, prevent, treat:**
  - An unapproved medical product, or
  - Unapproved use of an approved product (e.g., for a new indication)



# Summary of EUA Issuance Process



# EUA Criteria for Issuance

- Serious or life-threatening illness/condition caused by the agent(s) referred to in the HHS Secretary's EUA declaration
- Based on totality of scientific evidence, reasonable belief the product “may be effective” in preventing, diagnosing, or treating serious or life-threatening diseases or conditions caused by the agent(s)
- Known/potential benefits outweigh known/potential risks
  - Provides for a lower level of evidence than the "effectiveness" standard FDA uses for product approvals
  - Case-by-case: Recommended safety and effectiveness data requirement can vary depending on the nature of the emergency and product candidate
- No adequate, approved, and available alternative to the product

# Waivers & Conditions



- Allows for case-by-case waivers and flexibilities, e.g., cGMP requirements, Rx requirement
- Conditions of authorization = safeguards, such as:
  - Information on emergency use (Fact Sheets)
  - Record keeping and monitoring of adverse events
  - Data Collection
  - Roles-based requirements (e.g., for DoD, HCPs, laboratories, etc.)
  - Limitations on advertising and promotion

# Priorities

- **FDA review timelines and action on an EUA request depend on:**
  - The product profile –available data to support a risk/benefit analysis
  - Knowledge of product; pending applications (i.e., IND, pre-EUA)
  - Nature of the emergency
  - Other factors – Product data in related disease states, safety information
- **Prioritization of EUA requests (declinations) factors may include:**
  - Public health need/circumstances of the emergency
  - Product's regulatory status
  - Safety and efficacy data
  - Product quality, shelf life, storage
  - Operational issues

# Review, Revision, Revocation

- **Post-Authorization Review, Revision, and Revocation**
  - FDA must review the circumstances and appropriateness of each authorization
  - **FDA may revise or revoke if:**
    - The emergency circumstances (i.e., as issued within the determination) no longer exist
    - The criteria for the issuance of the EUA are no longer met, or
    - Other circumstances make revision or revocation appropriate to protect public health and safety
      - **Revisions:** Most EUAs have been revised multiple times to account for reviews of additional data/ information, evolution of the virus (e.g., variants), and evolving circumstances (e.g., change in supply and demand)
      - **Revocation examples:** Hydroxychloroquine/chloroquine; bamlanivimab administered alone; decontamination systems; certain foreign imported respiratory devices

# Transparency

- **Publicly available EUA packages, posted real-time:**
  - Letters of Authorization and update letters
  - Accompanying materials (e.g., fact sheets for health care professionals and patient/recipients, instructions for use, labels), vaccines include translations
  - Scientific review or decision memos for drugs and biologics
  - Frequently asked questions
  - Federal Register notices of each authorization, termination, and revocation
  - Additional information such as press releases, general vaccine information
  - Archival information

# Pre-COVID-19

- As of December 31, 2019, FDA had 36 Active EUAs (MCMi Fiscal Year 2019 Program Update, Appendix 2)
- Virtually all for diagnostic tests (i.e., Novel Influenza A (H7N9), MERS-CoV, Ebola, Enterovirus D68, and Zika)
- Atropine Auto-Injectors (2017): Addresses manufacturing issues related to the sole manufacturer of important nerve agent antidotes
- Freeze Dried Plasma (2018): Addresses unique needs of DoD



# COVID-19 Vaccine EUAs

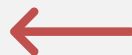


- **3 EUAs:**
  - **Pfizer** – Dec 11, 2020 (reissued 6 times, with multiple other revisions to fact sheets)
  - **Moderna** – Dec 18, 2020 (reissued 3 times, with multiple other revisions to fact sheets)
  - **Janssen** – Feb 27, 2021 (reissued once with multiple other revisions to fact sheets and batch releases)
- **Guidance documents set expectations for:**
  - Development, licensure, and post-licensure safety evaluation
  - EUAs and continued development
- **Advisory Committee Meetings**

# COVID-19 Therapeutics

- **Monoclonal Antibodies**
  - Actemra for Tx – June 24, 2021
  - Sotrovimab for Tx – May 26, 2021
  - Bamlanivimab and Estesevimab for Tx and PEP – Feb. 9, 2021 (reissued 3 times); listing of States where usable
  - REGEN-COV for Tx and PEP – Nov. 21, 2020 (reissued 5 times)
  - Baricitinib for Tx – Nov. 19, 2020 (revised 1 time)
- **Veklury**
  - Approved Veklury Oct. 22, 2020, for adults to treat in an in-patient acute care setting comparable to hospitalization
  - EUA remains in effect for pediatric patients
- **Convalescent Plasma**
  - For Tx – Aug 23, 2020 (reissued 2 times)
- **Drug shortages:**
  - Renal therapy replacement solutions (Propoven – May 8, 2020 and Fresenius – April 30, 2020)
  - Propofol-Lipuro 1% for sedation – March 12, 2021

# Novel approaches for devices in the COVID-19 pandemic response



Novel Products

Blood Purification Devices  
Decontamination Systems for PPE



Novel Manufacturers

Auto, Airline Manufacturers Making PPE and Ventilators  
3D Printing of Swabs and Ventilator Components



Novel Policies & Approaches

Umbrella EUAs  
Enforcement Policies

# COVID-19 Devices



- EUA Review Templates describing requirements for EUAs, streamline data submission, review and documentation
- Regulatory enforcement discretion and priority-setting through guidance
- Over 400 tests authorized, including:
  - serological; antigen & molecular diagnostics; home collection; over-the-counter; pooling samples; point-of-care; multi-analyte
  - Umbrella EUA for pooling and serial testing
- EUAs for respiratory protective devices; surgical masks, face shields, face masks, gowns, barrier protection, decontamination systems for N95s now revoked, ventilators and accessories, Infusion Pumps, Extracorporeal Blood Purification Devices, Diaphragmatic Stimulators, Remote Monitors, Continuous Renal Replacement Therapy

# For More Information

- **Latest FDA Information on COVID-19 response**
  - [www.fda.gov/coronavirus](https://www.fda.gov/coronavirus)
- **MCM Emergency Use Authorities Website**
  - [www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/mcm-emergency-use-authorities](https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/mcm-emergency-use-authorities)



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Office of the Chief Scientist  
Office of Counterterrorism and Emerging Threats  
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