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TERRORISM: FIRST RESPONDERS

HEARING

BEFORE THE

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

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TERRORISM: FIRST RESPONDERS

WEDNESDAY, SEPTEMBER 3, 2003

UNITED STATES SENATE,
SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
WASHINGTON, D.C.

The Subcommittee met, pursuant to notice, at 2:19 p.m., in room SD–226, Dirksen Senate Office Building, Hon. Jon Kyl, Chairman of the Subcommittee, presiding.

Present: Senators Kyl, Feinstein, Leahy, Biden, Feingold, and Schumer.

OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA

Chairman KYL. Good afternoon. The Subcommittee on Terrorism and Technology will come to order. One of our first panelists is not here, but I think in view of time we are going to begin and I will begin with my opening statement.

Let me say preliminarily that this Committee has been blessed with cooperation of experts in the past, but today we have really the most expert panel that we could have on the subject before us, the subject of first responders. I just want to thank all of our witnesses today for their willingness to be here and to edify the Committee on this most important topic.

Let me begin with my statement. Senator Feinstein is in the ante room and she will be here very shortly to give her statement and then we will call upon our first panel.

Of course, we know that first responders are the police and the firefighters and the emergency medical technicians. Our first witness, Chris Cox, Representative Cox, has said that first responders are the backbone of our communities. We post their names and numbers on our refrigerators because we rely upon them to help us in an emergency. They are our heroes in times of crisis. Indeed, during the September 11 attacks, the police and the firefighters led evacuations from the World Trade Center, helping an estimated 15,000 people escape safely.

So, today, our Subcommittee will examine the report of the Independent Task Force on Emergency Responders, sponsored by the Council on Foreign Relations. We will hear from these noted experts, as I have said.

On the first panel, we will hear from the Chairman and Ranking Member of the House Select Committee on Homeland Security, Representative Chris Cox, and Jim Turner, the ranking Democrat

on the Committee. Chairman Cox has a proposal titled "Faster and Smarter Funding for First Responders," which is based on the following principles.

Threat analysis: Federal grants should be distributed based on an authoritative assessment of where the risk is greatest. Rapid funding: Funding should get to its intended first responders as quickly as possible. Regional cooperation: Funding priorities should reward communities that successfully develop interoperability plans and work across jurisdiction lines.

On the second panel, we will hear from, as I say, three of the most expert people we could call upon here. First, Senator Warren Rudman, the Chairman of the Independent Task Force on Emergency Responders; Dick Clarke, the Senior Advisor to the Council on Foreign Relations.

At the outset of its report, by the way, the Council makes the point, and I am quoting now, "The United States must assume that terrorists will strike again, and the United States remains dangerously ill prepared to handle a catastrophic attack on American soil"—a pretty serious statement.

According to the report, there are two major obstacles hampering America's emergency preparedness efforts: lack of preparedness standards and stalled funding for emergency responders. One of the Council's recommendations to deal with the problem of stalled distribution is that the system for allocating scarce resources should be based less on equally dividing the spoils and more on addressing identified threats and vulnerabilities.

According to the report, and I am again quoting, "To do this, the Federal Government should consider such factors as population, population density, vulnerability assessment, and presence of critical infrastructure within each State." I agree with that and look forward to hearing the witnesses discuss that.

Finally, the Subcommittee will hear from Dr. Paul Posner, of the General Accounting Office. At the beginning of his written testimony, Dr. Posner makes a similar point and he writes, again quoting, "Given the many needs and high stakes involved, it is all the more important that the structure and design of Federal grants be geared to fund the highest-priority projects with the greatest potential impact for improving homeland security."

It seems that, as Chairman Cox has said elsewhere, the pipeline is a big part of the problem. Indeed, in its report the Council says, again quoting, "In some respects, there is no natural limit to what the United States could spend on emergency preparedness. The United States could spend the entire gross domestic product and still be unprepared, or wisely spend a limited amount and end up sufficiently prepared."

If it does the former, I submit that it just throws money at the problem and then the result will be, as the Council observed, "The United States will have created an illusion of preparedness based on boutique funding initiatives without being systematically prepared. The American people will feel safer because they observe a lot of activity, not be safer because the United States has addressed its vulnerabilities"—I think a wise conclusion. I agree, therefore, that the Government needs to spend its money more wisely.

One example of this, a potential wise use of resources, is a proposal called Project Zebra. Project Zebra is a medically-based bioattack detention and warning system which could detect and monitor infections from biological attacks and quickly communicate the results across the country.

Rather than attempting, at great and maybe even prohibitive cost, to set up sensors across the Nation—many believe that that would be infeasible—Project Zebra would quickly determine whether symptoms of patients presenting themselves to emergency rooms were the result of normal diseases or from biological agents.

As for the pipeline and the formulas, there is an experience in Arizona that I just thought I would share with you that illustrates at least part of the problem.

Recently, the Department of Homeland Security classified Pima County, Arizona's population level the same as Maricopa County's. They are quite different. As a result, Pima County is scheduled to receive an additional $1.3 million beyond its allowed formula grant.

Well, Pima County is located on the border with Mexico and it has very urgent first responder and border enforcement needs. So the county has dedicated, but not yet spent, this windfall of first responder funds. The county officials are hopeful they will be able to keep those inadvertently promised funds from DHS.

My point here is obviously that was simply a mistake. What we need to do is focus where the targeted needs are and where the highest risk is and direct our funding most there. Of course, I would contend that border counties fall within that category of high risk, by definition, and should receive a significant part of first responder spending, and not by accident.

In any event, in closing I again thank the witnesses for being here. I would like to thank Senator Feinstein, as usual. The basic idea for conducting this hearing at this time came from Senator Feinstein, and on this issue and every other in this Subcommittee she has been enormously helpful and very constructive to work with.

Senator Feinstein.

STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thanks very much, Mr. Chairman, and I think you know that I find it a privilege and a delight to work with you, and I thank you very much for calendaring this hearing.

I also want to welcome the two specialists—I am sure there are others in the House—Congressmen Cox and Turner. We look forward to your comments on homeland security. And, of course, Warren Rudman, who I think has appeared before this Subcommittee now three times.

Chairman KYL. At least three times.

Senator FEINSTEIN. At least that, and is greatly respected. Also, Dick Clarke and Paul Posner, as well.

Now, I would like to take a little different tack in my opening comments because of something you said, Senator, that there are targeted needs and the money needs to be directed toward these targeted needs. So the first point I want to make is that the formula under which these monies are distributed really fails to do

that. Wisconsin, for example, gets about $35 per person. California gets $5 per person. The GAO has looked at this and found that the formula really doesn't see that money goes where the needs are.

The second point I would like to make is that the Council on Foreign Relations Task Force report entitled "Drastically Underfunded, Dangerously Unprepared," is the first systematic attempt to estimate national homeland security needs. It determined that first responders have unbudgeted needs that total about $100 billion. Others agree with that, and I just want to mention a few other findings that are borne out to support what the task force has done.

In March of 2003, the Conference of Mayors said that cities are spending an additional $70 million per week on personnel costs alone just to keep up with security requirements.

FEMA conducted a study and reports that only one-fourth of all fire departments can communicate with other first responder safety employees—only a quarter, and that is because of the inoperability of communications equipment, which we have tried to do something about in the supplemental appropriations bill. So that is a huge problem because you have an episode and everybody reports to a site and nobody can talk with one another. Only one-fourth of fire departments can communicate.

According to the Coast Guard, our ports need $1.1 billion for seaport security this year and $5.4 billion during the next 10 years. In spite of this, as we all know, the President did not request any money for port security grants or any form of assistance to our ports in fiscal year 2003 and 2004.

The American Public Transportation Association testified earlier this year that we need $6 billion in transit security, primarily in the areas of communications, surveillance, detection systems, personnel, and training. GAO recently reported, and I quote, "Insufficient funding is the most significant challenge in making transit systems safe and secure." In eight of the ten transit agencies surveyed, GAO found that $700 million was needed just in those eight to improve security.

Using EPA data, the GAO found that 123 chemical facilities across the country, if attacked, could inflict serious damage and expose millions of people to toxic chemicals and gases. There are 3,000 chemical facilities in 49 States that, if attacked, could affect more than 10,000 people each. The Congressional Budget Office estimated that it will cost $80 million just to conduct vulnerability assessments associated with these chemical plants.

So I think there is really little question that we need to do more. I know, as you said, some of the money hasn't been spent, but the point that I am trying to make, and what I hear from police and fire and mayors and county supervisors everywhere is that we don't have the money to do what the Federal Government wants us to do. So I look forward to the testimony.

Chairman KYL. Thank you, Senator Feinstein.

Now, our first panel, and if I could ask both Representative Cox and Representative Turner to have a seat. They are well known to all of us. Congressman Christopher Cox is serving his eighth term in the United States House of Representatives representing the 48th Congressional District of California. He is Chairman of the

House Select Committee on Homeland Security. He is also Chairman of the House Policy Committee. I referred earlier to the very important legislation which he has introduced and hope that he will refer to.

Representative Jim Turner is serving his fourth term in Congress representing the 2nd Congressional District of Texas. He is the Ranking Member of the House Select Committee on Homeland Security, also a member of the House Armed Services Committee, where he has served as the Ranking Member of the Terrorism Subcommittee.

Gentlemen, I welcome you both.

Representative Cox.

STATEMENT OF HON. CHRIS COX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Representative COX. Thank you very much, Mr. Chairman and Senator Feinstein. We are, my Ranking Member and I, very pleased to be here with Warren Rudman, Dick Clarke, and Jamie Metzl because we, as you, are relying upon the very same experts. This study leads to certain predictable destinations and I think that the advice that you will receive on the next panel will be well worth listening to.

We are here approximately on the 2-year anniversary of the September 11 attacks which, when they occurred, drew immediate attention to the urgent role of first responders—the police, the firefighters, the emergency medical teams—who are always the first on any crisis scene.

After that, the Nation's attention has also focused on the deficiencies in information-sharing within our Government, within the Federal Government, between and among FBI, CIA, and the other intelligence agencies, and also between Washington and State and local government.

Together, these two crucial elements—first responders and intelligence of homeland security—are inextricably linked because information about an attack that reaches the front lines of local authorities in real time could potentially reduce its impact, if not stop it entirely.

In the 2 years since September 11, the focus on first responders has generated a growing awareness that Federal money isn't reaching the first responders where it is needed. Our House Committee on Homeland Security has held hearings here in Washington and in the field, and the answers have come back routinely and predictably. Even though Congress has appropriated $14 billion in first responder monies since September 11, time and time again the people whom you would expect to have that money at the local level do not have it.

While much of the discussion has focused on calls for ever higher levels of spending, Mr. Chairman, as you pointed out, an even greater problem—and, Senator Feinstein, you in your opening statement pointed out this same problem—is that information gathered by counterterrorism experts, at significant taxpayer expense it is worthwhile to add, is ignored in the disbursement process.

The present grant system for first responders is similar to the one that the Federal Government uses for paving roads and responding to mudslides. Political formulas based on parity and population rather than intelligence on terrorist plans and intentions determines where the billions go. Such an archaic approach to the challenges posed by international terrorism is courting disaster.

In Washington, once it became clear that important first responder needs were going begging, the usual political blame game ensued. The politically expedient course, of course, was to demand that the Department of Homeland Security use the dozens of existing formulas, the ones that it inherited from the 22 agencies that were folded into DHS, so that the money could go quickly.

But these were complicated and eccentric formulas. They were complicated and eccentric because they were built by the political class to meet political needs. Thus, the grant formula for fighting fires now serves double duty for homeland security. But this and other such formulas have nothing to do with objective measurements of the relative risks of terrorism attack.

Inserting intelligence into the equation for our emergency responders is an area where Congress—the Senate and the House, this Subcommittee, our Select Committee—can and should exert its influence. If Americans are to be protected against the next terrorist attack, local police, firefighters, and emergency medical personnel must be prepared as never before. They must have the equipment and the training to respond to a variety of new threats, in addition to the more traditional emergencies.

All sides are agreed that this takes money, and Congress has thus far responded. Since that terrible day in September 2 years ago, as I mentioned, Congress has appropriated over $14 billion for first responders alone. That is an increase of over 1,000 percent. Even for Washington, this is an incredible amount of money.

But the fact that such large sums are involved only accentuates the importance of spending this money wisely. It is a truism that if you send the money to the wrong place, then the important needs are underfunded no matter how much you spend. That means all funds should be disbursed on the basis of hard-nosed threat assessment.

Currently, Federal funding for first responders is parceled out among the States with a guaranteed minimum for every State, presumably because every State has two Senators. One obvious distortion is that California receives less than $5 per person in first responder grants, as Senator Feinstein has just pointed out, whereas, for example, Wyoming receives over $35. The same result obtains in other large States, including New York.

Equally unjustifiable, however, is that with rare exception the remainder of the funds are allocated only according to the population. While larger concentrations of population may indeed be terror targets, this is a very unsophisticated approach to what should be an intelligence-driven process.

Small-population farm States such as Iowa and Nebraska can legitimately claim attention because of their responsibilities for the Nation's food supply. Regions such as Alaska and Wyoming that have few people are thick with defense assets, energy, and other productive infrastructure. Sorting out these competing claims must

be achieved through rigorous threat assessments, not political tradeoffs.

Just as rickety as the funding formulas and just as much in need of reform is the grant application process for first responder monies. Currently, applicants are forced to follow a convoluted 12-step process in order to receive a portion of the money that Congress has already made available to them.

Localities wait months to be reimbursed for funds they have already been forced to spend by Federal mandate. This outdated grant system results in delays and funding distortions that do nothing but exacerbate the risks we face.

Expending extravagant amounts to purchase items we don't need in places that don't need them is not homeland security. It does not protect those who are most at risk. To determine how to prioritize our first responder grant assistance, sound threat assessment must be the basis for Federal grants.

Here is how it could work. States, as well as multi-state and interstate regions, would determine their vulnerabilities on an ongoing basis. Simultaneously, the Federal Government would complete and constantly update its national vulnerability assessment. States and regions that develop their own homeland security first responder plans would be able to apply directly to the Department of Homeland Security to meet their specific regional needs.

The Department would match the State and local vulnerability assessments against all the Federal Government knows about our terrorist enemies and our National vulnerabilities. Federal first responder grant assistance would flow to where the risk is greatest.

With the Homeland Security Act, Congress and President Bush took prompt and definitive action to break down legal and cultural barriers to information-sharing. Now, the FBI, the CIA, and dozens of other Federal, State and local intelligence and law enforcement agencies are sharing data on terrorists and their plans. This is a good start.

The grant-making process for our first responders deserves equally decisive action. And let's be clear: our enemies have no political two-stepping process to perform. There is no confusion on their end. They are focused on one objective only, to inflict fear and panic on our citizens, kill our loved ones, and destroy our economy and our way of life.

This is no overstatement. There is no need for drama. We can and we must start to make sense of the way we fund our first responders, the men and women upon whom we all may 1 day rely for our lives if we are to prevail in the war on terror.

Congressman Turner and I are committed to doing this in the House. We know you are committed to doing this as best we can in the Senate, and we look forward to working with you in this process.

Thank you very much for the opportunity to testify.

Chairman KYL. Thank you, Chairman Cox. I think some more sophisticated observers might find it a little odd that a Senate Subcommittee would actually be calling upon our colleagues in the House for their best judgment on things, and I hope this reflects, first of all, our willingness to acknowledge that there is a lot of wisdom on the other side of the Capitol, and, secondly, that we are all

in this together. We have a lot to learn, I know, from our colleagues in the House of Representatives, and so we are very happy to have you here.

Representative Turner.

STATEMENT OF HON. JIM TURNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Representative TURNER. Mr. Chairman, Senator Feinstein, thank you. It is always an honor for those of us in the lower House to be invited to the upper chamber.

Senator FEINSTEIN. It is nice to see humility.

[Laughter.]

Representative TURNER. We do appreciate the opportunity to be here, and it is a pleasure to share this time with my Chairman, Chris Cox.

As you said, Senator Kyl, the effort to protect the homeland is a bipartisan effort and it has been an honor to serve with Chairman Cox.

We all know that as we convene this meeting, it is very likely that someplace in this world a terrorist group is planning their next attack on America. While it is true that the first line of defense against Al-Qaeda is fought abroad, the focus of our hearing today is clearly upon being prepared in the event terrorists do overcome our best efforts to defeat them and attack America again.

The first reports that I have gotten from the front lines here at home are not encouraging. I have talked with a lot of State and local officials, first responders who have come to Washington, men and women who are responsible for our safety. In many instances, they tell us that they have yet to hear from the Department of Homeland Security. They are clearly not receiving the kind of information, the kind of assistance, the kind of coordination that needs to be there in order to make the critical security decisions within their own communities. They are looking for answers, they are looking for funding, and it is our responsibility under the Constitution to preserve and protect the national defense and to ensure that they get that help.

A lot of folks also are wondering about the homeland security advisory system, the color-coded system, and what does it really mean. When do we really act based upon what we hear and what action should we take?

One message is clear to me. We must move much faster and we must be much stronger in our efforts to defend the homeland, faster in getting the vital information that we need to the front lines of those first responders, stronger in our efforts to train and to equip the men and women on the front lines, those firefighters, police, emergency management personnel, and health care workers. We must be more vigorous in our efforts to prepare our communities to face the threats from those who seek to do us harm.

Last June 29, the Council on Foreign Relations Independent Task Force on Emergency Responders released a report that you will hear about in the second panel today entitled "Emergency Responders: Drastically Underfunded, Dangerously Unprepared." I want to commend Senator Rudman, Richard Clarke, and Jamie

Metzl for their work on this outstanding document. It clearly was a wake-up call for America.

According to the data provided to the Council on Foreign Relations Task Force by leading emergency response officials, America is still falling an estimated $98 billion short of meeting the critical emergency responder needs over the next 5 years. As Senator Feinstein cited, there are many other estimates, all of which are large.

But it is important, I think, as Chairman Cox indicated, that we emphasize that money alone is not the only issue that we must address. I must say, in addition to funding and formulas, there are a host of other issues that must be addressed in order that we be responsible and accountable with regard to our effort to defend the homeland.

The Council on Foreign Relations report stated that there are two major obstacles that hamper America's emergency preparedness efforts. First, it is impossible to know precisely what is needed because there is a lack of common understanding about the essential capabilities each community needs to respond to a catastrophic terrorist attack. Second, according to the CFR report, funding for emergency responders has been stalled due to a slow distribution of funds by Federal agencies and bureaucratic red tape at all levels.

The work of this bipartisan task force makes it clear to all of us that we must move faster and we must be stronger to prepare our communities and protect America. We must make the same commitment to our local responders that we have always made to those who fight our battles abroad, our military forces, where we always say we want them to have the best training and the best equipment that we can provide. That same commitment must be made to those first responders.

It is time, I think, Senators, to look at a comprehensive change in the way our preparedness programs are working. Secretary Ridge announced a few positive steps yesterday, but there remain several critical security gaps that must be addressed immediately.

First, under Section 201 of the Homeland Security Act, the Department, and specifically the Information, Analysis, and Infrastructure Protection Directorate, referred to as the IAIP, has the responsibility to, one, carry our comprehensive assessments of the vulnerabilities of this Nation's key resources and critical infrastructure; two, to detect and assess terrorist threats to the United States; and, three, integrate this information to identify priorities for protective and preparedness measures throughout the Nation.

Unfortunately, none of these tasks have been completed. The Office of Information Analysis, which is, as you know, an entity within the IAIP, is what I call the nerve center of that new Department. Its work should drive every action and every priority of that Department, as well as the efforts being carried out at the State and local level.

It is only by matching the threats against our vulnerabilities that we can direct homeland security planning efforts and prioritize funding. Today, we have millions of dollars being spent in the name of homeland security through a myriad of grant programs. But until we establish the priorities through the proper analysis of

our threats and our vulnerabilities, we will not be targeting the funding to remedy our greatest vulnerabilities first.

Our security gap, then, is really that we do not know what we really need. The Department of Homeland Security has not worked with State and local governments to determine, based on threats and vulnerability assessments, the essential capabilities our communities need to prepare for terrorist attack.

No one has said to the first responders, this is what we think is the basic minimum, essential level of preparedness. And because we do not know what equipment, planning, training, and personnel are truly needed, we certainly do not know the cost.

There is an urgent need, in my view, to establish a task force to determine the minimum essential capabilities for our first responder community. In my view, this task could provide clear guidance on the necessary skills and resources required to prevent, prepare for, and respond to terrorist attacks.

Communities could then create preparedness and response plans based on the local, regional, and Federal capabilities. The establishment of minimum essential capabilities would give the Department of Homeland Security and the Congress the funding requirements for the future. That is the first gap. We need to know what we need.

The second gap is that the first responder grant system is broken. I share the sentiment of my Chairman, Chairman Cox. The current grants do not target the greatest needs and they take too long to reach first responders and they are overly bureaucratic. We need to fix this. We need to take many of the grant programs that are currently administered and fold them into a single grant program on terrorist preparedness. The traditional all-hazards grant programs like COPS and the FIRE grants, in my judgment, should be preserved.

Finally, I think we lack the standards for first responder equipment. State and local agencies across the country are purchasing equipment to prepare for a terrorist attack, but they have no guidance on what or how much they should buy. There are hundreds of thousands of companies willing to sell them all kinds of products—air filters, weapons of mass destruction detectors, protective gear, emergency medical supplies, and on and on. You have had many of those vendors in your offices, as have I.

We have an information vacuum and the Department of Homeland Security should be providing assistance to first responders to identify the standards that do exist and work to set standards that don't exist. This is a task that we must direct the Department to carry out.

Finally, we desperately need terrorist threat information that is not currently readily available. We must make the homeland security advisory system meaningful and we must tell our State and local officials what the real information is that prompts the Federal Government to alert us to a higher level.

The security gaps that we have must be addressed immediately, and next week I and many members of the Homeland Security Committee in the House will introduce legislation to address these shortfalls. Our legislation will be designed to identify the preparedness needs of our communities and create plans to meet those

needs. It will maximize the effectiveness of every tax dollar spent on emergency preparedness because we will be able to spend the right amount of money on the right priorities. And it will strengthen the Federal, State and local partnership in the fight against terrorism by improving our communications capabilities and our threat warning system.

Again, I want to commend the Council on Foreign Relations for their report, for the information that it has given us, and the prompting that it has given each of us as Members of Congress to move faster and to be stronger in this war on terrorism. We all know, Mr. Chairman, our enemies will not wait, and we know that we cannot wait either.

I thank the Chairman and the Ranking Member for the opportunity to testify and we would look forward to any questions that you may have.

[The prepared statement of Mr. Turner appears as a submission for the record.]

Chairman KYL. Well, thank you very much, Representative Turner. Senator Feinstein and I served together on the Intelligence Committee. She is still on the Committee and verifies, without going into any detail whatsoever, that the warnings from the report that there will be more attacks and that they could be extraordinarily serious, based on the intelligence, must be taken very seriously.

So I think what both of you said hits the nail right on the head, and I hope that the signal we send by asking you to be our first witnesses that we are going to work together in a bipartisan way, in a bicameral way, because we are all in this together, will send that very strong signal. I commend both of you for the work that you have done on this. I know we are going to be working very closely together on the future.

Senator Biden has joined us.

Senator Biden, would you have anything to add for this panel before we call the next panel?

STATEMENT OF HON. JOSEPH R. BIDEN, JR., A U.S. SENATOR FROM THE STATE OF DELAWARE

Senator BIDEN. Just to thank the panel, our colleagues. You have done a great deal of work, both of you, on this.

I would just underscore the one thing that was implied by Congressman Turner's comments. It is not going to be someone wearing night vision goggles and special forces who is going to run across the terrorist who is about to take action here in the United States. It is going to be a cop. We are cutting cops.

It seems to me absolutely brainless, on my part, to think that we would be cutting the amount of aid we are giving directly to local law enforcement at a time State and local budgets are being absolutely eviscerated. The Foreign Relations report points out that in the 25 major cities, the number of cops is down, the number of law enforcement officers is down. It seems to me totally counterproductive. I don't know why we can't walk and chew gum at the same time in this business. So I hope we will get that straightened out before we get too carried away with what else we are doing.

Again, you guys are doing great work. You have done as much work or more work than anybody else in the Congress and your input and your testimony is much appreciated. I thank you very much for doing that.

There is an old joke in my State. It is a little, tiny State and there is upstate and downstate. All of our States seem to be divided and we call it upstate and downstate my way. Those who are, quote, "down home" always say that the trip for meeting upstate is twice as far up as it is back. I know that it is twice as long a walk across as it is back, and we appreciate you making that effort and coming over here. Thank you very much.

Chairman KYL. Thank you.

Senator Feinstein.

Senator FEINSTEIN. Thank you, Mr. Chairman. I would like to add my voice to thank you very much. I think you are right on on the threat level, and one of the things that has impacted me is the threat targets are pretty well-known. You can pretty much figure out with respect to Al-Qaeda how they work, where they go back, you know, some of these things. Maybe we should find a way to work together to be able to change that formula and base it on the threat level and specific targets, and see that those targets are protected.

I just wrote a letter asking some that I know about be protected and didn't get a response that is suitable, and I really don't think our Government is prepared to face the specific threat target with what it needs to do to provide some layers of protection for people. I think we get so sanitized with grants and things that are kind of on paper instead of the real world out there. So I would like to see if we couldn't come together some way in a classified setting where we could discuss this a little bit.

Chairman KYL. Just one quick question, Chairman Cox, for you on the status of your legislation. Any idea when you will have action on the legislation?

Representative COX. Yes. As Congressman Turner just mentioned, we are moving forward this month with legislation. We hope to have hearings this month, possibly complete a markup even this month, and we are hoping for legislative action in this session of the 108th Congress.

Chairman KYL. Thank you. We will obviously make our transcript available for you, too, if that will help.

Thank you again, both, for being here very, very much.

Representative TURNER. Thank you, Mr. Chairman.

Representative COX. Thank you, Mr. Chairman.

Chairman KYL. Let's ask our next panel to step forward—Senator Rudman and Mr. Clarke and Dr. Posner.

Since I already described the bona fides of our witnesses here, I am going to get, in the interest of time, right to them.

I think, Chairman Rudman, it would be appropriate to call upon you first. Let me do that.

STATEMENT OF HON. WARREN RUDMAN, CHAIR, INDEPENDENT TASK FORCE ON EMERGENCY RESPONDERS

Mr. RUDMAN. Well, thank you very much, Mr. Chairman and Senator Feinstein, and my friend, Joe Biden. You know, I was just

sitting here watching this exchange between the Senate and the House and it just reminds me that if I have learned anything from the time I served here, it is that a few people, well-motivated, well-informed, well-staffed, can make a big, big difference. We have all seen it over and over again. Somebody dedicated to getting something done can get it done. And I am very encouraged by hearing the testimony of Chris Cox and Jim Turner, as well as the members of this Committee.

You know, this is my third appearance here and I never expected in my life to become an expert in this subject. It started, of course, as you well know, with Hart-Rudman, which sadly predicted what eventually happened. The first Council on Foreign Relations report we entitled "America: Dangerously Unprepared," and we decided to follow it up with this report.

What I am going to do in a few minutes is just highlight some of the important things that we believe you ought to pay a lot of attention to.

Chairman KYL. Excuse me. By "this report," this is the report you are referring to?

Mr. RUDMAN. That is correct.

Chairman KYL. "Emergency Responders: Drastically Underfunded, Dangerously Unprepared."

Mr. RUDMAN. We are going to do that and then my colleague, Dick Clarke—and there is nobody with a more distinguished career in this area than Dick Clarke and we were just so delighted that he was willing to help on this.

To tell you about the task force briefly, it is in the report, but we had a former Secretary of State, two former chairmen of the Joint Chiefs, a former head of the FBI office in New York, a Nobel laureate in bioterrorism, and the heads of the National Football League and the National Basketball Association. Why them? Because they deal with huge venues with a great many people. The bottom line is that we got incredible cooperation from every first responder organization in the country.

Dick is going to talk more about the process and the national standards, so let me just get right to some things that I would like to share with you that I think are probably the most important findings, and finally recommendations that we came up with.

Let me say that these are kind of bullets. You know them, but some people don't know them. They are worth repeating. Senator Feinstein has already referred to some of these things in her remarks.

On an average, fire departments in this country have only enough radios to equip half of the firefighters on a particular shift. They have no interoperability with other organizations. They only have breathing apparatus for one-third of the people on a shift, and only 10 percent of fire departments in the United States have the personnel and equipment to respond to a building collapse.

One of the fascinating things about 9/11 is the ratio of killed to wounded was totally reversed. In most national disasters or natural disasters or combat disasters, you will have a much higher percentage of wounded, putting tremendous stress on the health system, as opposed to those killed. In this case, there were relatively few number of people horribly injured, but relatively few

compared to those who died. People got out of the building, and those who didn't died. There were very few people to treat.

In the next event—and I am convinced there will be a next event, whatever time cycle these people work on, whether it be conventional explosives, chemical, or biological—we just cannot afford to have these emergency responders unprepared because we then will have a much higher casualty ratio than we should have.

Police departments don't have protective gear against weapons of mass destruction in most large cities. Public health laboratories don't have the basic equipment to diagnose what it is they are dealing with, and most cities don't have the equipment to deal with hazardous materials unless they are very large, sophisticated cities such as New York or Los Angeles or Boston or Philadelphia. Most places just don't have that kind of equipment.

We looked at the finding issue and as Dick Clarke will mention in his remarks, people said, well, no, that is the wrong number. Well, maybe it is. We do know this, that nobody knows what the number is; nobody knows what the number is.

One of the things that we strongly believe is that Congress ought to mandate as soon as possible the setting of national minimum standards for first responders. We certainly do that now with our fire departments. The underwriters bureau and the insurance companies decide what is a minimum standard for a fire department, or a police department in some cases. We don't have that here. We ought to know what that is because you can't allocate money even under the Cox-Turner plan unless you have standards at which you can measure what you are going to be doing.

We believe that urban search and rescue capability is grossly underfunded. I have spoken about communications. Emergency operation centers ought to be regionally located. We have got to have more national exercises so when the real thing unfortunately happens, people know what they are doing.

We have to enhance emergency agricultural and veterinary capability because undoubtedly we will see an attack on the national food supply at some point. And we have to have a surge capacity in the hospitals. If we don't have that, then we are going to have even more casualties than we would otherwise.

Finally, we made a number of specific recommendations. We believe that Congress ought to establish a very different system for allocating scarce resources. You have already heard about that more eloquently than I can say it. We think this is absolutely vital; that, plus setting of the standards.

Secondly, we believe the United States House of Representatives ought to transform the House Select Committee on Homeland Security into a standing committee, not a special Committee that could be done away with. We believe the Senate should consolidate all of these issues before the Senate Governmental Affairs Committee in terms of the general oversight of the individual agencies, not to cut out other committees where they have appropriate business, but to streamline the process.

We ought to require that the Department of Homeland Security work with other Federal agencies to make sure that their grant programs are synonymous and synchronous and work together. I have talked about the prioritization.

Finally, we do believe that the Department of Homeland Security ought to move the Office of Domestic Preparedness from its present location in the Bureau of Border and Transportation Security to the Office of State and Local Government Coordination in order to consolidate oversight of grants to emergency responders because, like everything else, there has got to be strong oversight of this money. How often have we seen money in grant programs going out for a good purpose and was misspent by people who just didn't know how to spend it or had other motivations? So we think the oversight is very important.

Let me simply wind up by saying to you that when we sent these brave men and women that we have in Iraq right now into harm's way, we made sure that they had the finest chemical, biological, and communications gear that this country could afford. There was no holding back. Whatever they needed, they got.

I think it is grossly unfair to ask policemen and firemen and emergency workers to have any less because we know from experiences in our own communities, no matter what the risk, no matter what the personal jeopardy, policemen, firemen, and emergency workers will go into the maelstrom to try to save lives. We ought to make sure that at least they can talk to each other, that they are well equipped and they have been adequately trained. When you read through the whole report, that is the essence of what we are saying.

Again, thank you for inviting us. It is always a privilege to appear here, and let me repeat how I started. I do believe that people who are motivated and dedicated to get something done can get it done. You can get this done. I am sure of it.

Chairman KYL. Thank you very much, Senator Rudman. Sometimes, too, it just takes somebody that can separate the wheat from the chaff and get right to the point. It sounds very clear and very simple when you say it. I suppose when we go back and try to do all of this stuff, it will all of a sudden get very complicated. But you are always very good at getting right to the point and I think that is what is going to be especially useful to us here. Thank you.

Mr. Richard Clarke.

STATEMENT OF RICHARD A. CLARKE, SENIOR ADVISOR, INDEPENDENT TASK FORCE ON EMERGENCY RESPONDERS

Mr. CLARKE. Mr. Chairman, it is an honor to be before this Committee again and I just want to say on a personal note before I begin that when I was in the White House under Democratic and Republican administrations, long before this issue was sexy or popular I could count on you and Senator Feinstein. I am glad to see that you are persistent and diligent on this issue because there is still a lot of work to be done.

I will try to be brief and to the point and talk only about one thing and that is program planning, budgeting, process, and standards. We began asking the question how much is enough in the Pentagon in 1961, under Bob McNamara, and there was a great book published that year called How Much Is Enough about Pentagon budgeting.

We have established over the years in the Pentagon a system of trying to figure out how much is enough. Now, we could all dis-

agree about how much is enough, but at least in the Pentagon there is a process that allows you to quantify and have empirical data about how much is enough. There is a process that the Pentagon does every year. It starts with a threat assessment. It then has the military services stating what they believe are the requirements that they need to have.

Now, every year the Navy says it needs 15 carrier battle groups. We understand that and they are never going to get 15, but they say that is their requirement. That is fine, and then the Secretary of Defense says here are my priorities and here is how much money you are going to have. And then, finally, that turns into program decisions for specific programs.

It is all done on three levels—a high budget, a medium budget, a low budget—and it is all done over 5 years so that we are able to have arguments not just that my number is better than your number, which is what is going on now in homeland security, but rather this program meets this requirement; it does so over this period of time, and this program is more important than that program. And we can move components of the defense budget around and it is a very rational process by comparison to what is going on now in homeland security.

You don't know how much is enough and we don't know how much is enough. We have done a process, we have put a number on the table. The Homeland Security Department says it is way too big. They said we must have been trying to gold-plate telephones. Well, we are not trying to gold-plate telephones. We just want communications equipment that works. Tragically, it did not in New York on September 11 and that is why we lost so many members of the New York Fire Department, because the radios didn't work inside the building.

We want to be able to have an argument, not my number is right and your number is wrong, based on nothing or little or nothing. We want to have a process where there is empirical data and there are standards. What does every metropolitan area of a given size need for its hospitals, for its EMS, for its 911, for its public health system, for its police, for its fire department? We don't have that data today.

Now, if we could agree on targets, then we can talk about should we do that over 5 years or should we do it over 3 years. Should we do it first for cities of a million people or more and later for smaller towns? We don't have that process.

If there is one thing this Committee, and I hope Chairman Cox's Committee could do this year that will make the process better next year, it is legislatively require the Department of Homeland Security to come in with a program planning and budget process, not unlike the Pentagon's, that tells us what the threat is, what the requirements are to meet that threat, and what alternative numbers are so that we can say we are going to do so much this year and we are going to have it done over 3 years or over 5 years against a set of defined standards. Mayors and Governors today don't know how well prepared they are because they don't know what the standards are because no one has told them.

I think this is a non-partisan issue, I think it is an empirical data issue, I think it is a program and budget issue. Until we establish a system, we are probably just throwing away money.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Clarke appears as a submission for the record.]

Chairman KYL. Mr. Clarke, thank you very, very much, and again welcome back to this Committee. You have provided this Committee with a great deal of both open-source and classified material over the years and we appreciate your assistance very much.

Dr. Paul Posner, welcome and thank you for being here as well.

STATEMENT OF PAUL L. POSNER, MANAGING DIRECTOR, FEDERAL BUDGET ISSUES AND INTERGOVERNMENTAL RELATIONS, STRATEGIC ISSUES, GENERAL ACCOUNTING OFFICE

Mr. POSNER. Thank you, Mr. Chairman. I appreciate the opportunity.

First, let me say that the Council's report, I think, does the valuable service of setting the stage to really rethink how we design and manage a partnership because, as we know, this problem exceeds the capacity of any one level to address effectively.

The report fills a void by highlighting significant gaps in preparedness, and the most important gap it really reveals is how little we know about something basic: how much are State and local governments spending on this function. I mean, there is a wide range, I think, $26 to $76 billion. We need to get better estimates of what is out there as we try to intervene in a targeted way to really make a dent in this problem.

The second thing we don't know is what should be spent to achieve a defined level of preparedness. Again, as the report notes, we can't do this with any precision because we really lack the fundamental standards and goals to define how much is enough.

I think the report performs the service of beginning a dialogue to develop a more systematic baseline. I won't repeat what was said before, but there is a need for DHS and others to start this process. They could probably consult with other agencies who have been at this for a long time. We did a report highlighting best practices in needs assessments, thing like making sure that you subject needs to a kind of a cost/benefit test, making sure that you assess the needs against specific, discreet outcomes you want to achieve so that you are not just inventorying everything, but you are using some discriminate analysis. Those kinds of things are well-known and available to apply to this problem.

Given the many needs and high stakes, it is all the more important that scarce resources at the Federal level be geared to fund the highest-priority projects with the greatest potential impacts on the problem. To do this, fundamental changes will be necessary in Federal grants for homeland security in three basic areas.

One is the consolidation of fragmented programs, two is the better targeting of scare Federal funds, and three is providing accountability so that we know at the front end whether money is spent for purposes, not after the money has been spent.

On fragmentation, we have got a table on pages 6 and 8 of my statement that lists 21 first responder grants across three major

departments. Different recipients get these grants. Some are local fire departments, some are State fire marshals, some are State governments, some are public health departments. The point is we are empowering different actors with grants when we should be requiring them to work together.

Second, different allocation schemes are spread widely across this 21, all well-intentioned programs, all established in different times, in different places, to deal with the same problem.

And third is different requirements for matching, for other kinds of things, and the point is this has effects, real effects on performance. Some officials at the local level—I used to be one—might welcome this cafeteria approach to Federal grants. But I have had fire chiefs tell me they didn't get in business to figure out how to use the catalog of domestic assistance; they got in business to save lives. This is creating real confusion and complexity, high administrative costs, and inhibits coordination. Most importantly, it is very difficult to package these things together to address unique local needs.

These are longstanding problems in Federal assistance and many other areas. There are options for rationalization, including consolidation, most importantly. Whether we call it block grants, I think we are going to have to figure out a way to package and consolidate these grants with national standards.

EPA has coined a concept called performance partnerships, where States are given the option of moving money around, but being held accountable for specific and discreet performance goals. Those are very important concepts we need to think about here.

A second important issue is the targeting, and I won't go into any more than what has already been said except to say needs are everywhere. The question before us with scarce funds is how to prioritize those needs, and I think that is the challenge that the Congress faces. States also face this challenge in their pass-through money.

A third important area is fiscal provisions. How do we ensure that the scarce money we are spending is actually going to be used for homeland security and not supplanted and replaced where other State and local funds get reduced? That is a classic problem in grants. We have studies showing almost 60 cents of every Federal dollar gets substituted. We can protect that here, and it is very important if we want our money to really go further.

The final most important point is accountability. This is the real key to sustaining over time what we are trying to do here and it is important to have a sustained effort. We have seen other programs fall by the wayside because they were unable to justify themselves and their contributions. We need to be able to not only have those goals and standards, but have accountability processes that tell us what we are doing against those standards every year. Those standards in an intergovernmental setting need to be developed in partnership with our partners in the community.

State and locals are equally fragmented as we are at the Federal level. A recent Century Foundation report highlighted the systemic problems within regions, within governments themselves. This is no secret; coordination is a challenge everywhere. We can influence

that. As we have done in transportation planning, we can do that here if we design these grants in the way we want to.

So the point is we need to know more systematically what needs to be done. We need to design programs to better ensure that we will be, in fact, able to deliver on our promises, and ultimately the sustainability and public support for what we are doing rests on this.

Thank you.

[The prepared statement of Mr. Posner appears as a submission for the record.]

Chairman KYL. Thank you very much, Dr. Posner. I think the combination of what all three of you have said is just very, very enlightening. Let me begin by asking a couple of questions here.

Since you have all mentioned the problem of standards and accountability and getting the assets where they are most needed, I am wondering, after the Department of Homeland Security has undergone the kind of analysis and assessment that, Mr. Clarke, you referred to, if it then said to its top areas of priority, for example, we have decided that one of the top priorities is to get these radios that will all talk to each other even in buildings with a lot of concrete and steel, and so on, and we have said these are the top three cities whose fire and police departments need them—we have bought them; no problem with standards. We have said you are the top 20 cities to get them. We have prioritized and you can come and get them. No accountability problem; we have got the guys who will help train you.

Granted, that isn't politically as popular as handing out grant money, but might that be a better way to approach this than the grant approach that has been discussed? I ask all three of you.

Mr. RUDMAN. Well, you know, obviously that hypothetical would work, but let me point out that if you set standards, let's say, in the communications gear and said it has to meet this standard and we approve the following eight suppliers for that equipment and we are giving you a grant to buy "x" number of these, then that accomplishes the same thing.

Incidentally, Mr. Chairman, if you would just allow me a brief diversion, I think I neglected to introduce, sitting behind me, Dr. Jamie Metzl, from the Council on Foreign Relations, who spearheaded this report. He is known to many of you and many of your staffs, and it would be negligent on my part not to introduce Jamie because his imprint is very much on this report.

Chairman KYL. I appreciate that.

Any other comments? Dr. Posner.

Mr. POSNER. If I could just add, I think we have some choices in how we develop these standards. I mean, these standards could be focused on the kind of equipment you must have, or possibly a broader and more flexible way to do this would be to specify the outcomes we are trying to achieve. We want you to have interoperability.

There are profoundly different ways this can be achieved. In fact, when you talk to fire chiefs, some of them don't, in fact, repurchase equipment for every vehicle they have. In fact, they buy these software patches that tie in disparate radios through the op center and permit interoperability that way.

The point is, I think, as we think we about standards, recognizing we are dealing with a very diverse community, highly different rural and urban kinds of providers with very different kinds of provisions—and we have done this with other areas like emergency medical services. We have different standards for rural versus urban areas. We need to think a little more discriminately about how we develop standards. One way to do this that gives flexibility as well as accountability is to think about the measurable outcomes we are trying to achieve in performance, and back from there.

Chairman KYL. Mr. Clarke.

Mr. CLARKE. Senator, I think the procedure you outlined would work on some unique pieces of equipment that we want everyone to have in a certain class of city. I will give you an example.

Using Federal dollars, a mass decontamination fire truck was developed and the first one went to Arlington, Virginia. It is designed to be able to move several thousand people through an hour who have been hit by a chemical and it decontaminates them and moves them through out the other end. The truck opens up and becomes a facility.

Now, we can give money to each of the States and hope that each State then gives the money to the cities, and hope that each city then buys such a truck. There is only one place to buy the truck. There is only one organization making it. So we could save a lot of time and a lot of effort, if we believe that every city of a certain size should have that, just to buy it and give it to them. But that doesn't work for every piece of equipment.

Chairman KYL. Let me ask one more question and then turn to the other panelists here. Obviously, some of the threat assessment and decision about where to put what kind of equipment will have to remain classified, or you are just signaling to the terrorists where they needn't worry. So there will have to be an element of this that is not totally public.

But subject to that caveat, could all of you be just a little bit more specific about the actual process for making the decision about how to prioritize this funding?

The general outline of it, Mr. Clarke, you outlined and I think it is what all of you have talked about. You would want to get input from the local communities about what they think their vulnerabilities are, as Representative Cox talked about. But then let's get real specific about how we would politically make these decisions, because obviously Flagstaff, Arizona, might complain that Flagstaff didn't get anything, whereas Phoenix got all of this stuff, or whatever, and that makes political people nervous.

So what is the best way to ensure that the best results attend and that we all can buy into them?

Mr. RUDMAN. The vexing question that you raise—and, again, this is an open hearing, but I think I can say in an open hearing that there is adequate intelligence to do threat assessment on the capabilities and probabilities of chemical and biological attacks against this country.

There is certainly no definitive information on nuclear incidents, be they conventional or dirty bombs, but we do know that there are a lot of radioactive substances that we knew existed at one place

and various places particularly behind the Iron Curtain that aren't there anymore, and that is a matter of public record.

Now, when you look at that kind of a threat assessment, at least I reach the following conclusion. You need a minimum standard at least locally in large places and regionally in other places to deal with any one of those combinations. And I will add a fourth one. Large explosives of a conventional type can cause as much havoc in downtown Los Angeles or downtown Phoenix as almost anything else, and create enormous chaos and casualties.

If you believe that terrorists' design is to demoralize the American people—and that is obviously what it is—and to make us fight amongst ourselves and withdraw from the world, then they will use any one of those means they can in combination, if necessary, to inflict that. So my answer is that there is enough information known to decide how you are going to prioritize your funds.

If you were to ask me, Senator Kyl, after looking at this for the last 5 years—if someone would say to me, you make the decision and you have unlimited money, I would do it in this way. I would, number one, make sure that communications were up to snuff and interoperable in every major city in America and then work down from there.

Number two, I would make sure that there was chemical and biological equipment for the first responders and for the health laboratories to understand what they are dealing with. The third thing that I would do is make sure that the public health system had a surge capacity.

Those would be my three priorities, which deal with all three of those possible threats.

Chairman KYL. Thank you.

Any other comments? Mr. Clarke.

Mr. CLARKE. I agree with Senator Rudman's priorities, but I would also say that, by and large, critical infrastructure targets correlate with population density. It is a good rule of thumb. It doesn't always work, so if I were doing a formula, I would put most of the formula money into population density and then I would say you get additional points if you have a nuclear reactor in your town. If, as in Senator Biden's case, you have a very large chemical plant that has some rather potent chemicals sitting there, that gets additional points.

Chairman KYL. Excuse me, but in each of those cases, then, you would also insist that the money that is granted based upon that formula be directed to the threat against that particular kind of target?

Mr. CLARKE. Against that particular facility, yes. It couldn't be spent for anything, yes, but I think you can come up with a simple grant formula. But there is a key to this that is often overlooked because States give the money out now. The Federal Government gives it to the States and the States, in turn, give it out to cities and towns.

Really, we need metropolitan concepts, and all too often the money goes to one city or one town in the metropolitan area and doesn't build a metropolitan capability. I would like to condition some of the money going to metropolitan areas on the cities and towns cooperating with each other.

As you know very well, there is a lot of political in-fighting between suburbs and core cities, and not always do we find their fire departments and police departments and hospitals cooperating with each other in planning or in developing capabilities. In some places that happens; usually, it doesn't.

There should be some incentive process or perhaps a withholding of money until metropolitan councils of government put together cooperative programs that take into account all of the assets available in the metropolitan area and have a metropolitan plan.

Chairman KYL. Thank you.

Dr. Posner?

Mr. POSNER. Well, I think the process that has been described would be far more analytic than what we typically do in allocating Federal funds, and would be obviously very salutary. Typically, what we do is rely on proxies for those things. Now, here, I think density may serve as one proxy, but the extent to which we can get hard data on relative threats, relative vulnerabilities, and use that as a guide, I think we would be well ahead of the game.

I also think it is very important to observe the role of the State here, the notion that we may need to give guidance as to how States pass money through, which right now, as you have indicated and as others have indicated, is a kind of a very understudied area, to understand how States are actually allocating those funds, and ultimately think about ways to involve the States and their capacity for coordination in allocating these funds.

I know there is some sensitivity about whether the money goes directly to locals or goes through the State. One area we have seen a combination observed is in transportation, where the States are required to develop a statewide plan that lays out broad goals. Money can go directly to other recipients, but the project has to be contained in that statewide plan so that the plan becomes kind of a vehicle for coordination.

Chairman KYL. Thank you.

Senator Feinstein.

Senator FEINSTEIN. Thanks very much, Mr. Chairman.

When I was mayor, I tried to do some of this and it was very interesting because we did it with the threat of major earthquake in San Francisco and realized that everything goes down. The new, fancy telephones go down absolutely, so you have no land line capacity.

We finally had department heads that carried a radio and we rehearsed the radio every Monday morning at 7:30 to see that everybody was online and they carried that radio with them. Of course, in the days that followed, we built a new emergency communications center and communications became much more interoperable.

But what really concerns me, because I have seen it now, is the panic that ensues when you can't communicate, you can't get information. You don't know what streets to move in heavy equipment. You don't know where to get that heavy, street-clearing equipment. You don't know where to pick up your emergency off-duty police and fire. So all of that has to be pre-structured, written in a plan, rehearsed, and known.

I think that the ideas that you have on pages 4 and 5 of your executive summary really constitute a bill, and so my question to

you is would you be willing to work with us and we try to take these very concepts and put them into bill language?

Mr. RUDMAN. We certainly would, Senator Feinstein, and we would also make available to you the people that we worked with. If you look at the index of who we worked with, I mean it is some of the people across this country, including from your State, that have extraordinary knowledge in this area. So the answer is obviously, if we could, we would be delighted to.

Senator FEINSTEIN. Great.

A second question. With respect to interoperability, it is my understanding that for a couple hundred thousand dollars, a community can buy these vans and that these vans have the capacity to make existing systems interoperable.

Have you looked at these? Do they work and are they adequate?

Mr. RUDMAN. Well, they do, and I think Dick Clarke may know more than I, but I am aware of the fact that a number of cities are buying software conversions that enable them to not buy whole new radio systems, but small black boxes that go into these radio systems that make them interoperable at a fraction of the cost of tearing everything out and putting something new in.

I think I am correct about that, Dick.

Mr. CLARKE. I think that is exactly right.

Senator Feinstein, you mentioned the San Francisco emergency communications facility which you helped to create. We went there as part of the study and what we found is that you are absolutely right. They are relying a lot on telephones, and the collapse of a few telephone buildings here and there, intentional or otherwise, and you are out of business.

Yet, as we saw on 9/11, and as we saw during the Northeast power blackout, the Internet works even during these times of crisis. Yet, all too often there are no Internet communications available to fire and police. The chief of the fire department in San Francisco said he would love to be able, when they roll on a building with a fire truck, to have a computer in that fire truck and to be able to pull up the building plans from city hall that are on file so he will know what the building looks like before he sends his people inside.

Senator FEINSTEIN. In other words, kind of like a basic car plan that police have.

Mr. CLARKE. Exactly, but all too often we find in police and fire departments around the country that they are really still 20th century, that they are not using computer technology; they are not using IP, Internet protocol, devices. So there is a lot that could be done. I think that is why Senator Rudman says our first priority would be communications.

Senator FEINSTEIN. Just as a former mayor who dealt with this, I think that is right.

Mr. RUDMAN. When people can't talk to each other, there is panic that results if there is an emergency. It is absolutely essential and we think it is the number-one priority.

Senator FEINSTEIN. I have watched as certain targets seem to crop all of the time, and yet nothing really changes out there to really deal with those targets, to make them less vulnerable. I

think if we could just deal with the communications situation, we would be a lot better off with police and fire.

So if you would work with us, maybe we should try to put something together and have the other Senators here, who I know are interested, work on it as well.

Thank you.

Chairman KYL. Thank you.

Senator Biden.

Senator BIDEN. Thank you very much for a very good report.

Warren, I am sorry you are not still here.

Mr. RUDMAN. I am not, Senator Biden.

Senator BIDEN. Well, I am, but in a sense—and I am not attempting to be humorous; I am being very serious—because of your stature you have been able to take on a role not just on this report, but in other activities you have engaged in which quite frankly carries with it a greater credibility than if you were one of us still here, and it much appreciated.

Mr. RUDMAN. Thank you very much. I appreciate that.

Senator BIDEN. I want to thank all three of you and thank you for your good judgment in hiring Jamie Metzl. In the good old days when I was Chairman of the committee, I had enough money to have him on my staff. When we lost a third of our staff, that was what happened, but my loss has been your great gain.

Gentlemen, I would like to raise a couple of points. First of all, we do have several models, not the same, but several models of how things work. We worked on this Committee for a long, long time trying to deal with law enforcement issues. We finally came up with a bill called the COPS bill, which has about a 1-percent overhead and worked pretty well, and very little loss of income.

We concluded several things bipartisanly. One, if it goes through the States, it gets screwed up, not because the States aren't competent, but because the States are just a replication of what we have here, and that is you are going to have the representative from Frankford, Delaware, who has one vote, along with a representative from the east side of Wilmington, Delaware, which has one vote, presenting the Governor with an ultimatum that if they don't each get an equal share of the money that comes through, they are going to have a problem.

State legislators are going to do what we would do had we had a higher body from which we got money. They are going to make sure that they do what you suggested, Dr. Posner, that they substitute. I found when I wrote the COPS bill that one of the reasons to write it the way I did was that the money I thought we were sending back to local law enforcement was going to pay public defenders and judges.

The reason for that was legislators don't want to use State tax money to pay public defenders and judges; they are not popular things to do. So the Federal Government would pay with money that was designed for the cops for the State judges and the public defenders, both of whom are very important, but they were things that they didn't want to be on record as voting for. So the money wasn't going to the cops.

I have three areas I want to mention with you. What I find you at odds with yourself a little bit about generically, anyway, is this

idea of giving flexibility, observing the State role and not wanting the money to be wasted, and at the same time talking about block grants. Block grants are a guarantee this money will be wasted, an absolute guarantee. I am willing to stake my political career on it. It is a guarantee that it will be wasted.

I agree with my Chairman. He and I are in different parties, different philosophically, but on most of this law enforcement and terrorism stuff we have been on the same page. The role of the Federal Government, it seems to me, should be doing what we do best and let the States do what they do best.

What we do best is with relation to terrorism because no State is capable of dealing with terrorism on their own, no matter how good they are, because it is international by definition, cross-jurisdictional by definition. So we should be the ones setting priorities, not the States. The States can set priorities of their own, with their own money. If they want to set priorities and they want to buy everybody a new engine, fine, they can do that.

Out of the Department of Homeland Security, we should be saying this is the priority we have for allocating Federal monies, whatever it is. I happen to agree with Warren, or all three of you. Communications is right at the top of the list, but if we put this out in block grant money, you are going to find they are doing everything from paying for traffic lights to making sure that homeland security has a nexus to whether or not school nurses are trained in emergency preparedness, and everything in between.

Mr. RUDMAN. Senator Biden, we agree with you. We don't suggest block grants.

Senator BIDEN. Okay. Well, I was a little confused, but I am a little confused, then, about observing the State role. I have no desire to observe the State role, zero, none, none, and not because I don't have great respect for the States. The States can do whatever they want, but the States, it seems to me, if we are providing Federal monies, should have these standards. There should be standards against which we measure what we are going to do, and let me give you an example.

In the COPS bill, we made a Federal judgment—and you voted for it, Warren; you are one of the few who did on your side.

Mr. RUDMAN. I certainly was.

Senator BIDEN. Here is what the Federal judgment was, that community policing was the sine qua non for dealing with law enforcement locally, and in order to get any Federal money, your entire department had to be engaged in community policing, a conceptual difference from the way all police departments were functioning up to then.

So we leveraged 100,000 cops into 675,000 community police. There had been about 40,000 nationwide before. It was that the 100,000 cops became community police. If you wanted to get any money for your department, you had to do two things: one, make sure, if you were authorized for 100 cops now, you did not get a single penny for cops unless it was for your 101st cop.

Secondly, if you got money for your 101st cop, all 100 below it had to be moved into community policing, because that is what all the national survey data and the criminologists suggested, that

that is the best way to deal with crime. And guess what? It worked. It is not the only reason it worked, but it worked.

So what I am trying to get at here is it is much more complicated dealing with homeland security than just cops. I am not suggesting that is not true. What I am suggesting, though, is the identification of the vulnerabilities that are beyond the capacity of the States to deal with are ones which—and what has happened out there is the average American thinks the 106 or 108 nuclear power plants in America are secure. Not a damn one of them is secure.

You mentioned my State. You can take off from Philadelphia, Pennsylvania, in an aircraft and before you get to 15,000 feet you can nose-dive into one of the largest nuclear power plants in America that is one of the most poorly-run in America, and nothing has been done to secure that plant in any way, any way at all, zero.

You can get on this Amtrak train, and I know I am a broken record on Amtrak, and you go through a tunnel in Baltimore that was built in 1869, no lighting, no ventilation, no way out, no escape, no prospect of survival, none. They had a conventional fire in that tunnel and it closed down Baltimore—not the tunnel—it closed down Baltimore for a day-and-a-half, a conventional fire.

So I don't know why the Chairman's suggestion isn't a good one that we federally—not the Congress; we shouldn't be doing this. We should be signing off on it; that the administration identify what are those vulnerabilities. We can parse it any way at all. We can say we want to make sure that every nuclear power plant is secure, or we want to make sure that every major chemical plant, or we want to make sure that every bridge or tunnel, whatever it is.

Secondly, it seems to me that we ought to be able to say, which is the part that absolutely blows me away—whether you are right about your number exactly, the one thing I am absolutely right about is you are a hell of a lot closer to what the number is than what we are saying it is for homeland security.

Mr. RUDMAN. I think that is probably true, Senator Biden.

Senator BIDEN. I mean, it is not even close, and we have done other programs where urban and rural have not had a problem in dissemination of this funding. Let's talk about first responders. If you let the department make its application against a standard for which they have to make the case to a reputable—and it is reputable—to a governmental agency here in Washington that says this meets the standard, this doesn't meet the standard—and this is a question and I would like to ask if you considered this. It is not necessarily within your brief here.

But one of the ways—and I know you remember, Warren—that we get States to sort of focus in on this stuff more tightly is when, in fact, the States have to kick something in as part of it; in other words, if the State has to come up with 10 percent, or 15 or 20 or 5 percent of the funding for those things which affect—I mean, the Senator from New York just walked in. Every time we go on orange alert, there is no Federal cop that is guarding the Brooklyn Bridge or the Lincoln Tunnel and the cost to the City of New York goes out through the roof for all of this.

Senator SCHUMER. Five shifts, seven hours, two at each end, twenty just for that.

Senator BIDEN. So I guess what I am trying to say is that there may be a way that we can follow the Chairman's lead here. I would like to see something come through here, not directing the States but directing the Federal Government to set down the priorities and the standards by which funding would be made available.

The first thing is, as you said, Mr. Clarke, the threat assessment. That is what they do over there in the military. Everything flows from the threat assessment, and I would be interested in you working with us to help us out here, but the threat assessment is a little bit different in this sense, not giving a threat assessment from an intelligence perspective merely as to whether or not there is Al-Qaeda or any other organization out there that has a particular target, but a threat assessment based on vulnerability.

Vulnerability seems to me to be the place that we could probably agree on that which is most vulnerable and which are not the most likely targets, not based on intelligence, but based on common sense. You don't have to be a rocket scientist to figure out, if you want to take out a lot of people and you want to get involved with anthrax, sarin gas, some other chemical, or a dirty bomb, a good place is a place in the six tunnels under New York City where, every moment during a 12-hour day, you have as many people sitting in a train car as you have in 5 full 747 jets. If you want to get something done, that is a good place, that is a good place. By the way, I will get letters saying don't tell the terrorists. The terrorists know this stuff; they know this stuff.

So, anyway, I think it is a first-rate report. I would like to hear much more from you, Mr. Clarke, on sort of the methodology, along with Dr. Posner, about how you come up with a formula. But I am glad to hear the block grant route isn't the place you are pushing.

Mr. RUDMAN. Before they answer, I just want to tell Senator Biden that we certainly do not disagree with your view about block grants. Number two, we think that many of these grants ought to go directly to localities. Number three, I have always believed in matching funds because then you have some stake in it.

Finally, the whole process we talk about here is threat assessment, however you want to do that, a setting of national standards and then meeting those standards. But I would defer to Dick Clarke and Dr. Posner on the other issues.

Mr. CLARKE. Senator Biden, I completely agree that when I say a threat assessment, that is shorthand for threat and vulnerability assessment. We can't determine grants based on FBI reports about is there an Al-Qaeda cell or not, especially since I don't think the FBI has a clue, frankly, where the Al-Qaeda cells are.

It doesn't matter really whether it is Al-Qaeda or Hizbollah or whoever the next group is going to be. It matters whether or not there is a facility that is important, a critical infrastructure, and whether it is vulnerable to attack.

I think if you want to give points out on the basis of such facilities as part of a formula for giving money to cities or metropolitan areas, I think that makes sense. We don't have any particular brief for the money going through the States. We don't say this in the study, but what our study indicated to us was that the States basically take a cut and slow it down.

But I come back to the notion of doing this by metropolitan area. I mentioned a few minutes ago the mass decontamination fire truck that is in Arlington. Washington, D.C., doesn't have one; it doesn't need one because Arlington can be here in three minutes, across the bridge, assuming the bridge is still there.

So we really need to take a look at the SMSAs, the standard metropolitan statistical areas, and say what does an SMSA of 1 million need, what does an SMSA of 5 million need, tell them what they need, where it makes sense give it to them, give them the equipment, where that makes sense.

Senator BIDEN. This is the only place, in my experience, where the State people are coming to us and saying, don't just help us with money, tell us what we need, tell us what we need.

Mr. CLARKE. The other thing we heard was, okay, we know we need "x," but there are 400 companies that have sprung up overnight because they smell the scent of Federal money; tell us which one of this list of 400 companies makes a product that works, because cities and States can't figure that out.

Mr. POSNER. I want to make clear what I said in the statement that we don't think a pure block grant works in this situation either, for the very reasons that you have said. There are very strong national goals and standards that we need to develop, and I think the States, as you say, agree with you.

What we are trying to say is there is consolidation that is in order, because what we are saying is can you define national goals and standards, but give flexibility in terms of how you spend that money. What we are seeing right now is the 21 first responder grants are so narrowly defined. The local governments get this money for equipment. They already have the equipment and they want to use it for training and they can't use it for training. So that is the concept we are trying to get across here.

Senator BIDEN. We struggled with that in the COPS money, too, and we finally came up with a way to do that. You are right, I think.

I thank you, Mr. Chairman.

Chairman KYL. Thank you very much.

Senator Feingold.

STATEMENT OF HON. RUSSELL D. FEINGOLD, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator FEINGOLD. Thank you, Mr. Chairman. I want to thank you and the Ranking Member for holding this important hearing, and I want to thank the witnesses for being here and for so clearly bringing to the attention of the Nation the dramatic underfunding of first responders.

The title of the task force report, "Emergency Responders: Drastically Underfunded, Dangerously Unprepared," says it all. Sadly, the conclusion of this report doesn't really come as a surprise to the emergency responders that I talk to Wisconsin, who, like their counterparts throughout the country, simply do not have the funds to get the equipment and training they need for responding to a terrorist incident.

First responders on whom we all depend need our help to be ready. We all know it, we all say so, but Congress and the adminis-

tration have so far failed to provide the necessary resources. The big problem is that our priorities are out of line. Our budget choices do not reflect the passionate rhetorical flourishes that are so commonly employed here in Washington.

We say this Nation's number-one priority is the fight against terrorism. We all agree that first responders play a critical role in this fight. So why aren't we acting like it? Why aren't we working together with State and local governments to fill the 5-year, $100 billion shortfall found by Senator Rudman's Independent Task Force on Emergency Responders?

The problems facing first responders from the city of Kenosha, Wisconsin, for example, are emblematic of those facing first responders throughout the country. Two years after September 11, Kenosha emergency responders are still trying to get the updated integrated communications equipment they need, which you have been talking about. I have also heard from many fire departments throughout Wisconsin that have been trying to acquire much needed breathing apparatuses, but simply do not have the funds to do so.

Police departments are also feeling the strain of added responsibilities to protect our Nation against a terrorist attack, while being squeezed for funding because the administration has drastically cut or eliminated crucial Federal funding programs.

Former Green Bay Chief of Police James Lewis wrote to me on behalf of 20 other Wisconsin police chiefs earlier this year to express concern about cuts in the COPS, local law enforcement block grants, and Byrne grant programs. Particularly in rural areas, local law enforcement is heavily dependent on these funds.

Chief Lewis wrote, "Without adequate Federal support, local law enforcement will not be able to continue its innovative approach to addressing local crime issues and facing the new issues of terrorism that are confronting our country." I think Congress has to heed this warning before the next attack shows how shortsighted these cuts really are.

So I do thank you, Mr. Chairman, for holding this hearing. It is obvious that a lot of work has to be done to assist our Nation's first responders, and now I would like to just ask a couple of questions.

I would like to ask either Mr. Rudman or Mr. Clarke, in response to your report a Department of Homeland Security spokesman called your cost estimate for funding first responders, quote, "grossly inflated," unquote. Others have said that funding levels should not be raised significantly because the funds simply could not be absorbed efficiently.

Do you believe that emergency responders could efficiently use the funds you recommended they receive? Senator Rudman?

Mr. RUDMAN. Well, we do, and let me comment on that comment. The curious thing about that comment was it was made at a time when the person making it could not have read this report. It was an instant comment, a typical defensive bureaucratic response by a public relations flack who should have been fired for what he said. He also said that we requested gold-plated telephones. If you consider we had two former chairmen of the Joint Chiefs of Staff, a former Secretary of State, and a Nobel laureate, I mean really these are serious people.

Having said that, we gave a range and we say that we really don't know what that amount is. We know it is closer to our number than what is currently being spent. One of the reasons we think national standards ought to be mandated by the Congress as soon as possible is require national standards to be mandated, then you can add up the dollars and cents that it takes to meet those standards and decide how much you want to spend.

But, no, there is no question. We worked with your constituents. We worked with the National Association of Firemen, police chiefs, emergency responders, and your hospitals associations from all over this country. If you look in the back of this book, you will see all of the people we worked with. They are very serious people who are faced with a daunting task who feel they are hopelessly unprepared to deal with it today.

Now, before Senator Schumer came in, I made the observation that the kill-to-injured ratio in New York was backwards. In most instances where you have an event like this, you have thousands of people badly injured and a few hundred people who unfortunately die. In New York, it was quite different than that.

In most events that I have seen scenario planning on, you have a much higher percentage of seriously injured people either with chemical or biological weapons or with conventional explosives and fire. It is absolutely essential that the people who are on the first line of defense—the policemen from Milwaukee, the firemen from New York, whatever—have the equipment to deal with it and the hospitals have the surge capacity to handle it. That is all we are saying.

None of us know when it is going to happen, but, you know, we have a lot of fire departments in this country and sometimes they sit and play poker for three weeks in a row and then all of a sudden they have got their hands full night, after night, after night. Same situation.

Senator FEINGOLD. Mr. Clarke?

Mr. CLARKE. The criticism that our number is too high and their number is Goldilocks, is just right, I think, highlights what the problem is here. They don't have a methodology. Until the Congress requires the Department of Homeland Security to have a methodology, we will continue to have these pointless arguments about my number is better than your number.

This is not rocket science. Take the standard metropolitan statistical areas of various sizes, articulate a standard set of equipment and training and facilities that we want for each one of them for SMSAs at size A and size B and size C, cost out how much that will cost, do the addition and the multiplication, and you will know how much we need. We don't know now because no one has done that, and I despair, frankly, of the Department of Homeland Security ever doing it unless you make them.

Senator FEINGOLD. Thank you, Mr. Chairman.

Chairman KYL. Senator Schumer.

STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. Thank you, Mr. Chairman, and I want to thank you for the diligence which you have shown in holding hearings on this and many other subjects dealing with terrorism.

I want to thank our witnesses, particularly Senator Rudman and Mr. Clarke. Dr. Posner is doing his job, but these two are sort of the Paul Reveres warning us about homeland security, an issue I have felt very keenly and very strongly about. And you are right; you can quibble with the number, but you can't quibble with the idea that we are just not doing enough.

I feel sort of, Mr. Chairman, that we are sort of maybe at a low point. We have Al-Qaeda on the run. Most experts say that they are weaker now than they were on 9/10, and the number of terrorist organizations that can do dastardly deeds is small. But it is going to grow because the very technology that blesses our lives allows small groups of people to do horrible things. For all we know, God forbid, the Chechans will decide we are the enemy and not Moscow, or the East Timorese or the skinheads in Montana. God knows.

The sad fact of the matter is, Mr. Chairman, that if all of us in this room were at once bitten by an evil virus and we decided fanatically to devote the next 5 years of our lives to doing real damage here in the United States, the odds are too high we could succeed. That is the problem we face.

I have been supportive of the President taking action overseas. I think it is the right thing to do. I have my disagreements with how he did it. But faced with the choice of doing nothing, as some in my party would recommend, or doing exactly what the President did, I would still to this moment choose to do what the President did.

But on homeland security, they are not showing the same vigor, the same interest, the same pursuit, and I think a lot of it, frankly, when I talk to people in homeland security, is fiscally-related. It is not that they don't want to do it; it is not even that they are ideologically opposed to doing it, but it is fiscally-related.

Do either of you want to comment on what I had to say? And then I have a few questions.

Mr. RUDMAN. I would agree with virtually everything you said, probably everything you said, Senator Schumer. You know, I don't envy you the task you have up here this year. You are facing a $450 billion deficit which, in my view, could go to $6 or $700 billion in 2004 or 2005. You are talking about enormous expenditures for a new prescription drug program which both parties want, and you are faced with a homeland security issue which is in dire need.

Now, how you juggle all of those I just don't know, but that is why it is so essential—and it has been really Dick Clarke's programmatic thinking, because that is the discipline he has had in Government for all the years he has served, and Dr. Jamie Metzl that convinced us that the most important thing to do, and we put it in the report, is to do a threat assessment based on a number of factors, as we have discussed here today, and then set some standards, plug some numbers into those standards, and at least you know what the number is.

Maybe it is not 90; maybe it is 62, maybe it is 112. And then when you have that number and you look at prescription drugs and you look at Iraq and you look at Afghanistan, then you all decide. That is why we were all elected to this place at one time, to make those kinds of miserable decisions, but you have to make the decisions.

You surely can't make that decision based on throwing darts against the wall, which is essentially where we are right now. That is the single most important message that we bring here today. The report has a lot of good data in it, but to me that is the single most important message we have.

Senator SCHUMER. Again, I am sure the Chairman and everyone who has been here before me would join me in thanking you because both of you now are private citizens and you are doing this because you care about America. You know, I wear this flag in memory of the 3,000 who were lost in New York. I don't want anyone in the country to have to put on another flag to wear.

I just have a few more questions—I know the hour is late, Mr. Chairman—of Mr. Clarke related to terrorism, although not necessarily to homeland security.

Chairman KYL. Excuse me, Senator Schumer. Could I just interrupt you for one second? I want to make sure before I have to leave that Senator Leahy's statement will be accepted for the record. The record will be left open for one week for questions of our witnesses and for other statements that anybody would like to make.

At about eight minutes after, I am going to have to leave and I would like about one minute before I leave. But the floor is yours until——

Senator SCHUMER. So cut me off at 4:07, Mr. Chairman.

Chairman KYL. Good. Okay, thanks.

Senator SCHUMER. I think we will have enough time; maybe not. And you may find this interesting because it is an issue——

Chairman KYL. I know I will find it interesting.

Senator SCHUMER. No, but it is an issue you and I have been working on. Senator Kyl has been very, very out front in chairing hearings on Wahabi-ism and what it means and how we have ignored it. We hope to have more hearings on this issue. We even wrote an op ed together, which I heard while we were away got published in the Washington Post.

There is a report out today about an article that is going to—or is, I think, being made public today or tomorrow in Vanity Fair, which has done pretty serious journalism, where you are quoted, Mr. Clarke, and I just wanted to talk a little bit about it.

The basic thrust of the article is that right after 9/11, when no one was allowed to fly, some special planes were able to spirit Saudis out of the country; that it had top clearance, that some of the members on that plane were members of the bin Laden family.

Now, let me posit that much of the bin Laden family is not allied with the terrorist bin Laden and, in fact, are part of the Saudi rulers or, you know, upper class, ruling class, whatever you want to call it. But two, at least, of those bin Ladens had been under some suspicion for other kinds of terrorist activities or supporting terrorism in the past.

This reporter seemed to do a pretty good job. He interviewed some private investigators who received a call 2 days after 9/11 asking them to escort Saudi students on a flight from Tampa to Lexington, Kentucky. He interviewed some airport officials who knew that the planes had gotten top, top, top clearance when no one else could fly, and a bunch of other people.

Can you tell us what you know about this? You are quoted in the article, and again I think you are doing a service because one of the things the Chairman and I have felt is that we haven't gone deeply enough and looked into enough the relationship between some in the Saudi leadership and terrorism.

Mr. CLARKE. Senator, as I recall the event—as you know, I was the national crisis coordinator on 9/11 and 9/12, making a lot of decisions, or implementing a lot of decisions. I do recall the State Department coming to us that week, and I don't remember what day, and saying that the Saudi embassy felt that, in the wake of the terrorism attacks, Arabs in this country, particularly Saudis, might be victims of retribution attacks. And they wanted, therefore, to take some Saudi students and other Saudi citizens back to the Kingdom for safety, and could they be given permission to fly even though we had grounded all flights?

What I recall is that I asked for flight manifests of everyone on board, and all of those names to be directly and individually vetted by the FBI before they were allowed to leave the country. I also wanted the FBI to sign off even on the concept of Saudis being allowed to leave the country. As I recall, all of that was done. It is true that members of the bin Laden family were among those who left. We knew that at the time.

I can't say much more in open session, but it was a conscious decision with complete review at the highest levels of the State Department and the FBI and the White House.

Senator SCHUMER. Now, in this article—and I don't want to tear into the Chairman's time here—he has a source, so who knows? But he says that the State Department did not—"It did not come out of this place," says a State Department source. "The likes of Prince Bandar do not need the State Department to get this done." Then he quotes Special Agent John Ianorelli, of the FBI, saying "I can say unequivocally that the FBI had no role in facilitating these flights one way or the other."

Let me ask you, I guess, two questions. Are you confident, given your vast knowledge, that every person who was on—how many flights were there? The article is unclear.

Mr. CLARKE. I believe there was one.

Senator SCHUMER. Just one that stopped in all these places, because he names four or five cities. "The Saudi planes"—he says plural; he uses "planes"—"took off or landed in Los Angeles, Washington, Houston, Cleveland, Orlando, Tampa, Lexington, Kentucky, and Newark and Boston."

How thoroughly were these people on this plane or these planes vetted?

Mr. CLARKE. Senator, all I can tell you is that I asked the FBI to do that. I asked the director and the assistant director to do that. They told me they did it. I think the key thing here is that

no one on those aircraft manifests has ever been subsequently wanted by the FBI for an interrogation.

So the notion which this author perhaps is trying to paint that people who were involved in 9/11 or in planning terrorism somehow were allowed to escape, I think, is wrong. No one on those flight manifests has ever been designated by the FBI as having been involved in 9/11.

Senator SCHUMER. But let me ask you this question. This is just a summary, so I haven't read the article. It is what Vanity Fair puts out. My impression, or at least my assumption of why this was important was not necessarily that those connected with terrorism might have escaped, although who knows—but your word means a whole lot to me; I have such huge respect for you, and we knew each other even back in the Clinton days when we were talking about some of these issues—but rather that many of them might have been able to shed some light, particularly in the time thereafter, about what happened, what went on, et cetera.

Do you know if we have made any efforts to question any of these people subsequent to their being in Saudi Arabia, given something you have acknowledged and we have all acknowledged, the lack of complete Saudi cooperation when we wished to question some people there? Have we tried, have we been successful? Do you have any knowledge of that?

Mr. CLARKE. I do not know the answer to that, Senator. I would be guessing and I would rather not do that. But I would stress that, despite what the article may say, this decision was reviewed by the State Department and was reviewed by the FBI and signed off on by the FBI. All of the names on all of the flight manifests were checked before anyone was allowed to leave the country. And my specific question to the FBI was, if there is anybody you want to hold, hold them.

Senator SCHUMER. And was anyone—sorry. I wouldn't mind if you have your question and I could just continue for four or 5 minutes myself.

Chairman KYL. Yes. Here is what I would like to do and see if it is okay with you, Senator Schumer. Obviously, we are deviating in this line of questioning from what the hearing was all about.

Senator SCHUMER. It just was so officious.

Chairman KYL. I understand, and I am fascinated by the pursuit of the issue as well, but Mr. Clarke wasn't advised beforehand that we were going to get into this.

Senator SCHUMER. Right.

Chairman KYL. Here is what I would like to suggest. Since I have to get down to the White House and my car is leaving in just a second, I would like to just make a concluding comment and, with your permission, bring the hearing to a close, with the understanding that we will continue to converse with Mr. Clarke and, as events call for it—we are going to have a hearing a week from today, September 10, that is going to get back to the question of Saudi involvement and other related issues.

Senator SCHUMER. That is just fine with me.

Chairman KYL. We have plenty of time to pursue this, but I think, under the circumstances, if it is all right with you, that is the way I would like to deal with it.

Senator SCHUMER. Well, I read this two hours ago.

Chairman KYL. I have got it here and I think it is worth pursuing, but let's give Mr. Clarke a little more time just to——

Senator SCHUMER. Would you be available tomorrow or the next day to talk about this?

Mr. CLARKE. Yes.

Chairman KYL. Let me, first of all, thank Senator Schumer. It has been a pleasure to work with him on these issues, and we do see eye to eye. We do have some more work to do and we will be having another interesting hearing a week from today on the morning of September 10.

The one comment I would like to make, and Senator Rudman put his finger right on it, is obviously I would like to spend more money on defense, I would like to spend more money on lots of different things. We all would. Senator Schumer and I might well decide we would like to spend more money on homeland security.

The only rational way to decide among all the competing interests is to have some kind of informed basis for evaluation, which is the great service that you have done for us to suggest that template for us to use, or the Department of Homeland Security primarily to use. And then the political decisions about how to allocate the money based upon that knowledge will be up to us as the political people and we will have to make our judgments one way or the other.

I think that is one of the great services that you have performed in the report and in the conversation you have had. And, Dr. Posner, of course, this is right down your alley, as well.

So I want to thank you all for your testimony. I have the feeling we are going to be doing some follow-up here. As we work on legislation, much like the House is doing, we are going to have to rely upon you for advice on how to put it together.

So I think that is the way I would like to close this hearing, not to close the subject, but as kind of the second chapter. You wrote the first chapter, and then we will get to work on how to implement that and either call you back formally or informally, discuss with you and try to pursue it in that way. I just really appreciate all of the information that you have provided to us today. Thank you very much for being here.

With that, the hearing will be closed.

[Whereupon, 4:12 p.m., the Subcommittee was adjourned.]

[Additional material is being retained in the Committee files.]

[Submissions for the record follow.]

SUBMISSIONS FOR THE RECORD

Testimony of Richard A. Clarke

Senate Judiciary Committee
Subcommittee on Technology, Terrorism, and Homeland Security

September 3, 2003

Terrorism, First Responders: How much is Enough?

Mr. Chairman, it's a pleasure to appear again before this sub-committee. Before I begin, I would like to complement you and Senator Feinstein on your persistent and diligent work over these last several years to improve America's preparedness to deal with terrorism. As I know well, you were dedicated to this issue long before it became fashionable. And your positions have always been those which have advanced our security.

It has also been my pleasure over the last several months to work closely with a former colleague of yours, Senator Warren Rudman, on the Independent Task Force on Emergency Responders. That Task Force, to which I was an Advisor, issues its report ***Drastically Underfunded, Dangerously Unprepared*** in June.

The report was the result of work with a series of organizations representing states, counties, cities, police, fire, public health, and emergency services

departments. The bottom line of the report is stated in its title. We found that emergency responders across the country still suffer from significant equipment, training, and personnel shortfalls that would impede their ability to deal with major terrorist events, especially those involving chemical, biological, radiological or nuclear materials.

Following the release of the report, spokespersons for the Department of Homeland Security criticized it as over-stating the needs of the first responders. One noted, "You could spend the whole gross national product on first responders." Another said that we were seeking "gold plated telephones" for emergency responders. Actually, we were only seeking communications systems that work, unlike the New York Fire Department radios which tragically did not work well on September 11th.

The response from the Department highlights the problem. Discussion about Federal assistance to First Responders quickly degenerates into "my number is better than your number." That is because there is no formal process to determine the needs, prioritize them, and meet them in a multi-year program. This Committee, and others, have not been given the tools by the Administration to determine how much is enough.

Mr. Chairman, this is not a new problem. The Defense Department began tackling this issue forty years ago. What emerged from that struggle is a program planning and budgeting process which has been in place in one form or another for decades. We may all disagree about the size and content of the Defense budget, but we can do so in an empirical and analytical manner because that system is in place.

It might be useful to briefly recap that DOD process in broad strokes. It begins with annual Threat Assessment. The Threat Assessment informs a subsequent Requirements and Capabilities document, in which the military Services outline what they believe is necessary to counter the threat. The Secretary then issues Program Guidance, which provides overall guidance on available funding and priorities, showing how and to what extent each of the requirements will be met over the next five years.

This is a relatively transparent process that permits quantification. It also permits informed debate: has this or that threat been exaggerated? is some requirement over-stated? does the five year plan take too long to achieve a certain capability? is one capability more important than another?

The process also allows decision makers to determine quantitatively what the choices and the results would be if more (or less) funding were available. You can look at alternative multi-year plans and compare them, moving around components.

We need a similar process for First Responders. That process needs to answer some critical questions, which remain unanswered today: what capabilities do we need in metropolitan areas of various sizes, in police, in urban heavy search and rescue, in hospitals, etc? how much more capability will be get for a certain amount of money? how long is it going to take us to get to a desired level?

Mr. Chairman, I will be brief and to the point: this Committee and others should require the Administration and the new Department to create such a quantitative process. Legislation should be very specific about how that process should be shaped and what information should be shared with the Congress and the First Responder community. Only then will you be able to make informed decision about how much is enough.

News From:

U.S. Senator
Russ Feingold

506 Hart Senate Office Building
Washington, D.C. 20510-4904
(202) 224-5323

http://www.senate.gov/~feingold

Contact: **Trevor Miller**
(202) 224-8657

Statement of U.S. Senator Russ Feingold
At the Terrorism, Technology, and Homeland Security Subcommittee
Of the Senate Judiciary Hearing on Terrorism: First Responders

September 3, 2003

I want to thank the Chairman and Ranking Member for holding this important hearing. I also want to thank the witnesses for being here and for so clearly bringing to the attention of the nation the dramatic underfunding for our first responders. The title of the Task Force report, "Emergency Responders: Drastically Underfunded, Dangerously Unprepared," says it all. Sadly, the conclusion of this report comes as no surprise to the emergency responders of Wisconsin, who, like their counterparts throughout the country, simply do not have the funds to get the equipment and training they need for responding to a terrorist incident. First responders - on whom we all depend - need our help to be ready. We all know it. We all say so. But Congress and the administration have failed to provide the necessary resources.

The big problem is that our priorities are out of line. Our budget choices do not reflect the passionate rhetorical flourishes that are so commonly employed here in Washington. We say this nation's number one priority is the fight against terrorism. We all agree that first responders play a critical role in this fight. Why aren't we acting like it? Why aren't we working together with state and local governments to fill the five-year $100 billion shortfall found by Senator Rudman's Independent Task Force on Emergency Responders?

The problems facing first responders from the city of Kenosha, Wisconsin are emblematic of the those facing first responders throughout the country. Two years after September 11th, Kenosha emergency responders are still trying to get the updated and integrated communications equipment they need. I've also heard from many fire departments throughout Wisconsin who have been trying to acquire much needed breathing apparatuses but simply do not have the funds to do so.

Police departments are also feeling the strain of added responsibilities to protect our nation against a terrorist attack, while being squeezed for funding because the administration has

1600 Aspen Commons
Middleton, WI 53562
(608) 828-1200

517 E. Wisconsin Ave.
Milwaukee, WI 53202
(414) 276-7282

First Star Plaza
401 5th St., Room 410
Wausau, WI 54403
(715) 848-5660

425 State St., Room 232
La Crosse, WI 54603
(608) 782-5585

1640 Main Street
Green Bay, WI 54302
(920) 465-7508

drastically cut or eliminated crucial federal funding programs. Former Green Bay Chief of Police James Lewis wrote me on behalf of twenty-five other Wisconsin police chiefs earlier this year to express concern about cuts in the COPS, Local Law Enforcement Block Grant and Byrne Grant programs. Particularly in rural areas, local law enforcement is heavily dependent on these funds. Chief Lewis wrote: "Without adequate federal support, local law enforcement will not be able to continue its innovative approach to addressing local crime issues and facing the new issues of terrorism that is confronting our country." Congress must heed this warning before the next attack shows how shortsighted these cuts really are.

Thank you again, Mr. Chairman, for holding this hearing. It is obvious that there is a lot of work to be done to assist our nation's first responders. Let me now turn to the witnesses.

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Statement of Senator Jon Kyl
Chairman
Subcommittee on Terrorism, Technology, and Homeland Security
Senate Judiciary Committee
3 September 2003

First responders are police, firefighters, and emergency medical technicians. As our first witness, Chairman Christopher Cox, has said, first responders are "the backbone of our communities. We post their names and numbers on our refrigerators because we rely on them to help us in an emergency. They are our heroes in times of crisis." During the September 11th attacks, police and firefighters led evacuations from the World Trade Center, helping an estimated 15,000 people escape safely.

Today the subcommittee will examine the report of the Independent Task Force on Emergency Responders sponsored by the Council on Foreign Relations.

We will hear from a number of noted experts. On the first panel, we will hear from the Chairman and Ranking Member of the House Select Committee on Homeland Security: Christopher Cox and Jim Turner. Chairman Cox has a proposal entitled, "Faster and Smarter Funding for First Responders," which is based on the following principles:

(1) Threat analysis: Federal grants should be distributed based on an authoritative assessment of where the risk is greatest.
(2) Rapid funding: Funding should get to its intended first responders as quickly as possible.
(3) Regional cooperation: Funding priorities should reward communities that successfully develop interoperablility plans and work across jurisdictional lines.

On the second panel, we will hear from three experts: first, Senator Rudman, the Chairman of the Independent Task Force on Emergency First Responders, and Dick Clarke, the Senior Advisor to the Council on Foreign Relations. At the outset of its report, the Council makes cleat that "the United States must assume that terrorist will strike again" and "the United States remains dangerously ill-prepared to handle a catastrophic attack on American soil." (Page 1.) According to the report, there are two major obstacles hampering America's emergency preparedness efforts — lack of preparedness standards and stalled funding for emergency responders.

One of the Council's recommendations to deal with the problem of stalled distribution is that the system for allocating scarce resources should be based less on equally dividing the spoils and more on addressing identified threats and vulnerabilities. According to the report, "To do this, the federal government should consider such factors as population, population density, vulnerability assessment, and presence of critical infrastructure within each state." (Page 4.) I agree and I look forward to hearing our witnesses discuss this.

Finally, the subcommittee will hear from Dr. Paul Posner of the General Accounting Office (GAO). At the beginning of his written testimony, Dr. Posner makes a similar point. He

writes, "Given the many needs and high stakes involved, it is all the more important that the structure and design of federal grants be geared to fund the highest priority projects with the greatest potential impact for improving homeland security." (Page 1.)

It seems that, as Chairman Cox has said elsewhere, the pipeline is the problem. Indeed, in its report, the Council says, "In some respects, there is no natural limit to what the United States could spend on emergency preparedness. The United States could spend the entire gross domestic product (GDP) and still be unprepared, *or wisely spend a limited amount and end up sufficiently prepared.*" (Page 8, emphasis added.) If it does the former, if it just throws money at the problem, then, as the Council observed, "the United States will have created an illusion of preparedness based on boutique funding initiatives without being systematically prepared. The American people will feel safer because they observe a lot of activity, not be safer because the United States has addressed its vulnerabilities." (Page 8.)

I agree that the government needs to spend money wisely. One example of a potential wise use of resources is a proposal called Project Zebra. Project Zebra is a medically based bio-attack detection and warning system which could detect and monitor infections from biological attacks, and quickly communicate the results across the country. Rather than attempting, at great (maybe prohibitive) cost to set up sensors across the nation, which many believe would not be feasible, Project Zebra would quickly determine whether symptoms of patients presenting themselves to emergency rooms were the result of normal diseases or from biological agents.

As for the pipeline, and the formulas, being the problem, I can attest to this myself. Recently, the Department of Homeland Security classified Pima County Arizona's population level the same as Maricopa County's, a much more densely populated county. As a result, Pima County is scheduled to receive an additional $1.3 million beyond its allowed formula grant. Pima County, located near the Arizona-Mexico border, has urgent First Responder and border enforcement needs. The County has dedicated, but not yet spent, this windfall of First Responder funds. County officials are hopeful that they will receive the inadvertently promised additional funds from DHS. My point here is that a more targeted, needs-based system needs to be developed for high-risk states and counties. I believe that border counties and states are high-risk by definition. They should receive a more equitable proportion of First Responder funding — and not by accident.

In closing, I would like to thank Senator Feinstein for her help putting together this hearing. On this issue and every issue before the subcommittee she has worked very hard and has been a great pleasure to work with.

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U.S. SENATOR PATRICK LEAHY

CONTACT: David Carle, 202-224-3693 VERMONT

Statement of Senator Patrick Leahy
Ranking Member, Senate Judiciary Committee
Subcommittee on Terrorism, Technology and Homeland Security on
"Terrorism: First Responders"
September 3, 2003

As we prepare to mark the second anniversary of the attacks of Sept. 11, 2001, it has never been clearer that the role of our country's state and municipal emergency first responders is as demanding and dangerous as ever. It is also clearer than ever that these real-life heroes out on the front lines every day are lacking the federal support they need and deserve to protect us.

The "First Responders Partnership Grant Act of 2003," which I introduced at the outset of this Congressional session, would strengthen the federal partnership with first-responder agencies by helping equip these men and women with the tools they need to do what the Federal Government is asking them to do for us. This bill would expand the federal money available to state and local government units by between $4 billion and $5 billion a year so that they could fund overtime and pay for equipment, training and facility expenses to support first responders. I am delighted that after many months of calling for action on this all-important issue, the Republican leadership has finally decided to broach the topic. It is long overdue, particularly for the local and state police, fire and rescue agencies that we have tasked with new duties, which are augmented whenever Washington elevates the color-coded threat level.

The gap between Federal directives to state and local governments and the help actually offered was highlighted in a revealing review led by former Senator Warren Rudman, who has augmented his distinguished service in the Senate with continuing public service. I welcome Sen. Rudman's insights today as he testifies before the subcommittee on his findings.

The Warren Rudman-Richard Clarke-Jamie Metzl June 2003 report, "Emergency Responders: Drastically Underfunded, Dangerously Unprepared," concludes that the U.S. will fall approximately $98.4 billion short of meeting critical emergency responder needs over the next five years, if current funding levels are maintained. Currently the federal budget to fund emergency responders is $27 billion for the next five years, beginning in 2004. Clearly, the domestic preparedness funds available are still not enough to protect from, prepare for and respond to future domestic terrorist attacks anywhere on American soil.

senator_leahy@leahy.senate.gov
http://leahy.senate.gov/

Since March 12th of last year, the federal Homeland Security Advisory System has kept state and local first responders on "yellow" alert, an elevated threat level, which is declared when there is a significant risk of terrorist attacks and which requires increased surveillance of critical locations. And from Sept.10 to Sept. 24 last year, Feb. 7 to Feb. 27 this year, and May 20 to May 30 this year, Attorney General Ashcroft and Homeland Security Secretary Ridge declared our country at "orange" threat level, a "high condition" when there is high probability of a terrorist attack and when additional precautions by first responders are necessary at public events.

In this climate, first responders in communities across the country are being stretched too thin. Many of our police officers are struggling to get through unduly long shifts, firefighters remain unprepared to respond to a biochemical attack and hospitals around the country are ill-equipped to handle the fallout of a terrorist attack.

At the same time, Washington is buzzing about the literally hundreds of billions of additional dollars that may be requested of Congress to finish the job in Iraq. Unfortunately, the same urgency from the Administration is not apparent for strengthening security here at home.

Law enforcement chiefs and sheriffs also shudder when they hear that the President's budget requests aim to drastically cut or eliminate altogether COPS Program funding and Byrne and Local Law Enforcement grants. These are funds police departments need to carry out their day-to-day duties on which the public relies: to put officers on the streets, to purchase crime-fighting technologies, and to combat violent crime and serious offenders and enforce drug laws. Police officers across the country also lack protective gear to safely secure a site following an attack with weapons of mass destruction. Fire departments and EMS providers have been able to acquire with homeland security grants new equipment to respond to emergency situations, but lack the funds to train responders on how to use that new equipment.

According to the Rudman-Clarke-Metzl report, on average, fire departments across the country have only enough radios to equip half the firefighters on a shift, and breathing apparatuses for only one third. Only 10 percent of fire departments in the United States have the personnel and equipment to respond to a building collapse. Most states and communities do not have the necessary equipment to determine what kind of hazardous materials emergency responders may be facing.

The federal government has failed to provide our first responders with the additional support they need to meet these new federal demands. Indeed, the National Governors Association estimated that states incurred about $7 billion in security costs in the past year alone. As a result, the national threat alerts and other federal homeland security requirements have become unfunded federal mandates on our state and local governments.

When terrorists strike, emergency first responders are and will always be the first people we turn to. We put our lives and the lives of our families and friends in the hands of

these officers, trusting and knowing that when called upon they will protect our families and secure our communities. All they ask is for the tools they need to do their jobs for us. And for the sake of our own security, that is not too much to ask.

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United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Terrorism, Technology and Homeland Security, Committee on the Judiciary, U.S. Senate

For Release on Delivery
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HOMELAND SECURITY

Reforming Federal Grants to Better Meet Outstanding Needs

Statement of Paul L. Posner, Managing Director
Federal Budget Issues and Intergovernmental Relations, Strategic Issues

GAO-03-1146T

September 2, 2003

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Highlights

Highlights of GAO-03-1146T, a report to Subcommittee on Terrorism, Technology and Homeland Security, Committee on the Judiciary, U.S. Senate

HOMELAND SECURITY

Reforming Federal Grants to Better Meet Outstanding Needs

Why GAO Did This Study

The challenges posed in strengthening homeland security exceed the capacity and authority of any one level of government. Protecting the nation calls for a truly integrated approach bringing together the resources of all levels of government. The Council on Foreign Relations study—*Emergency Responders: Drastically Underfunded, Dangerously Unprepared*—states that in the aftermath of the September 11 attacks, the United States must prepare based on the assumption that terrorists will strike again. Although it acknowledges the nation's preparedness has improved, the Council's report highlights gaps in preparedness including shortfalls in personnel, equipment, communications, and other critical capabilities. Given the many needs and high stakes, it is critical that the design of federal grants be geared to fund the highest priority projects with the greatest potential impact for improving homeland security. This testimony discusses possible ways in which the grant system for first responders might be reformed.

What GAO Recommends

We do not make recommendations in this testimony; however, if Congress chooses to reform the grant system we have provide options including consolidating grant programs through block grants, establishing performance partnerships, and streamlining planning and administrative requirements.

www.gao.gov/cgi-bin/getrpt?GAO-03-1146T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Paul L. Posner at (202) 512-9573 or posnerp@gao.gov.

What GAO Found

The federal grant system for first responders is highly fragmented, which can complicate coordination and integration of services and planning at state and local levels. In light of the events of September 11, 2001 and the establishment of the Department of Homeland Security, the 108th Congress faces the challenge of redesigning the homeland security grant system. In so doing, Congress must balance the needs of our state and local partners in their call for both additional resources and more flexibility with the nation's goals of attaining the highest levels of preparedness. Given scarce federal resources, appropriate accountability and targeting features need to be designed into grants to ensure that the funds provided have the best chance of enhancing preparedness.

Addressing the underlying fragmentation of grant programs remains a challenge for our federal system in the homeland security area. Several alternatives might be employed to overcome problems fostered by fragmentation in the federal aid structure, including consolidating grant programs through block grants, establishing performance partnerships, and streamlining planning and administrative requirements. Grant programs might be consolidated using a block grant approach, in which state and local officials bear the primary responsibility for monitoring and overseeing the planning, management, and implementation of activities financed with federal grant funds. While block grants devolve authority for decisions, they can be designed to facilitate accountability for national goals and objectives.

Congress could also choose to take a more hybrid approach that would consolidate a number of narrowly focused categorical programs while retaining strong standards and accountability for discrete federal performance goals. One example of this model involves establishing performance partnerships, exemplified by the initiative of the Environmental Protection Agency in which states may voluntarily enter into performance agreements with the agency's regional offices covering the major federal environmental grant programs. Another option would be to simplify and streamline planning and administrative requirements for the grant programs. Whatever approach is chosen, it is important that grants be designed to target funds to states and localities with the greatest need, discourage the replacement of state and local funds with federal funds, and strike the appropriate balance between accountability and flexibility.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here today to discuss issues critical to successful federal leadership of, assistance to, and partnership with state and local governments to enhance homeland security. As you know, the challenges posed in strengthening homeland security exceed the capacity and authority of any one level of government. Protecting the nation against these unique threats calls for a truly integrated approach, bringing together the resources of all levels of government.

There is a great deal of room for improvement in how the federal government provides assistance to state and local governments to enhance their levels of preparedness for terrorist acts. We testified earlier this year that the federal grant system for first responders is highly fragmented and that the fragmented delivery of federal assistance can complicate coordination and integration of services and planning at state and local levels.[1]

The Council on Foreign Relations report rightly points out that in the aftermath of the September 11 attacks, the United States must plan and prepare on the assumption that terrorists will strike again.[2] Given the many needs and high stakes involved, it is all the more important that the structure and design of federal grants be geared to fund the highest priority projects with the greatest potential impact for improving homeland security. Sustaining support for the necessary funding over the longer term will ultimately depend on rationalizing our grant system to streamline and simplify overlapping programs, promote appropriate targeting, and ensure accountability for the results achieved with scarce federal resources. Accountability needs to be built in on the front end, not after the funds are expended. Now is the time for policymakers to step back and rationalize the structure and design of first responder grant programs to improve their potential effectiveness.

Today, I would like to start by providing a perspective on the Council's report on the preparedness of first responders throughout the nation. I will

[1] U.S. General Accounting Office, *Federal Assistance: Grant System Continues to Be Highly Fragmented*, GAO-03-718T (Washington, D.C.: Apr. 29, 2003).

[2] Report of an Independent Task Force Sponsored by the Council on Foreign Relations, *Emergency Responders: Drastically Underfunded, Dangerously Unprepared* (New York, NY: 2003).

then focus on the system of homeland security grants and explain how the system continues to be highly fragmented, potentially resulting in duplication and overlap among federal programs. Finally, I would like to focus on grants design options to improve targeting, fiscal accountability, and results through the intergovernmental homeland security partnership.

This testimony draws upon our wide-ranging ongoing and completed work on federal grants management issues, grant reform efforts, homeland security, and performance management initiatives. We conducted our work in accordance with generally accepted government auditing standards.

Background

The Council on Foreign Relations study sets the stage for rethinking the federal role in assisting communities prepare for homeland security. Although acknowledging that the nation's preparedness has improved, the Council's report highlights some of the significant gaps in preparedness including shortfalls in personnel, equipment, communications, and other critical capabilities in local services.

The Council's report attempts to fill a void by estimating unmet needs for emergency responders. The Council's 5-year estimate of approximately $98 billion across all levels of government was developed in concert with The Concord Coalition and the Center for Strategic and Budgetary Assessments. It was based on data made available by professional associations and others in the areas of fire service, urban search and rescue, hospital preparedness, public health, emergency 911 systems, interoperable communications, emergency operations centers, animal/agricultural emergency response, emergency medical services systems, emergency management planning and coordination, and emergency response regional exercises. However, the report clearly states that it does not include estimates for certain costs such as overtime for training and other estimated needs in several critical mission areas, such as the needs of police forces, because national police organizations were unable to provide the information.

The total estimate is characterized in the report as being very preliminary and imprecise given the absence of comprehensive national preparedness standards. As the report itself acknowledges, the analysis is intended to foster national debate by focusing on the baseline of preparedness and steps needed to promote higher levels of readiness.

The report performs a service in beginning an important dialogue on defining standards to assess readiness and recommends the development of a better framework and procedures to develop more precise estimates of national requirements and needs. The report concludes that the basis for funding decisions would be improved by agreement on a more detailed and systematic methodology to determine national requirements grounded in national standards defining emergency preparedness.

We at GAO have not evaluated the methodology used in the Council's report. However, we have issued a report evaluating needs assessments performed by other agencies in the area of public infrastructure. That report highlights best practices that may prove useful if used by the Department of Homeland Security or other public or private entities in analyzing homeland security preparedness needs in the future.[3] The practices used by these agencies to estimate funding needs varied widely, but we were able to benchmark their assessments against best practices used by leading public and private organizations. They also reflect requirements that the Congress and the Office of Management and Budget have placed on federal agencies that are aimed at improving capital decisionmaking practices.

Among these best practices for infrastructure, there are several that might be considered useful and relevant when conducting homeland security capability assessments. For example, some agencies' assessments focus on resources needed to meet the underlying missions and performance goals. This type of results-oriented assessment is based on the actions needed to attain specific outcomes, rather than being simply a compilation of all unmet needs regardless of their contribution to underlying outcomes and goals. Assessments might also consider alternative approaches to meeting needs for cost effectiveness such as reengineering existing processes and improving collaboration with other governments and the private sector. Best-practice agencies use cost-benefit analysis to include only those needs for which benefits exceed costs; in cases where benefits are difficult to quantify, assessments could include an analysis that compares alternatives and recommends the most cost-effective (least-cost) option for achieving the goal. Some agencies also rank projects based on established criteria such as cost-effectiveness, relative risk, and potential contribution to program goals. Finally, we found that best-practice

[3] U.S. General Accounting Office, *U.S. Infrastructure: Agencies' Approaches to Developing Investment Estimates Vary*, GAO-01-835 (Washington, D.C.: July 20, 2001).

agencies have a process to independently review the quality of data used to derive estimates.

Fragmentation in Homeland Security Grants for First Responders

GAO's work over the years has repeatedly shown that mission fragmentation and program overlap are widespread in the federal government and that crosscutting program efforts are not well coordinated. As far back as 1975, GAO reported that many of the fundamental problems in managing federal grants were the direct result of the proliferation of federal assistance programs and the fragmentation of responsibility among different federal departments and agencies.[4] While we noted that the large number and variety of programs tended to ensure that a program is available to meet a defined need, we found that substantial problems occur when state and local governments attempt to identify, obtain, and use the fragmented grants-in-aid system to meet their needs. Such a proliferation of programs leads to administrative complexities that can confuse state and local grant recipients. Like GAO, Congress is aware of the challenges facing grantees in the world of federal grants management. In 1999, it passed the Federal Financial Assistance Management Improvement Act (P.L. 106-107), with the goal of improving the effectiveness and performance of federal financial assistance programs, simplify federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

The 108th Congress faces the challenge to redesign the nation's homeland security grant programs in light of the events of September 11, 2001 and the establishment of the Department of Homeland Security (DHS). In so doing, Congress must balance the needs of our state and local partners in their call for both additional resources and more flexibility with the nation's goals of attaining the highest levels of preparedness. At the same time, we need to design and build in appropriate accountability and targeting features to ensure that the funds provided have the best chance of enhancing preparedness.

[4] U.S. General Accounting Office, *Fundamental Changes Are Needed in Federal Assistance to State and Local Governments*, GAO/GGD-75-75 (Washington, D.C.: Aug. 19, 1975).

Funding increases for combating terrorism have been dramatic and reflect the high priority that the administration and Congress place on this mission. As the Council's report observes, continuing gaps in preparedness may prompt additional funds to be provided. The critical national goals underlying these funding increases bring a responsibility to ensure that this large investment of taxpayer dollars is wisely applied. We recently reported on some of the management challenges that could stem from increased funding and noted that these challenges—including grants management—could impede the implementation of national strategies if not effectively addressed.[5]

GAO has testified before on the development of counter-terrorism programs for state and local governments that were similar and potentially duplicative.[6] Table 1 shows many of the different grant programs that can be used by first responders to address the nation's homeland security.[7] To illustrate the level of fragmentation across homeland security programs, we have shown in table 1 the significant features for selected major assistance programs targeted to first responders. As the table shows, substantial differences exist in the types of recipients and the allocation methods for grants addressing similar purposes. For example, some grants go directly to local first responders such as firefighters while at least one goes to state emergency management agencies and another directly to state fire marshals. The allocation methods differ as well—some are formula grants while the others involve discretionary decisions by federal agency officials on a project basis. Grant requirements differ as well—DHS' Assistance to Firefighters Grant has a maintenance of effort requirement (MOE) while the State Fire Training Systems Grant has no similar requirement.

[5] U.S. General Accounting Office, *Combating Terrorism: Funding Data Reported to Congress Should Be Improved*, GAO-03-170 (Washington, D.C.: Nov. 26, 2002).

[6] U.S. General Accounting Office, *Combating Terrorism: Intergovernmental Partnership in a National Strategy to Enhance State and Local Preparedness*, GAO-02-547T (Washington, D.C.: Mar. 22, 2002).

[7] While the selected grant programs listed in table 1 could be placed into the categories used in the Council's report, we have not reviewed the methodology used by the Council to make its budgetary estimates.

Table 1: Characteristics of Selected Homeland Security Grant Programs

Grant	Federal Agency	Grantee	MATCH	MOE	Funding Formulas And Cost Sharing Provisions
State Homeland Security Grant Program	ODP/ DHS	State and local units of government			FY2003 allocations determined by using a base amount of .75 percent of the total allocation to the states (including D.C. and Puerto Rico) and .25 percent of the total allocation for the territories, with the balance of funds being distributed on a population-share basis.
Emergency Management Performance Grants	FEMA/DHS	State and local units of government	✔		For each state, a target allocation is derived by calculating the same proportion of available funds as the state received the prior year. A matching requirement is calculated for each state. Each recipient's cost share percentage will increase by 1 percent over the prior year until the 50/50 level is reached.
Urban Areas Security Initiative	ODP/DHS	Selected cities and states chosen by the Secretary of DHS			Funds distributed according to formula—a combination of current threat estimates, critical assets within the urban area, population and population density—that is a weighted combination of each factor, the results for which are ranked and used to calculate the proportional allocation of resources.
Urban Areas Security Initiative -Transit System Security Grant Program	ODP/DHS	Selected mass transit systems chosen by the Secretary of DHS			Non-supplanting certification required.
Urban Areas Security Initiative – Port Security Grant Program	ODP/DHS	State and local government entities and commercial companies to enhance security at selected ports			Non-supplanting certification required.
First Responder Counter-Terrorism Assistance	FEMA/DHS	Fire and emergency first responders; law enforcement personnel with operational and/or incident management responsibilities			None
State Fire Training Systems Grants (National Fire Academy Training Grants)	FEMA/DHS	Representatives from the 50 State Fire Training Systems			None

(Continued From Previous Page)

Grant	Federal Agency	Grantee	MATCH	MOE	Funding Formulas And Cost Sharing Provisions
Hazardous Materials Assistance Program	FEMA/DHS	States, locals, tribes, territories, State Emergency Response Committees, and Local Emergency Planning Commissions			None
Hazardous Material Training Program	FEMA/DHS	Tribal government	✔		Matching requirement of 20 percent can be satisfied with cash or third party in-kind contribution.
Assistance to Firefighters Grant	FEMA/DHS	Fire departments in the states. An Emergency Management Services unit can apply if the unit is under the auspices of a fire department.	✔	✔	Applicants who protect a population of 50,000 or less must provide a nonfederal cost-share of not less than 10 percent of the total award. Applicants who protect a population of 50,000 or more must provide a nonfederal cost-share of not less than 30 percent of the total award. This program also has a maintenance-of-effort requirement.
Edward Byrne Memorial State and Local Law Enforcement Assistance (Byrne Formula Grant Program)	Bureau of Justice Assistance in the Office of Justice Programs, Department of Justice (DOJ)	State and local units of government	✔	✔	Each participant state receives a base amount of $500,000 or .25 percent of the amount available for the program, whichever is greater, with the remaining funds allocated to each state on the basis of the state's relative share of total U.S. population. Match for the formula grant programs will be provided for on a project-by-project basis, statewide basis, unit-of-government basis, or a combination of the above. The Act restricts the use of funds for supplanting state and local funds and land acquisition.
Local Law Enforcement Block Grants Program	Bureau of Justice Assistance in the Office of Justice Programs, DOJ	State and local units of government	✔	✔	The federal funds may not exceed 90 percent of the total costs of a program. Federal funds may not be used to supplant state and local funds.
Public Safety Partnership and Community Policing Grants (COPS)	Office of Community Oriented Policing Services, DOJ	State and local units of government	✔		Some grants, such as for hiring and the Schools Grant Program, require no local percentage match. Other awards generally are made for 75 percent of allowable project costs.

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Grant	Federal Agency	Grantee	MATCH	MOE	Funding Formulas And Cost Sharing Provisions
Law Enforcement Assistance – FBI Field Police Training	FBI/DOJ	All authorized municipal, county, local and state criminal justice personnel			None
State and Local Anti-Terrorism Training	Bureau of Justice Assistance in the Office of Justice Programs, DOJ	State and local law enforcement and prosecution authorities			None
Emergency Management Institute -- Resident Educational Program	FEMA/DHS	Individuals who need emergency management training and are assigned to an emergency management position in State, local, or tribal government			None
Emergency Operations Centers	FEMA/DHS	States, D.C. and territories. Local governments may receive assistance as subgrantees to the state	✔		Funds awarded in two phases. In Phase 1, each state will be allocated $50,000 with no matching for an initial assessment of hazards, vulnerabilities and risk. Phase 2 grants used to address the most immediate deficiencies including modification, new construction and retrofitting facilities has a 50 percent nonfederal matching.
CDC - Investigations & Technical Assistance	CDC/HHS	States, political subdivisions of states, local health authorities, and organizations with specialized health interests may apply			None
Public Health and Social Services Emergency Fund—Bioterrorism Hospital Preparedness Program	Health Resources and Services Administration/HHS	Federal agencies, state and local governments, and other service providers in areas impacted			None
Interoperable Communications Equipment	Emergency Preparedness and Response Directorate/DHS	Local governments nominated by state or territory government.	✔		Grant awards required a 25 percent nonfederal matching. The match does not need to be a cash match.
Community Emergency Response Teams (CERT)	FEMA/DHS	States, D.C. and territories. Local governments may receive assistance as subgrantees to the state.			States (including D.C. and Puerto Rico) and territories will be allocated a base amount of .75 percent and .25 percent respectively of the total amount available. The remaining funds will be allocated according to population and added to the base

Source: *Catalogue of Federal Domestic Assistance*, August 2003; Congressional Research Service reports.

Table 2 shows that considerable potential overlap exists in the activities that these programs support—for example, funding for training is provided by most grants in the table and several provide for all four types of needs.

Table 2: Overlap and Duplication in Selected Homeland Security Grant Programs

Grant	Equipment	Training	Exercises	Planning
State Homeland Security Grant Program (SHSGP)	•	•	•	•
Emergency Management Performance Grants (EMPG)		•	•	•
Urban Areas Security Initiative	•	•	•	•
Urban Areas Security Initiative – Transit System	•	•	•	•
Urban Areas Security Initiative – Port Security Grant Program	•	•	•	
First Responder Counter-Terrorism Assistance		•		
State Fire Training Systems Grants (National Fire Academy Training Grants)		•		
Hazardous Materials Assistance Program		•	•	•
Hazardous Material Training Program		•		
Assistance to Firefighters Grant	•	•	•	•
Edward Byrne Memorial State and Local Law Enforcement Assistance (Byrne Formula Grant Program)	•	•	•	•
Local Law Enforcement Block Grants Program (LLEBG)	•	•		•
Public Safety Partnership and Community Policing Grants (COPS)		•		
Law Enforcement Assistance – FBI Field Police Training		•		
State and Local Anti-Terrorism Training		•		
Emergency Management Institute Resident Educational Program		•		
Emergency Operations Centers (Facilities grant to encourage development/retrofitting of centers)				

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Grant	Equipment	Training	Exercises	Planning
Centers for Disease Control – Investigations & Technical Assistance				•
Public Health and Social Services Emergency Fund—Bioterrorism Hospital Preparedness Program	•	•	•	•
Interoperable Communications Equipment	•			
Community Emergency Response Teams (CERT)	•	•		

Source: *Catalogue of Federal Domestic Assistance*, August 2003; Congressional Research Service reports.

The fragmented delivery of federal assistance can complicate coordination and integration of services and planning at state and local levels. Homeland security is a complex mission requiring the coordinated participation of many federal, state, and local government entities as well as the private sector. As the national strategy issued by the administration last summer recognizes, preparing the nation to address the new threats from terrorism calls for partnerships of many disparate actors at many levels in our system.[8] Within local areas, for example, the failure of local emergency communications systems to operate on an interoperable basis across neighboring jurisdictions reflects coordination problems within local regions. Local governments are starting to assess how to restructure relationships along contiguous local entities to take advantage of economies of scale, promote resource sharing, and improve coordination on a regional basis. Our previous work suggests that the complex web of federal grants used to allocate federal aid to different players at the state and local level may continue to reinforce state and local fragmentation.

Some have observed that federal grant restrictions constrain the flexibility state and local officials need to tailor multiple grants to address state and local needs and priorities. For example, some local officials have testified that rigid federal funding rules constrain their flexibility and cannot be used to fund activities that meet their needs. We have reported that overlap and fragmentation among homeland assistance programs fosters inefficiencies and concerns in first responder communities. State and local officials have repeatedly voiced frustration and confusion about the

[8] The White House, Office of Homeland Security, *National Strategy for Homeland Security* (Washington, D.C.: July 16, 2002).

burdensome and inconsistent application processes among programs. We concluded that improved coordination at both federal and state and local levels would be promoted by consolidating some of these first responder assistance programs.[9]

Rationalizing the First Responder Grant System

Using grants as a policy tool, the federal government can engage and involve other levels of government and the private sector in enhancing homeland security while still having a say in recipients' performance and accountability. The structure and design of these grants will play a vital role in determining success and ensuring that scarce federal dollars are used to achieve critical national goals.

Consolidating Grants

Addressing the underlying fragmentation of grant programs remains a challenge for our federal system in the homeland security area. Several alternatives have been pursued in the past to overcome problems fostered by fragmentation in the federal aid structure. I will discuss three briefly here – block grants, performance partnerships, and streamlining planning and administrative requirements.

Block grants are one way Congress has chosen to consolidate related programs. Block grants currently are used to deliver assistance in such areas as welfare reform, community development, social services, law enforcement, public health, and education. While such initiatives often involved the consolidation of categorical grants, block grants also typically devolve substantial authority for setting priorities to state or local governments. Under block grants, state and local officials bear the primary responsibility for monitoring and overseeing the planning, management, and implementation of activities financed with federal grant funds. Accordingly, block grant proposals generally call for Congress to make a fundamental decision about where power and authority to make decisions should rest in our federal system for a particular program area.

[9] U.S. General Accounting Office, *Combating Terrorism: Selected Challenges and Related Recommendations*, GAO-01-822 (Washington, D.C., Sept. 20, 2001).

While block grants devolve authority for decisions, they can and have been designed to facilitate some accountability for national goals and objectives. Since federal funds are at stake, Congress typically wants to know how federal funds are spent and what state and local governments have accomplished. Indeed, the history of block grants suggests that the absence of national accountability and reporting for results can either undermine continued congressional support or prompt more prescriptive controls to ensure that national objectives are being achieved.[10]

Given the compelling national concerns and goals for homeland security, Congress may conclude that the traditional devolution of responsibility found in a pure block grant may not be the most appropriate approach. Congress might instead choose a hybrid approach—what we might call a "consolidated categorical" grant which would consolidate a number of narrower categorical programs while retaining strong standards and accountability for discrete federal performance goals. State and local governments can be provided greater flexibility in using federal funds in exchange for more rigorous accountability for results.

One example of this model involves what became known as "performance partnerships," exemplified by the initiative of the Environmental Protection Agency (EPA). Under this initiative, states may voluntarily enter Performance Partnership Agreements with EPA regional offices covering the major federal environmental grant programs. States can propose to use grants more flexibly by shifting federal funds across programs but they are held accountable for discrete or negotiated measures of performance addressing EPA's national performance goals. This approach has allowed states to use federal funds more flexibly and support innovative projects while increasing the focus on results and effectiveness. However, in 1999 we reported that the initiative had been hampered by an absence of baseline data against which environmental improvements could be measured and the inherent difficulty in quantifying certain results and linking them to program activities.[11]

[10] U.S. General Accounting Office, *Block Grants: Increases in Set-Asides and Cost Ceilings Since 1982*, GAO/HRD-92-58FS (Washington, D.C.: July 27, 1992).

[11] U.S. General Accounting Office, *Environmental Protection: Collaborative EPA-State Effort Needed to Improve New Performance Partnership System*, GAO/RCED-99-171 (Washington, D.C.: June 21, 1999).

The challenge for developing performance partnerships for homeland security grants will be daunting because the administration has yet to develop clearly defined federal and national performance goals and measures. We have reported that the initiatives outlined in the *National Strategy for Homeland Security* often do not provide performance goals and measures to assess and improve preparedness at the federal or national levels. The strategy generally describes overarching objectives and priorities but not measurable outcomes. The absence of such measures and outcomes at the national level will undermine any effort to establish performance based grant agreements with states. The Council on Foreign Relations report recommends establishing clearly defined national standards and guidelines in consultation with first responders and other state and local officials.

Another alternative to overcome grant fragmentation is the simplification and streamlining of administrative and planning requirements. In June 2003, the Senate Governmental Affairs Committee passed a bill (S. 1245, The Homeland Security Grant Enhancement Act of 2003) intended to better coordinate and simplify homeland security grants. The bill would establish an interagency committee to coordinate and streamline homeland security grant programs by advising the Secretary of DHS on the multiple programs administered by federal agencies. The interagency committee would identify all redundant and duplicative requirements to the appropriate committees of Congress and the agencies represented in the interagency committee. The bill also establishes a clearinghouse function within the Office for State and Local Government Coordination for grant information that would gather and disseminate information regarding successful state and local homeland security programs and practices. The bill seeks to streamline the application process for federal assistance and to rationalize and better coordinate the state and local planning requirements. The bill provides for a comprehensive state plan to address the broad range of emergency preparedness functions currently funded from separate programs with their own separate planning requirements.

A statewide plan can be used as a tool to promote coordination among federal first responder programs that continue to exist as separate funding streams. One option could be to require recipients of federal grants for homeland security within each state to obtain review and comment by the central state homeland security agency to attest to consistency with the statewide plan.

Whatever approach is chosen, it is important that grants be designed to (1) target the funds to states and localities with the greatest need, (2) discourage the replacement of state and local funds with federal funds, commonly referred to as "supplantation," with a maintenance-of-effort requirement that recipients maintain their level of previous funding, and (3) strike a balance between accountability and flexibility.[12]

Targeting

As Congress goes forward to consider how to design a grant system to promote a stronger federal, state, local and regional partnership to improve homeland security, it faces some of the traditional dilemmas in federal grant design. One is targeting. How do you concentrate funds in the places with the highest risks? A proclivity to spread money around, unfortunately, may provide less additional net protection while actually placing additional burdens on state and local governments. Given the significant needs and limited federal resources, it will be important to target to areas of greatest need. The formula for the distribution of any new grant could be based on several considerations, including relative threats and vulnerabilities faced by states and communities as well as the state or local government's capacity to respond to a disaster. The Council on Foreign Relations report recommends that Congress establish a system for allocating scarce resources based on addressing identified threats and vulnerabilities. The report goes on to say that the federal government should consider factors such as population and population density, vulnerability assessments, and the presence of critical infrastructure within each state as the basis for fund distribution.

By comparing three of the grants listed in table 2, one can see differences in the way funds have been allocated thus far. For example, under the State Homeland Security Grant Program allocations are determined by using a base amount of .75 percent of the total allocation to each state (including the District of Columbia and Puerto Rico) and .25 percent of the total to the territories. The balance of the funds goes to recipients on a population-share basis. In contrast, the Urban Area Security Initiative funds are distributed according to a formula from the Department of Homeland Security as being a combination of weighted factors including current threat estimates, critical assets within the urban area, population and

[12] The Rockefeller Institute of Government, *The Role of "Home" in Homeland Security: The Federalism Challenge—The Challenge for State and Local Governments*, Symposium Series Number 2 (Albany, New York: March 24, 2003).

population density—the results of which are ranked and used to calculate the proportional allocation of resources. For Byrne Grants, each participant state receives a base amount of $500,000 or .25 percent of the amount available for the program, whichever is greater, with the remaining funds allocated to each state based on the state's relative share of the total U.S. population.

Supplantation and Sustainability

A second dilemma in federal grant design involves preventing fiscal substitution or supplantation. In earlier work, we found that substitution is to be expected in any grant and, on average, every additional federal grant dollar results in about 60 cents of supplantion.[13] We found that supplantation is particularly likely for block grants supporting areas with prior state and local involvement. However, our work on the Temporary Assistance to Needy Families block grant found that a strong maintenance of effort provision can limit states' ability to supplant[14] since recipients can be penalized for not meeting a maintenance of effort requirement.

It seems obvious to say that grant recipients should maintain the effort they were making prior to receiving the grant and use the grant to add to, rather than replace, their own contribution. However, since September 11, 2001, many local jurisdictions have taken it upon themselves to take the initiative to dramatically increase their own-source funding in an effort to enhance security. Should the federal grant system now penalize them by locking in their increased spending levels and at the same time reward state and local governments that have taken a "wait and see" attitude concerning enhancing security? This is one of the design dilemmas that Congress will need to address to ensure that scarce federal resources in fact are used to promote increased capability.

A third challenge is sustainability. Local governments think of sustainability as keeping the federal spigot permanently turned on. They may argue that the urgent needs they face will drive out the important needs of enhanced homeland security without continued federal aid. However, from a broader, national perspective there is an expectation that

[13] U.S. General Accounting Office, *Federal Grants: Design Improvements Could Help Federal Resources Go Further*, GAO-AIMD-97-7 (Washington, D.C.: Dec. 18, 1996).

[14] U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, D.C.: Aug. 10, 2001).

the responsibility for sustaining homeland security responsibility would at least be shared by all levels of government since state, local, and regional governments receive benefits from these grants in addition to the national benefit of improving homeland security.

Several options can be considered to further shared fiscal responsibility. A state and local match could be considered to reflect both the benefits received by state and local taxpayers from preparedness as well as to encourage the kind of discipline and responsibility that can be elicited when a government's own funds are at stake. An additional option—the "seed money" approach—could be to lower the federal match over time to encourage ownership, support, and long term sustainability at the state and local level for funded activities. However, at their best grants can stimulate state and local governments to enhance their preparedness to address the unique threats posed by terrorism. Ideally, grants should stimulate higher levels of preparedness and avoid simply subsidizing local functions that are traditionally state or local responsibilities. The literature on intergovernmental management suggests that federal money can succeed in institutionalizing a commitment to aided goals and purposes over time within states and communities, as professional administrators and clients of these programs take root and gain influence within local political circles.[15]

Accountability and Flexibility

Ultimately, the sustainability of government funding can be promoted by accountability provisions that provide clear and transparent information on results achieved from the intergovernmental partnership. At the federal level, experience with block grants shows that grant programs are sustainable if they are accompanied by sufficient performance and accountability information on national outcomes to enable them to compete for funding in the congressional appropriations process. Accountability can be performance and results oriented to provide focus on national goals across state and local governments while providing for greater flexibility for those governments in deciding how best to meet those goals.

Last summer, the Administration released a national strategy for homeland security that placed emphasis on security as a shared national

[15] See Paul Peterson, Barry Rabe, and Kenneth Wong, *When Federalism Works* (Washington, D.C., Brookings Institution, 1985).

responsibility involving close cooperation among all levels of government. We noted at the time that the national strategy's initiatives often did not provide a baseline set of performance goals and measures for homeland security.[16] Then and now—over a year later—the nation does not have a comprehensive set of performance goals and measures against which to assess and upon which to improve prevention efforts, vulnerability reduction, and responsiveness to damage and recovery needs at all levels of government. We still hold that given the need for a highly integrated approach to the homeland security challenge, national performance goals and measures for strategy initiatives that involve both federal and nonfederal actors may best be developed in a collaborative way involving all levels of government and the private sector. At this point, there are few national or federal performance standards that can be defined, given the differences among states and lack of understanding of what levels of preparedness are appropriate given a jurisdiction's risk factors. The Council on Foreign Relations recommended that national standards be established by federal agencies in such areas as training, communications, and response equipment, in consultation with intergovernmental partners.

Communications is an example of an area for which standards have not yet been developed, but various emergency managers and other first responders have highlighted that standards are needed. State and local government officials often report that there are deficiencies in their communications capabilities, including the lack of interoperable systems. The national strategy recognizes that it is crucial for response personnel to have and use equipment, systems, and procedures that allow them to communicate. Therefore, the strategy calls for a national communication plan to establish protocols (who needs to talk to whom), processes, and national standards for technology acquisition.

[16] U.S. General Accounting Office, *Homeland Security: Effective Intergovernmental Coordination is Key to Success*, GAO-02-1013T (Washington, D.C.: Aug. 23, 2002).

Need for Integrated Approaches from State and Local Partners

Just as the federal government needs to rationalize its grant system for first responders, state and local governments are also challenged to streamline and better coordinate their efforts. As pointed out in the recent report from the Century Foundation,[17] ultimately the nation's homeland defense will be critically dependent on the ability of state and local governments to act to overcome barriers to coordination and integration. The scale of homeland security threat spills over conventional boundaries of political jurisdictions and agencies. Effective response calls on local governments to reach across boundaries to obtain support and cooperation throughout an entire region or state.

Promoting partnerships among key players within each state and even across states is vital to addressing the challenge. States and local governments need to work together to reduce and eliminate barriers to achieving this coordination and regional integration. The federal government is, of course, a key player in promoting effective preparedness and can offer state and local governments assistance beyond grant funds in such areas as risk management and intelligence sharing. The Office for State and Local Government Coordination has been established within DHS to facilitate close coordination with state and local first responders, emergency services and governments. In turn, state and local governments have much to offer in terms of knowledge of local vulnerabilities and resources, such as local law enforcement personnel, available to respond to threats in their communities.

Local officials emphasized the importance of regional coordination. Regional resources, such as equipment and expertise, are essential because of proximity, which allows for quick deployment, and experience in working within the region. Large-scale or labor-intensive incidents quickly deplete a given locality's supply of trained responders. Some cities have spread training and equipment to neighboring municipal areas so that their mutual aid partners can help. We found in our work last year that to facilitate emergency planning and coordination among cities in metropolitan areas officials have joined together to create task forces, terrorism working groups, advisory committees and Mayors' caucuses. Cities and counties have used mutual aid agreements to share emergency resources in their metropolitan areas. These agreements may include fire,

[17] Kettl, Donald F., *The States and Homeland Security: Building the Missing Link*, The Century Foundation's Homeland Security Project Working Group on Federalism Challenges, (New York, New York: 2003).

police, emergency medical services, and hospitals and may be formal or informal. These partnerships afford economies of scale across a region. In events that require a quick response, such as a chemical attack, regional agreements take on greater importance because many local officials do not think that federal and state resources can arrive in sufficient time to help.

Forging regional arrangements for coordination is not an easy process at the local level. The federal government may be able to provide incentives through the grant system to encourage regional planning and coordination for homeland security. Transportation planning offers one potential model for federal influence that could be considered. Under federal law, Metropolitan Planning Organizations are established to develop regionally based transportation plans from which, generally, projects that are to be federally funded must be selected.

Conclusion

Improving the partnership among federal and nonfederal officials is vital to achieving important national goals. The task facing the nation is daunting and federal grants will be a central vehicle to improve and sustain preparedness in communities throughout the nation. While funding increases for combating terrorism have been dramatic, the Council's report reflects concerns that many have about the adequacy of current grant programs to address the homeland security needs.

Ultimately, the "bottom line" question is: What impact will the grant system have in protecting the nation and its communities against terrorism? At this time, it is difficult to know since we do not have clearly defined national standards or criteria defining existing or desired levels of preparedness across the country. Our grant structure is not well suited to provide assurance that scarce federal funds are in fact enhancing the nation's preparedness in the places most at risk. There is a fundamental need to rethink the structure and design of assistance programs, to streamline and simplify programs, improve targeting, and enhance accountability for results. Federal, state, and local governments alike have a stake in improving the grant system to reduce burden and tensions and promote the level of security that can only be achieved through effective partnerships. The sustainability and continued support for homeland security initiatives will rest in no small part on our ability to demonstrate to the public that scarce public funds are in fact improving security in the most effective and efficient manner.

This concludes my prepared statement. I would be pleased to answer any questions you or the members of the subcommittee may have at this time.

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Statement for the Record of Congressman Jim Turner
Before the
Senate Judiciary Committee, Subcommittee on Technology, Terrorism and Homeland Security
Hearing: "Terrorism: First Responders"
September 3, 2003

Thank you Mr. Chairman and Senator Feinstein:

As you convene this hearing today, it is likely that a terrorist group somewhere in the world is developing plans to attack the United States.

Let me say at the outset, that our first responsibility at every level of government is to prevent the terrorists from fulfilling their plans. Whether through military action, intelligence operations, border, port, and aviation security, and critical infrastructure protection, our duty is to take every practicable action in our power to provide a common defense for this nation.

The focus of today's hearing is whether we are prepared in the event that the terrorists overcome our best efforts and America is attacked again.

The first reports from the frontlines in the war on terror are not encouraging. Many Members of the Select Homeland Security Committee—including myself—have talked with state and local officials across this nation; the men and women who are responsible for our public safety; the individuals who make key decisions on how to prepare our communities. In many instances, they have yet to hear from the Department of Homeland Security about the coordination of Federal, state, and local response assets. They are not receiving the threat and intelligence information they need to make critical security decisions within their communities. They cannot obtain answers to their basic questions about the numerous federal grant programs for terrorism preparedness. They have yet to be involved in the development of an integrated terrorism response strategy, one that is "efficient and effective," as mandated by the President.

I have also talked with people from New York City to my hometown of Crockett, Texas. They are asking, "What does the Homeland Security Advisory System, with its color codes, really mean to me? What actions should I take – or should I avoid - if our national threat level rises in response to new intelligence or law enforcement information?"

After talking with state and local officials, first responders and citizens across the nation, about improving our capabilities to prepare for and respond to the threat of terrorism, one message comes through loud and clear—we must move faster and be stronger in our efforts. Faster in our efforts to bring together Federal, State, and local officials to meet the founding mandate of the Department of Homeland Security to "ensure that all levels of government across the Nation have the capability to work efficiently and effectively together." Stronger in our efforts to train, exercise, and equip the men and women on the

frontlines: firefighters, police, emergency management, and healthcare workers. And more vigorous in our efforts to prepare individuals, families, and communities to face the multitude of threats from those that seek to do us harm.

Numerous independent research organizations have clearly identified the shortfalls in our preparedness efforts. In particular, on June 29, the Council on Foreign Relations' Independent Task Force on Emergency Responders released a report entitled, "*Emergency Responders: Drastically Underfunded, Dangerously Unprepared.*" The report states that nearly two years after 9/11, the United States is drastically under funding local emergency responders, and remains dangerously unprepared to handle a catastrophic attack on American soil.

According to data provided to the Task Force by emergency responder professional associations and leading emergency response officials from around the country, America may fall approximately $98.4 billion short of meeting critical emergency responder needs over the next five years if current funding levels are maintained.

Beyond any specific estimate of resource shortfalls, however, the Report makes clear, that two major obstacles hamper America's emergency preparedness efforts. First, it is impossible to know precisely what is needed and how much it will cost because we lack a common understanding of the essential capabilities each community needs to respond to a catastrophic terrorist attack. Second, funding for emergency responders has been sidetracked and stalled due to the slow distribution of funds by federal agencies, and bureaucratic red tape at all levels of government.

The work of this expert, bi-partisan Task Force makes clear to all that we must move faster and stronger to prepare our communities and protect America. We rightly made a commitment to provide the best training and equipment to our troops in Afghanistan and Iraq. Now we must make the same level of commitment to the men and women who will be the first to respond in case of a terrorist attack here in America.

Both the Task Force Report and my on-going discussions with emergency responders throughout the Nation indicate that the time for comprehensive change to our preparedness programs is now. I am encouraged by the proposed changes announced yesterday by Secretary Ridge to centralize the administration of existing terrorism grant programs within a single office. I believe the consolidation is a constructive step, so long as traditional anti-crime and fire prevention proposals are administered separately. However, by itself, it will not result in action to correct four critical deficiencies that must be addressed immediately:

First, ***we do not know what we truly need.*** The Department of Homeland Security has not worked with state and local governments to determine the minimum essential capabilities that all of our communities need to be prepared for terrorist attacks. No process has been put in place to define what emergency responders in every jurisdiction for a given population size should possess or have access to. Because we do not know

what equipment, planning, training and personnel are truly needed, we do not know the true cost of preparedness.

Therefore, there is an urgent need to establish an expert Task Force—made up of Federal, State and local officials—to determine minimum essential capabilities for our first responder community and provide clear guidance to them on the necessary skills and resources required to prevent, prepare for, and respond to terrorist attacks. Such essential capabilities would be based, in part, on the threats and vulnerabilities facing our communities, taking into account such factors as population density and the presence of critical infrastructure. Communities would then apply this guidance to determine their specific needs. Having identified their specific needs, communities could then create preparedness and response plans based on local, regional, state, and federal capabilities. The plans would determine definitive funding requirements at the State, regional, and local levels.

Second, ***the first responder grant system is broken***. The current grants do not target the greatest needs, take too long to reach first responders, pit agencies against each other in applying for funds, and are overly bureaucratic.

The Department should create a new terrorism preparedness grant program, based on the State and local assessments I described earlier, in order to address communities' lack of essential capabilities. The new grant program will be focused on supplying our first responders with the essential capabilities they require to be prepared. This grant program, along with all other of the Department's terrorism preparedness grant programs, should be streamlined within one office to improve efficiency and effectiveness. Traditional all-hazards programs such as COPS and FIRE grants should be preserved. In addition, the Department should more quickly develop equipment and training standards to ensure the effective use of grant funding.

Third, ***our response personnel cannot talk to each other***. The attacks of September 11 underscored a problem known only too well within our first responder community: it is often difficult for our police, firefighters, and emergency medical workers to talk quickly and effectively with each other during an emergency because their communications equipment is not properly interoperable. The Department of Homeland Security, however, has not moved quickly enough to address this troublesome communications problem.

The Department must, therefore, develop and issue a strategy to achieve communications interoperability by working with our first responders community and industry to provide standards for communication equipment, systems, and procedures. The Department should work with the Federal Communications Commission to provide adequate radio spectrum for emergency personnel. Additionally, sufficient funding should be made available to allow the Department to provide currently available, interoperable communications technologies for major population centers in metropolitan areas throughout the Nation.

Finally, ***desperately needed threat information is not readily available.*** As witnesses before the Select Committee on Homeland Security have stated, the Department is not providing first responders with timely, actionable intelligence and threat information. In addition, the functions of the Homeland Security Advisory System are not well understood, and changes to the nationwide threat level are costing our cities and States hundreds of millions of dollars.

The Department must improve the threat warning system and implement new ways to provide continuous, real-time, actionable information to state and local officials and the general public. Secretary Ridge's announcement yesterday regarding the Department's efforts to improve information sharing with state and local officials is a step in the right direction, but more needs to be done. First responders and the public need to know whether and how to respond to changes to the threat level, and funding should be provided to States and local governments for associated enhanced security activities.

The four critical deficiencies that I have just outlined – as well as the solutions to those deficiencies - must be addressed immediately. Therefore, I intend to introduce comprehensive legislation shortly to rectify each of these identified problems. My legislation will be designed to achieve the following outcomes:

- We will clearly identify the preparedness needs for our communities and create plans to meet those needs;
- We will maximize the effectiveness of every tax dollar spent on emergency preparedness measures because we will know we will be able - for the first time – to spend the right amount on the right priorities; and
- We will strengthen the Federal, State, and local partnership in the fight against terrorism by improving our communications capabilities, and our national threat warning system.

The Council on Foreign Relations' Task Force Report and the continued call for systemic funding changes from State and local emergency responders are a wake up call to the nation. They show that America's security needs are great, they are not being met, and that we must act now. America's enemies are united in their desire to harm America. We must be united in moving faster and deploying stronger forces to win the war on terror.

When our nation has been under its greatest time of trial, this Congress and this government have worked with speed and strength of purpose. In his first 100 days, Franklin Roosevelt and the Congress worked together to build the plan that saved a nation from economic devastation. It has 24 months since September 11th, and well over 100 days since the founding of the Department of Homeland Security. We must move faster and we must be stronger in our efforts to protect and defend the United States of America.

I thank the Subcommittee for the opportunity to testify, and I look forward to working with you in the coming days to address the needs of our first responder community.

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