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ASSESSING THE DEPARTMENT OF HOMELAND SECURITY'S MISSION EFFECTIVENESS: IS IT ENOUGH TO MEET THE TERRORIST THREAT?

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

JUNE 9, 2005

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ASSESSING THE DEPARTMENT OF HOMELAND SECURITY'S MISSION EFFECTIVENESS: IS IT ENOUGH TO MEET THE TERRORIST THREAT?

THURSDAY, JUNE 9, 2005,

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Davis of Virginia, Shays, Mica, Gutknecht, Souder, Platts, Cannon, Duncan, Miller, Turner, Issa, Brown-Waite, Porter, Dent, Fox, Waxman, Maloney, Cummings, Clay, Watson, Ruppersberger, Higgins, and Norton.

Staff present: Melissa Wojciak, staff director; David Marin, deputy staff director/communications director; Keith Ausbrook, chief counsel; Jennifer Safavian, chief counsel for oversight and investigations; John Hunter, counsel; Chas Phillips, policy counsel; Rob White, press secretary; Drew Crockett, deputy director of communications; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; Corinne Zaccgnini, chief information officer; Andrew James, staff assistant; Phil Barnett, minority staff director/chief counsel; Kristin Amerling, minority general counsel; David Rapallo, minority chief investigative counsel; Andrew Su, minority professional staff member; Earley Green, minority chief clerk; and Jean Gosa, minority assistant clerk.

Chairman TOM DAVIS. The meeting will come to order.

I want to welcome everybody to today's hearing, and we are very privileged to have Michael Chertoff, the Secretary of the Department of Homeland Security, with us today. The purpose of this hearing is to get the Secretary's assessment of the Department's overall effectiveness in meeting its core mission—specifically its operations, management, opportunities for performance improvement, as well as discuss our concerns about how certain programs are being implemented in the Department.

The Department of Homeland Security was created in response to the terrorist attacks of September 11. The formation of the new Department constituted the most massive Government reorganization since 1947. It integrated 23 separate agencies and bureaus, it employs over 180,000 people, it has a budget of $38.5 billion for fiscal year 2005 and a proposed budget of over $41 billion for fiscal year 2006, and it spends an estimated $11 billion on contracted

services. It is an enormous undertaking to put together this new Department and make it work. This committee has a direct interest in assessing the effective integration of the 23 agencies into one single Department.

The wide-reaching mission of DHS is critical to the safety of the Nation. The ultimate objective is to protect the American people from future terrorist attacks and to respond to natural disasters. The war that threatened our country, and every civilized country, has the historic combat component, and our troops show every day just how effective the United States is in conventional combat. We have no peers in this arena.

But America's enemies today don't confine themselves to conventional combat alone. They target communities, schools, and civilians. They fly planes into buildings and take great pride in the murder and maiming of scores and scores of innocent men, women, and children. Combat soldiers, no matter how brave or well equipped, are not the optimal weapon in this environment.

This committee has responsibility for assuring that areas such as personnel management, agency organization and integration, procurement and particularly utilization of technology, information sharing, and information security are receiving adequate attention and the congressional policies on these issues are being implemented throughout DHS. With the huge investment of Government resources and the critical nature of the Department's mission, it is our job to determine how well the Department is functioning to meet the terrorist threat and to provide adequate protection to our citizens.

Secretary Chertoff initiated a comprehensive review of DHS's organization, its operations, and its policies shortly before he became Secretary. Known as the second stage review, this evaluation is not yet complete, but the exercise signals a recognition that additional work is needed to fully integrate and coordinate the disparate entities that comprise the new Department. I welcome the results of this review. Since its ultimate recommendations will most certainly affect issues of vital interest to this committee, I want to have further discussions with the Secretary as this review progresses.

I am heartened to know that Secretary Chertoff's approach to the organization and operation of DHS is to integrate the areas of intelligence, policy, and operations. As we exercise our oversight responsibility of the committee, it is important to focus on all three of these areas, not just the first. Intelligence gathering is critical, but how that intelligence is evaluated and acted upon depends upon whether the Department performs each of its critical missions.

The optimal weapon is information: information moved to the right people at the right place at the right time; information moved within agencies and across departments; information moved across jurisdictions of Government as well, seamlessly, securely, efficiently. The homeland security battle, therefore, is not just about intelligence, but what we do with it.

We need to be able to identify terrorist threats and defeat them. Our success depends on collecting, analyzing, and appropriately sharing information found in data bases, transactions, and other sources. This committee has long been concerned about the lack of

information sharing and analysis within the Government and among the relevant public and private sector parties. This committee was heavily involved in the information sharing portions of the Intelligence Reform legislation, requiring the President to establish an Information Sharing Environment within the Federal Government to share information and better protect us from further attacks. I am interested in learning how the Department is addressing this important issue.

Although I had initial concerns, I supported the elevation of the Assistant Secretary for Cybersecurity within DHS. The White House, through the Office of Management and Budget, has oversight of Government-wide information policies. The Assistant Secretary should bring focus to the issue within DHS. However, this individual should not sit at the center of all Federal agencies and direct and control their policies on information sharing and cybersecurity. That has been, and should remain, in my judgment, an issue for the White House. There is an important difference between operational authority and policy authority.

Another area of committee oversight is the status of the implementation of the new personnel system at the Department. In the Homeland Security Act of 2002, Congress gave the Secretary and the Director of the Office of Personnel Management authority to establish a new, department-wide human resources management system, rather than simply cobbling together the dozens of pre-existing personnel systems. I am interested in hearing about the implementation of the new system from the Secretary, including the funding.

The committee continues to monitor DHS's integration of acquisition functions within its 23 agencies. A recent Government Accountability Office report found several successes in DHS's implementation, but also a number of significant challenges. I will be anxious to hear from the Secretary about DHS's efforts to implement GAO recommendations to strengthen centralized procurement policies and practices throughout the Department.

The committee is concerned about the performance of the U.S. Citizenship and Immigration Service. There have been mounting issues of coordination and efficiency in the many processes used by the agency to accomplish its mission, particularly in the information technology systems. I am concerned that many legal immigrants, the people who follow the rules we have established for entering the country and the kind of people we want to welcome to America, are falling through the cracks of a broken immigration system.

The committee is also launching an aggressive review of the U.S. Visitor and Immigration Status Indication Technology [U.S. VISIT] program being implemented by DHS. A fully functional U.S. VISIT system will go a long way toward securing our borders from terrorists. During the implementation phase, we want to make sure that U.S. VISIT will help secure our borders without disrupting the Nation's travel or commerce. Balance on this is paramount.

In addition, the committee has held hearings on the Department's implementation of the Support Anti-Terrorism by Fostering Effective Technologies [SAFETY] Act of 2002, which was enacted to provide incentives for the development and deployment of anti-ter-

rorist technologies. I have expressed concern about the pace of implementing the application processes and conferring designations, as well as the burdensome effect of the process on applicants and the lack of coordination with the procurement process. I was glad to see Secretary Chertoff acknowledge that problems existed with the implementation of the SAFETY Act and that he is committed to making sure that the intent of Congress is followed.

The committee looks forward to hearing from the Secretary.

We are honored to have you here today, and I want to once again welcome you and thank you for being here.

[The prepared statement of Chairman Tom Davis follows:]

Opening Statement of Chairman Tom Davis

"Assessing the Department of Homeland Security's Mission Effectiveness: Is it Enough to Meet the Terrorist Threat?"

June 9, 2005
10:00 a.m.
2154 Rayburn House Office Building

Good morning. I want to welcome everyone to today's hearing. We are privileged to have Michael Chertoff, Secretary of the Department of Homeland Security, with us today. The purpose of this hearing is to get the Secretary's assessment of the Department of Homeland Security's overall effectiveness in meeting its core mission -- specifically its operations, management, and opportunities for performance improvement, as well as discuss our concerns about how certain programs are being implemented in the Department.

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This Committee has responsibility for assuring that areas such as personnel management, agency organization and integration, procurement and particularly utilization of technology, information sharing, and information security are receiving adequate attention and that Congressional policies on these issues are being implemented throughout DHS. With the huge investment of government resources and the critical nature of the Department's mission, it's our job to determine how well the Department is functioning to meet the terrorist threat and to provide adequate protection to our citizens.

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The optimal weapon is information:

- Information moved to the right people at the right place at the right time;
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- Information moved across jurisdictions of government as well.

Seamlessly. Securely. Efficiently.

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We need to be able to identify terrorist threats and defeat them. Our success depends on collecting, analyzing, and appropriately sharing information found in databases, transactions, and other sources. This Committee has long been concerned about the lack of information sharing and analysis within the government and among the relevant public and private sector parties. This Committee was heavily involved in the information sharing portions of the Intelligence Reform legislation, requiring the President to establish an Information Sharing Environment within the federal government to share information and better protect our nation from further attacks. I am interested in learning how the Department is addressing this important issue.

Although I had initial concerns, I supported the elevation of the Assistant Secretary for Cybersecurity within DHS. The White House, through the Office of Management and Budget, has oversight of government-wide information policies. The Assistant Secretary should bring focus to this issue within DHS. However, this individual should not sit at the center of all federal agencies and direct and control their policies on information sharing and cybersecurity. That has been, and should remain, an issue for the White House. There's an important difference between operational authority and policy authority.

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The Committee looks forward to hearing from Secretary Chertoff on these and other areas of interest to the Committee. I want to once again welcome you and thank you for being here today.

Chairman TOM DAVIS. I will now recognize our ranking member, Mr. Waxman, for his opening statement.

Mr. WAXMAN. Thank you very much, Mr. Chairman. I want to join you in welcoming Secretary Chertoff to our hearing today.

Secretary Chertoff has an extraordinarily difficult job. The mission of his Department is to protect the United States from terrorist attacks. This could not be more important. Yet, the organization he now runs is seriously dysfunctional.

At a hearing of the National Security Subcommittee earlier this week, I expressed my growing concerns about Federal procurement policy under the Bush administration.

The fact is, this administration has misspent literally billions of dollars on wasteful and ineffective Federal contracts. Private contractors may be making millions, but taxpayers are getting soaked. Whether the explanation is gross incompetence or deliberate malfeasance, the result is the same: taxpayers are being vastly overcharged.

The litany of administration mismanagement of Federal contracts is long and costly. The value of no-bid contracts has skyrocketed under the Bush administration. Oversight of Federal contracts has been turned over to private companies with blatant conflicts of interest. And when government auditors do find abuses, their recommendations are ignored.

Nearly every week, the newspapers are full of stories of contract abuse. The FBI has spent $170 million on Virtual Case File software that doesn't work. In Iraq, Halliburton has overcharged by hundreds of millions of dollars, yet the administration continues to shower the company with bonuses and special treatment. New equipment worth billions has been sold by the Defense Department at fire-sale prices.

Some of the worst problems, however, are at the Department of Homeland Security. As a series of investigative reports have revealed, the Department has spent hundreds of millions of dollars on homeland security contracts that have proven largely ineffective.

In April, the Washington Post reported that the Government is spending over $200 million to buy a high-tech system of cameras and sensors to monitor activity on the Mexican and the Canadian borders. But this surveillance system has been plagued by incomplete installments and doesn't work.

In May, the New York Times reported that the Department has spent billions of dollars on screening equipment at the Nation's entry points. But the radiation devices bought by the Department can't differentiate between radiation emitted from a nuclear bomb and radiation from cat litter or bananas.

And in May, the Washington Post and the New York Times reported that the Department has spent over $1 billion to install massive equipment to screen luggage at airports. But the equipment doesn't work right and it has been plagued by high rates of false alarms.

Perhaps the largest contract being managed by the Department is the U.S. VISIT contract with Accenture to create a "virtual border" around the United States. Yet, critics say that this $10 billion

contract may turn into an enormous boondoggle that never runs effectively.

And while billions are being wasted on these contracts, the Department's Inspector General has found that taxpayers' dollars are being lavished on perks for senior agency officials. One IG report found that the Department spent hundreds of thousands of dollars on a lavish conference, complete with hula dancers, in Hawaii. Another IG report found that the Department spent hundreds of thousands more on a gold-plated gym for senior executives and other employees.

Secretary Chertoff, I recognize that some of these problems will be difficult and time-consuming for you to address. But there is one step you could take right away that would have immediate benefits. And that is to change the culture of secrecy that envelopes and the Department and impedes accountability.

And I want to give you an example. Last fall, there were reports suggesting that the Department and your predecessor, Secretary Ridge, inappropriately awarded multiple contracts to clients of a Philadelphia law firm, Blank Rome. I don't know whether those reports are true or not. But to learn more about them, I joined with the ranking member of the Homeland Security Committee just to request basic information about the contracts between the Department and Blank Rome.

That was 5 months ago. We still have received no information in response to our requests.

And this is not an isolated example. The Department is so secretive that it even tried to conceal the identity of a newly appointed ombudsman for the Transportation Security Administration, whose responsibility it was to interact with the public regarding airport security. We couldn't even get the identity of the ombudsman.

Secretary Chertoff, your Department may be able to succeed in keeping this kind of information secret. After all, I am a member of the minority party, and I don't have the power to issue subpoenas or call hearings. But I am a Member of Congress, and your Department should be giving out information to all Members of Congress, and particularly those on the committees that have oversight jurisdiction.

You may be successful in keeping this culture of secrecy going, but I hope you will realize that your Department won't succeed if you do. Our system requires checks and balances. The surest way to stop wasteful spending and improve performance is to encourage—not resist—oversight and accountability.

Your appearance at this hearing today is a good first step, and I look forward to your testimony at this hearing.

[The prepared statement of Hon. Henry A. Waxman follows:]

Statement of
Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
Hearing on
"Assessing the Department of Homeland Security's Mission Effectiveness:
Is It Enough To Meet the Terrorist Threat?"

June 9, 2005

Mr. Chairman, I am pleased that the Committee is holding this hearing and I join you in welcoming Secretary Chertoff.

Secretary Chertoff has an extraordinarily difficult job. The mission of his department – to protect the United States from terrorist attacks – could not be more important. Yet the organization he now runs is seriously dysfunctional.

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But your Department won't succeed if you do. Our system requires checks and balances. The surest way to stop wasteful spending and improve performance is to encourage – not resist – oversight and accountability.

Your appearance at this hearing is a good first step. And I look forward to your testimony today.

Chairman TOM DAVIS. Thank you.

Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman.

Secretary Chertoff, welcome to the committee. Before you even say a word, your presence here this morning is powerful testimony to the fact that homeland security reaches into every aspect of American government. The Committee on Government Reform, with oversight jurisdiction over all Federal programs and unique purview over intergovernmental relations, can help you implement the Department's unfolding mission.

The first hearing on a bill to create a Department of Homeland Security [DHS] was held in this room. We saw the need to unify and coordinate scattered functions to confront a new lethal post-September 11 security paradigm. But, truth be told, we created a fairly blunt instrument to wield against an agile and subtle foe. In effect, we built a four-headed octopus and asked the behemoth to perform brain surgery the next day. We know there has to be a learning curve on both sides of these tables.

Mr. Secretary, I look forward to the results of your review of DHS structure and operations. The disparate elements of the Department have begun to fuse into a force as nimble and discerning as our enemies. The full committee's Subcommittee on National Security, Emerging Threats, and International Relations oversight has raised some issues that merit your sustained attention.

The alert system. Bleach out the colors. The current system is not consistent with good risk communication principles. People deserve to know all they can about specific threats and what they can do about them. That takes words targeted to specific audiences, not just colors splashed coast to coast.

Radiation detection. The technology may not be ready, and we shouldn't indulge a false sense of security about its capabilities. Plutonium or highly enriched uranium give off very little in terms of detectable radiation and are easily shielded. Intelligence is still our best portal monitor against those trying to import radiological terror.

Technology triage. The Department's technology assessment process seems without consistency or clear priorities. Developers who try to give innovative concepts to DHS are rebuffed, while the Department spends millions buying marginal technology from big defense contractors.

Exercises. Federal counter-terrorism training and exercise programs still offer first responders a confusing smorgasbord rather than a cohesive curriculum. Local exercises can lack realism, and lessons learned are not consistently captured and fed back into the system.

Standards. We will never know if preparedness is improving if first responders can't answer the basic question: Prepared for what? Efforts to define essential capabilities to meet specific threats need to be accelerated so States and localities know what to do, not just what to buy. The focus on equipment standards over functional benchmarks invites wasteful spending.

Mr. Secretary, we know that this is a new job for you and the challenges that I have outlined are challenges that we know you are trying to address, and not certainly created by you or even your

predecessor; it is just the task of getting such an important department to function the way it needs to.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Christopher Shays follows:]

TOM DAVIS, VIRGINIA,
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Congress of the United States

House of Representatives

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Statement of Rep. Christopher Shays
June 9, 2005

Secretary Chertoff, welcome to the Committee. Before you even say a word, your presence here this morning is powerful testimony to the fact that homeland security reaches into every aspect of American government. The Committee on Government Reform, with oversight jurisdiction over all federal programs and unique purview over intergovernmental relations, can help you implement the Department's unfolding mission.

The first hearing on a bill to create a Department of Homeland Security (DHS) was held in this room. We saw the need to unify and coordinate scattered functions to confront a new, lethal post-9/11 security paradigm.

But truth be told, we crafted a fairly blunt instrument to wield against an agile and subtle foe. In effect, we built a four-headed octopus and asked the behemoth to perform brain surgery the next day. We now know there has to be a learning curve on both sides of these tables.

Mr. Secretary, we look forward to the results of your review of DHS structure and operations. The disparate elements of the Department have begun to fuse into a force as nimble and discerning as our enemies. But our Subcommittee oversight has raised some issues that merit your sustained attention.

- The alert system. Bleach out the colors. The current system is not consistent with good risk communication principles. People deserve to know all they can about specific threats and what they can do about them. That takes words targeted to specific audiences, not just colors splashed coast to coast.

- Radiation detection. The technology may not be ready, and we shouldn't indulge a false sense of security about its capabilities. Plutonium or Highly Enriched Uranium give off very little in terms of detectable radiation and are easily shielded. Intelligence is still our best portal monitor against those trying to import radiological terror.

- Technology triage. The Department's technology assessment process seems without consistency or clear priorities. Developers who try to give innovative concepts to DHS are rebuffed, while the Department spends millions buying marginal technology from big defense contractors.

- Exercises. Federal counterterrorism training and exercise programs still offer first responders a confusing smorgasbord rather than a cohesive curriculum. Local exercises can lack realism and lessons learned are not consistently captured and fed back into the system.

- Standards. We'll never know if preparedness is improving if first responders can't answer the basic question, "Prepared for what?" Efforts to define essential capabilities to meet specific threats need to be accelerated so states and localities know what to do, not just what to buy. The focus on equipment standards over functional benchmarks invites wasteful spending.

Thank you for being here. I look forward to the opportunity to discuss these issues further.

Chairman TOM DAVIS. Thank you very much.

I ask Members to try to limit opening statements. I know Mr. Souder has one, and our side has the subcommittee chairman with some jurisdiction on this.

Gentleman from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Welcome, Mr. Secretary. I am glad to see you here.

Mr. Chairman, I do thank you for calling today's vitally important hearing to evaluate the effectiveness and efficiency of the Department of Homeland Security's operation and management.

Following the tragic events of September 11, the DHS was created, representing one of the most significant transformations of the Federal Government in 50 years. The central mission of the DHS is to "lead the unified efforts to secure America, prevent and deter terrorist attacks, and protect against and respond to threats and hazards to this nation; ensure safe and secure borders; welcome lawful immigrants and visitors; and promote the free flow of commerce."

To carry out this important mission, the DHS employs approximately 180,000 employees and manages a budget of $38.5 billion for fiscal year 2005. In light of the need to better protect the homeland in the post-September 11 world, I was deeply troubled to learn that DHS's own office of Inspector General found that the Department has much to do to establish a cohesive, efficient, and effective organizations. That is what they said.

While the Department's massive jurisdiction makes it impossible to discuss all my concerns in this statement, I would be remiss if I failed to mention several challenges that I believe particularly undermine the ability of DHS to fulfill its mission, in addition to those things that were stated by Mr. Waxman.

To begin, DHS recently unveiled a new personnel system that would needlessly undermine our Nation's longstanding commitment to employee protection, independent arbitration and collective bargaining rights. Specifically, DHS issued regulations that would substantially restrict what issues are covered by collective bargaining. As described in the new regulations, the DHS is no longer mandated to bargain over "the number, types, grades, or occupational clusters and bands of employees or positions assigned to any organizational subdivision, work project, or tour of duty."

The new personnel system also fails to establish an independent entity to resolve labor management disputes and establishes a performance-based pay system that can provide a means for politicization and cronyism within the DHS without the necessary safeguards and clear standards needed to measure employee performance. I do not believe that the new personnel system supports an efficient and inclusive relationship between employers and employees at the DHS, specifically, the type of relationship needed to keep morale high, support retention, and attract skilled and capable prospective employees to serve at the DHS.

Furthermore, congressional investigations and increasing instances of terrorists or alleged terrorists illegally entering into the United States have left me seriously questioning the DHS's ability to secure our southwest border. Weak decisions on our border sys-

tem undermine our efforts to protect our homeland from terrorism and drugs.

As ranking minority member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, I have seen first-hand how the terrorism fueled by the drug trade can be just as destructive as the terrorism fueled by religious extremism. We cannot lose sight of the fact that nearly all of the cocaine consumed in the United States, and most of the heroin consumed on the east coast, originates in Colombia. The Customs and Border Protection Office within DHS is, therefore, essential in identifying and stopping terrorists and drug traffickers before they enter our Nation.

Unfortunately, the President's budget for fiscal year 2006 makes it more difficult to address these concerns by inadequately funding the hiring of new Border Patrol agents and Immigration and Customs officers. Related challenges the DHS must address are the Transportation Security Administration's troublingly high failure rate in detecting weapons, a homeland security threat advisory system that is unsophisticated and vague, and a poor distribution of limited resources.

Finally, Mr. Chairman, in no uncertain terms, the American people anxiously look to their government to ensure our efforts or protecting the homeland and making sure that those efforts are effective and efficient, and driven by a commitment to common sense. In the end, they expect us to protect their communities from those that seek to do us harm. Sadly, there is much work yet undone if we are to achieve this worthwhile end.

I look forward to the testimony of today's witnesses, and with that, Mr. Chairman, I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

Opening Statement

Representative Elijah E. Cummings, D- Maryland

Hearing on "Assessing the Department of Homeland Security's Mission Effectiveness: Is it Enough to Meet the Terrorist Threat"

Committee on Government Reform

U.S. House of Representatives
109th Congress

June 9, 2005

Mr. Chairman,

Thank you for calling today's vitally important hearing to evaluate the effectiveness and efficiency of the Department of Homeland Security's (DHS) operations and management.

Following the tragic events of 9/11, the DHS was created, representing one of the most significant transformations of the federal government in fifty years. The central mission of the DHS is to "lead the unified efforts to secure America...prevent and deter terrorist attacks and protect against and respond to threats and hazards to the nation...ensure safe and secure borders, welcome lawful immigrants and visitors, and promote the free flow of commerce."

To carry out this important mission, the DHS employs approximately 180,000 employees and manages a budget of $38.5 billion for fiscal year 2005.

In light of the need to better protect the homeland in the post 9/11 world, I was deeply troubled to learn that the DHS's own Office of Inspector General found that the Department "has much to do to establish a cohesive, efficient, and effective organization." While

the Department's massive jurisdiction makes it impossible to discuss all my concerns in this statement, I would be remiss if I failed to mention several challenges that I believe particularly undermine the ability of the DHS to fulfill its mission.

To begin, the DHS recently unveiled a new personnel system that would needlessly undermine our nation's long-standing commitments to employee protections, independent arbitration, and collective bargaining rights. Specifically, the DHS issued regulations that would substantially restrict what issues are covered by collective bargaining.

As described in the new regulations, the DHS is no longer mandated to bargain over "the number, types, grades, or occupational clusters and bands of employees or positions assigned to any organizational subdivision work project or tour of duty...."

The new personnel system also fails to establish an independent entity to resolve labor-management disputes and establishes a performance-based pay system that could provide a means for politicization and or cronyism within the DHS without the necessary safeguards and clear standards needed to measure employee performance.

I do not believe that the new personnel system supports an efficient and inclusive relationship between employers and employees at the DHS. Specifically, the type of relationship needed to keep morale high, support retention, and attract skilled and capable prospective employees to serve at the DHS.

Furthermore, congressional investigations and increasing instances of terrorists or alleged terrorists illegally entering into the United States have left me seriously questioning the DHS's ability to secure our southwest border. Weaknesses in our border system undermine our efforts to protect our homeland from terrorism and

drugs. As Ranking Minority Member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, I have seen first hand how the terrorism fueled by the drug trade can be just as destructive as the terrorism fueled by religious extremism.

We cannot lose sight of that fact that nearly all of the cocaine consumed in the United States and most of the heroin consumed on the East Coast originates in Colombia. The Customs and Border Protection Office within DHS is therefore essential at identifying and stopping terrorists and drug traffickers before they enter our nation.

Unfortunately, the President's budget for fiscal year 2006 makes it more difficult to address these concerns by inadequately funding the hiring of new border patrol agents and immigration and customs officers.

Related challenges the DHS must address is the Transportation Security Administration's troublingly high failure rates in detecting weapons, a Homeland Security Threat Advisory system that is unsophisticated and vague, and a poor distribution of limited resources.

Mr. Chairman, in no uncertain terms the American people look to their government to ensure our efforts at protecting the homeland are effective, efficient, and driven by a commitment to common sense. In the end, they expect us to protect their communities from those that seek to do us harm. Sadly, there is much work yet undone if we are to achieve this worthwhile end.

I look forward to the testimony of today's witness and yield back the balance of my time.

Chairman TOM DAVIS. Thank you.

Mr. Souder.

Mr. SOUDER. Thank you, Chairman Davis. I want to thank you for this opportunity and for holding this important hearing.

I would also like to thank Secretary Chertoff for his willingness to come today and join us. And I thoroughly support your goal of improving the operations and the efficiency of the Department of Homeland Security, and look forward to hearing the results of your second stage review.

Although the Department has made major strides, much unfinished business remains, and I do not envy your job. It is no secret that the American public has become increasingly exasperated about our Government's inability to control our Nation's borders. I have seen that impatience and anger at numerous border security hearings, in many border communities, both rural and urban, and even in my home district in Northwest Indiana at every meeting I go to. If there is one thing that your Department must get better at, and soon, it is border control.

Our constituents know what we know, namely, that it is quite easy to cross our borders illegally and to bring in all kinds of contraband. Well organized, large-scale smuggling organizations are going on at every hour of every day along our borders. Alien smuggling, terrorist smuggling, narcotics trafficking and weapons smuggling are not random acts of aggression but, rather, well planned, well executed, well funded ventures. The networks that support these smugglers are international in scope and rival our own security agencies in sophistication.

Smuggling takes its toll throughout the country in ways that might surprise most people. Elkhart County law enforcement officials in my district recently took down two operations that produced fake green cards, and in Fort Wayne, my hometown, yet another fake green card operation was taken down. At a wedding reception Saturday night, a doctor told me that every single doctor in his practice has had their Social Security Number stolen, resulting in financial hardship and legal hassles.

Yet another person at the same table told me their identity had been stolen. Four different people had their Social Security Number. Most of this is being used to produce fake IDs. This is a national network in scope, along with the coyotes who plane in, who arrange the vans, who move them through the different States, who then bring them into our States, who provide the networking for the jobs. These are massive networks. The public expects us to take action.

Congress, of course, needs to do its part. For example, we need to enact tougher laws to prosecute the human traffickers along the borders, whose agents are often called coyotes, and these networks that go there. It is one thing to pick on an individual worker. It is another to say, "who are these huge networks that are bringing in hundreds of thousands of illegal people funded often by drugs and other contraband?"

But I also believe the Department needs to get its own house in order. Organizing the numerous agencies that were put in DHS is a difficult task. But in some cases the Department not only hasn't improved coordination and efficiency, it has actually made them

worse. In fact, your Department's lack of organization has an impact on the entire Federal Government. The most glaring example of this is a current division between Customs and Border Protection [CBP] and Immigrations and Customs Enforcement [ICE]. Congress put the old INS and Customs Service in DHS back in 2002. The Department then decided to break these agencies apart and split the border inspectors and the patrol agents away from the investigators.

I have met lots of inspectors and investigators at the border in every single southwest border State and almost every single northern State, and I can't remember a single one of them who believed that this is working. To the contrary, it is roundly criticized wherever I go. The Department has broken down the old working relationships between cops on the beat and the detectives without putting new ones in place.

In addition, the Department has created one agency completely focused on the physical border, CBP, and another one physically cutoff from the border, ICE. Theoretically, they are supposed to cooperate, but, as a practical matter, they are doing it less so than they used to. It means that no operational agency at DHS is looking holistically at border security. It has also left several agencies which are essentially, particularly in the narcotics war, that worked well both at the border and on the border, like Customs Air and Marine, and the Shadow Wolves Native American Customs Patrol officers in Arizona, without any logical place because they do both things.

The fact is that the different narcotics trafficking groups, human trafficking groups, contraband trafficking, terrorists do not work in isolation. In fact, the reason they don't cross anymore at San Ysidro as much in El Paso, the large groups are going in between. We don't hold them anyway. So unless they have another type of crime, we don't detain them more than just a few hours; we send them right back. So the only ones that are working through are parts of large organizations. And what I have been told is that if there are 20 or more people, they can't afford to delay, because we do a fairly good job of catching them the first time and then sending them back.

But if you are moving a group of 20 to 50, then it becomes inconvenient, because we get 2 here and 2 there. And if they want to move them in a group, they are now saturating Arizona and Texas. And a picket fence isn't going to do this. They are working behind the border, passed the border. You have people in your department working on Colombia, you have them working inside, and you don't have a logical place to do it if you don't merge the two things.

Meanwhile, this lack of organization has been reflected in the lack of coordination. Here are some questions I hope you will address, if not directly today, then in writing back: Are you at least considering merging the enforcement components of CBP and ICE? What specific steps are you taking to improve the coordination and cooperation on intelligence and information sharing within the Department? The stove-piping has gotten worse, not better, and it is less coordinated than it was before.

Do you support the House-passed legislation that moved the Shadow Wolves to ICE and will you expand the program to include

other Native American reservations along the northern border? Because this is one of the most effective, sensitive types of things that has worked, and it is being disbanded, in effect, by making them a picket fence. Fourth, are you going to dedicate specific funds to the Office of Counter-Narcotics Enforcement to allow it to carry out the coordination and oversight responsibilities that Congress gave it? The administration continues to try to zero it out and not provide any actual dollars and, instead, just detailed employees.

Thank you for coming here, and I look forward to working with you in the future, both here and on the Homeland Security.

Chairman TOM DAVIS. Thank you.

Members' statements, without objection, will be put in the record today.

I recognize you now, Secretary Chertoff. Again, it is an honor to have you here. For the record, I think you are doing a great job, but I think this review is the appropriate thing coming in there, and we are honored by your presence.

STATEMENT OF MICHAEL CHERTOFF, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Secretary CHERTOFF. Thank you, Mr. Chairman, and thank you, Ranking Member Waxman. I actually have a full statement for the record, which I respectfully request be included. I am just going to make a few brief points before I make myself available for questions.

I appreciate the opportunity to make my first appearance before this committee to talk about where I see us going at the Department of Homeland Security. As has been observed by the chairman, 2 years into the establishment of the Department, I have initiated what we are calling a second stage review to identify where we have been, where we are headed, and what course corrections we need to make.

Now, this process, of course, builds on the very fine work done by my predecessor, Governor Ridge, and his Deputy, Admiral Jim Loy. They had the enormous challenge of launching the first stage of the Department, as someone observed, the largest reorganization of departments in the Government since 1947. So we now have a chance, 2 years into the process, to look back and see where we can make some improvements.

My basic philosophy is this: our structures and our programs have to be outcome-oriented, not the reverse. We don't drive the mission and the outcome by the structure; we drive the structure and operation by the mission and the outcome. So the second stage review is designed to take a close look at the mission, see how we can achieve our goals, where we have gaps, and what we can do to bridge between where we are and where we need to be.

The philosophy of risk management is the template for our decisions, so the Review is examining nearly every area of the Department to identify ways in which we can better manage risk in terms of threat, vulnerability, and consequence. This will help make sure that we have a coherent set of priorities about how we deal with homeland security. And, of course, Congress can help in this by making sure that, in the distribution of funds and other activities, we are driven by risk management as our principle template.

Now, I am very pleased to say the first phase of this Review, which entailed an overarching effort to gather information on the policies, operations, and organizations, was completed ahead of schedule. One of the things I wanted to do was to get us in the habit of setting deadlines and meeting deadlines. I set a deadline for the gathering of information of May 31st, and I am pleased to say it was beaten by 1 day, which I thought was an important message.

Now, I am beginning the process, over the next month, of sitting down with the various action teams and discussing the specifics of what they have found and what they are going to be recommending we do to move forward. I anticipate that I will begin to be able to discuss the first set of recommendations that we are going to have based on this Review in approximately a month.

Our objective is to develop a model agency for the 21st century that supports a unified national effort to secure America. I am well aware of the fact that the Department was not created simply to assemble 22 agencies in a big tent. It was created to enable the agencies to operate in a unified and coordinated fashion.

So, as the chairman observed, what we need to do is integrate intelligence policy and operations across the Department so that each component is directed from a Department-wide perspective with a clear focus on the outcomes we need to attain. That means we have to eliminate bureaucratic stovepipes and we have to learn to share information. And part of that, of course, is the technical process we have underway of deploying IT systems to allow, for example, for complete email and network consolidation.

Within the management arena, we are making important strides, although we have more to do, in the area of functional integration, procurement, and human capital. And through the management directorate of the Department, we are developing leadership and guidance on our integration efforts. And as the chairman observed, we were recently praised by the GAO in terms of the progress we have made on our functional integration efforts, and we view that as a spur to continue to complete this task.

In specific areas such as procurement, we have seen marked improvement. After consolidating acquisition support throughout areas of the Department, we are achieving more effective and efficient acquisition of resources. But we are still not there and we still need to do more.

I remain committed to ensuring the credibility of the procurement process and for developing strategies to enhance a Department-wide driven procurement process.

One thing I want to observe, since I think the Inspector General was mentioned, actually, before I was confirmed, I identified as one of the things I wanted to do upon my arrival was to use the IG as a better management tool to identify for us what we need to do to adopt the best practices in acquisition and procurement across the government, both from an ethics standpoint and from and operational standpoint.

And within a matter of a few weeks of being on, I met with the IG, I tasked him with carrying this out. He has come back to me and we have begun discussion. I have had several meetings with the Inspector General and I have been personally interested and

have given my personal stamp on the effort to make sure that we are bringing our practices in line with the best thinking on procurement ethics and procurement strategies.

Now, as we make important changes in the Department, we have to continue to support our employees and to provide the necessary tools to recognize their accomplishments and build on their successes. Through MaxHR, the new human resource management system, we will foster a culture of integrity, accountability, and effectiveness that enables each employee to achieve mission goals and be rewarded for excellence. A major goal of the system is to unite managers and employees to ensure that all are coordinating to achieve and accomplish the DHS mission. We also want to be competitive with the private sector in terms of attracting the best talent.

And one of the things we want to build with this new performance-based system is a reward for operating in joint and coordinated fashion. Just as in the military, part of the process of advancing a career requires you to work with other components and to learn how to operate in a joint environment. We have to build that same effort and that same set of incentives into our backbone if we are to complete the process of integrating our Department.

I appreciate the support of this committee and I look forward to working with you on these and other matters as we seek to achieve our shared goal of a safe and secure homeland. Thank you, and I would be delighted to answer questions.

[The prepared statement of Secretary Chertoff follows:]

STATEMENT OF SECRETARY MICHAEL CHERTOFF
U.S. DEPARTMENT OF HOMELAND SECURITY
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM

Thursday, June 9, 2005
Washington, DC

INTRODUCTION

Mr. Chairman, Ranking Member Waxman, and Members of the Committee: Thank you for the opportunity to address you today, and for your ongoing support of the Department of Homeland Security's efforts to keep America secure and free.

I am honored and pleased to appear before the Government Reform Committee. This is my first appearance before the Committee as Secretary of the Department of Homeland Security, and I look forward to a productive exchange as the Department begins to reassess and readjust priorities and policies in accordance with the changing threat of terrorism over three and a half years after the September 11, 2001, attacks.

For more than two years now, the Department of Homeland Security (DHS) has led a national effort to protect our country and its citizens from all manner of threats. It has been an honor to join the dedicated men and women who carry out this task daily. Ours is a difficult mission – to prevent another deadly and catastrophic terrorist attack such as the one we experienced on September 11, and if an attack occurs, to respond quickly and prevent further damage.

The 180,000-plus people of the Department carry out this mission with unflinching resolve and a driving determination that such an attack should never occur on American soil again. Realizing that we can make no guarantees, we pursue our mission

with a sense of urgency and daily diligence, so that this nation can respond and recover quickly, should an incident or attack occur.

Since its establishment just over two years ago, DHS has made great strides in its efforts to unify the defense of our homeland. We have continued to integrate 22 distinct agencies and bureaus, each with its own employees, mission and culture.

But our security requires even greater coordination and effort throughout the Department, across all levels of government, and throughout our nation to create synergy and new capabilities. It requires an unwillingness to accept complacency as part of anything we do; rather, we know we must apply all effort to tear down stove-pipes and coordinate key intelligence, policy, and operational issues across DHS and the government.

SECOND STAGE REVIEW

I have therefore initiated a comprehensive review of the organization, operations and policies of the Department as a whole. This comprehensive review is examining what we are doing and what we need to do without regard to component structures and programmatic categories.

We want to understand better what's working and what isn't. We are evaluating every element of our working mission and making sure that the Department is best organized to meet the threats – both current and future – that face our nation.

Old categories, old jurisdictions, old turf will not define our objectives or the measure of our achievements because bureaucratic structures and categories exist to serve our mission, not to drive it.

Deputy Secretary Michael Jackson was charged with overseeing this process. The goal of the review is to help me make informed decisions as I lead the Department. Deputy Secretary Jackson selected teams of Department officials to look at a number of critical cross-cutting issues and determine how departmental resources and programs can be most effectively applied to achieve our security goals.

What does the review cover? Take an issue such as maritime cargo security, which cuts across several departmental components. Customs and Border Protection, Coast Guard, Science and Technology, Information Analysis and Infrastructure Protection, Immigration and Customs Enforcement, and the Transportation Security Administration each address aspects of this overall mission. Each might perform its element well, but we must go further to ensure that each is performing seamlessly and in coordination with the others, that we eliminate any duplication of effort, and that we reap the full strength of our wide spectrum of capabilities.

Of course, in executing the initial phase of putting the Department together and integrating the different components into a working structure, my predecessor and the men and women of Homeland Security did a tremendous job. They should be commended.

Now, as we enter into the second phase of the Department's life, we must also take a fresh, creative look at the Department itself – including its organization, its operations, and its policies. We are not yet fully integrated and our entities are still not always coordinated with each other. Now the challenge is to take the advantage of two years' experience and evaluate the Department to see if there are potential structural and

operational changes that will improve and enhance our capabilities to protect and safeguard this nation.

CROSS-CUTTING FUNCTIONS AND INTEGRATION

On the most basic level, we need to take a step back and focus on the fundamental question: Why was the Department of Homeland Security created? It was not created merely to bring together different agencies under a single tent. It was created to enable these agencies to secure the homeland through joint, coordinated action. Our challenge is to realize that goal to the greatest extent possible.

Let me tell you about three areas where I plan to focus our efforts to achieve that goal. First, we need to operate under a common picture of the threats that we are facing from terrorism and natural disasters. Second, we need to respond actively to these threats with the appropriate policies. Third, we need to execute our various component operations in a unified manner so that when we assess the intelligence and we have decided upon the proper policies, we can carry out our mission in a way that is coordinated across the board.

My intent is to integrate each of these three areas -- intelligence, policy, and operations -- across the Department, so that each is directed from the most senior level of the Department.

Let me turn to intelligence. Intelligence plays a pivotal role in mapping our mission. When the Department was created, 22 separate and distinct entities were woven together, a number of which had components focused on intelligence-gathering and analysis. One of my top priorities is to make sure that these various intelligence

components function as a cohesive unit, and that our information and analysis is coordinated across the Department so that DHS, as a full member, can enhance its contribution to the Intelligence Community.

First, we must organize and combine all intelligence within DHS. To do this effectively, we must ensure that our own intelligence components are interoperable. The Department has already made progress in this area. For example, the Homeland Security Operations Center was stood up to help the Department develop a common operating picture and facilitate information sharing. We must make sure that we are gathering all relevant information from the field, communicating with each other, and approaching analysis with a mission-oriented focus.

Second, we must make sure that information is being disseminated both up and down the ranks of the Department. Strong and effective coordination does not just mean that our analysts at DHS headquarters are working together. We need to fuse and exploit all the information that we learn across the country, so that when a Border Patrol agent in Texas learns of a new alien smuggling method, that information is fed up to our intelligence analysts, incorporated where appropriate into our strategy to combat smuggling, and disseminated across the Department to others focused on the same problem. We must build a culture in which the disparate pieces of information are being transmitted to our analysts so that they, who have the benefit of the fuller picture, can properly analyze all of our information and inform our decision-making.

The converse must be true when our intelligence analysts learn of new vulnerabilities that terrorists are trying to exploit. That same agent in Texas needs to know, on a timely basis, of the threat and what (s)he should be looking out for. We have

a great many talented individuals at the Department. Some gather and analyze intelligence. Others learn critical information as they are in the field performing their jobs. DHS needs to bring all of these nuggets of information together and disseminate them appropriately. We need to have the structure and the correct systems and technologies in place to take full advantage of them.

Third, our focus must extend beyond the Department itself. We must review and make use of intelligence coming from the Intelligence Community and we must play an active role in providing intelligence information to the Intelligence Community. As the Weapons of Mass Destruction Commission made clear in its report, sharing information across the Federal Government is critical if we are to succeed. To that end, I am committed to making sure that our law enforcement and intelligence partners across the Federal Government have appropriate access to the Department's information and analysis, to the maximum extent possible under the law, while protecting the privacy rights and civil liberties of Americans. By the same token, we must sit as full partners at the table with full access to others in the Intelligence Community. I will work closely with the Director of National Intelligence, whose job is to make sure that the Intelligence Community is well-coordinated and mission-focused.

In addition, intelligence and information from other Federal agencies is critical to our efforts to secure the homeland. The development of the terrorism information sharing environment, as called for under the Intelligence Reform and Terrorism Prevention Act, will connect the resources (people, systems, databases, and information) of Federal, state, and local governments, and the private sector allowing users to share information and improve collaboration. The information sharing environment will

greatly improve our capabilities and the Department will play a critical role in its development.

Finally, we must inform and communicate with our state, local, tribal entities, and private sector partners. As I observed during the recent TOPOFF exercises, when it comes to securing the nation, we must ensure that these entities are well-equipped both to react to crisis and to prevent it. As part of this effort, we must improve our ability to operationalize intelligence. As information comes in, we need to make sure it is getting out to the right people and in a way that they can use to strengthen their efforts and contribute effectively to ours. Intelligence in a vacuum is meaningless. We need to explain how our outside partners can counter that threat and what we need them to do to watch out for it.

Now, let me address policy development. Development and coordination of policy are major responsibilities of this Department. The Department has the central mission of securing the homeland, but there are many different aspects of that mission with numerous contributors. Large elements of DHS include traditional operational functions in which we deploy personnel, equipment, planes, ships and vehicles. But other elements principally involve planning, rule making, and networking with state, local, and tribal entities, and private parties. All of these must serve and promote our homeland security imperatives.

Therefore, we need to further enhance our capability to think through broad and over-arching issues like border security, emergency preparedness, transportation security, and cargo security, and ensuring adequate private sector investment in the security and resiliency of critical infrastructure assets; all of these issues require a Department-wide

perspective, rather than just through the lenses of one particular component. We need to develop our policies by first looking at our missions and asking the comprehensive, result-oriented questions, rather than by looking to one particular entity that has the lead in driving an issue to conclusion.

Accordingly, I believe that we should pull together the vast expertise and the varying perspectives already at the Department as we work toward integrating our many cross-cutting functions. For this reason, one of the areas that we are closely studying in the Second Stage Review is the advisability of creating a department-wide policy office. This office will also be a very important focal point for coordinating DHS's policy work with other Federal, state, local, and tribal entities.

Finally, let me discuss operational coordination. Just as with intelligence and policy, we need to find new ways to increase our operational coordination. Diverse operational components were woven together when Congress stood up the Department, each with its own history and identity. As I have become acquainted with these various components, I have quickly learned that there is a great deal of talent within them. Each entity has its own unique focus, but often they address the same mission from differing perspectives. However, we cannot function as a cohesive unit, unless each operational component works together to promote common missions.

This means that our operations must be driven by mission-oriented plans. It can no longer be the case that different components tackle different problems, each in its own way, and then later look to see if the pieces fit together. Whether it is preventing a potential act of terrorism, emergency preparedness, border protection, or countering a

particular threat, we must first define the mission and second deploy all the tools within the Department to effectively execute each operation.

The Department has already begun this process. To take but one example, on the Southwest border, we have a cross-cutting initiative to protect the border, integrating intelligence gathering, border enforcement, and monitoring. It encompasses the efforts of several of our agencies, including Customs and Border Protection, Immigration and Customs Enforcement, Science and Technology, the Coast Guard, and Information Analysis and Infrastructure Protection. Each plays an integral role. The operations themselves involve patrolling the border, generating information, and using it to take enforcement actions. The uniqueness of the Department of Homeland Security is that we have the capability within one department to do all of these things. But we need to carry out joint operational activities and have a joint perspective on a routine basis, not only when we stand up a special project.

Operations are also the mechanisms by which we respond to crisis. We cannot wait for a crisis, however, to learn, for example, whether Transportation Security Administration (TSA) has the capability to communicate effectively and coordinate with Federal Emergency Management Agency (FEMA). Nor can we learn in crisis that both are conducting the same operations or sending different messages to the private sector. The Department has made significant progress in this area. For example, it developed the National Response Plan to more effectively map out how to handle crisis situations. Now is the time to organize around missions rather than old bureaucracies, work through all of these potential disconnects in our systems, and operate as one unified Department, but integrating ourselves cohesively is not enough.

RISK-BASED APPROACH

I have been saying, and you will continue to hear me say, that we need to adopt a risk-based approach in both our operations and our philosophy. America is dynamic. Our strength as Americans is the sum of every generation that has ever been born in or immigrated to this great land. Our wealth and livelihoods are advanced by the inspired ideas and innovation of our own people. We prosper through the vast opportunities that exist to interact with the global economic community.

Risk management is fundamental to managing the threat, while retaining our quality of life and living in freedom. Risk management must guide our decision-making as we examine how we can best organize to prevent, respond and recover from an attack. We need to be realistic in our prioritization. We must assess the full spectrum of threats and vulnerabilities.

We all live with a certain amount of risk. That means that we tolerate that something bad can happen; we adjust our lives based on probability; and we take reasonable precautions.

So, too, we must manage risk at the homeland security level. That means developing plans and allocating resources in a way that balances security and freedom when calculating risks and implementing protections. The improvements in the coordination and dissemination of the information that I mentioned earlier will facilitate an effective and efficient risk management process.

The most successful way, I believe, to apply this risk-based approach is by using the trio of threat, vulnerability, and consequence as a general model for assessing risk and deciding on the protective measures we undertake.

Here I inject a note of caution because the media and the public often focus principally on threats. Threats are important, but they should not be automatic instigators of action. A terrorist attack on the two-lane bridge down the street from my house is bad, but it has a relatively low consequence compared to an attack on a major metropolitan multi-lane bridge. At the other end of the spectrum, even a remote threat to detonate a nuclear bomb is a high-level priority because of the catastrophic effect.

Each threat must be weighed, therefore, along with consequence and vulnerabilities.

As consequence increases, we respond according to the nature and credibility of the threat and any existing state of vulnerabilities.

Our strategy is, in essence, to manage risk in terms of these three variables – threat, vulnerability, and consequence. We seek to prioritize according to these variables…to fashion a series of preventive and protective steps that increase security at multiple levels.

We must examine the mission and work of all elements of DHS through this template of consequence, vulnerability and threat. Have we fully defined our missions? How far have we gone in carrying them out? What more needs to be done?

The Department is already working with state, local, and private sector partners to further refine the Interim National Preparedness Goal to aid the targeting of resources to where the risk is greatest. There is much that we are doing. DHS agencies, for example,

have provided an unprecedented level of funding and resources since 9/11 to state, local and private sector partners to protect and prepare America's communities and individual citizens. We continue to improve the ways for first responders across the nation to be better equipped, better trained and more capable of communicating across the public safety community. But we must bring even greater focus and discipline to our preparedness mission. We need to take a very substantive look at how we align our preparedness activities and functions. We need to look at how best to configure our organizations, operations, programs and policies so that we can think strategically about preparedness.

What should drive our intelligence, policies, operations, and preparedness plans and the way we are organized is the strategic matrix of threat, vulnerability and consequence. And so, we'll be looking at everything through that prism and adjusting structure, operations and policies to execute this strategy.

MANAGEMENT

When the President laid out his direction and the Congress created the Department of Homeland Security, the expectations were clear that this Department be unlike any other within the federal government. At the core of these expectations was the mandate to develop a model agency for the new century that supports the unified national effort to secure America.

The definition of this 21st century Department is a consolidated and focused organization that seeks to integrate the various resources and efforts across all of America to prevent, protect against and respond to and recover from terrorist attacks that threaten

the American way of life. Inherent in this definition are the characteristics of flexibility, innovation, efficiency and responsiveness – characteristics necessary to provide the highest quality of support service for the men and women on the front lines in the war on terrorism.

The Office of the Under Secretary for Management focuses its efforts on the oversight and integration of the Department's human capital, information technology, financial management, procurement and administrative operations. Today, I would like to talk briefly about two particular areas within the Management arena: Procurement and acquisition and human capital management.

Procurement & Acquisition

Ensuring procurement integrity is one of my highest priorities. Within my first few weeks as Secretary, I met with the Department's Chief Procurement Officer (CPO) and Acting Inspector General (IG) to emphasize my commitment in this area. At that meeting I tasked the IG and CPO to conduct a procurement vulnerabilities assessment. We are currently reviewing the results of that assessment and developing a strategy for implementing the recommendations.

The Department has consolidated acquisition support for the 22 legacy agencies within eight major procurement offices within DHS. Acquisition support for the Science and Technology Directorate (S&T), the Information Analysis and Infrastructure Protection Directorate (IAIP), United States Citizen Immigration Services (USCIS), the Office of State and Local Government Coordination and Preparedness (SLGCP), the Office of the Secretary and the Under Secretary for Management, as well as other headquarters customers, has been consolidated within one major procurement office, the

Office of Procurement Operations (OPO). Within OPO, DHS has established an Information Technology Acquisition Center (ITAC) chartered with leading the effective and efficient acquisition of the billions of dollars of information technology goods and services that the department consumes.

The Department has made remarkable strides in implementing a robust Small Business program, reaching out to our small and disadvantaged business community to ensure they are provided with opportunities to compete for the goods and services needed to satisfy our critical mission.

Much progress has also been made in establishing a single Homeland Security Acquisition Regulation under which all our components operate, helping to merge the cultures of 22 agencies under one program regulation.

In fact, the Department has been recognized by the GAO as a Government leader in strategic sourcing, saving taxpayers millions of dollars by leveraging the buying power of all DHS components.

While much has been accomplished, much remains to be done. We must and will ensure that the integrity of the procurement process becomes the critical measure of our success. We must and will ensure that the necessary resources are provided to conduct properly and effectively department-wide procurement operations and to ensure adequate controls are in place to measure compliance with statute, regulation, policy and sound business acumen.

Human Resource Management

I am committed to developing a culture of integrity, accountability and effectiveness, where each employee is enabled to achieve mission goals and where

excellence is rewarded. The new Human Resource Management system – Max^{HR} – will establish a modern, flexible system for DHS that will allow the Department to attract, retain, and reward the best and the brightest and effectively meet its critical mission.

The Max^{HR} system is mission-centered, performance-focused and based on the principles of merit and fairness embodied in the statutory merit system principles. There are many anticipated benefits in this new system. For example, the movement to a market-based and performance-based pay system will serve to increase the accountability and results of the DHS workforce and its ability to attract and retain the caliber of talent that Americans deserve in Homeland Security. DHS performance systems will emphasize a greater role for our leaders in ensuring mission and individual goal alignment, while holding individual employees accountable for results and ensuring that compensation decisions are driven by performance. DHS labor relations changes will balance obligations to bargain collectively with the need for additional operational flexibilities to ensure that we are nimble and responsive as an organization.

A major goal of this new system is to unite managers, supervisors and employees in both purpose and effort in order to accomplish the DHS mission. It is expected that the integrated HR system will assure maximum accountability and flexibility by reinforcing high performance, teamwork, commitment to learning and excellence, and facilitating communication and collaboration at all levels of the Department. These types of changes are the hallmark of a contemporary human resources system and are critical for an agency with a mission as important as DHS.

CONCLUSION

Three years ago, Congress and the President took on the enormous undertaking of creating a new Department whose central mission would be to secure the homeland. Under Secretary Ridge's leadership, the entities that now comprise the Department of Homeland Security unified under this overarching goal. As I have become acquainted with the many talented people of the Department, I am impressed by all that they have accomplished thus far. But there is no time to pat ourselves on the back. We must now take it to the next level.

We must move in an expeditious and innovative manner to carry out our important mission. On September 11, 2001, we felt the tragic loss of an infamous attack. We must do everything within our means to keep our great nation safe from another. The Congress has responded by constructing a Department dedicated to this mission. Together, our job is to make sure that the Department accomplishes that mission. As the Department implements the results of our second stage review, organizes around missions, eliminates duplications, and adopts a risk-based approach, we must ensure that we are thinking innovatively how to best exploit our intelligence capabilities, develop policy functions, execute our operational tasks, and implement our long-range preparedness planning.

I thank the Congress for its support, which has been critical in bringing us to this point. I am grateful to be here today to talk about the work we are doing to make America a safer home for us, for our children and generations to come. Thank you for inviting me to appear before you today. I look forward to answering your questions.

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Chairman TOM DAVIS. Mr. Secretary, thank you very much for that statement. I am going to start the questioning on our side with Members who didn't make opening statements.

Mr. Gutknecht, you are recognized for 5 minutes.

Mr. Gutknecht. Thank you, Mr. Chairman.

And thank you, Mr. Chertoff, for coming. I echo the comments of some of my colleagues on both sides of the aisle as they made their opening statements.

One of my concerns really has been, and continues to be, that when we started this Department, we were told that by consolidating these 22-odd different departments into one department, that we would eliminate duplication and, at the end of it all, it would actually be more efficient and may not be any more expensive to run this big department.

And I don't have the number in front of me right now, but as a former member of the Budget Committee, it strikes me—and I think I am correct that the budget actually now is more than double what it was when the Department was created. And when you combine that with some of the other stories that we hear daily or read regularly in the papers, I guess the real problem is there is developing almost a problem of confidence not only among the general public, but I think among Members of Congress, we see ourselves spending lots of money and we continually hear that things are not like they were supposed to be.

So it seems to me that you have a very, very difficult job. First and foremost, I think you have to restore confidence among the American people that this Department is really doing what we thought it was going to do. And then I think, almost as important, you have to restore the confidence among those of us who, in effect, sign the checks on behalf of the American people that their money is being well spent. And that is not really a question as much as it is a comment, but I think that really is the mission that you have, and we wish you well.

But I think it is important that as we go forward, that this committee and others get regular reports in terms of the kind of progress that is really being made, because, as I say and as our colleagues have said, we hear reports in the news media and from our constituents that things aren't really getting better, they are actually getting worse. And I will give you one example.

Particularly in rural parts of America, we have real problems with a drug called meth, and we have meth labs where people are actually making this drug. But we are learning more and more that an awful lot of that drug is not being made in the United States, it is actually coming across the border from Mexico; and apparently it is very easy to get it across the border.

And that is just one example of how we are not really getting the job done. We are spending an awful lot of money and there is a growing at least suspicion that things are not getting better, they are actually perhaps getting worse.

So that is not a question so much. You may want to respond to it, but we do want to wish you well, because in some respects we all have a huge stake in making certain that this Department succeeds.

Secretary CHERTOFF. Well, I appreciate the opportunity to talk about this a little bit, because I am very sensitive about the fact that everybody, as a citizen, has a real stake in our doing our job efficiently and achieving the result of bettering American security. We are stewards of the public fisc. We have to be responsible in the way we spend money. I have to say, frankly, a lot of the increase in the budget reflects an increase in the substance of what we need to protect the country.

For example, in the area of the Coast Guard, we have requested substantial funding because we need new ships, new planes, new physical assets which will give us the capabilities to do exactly what you want us to do: intercept drugs, protect our ports, protect our maritime area, protect our fisheries. So that is an area where increases we are requesting in money are not about bureaucracy or about process, they are about real stuff that we actually deploy.

We are also making some substantial efforts to do some consolidation. And I know it is a long process, it is something that is going to take a little while, but we came in with 22 separate human resource agencies. We are now down to 7 offices servicing the 22 components; 8 payroll systems have been consolidated to 2; 19 financial management centers have been consolidated to 10. I am not saying we are at the end of the process, but I do think it is fair to tell the American people we have made some progress in that direction.

I am acutely aware of the issue that we have at our borders. That is a very significant problem from a variety of standpoints, not only security, but because we need to assure the American people that if we have borders and we take them seriously, we are going to get control of them. And we are in the process now of looking at what our border strategy is.

A couple of years in a row now we have had an Arizona border control initiative which has really paid off in terms of increased apprehensions of people and bad things coming across the border, and one of the lessons that we have learned from that is that the best way to address the problem is with a comprehensive combination of technology and people: better awareness of who is crossing, some infrastructure to block vehicles from coming across, and then an ability to direct the Border Patrol where they need to go.

So I think, based on those lessons, we are now looking across the entire span of the border to see how we can most efficiently use technology and people to get us control.

Chairman TOM DAVIS. Thank you very much.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

Secretary Chertoff, I want you to know that I have a lot of confidence in you personally, you have an excellent record, and I am encouraged by what you have had to say today. But I have always felt that one of the ways to make sure that the Government is functioning the way it should, every department is functioning the way it should, is to make appropriate oversight both from within the Department and from outside the Department; and Congress has that responsibility. There have been, unfortunately, a number of incidents that raised questions regarding whether the Department's

leadership encourages such oversight, and I want to ask you some questions about these incidents.

Last year, press accounts raised questions about the relationship between former Secretary Ridge and his aides and an outfit called Blank Rome, which is a Philadelphia law firm. According to these accounts, two top aides of Secretary Ridge left government soon after the Department was established to work for Blank Rome, and the Secretary himself was a close personal friend of the chairman of Blank Rome. Blank Rome reportedly lobbied DHS on behalf of 29 firms and Blank Rome clients have been awarded major DHS contracts.

Well, to examine whether there was any impropriety—and I am not suggesting there was, but I think it ought to be looked at, this relationship between Blank Rome and top DHS staff—I joined in a letter with the ranking Democrat on the Homeland Security Committee in the House and we requested all the communications between Blank Rome and top DHS political appointees and staff. In a followup meeting shortly thereafter between my staff and my office and Representative Thompson's office, Bennie Thompson from Mississippi, who is the ranking Democrat of the Homeland Security Committee, DHS agreed to provide this information in several batches, the first one encompassing communications specifically with DHS management. Yet, 5 months after our request, we have yet to receive any information.

I would like to know whether you would commit right now to providing us with copies of all communications between Blank Rome representatives and DHS management by the end of June 2005.

Secretary CHERTOFF. Well, first of all, let me say that I am not obviously personally familiar with this, nor has anybody brought to my attention any allegation of impropriety. In terms of the information, my understanding is that we had offered some information, and we will certainly—in fact, I was informed of the fact that the offer was not acted upon. I will certainly commit to furnishing what we offered to provide promptly, within a month.

Mr. WAXMAN. Well, I appreciate that. That would be the first batch which the Department agreed to give us many months ago. I would also like to suggest that we get the remaining batches of the responsive materials by the end of July. I think this is a straightforward request. It was made close to half a year ago by us, and that ought to be sufficient time to get that second batch of information to us as well. Are you prepared to give me that commitment?

Secretary CHERTOFF. Well, not knowing what the information is, as I say, what we have previously agreed to give we should certainly give. I am not in a position to tell you right now if there are legal or other constraints on giving other information. We will certainly address the request promptly and make available what is appropriate to be made available.

Mr. WAXMAN. OK.

On March 1, I wrote to Chairman Chris Shays as the committee launched an investigation into the growing use of secrecy, particularly with respect to non-classified information designations. These are rapidly proliferating, and these designations are called things

like "sensitive but unclassified," or "for official use only," and then the information is not given out. An example is in February 2002, the Department of Homeland Security concealed the unclassified identity of a newly appointed ombudsman for the Transportation Security Administration, an official whose responsibility was to interact with the public.

Well, in response to my request for this investigation, Chairman Shays agreed and together we sent a letter to your Department on March 4th. Just to be clear, this request was sent to you, not Secretary Ridge. Chairman Shays and I asked for you to provide the committee copies of reports and other documents that the Department issued in two forums, in a public version and in a what is called "sensitive but unclassified" version, that way we, as an oversight committee, could compare these documents and evaluate the propriety of your Department's redactions.

It has now been over 3 months since this bipartisan request; however, we have received no response whatsoever. We haven't even received a letter saying you are working on this. Would you commit to providing this information by the end of this month so that we can get the information that we have requested?

Secretary CHERTOFF. Well, I can certainly tell you we are working on it. Not knowing what the volume of information is or how difficult it is to assemble, I would be hesitant to make a timeframe commitment. What I can tell you is that I will ask that I get a report as to where we are in the process of responding to this and that we come back by the end of the month with a timeframe within which we think we can do what is appropriate.

Mr. WAXMAN. I appreciate that. Let me just tell you what is involved. We had statements that were redactions that were given to us, and the redactions were not classified information, but information that was called sensitive but unclassified. So Members of Congress on the appropriate committees are now requesting that we get the original information that was redacted out so we can see what kind of information is being withheld.

This is not national security; these are not classified documents. There is this new description that is being used to hide information, not just in your Department, but in others as well, where they are labeled "sensitive but unclassified" or "for official use only." There is no legal standing to it.

Thank you very much, and we look forward to working with you.

Chairman TOM DAVIS. Thank you very much.

Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman.

Good morning, Mr. Secretary. To what extent do you support the use of State and local law enforcement to supplement immigration enforcement activity? And do you support the repeal of the Memo of Understanding requirements for Federal immigration training and assistance to States and localities?

Secretary CHERTOFF. I don't think I heard the last piece of the question.

Mr. DENT. Do you support the repeal of the Memo of Understanding requirements for Federal immigration training and assistance to States and localities?

Secretary CHERTOFF. Well, I will say I generally support the idea where States and localities want to assist we have under 287(g). We have the ability to have them properly trained in order to assist us in terms of enforcing the immigration laws. That is not something that we compel States and localities to do; some want to do it, some don't want to do it. They obviously need to be trained properly. So I am unequivocally in support of that.

Mr. DENT. Thank you, sir. And a following question, according to DOJ's Inspector General, DHS officials expect to check approximately 800 people out of roughly 118,000 visitors a day who should be screened against the FBI data base. Is this accurate information?

Secretary CHERTOFF. I have never heard that figure. I am not sure the context in which it has been publicized, so I can't really respond. I mean, we do check. Under U.S. VISIT, we have the capability and we actually do check everybody who comes in against both the IDENT data base and the relevant FBI data base.

Mr. DENT. And with respect to the Real ID Act, which we just enacted a few months ago, the legislation establishes minimum standards for Federal acceptance of driver's licenses and State-issued identity documents, and provides for rulemaking through your Department to enact reforms. How are you taking action in this area?

Secretary CHERTOFF. Within a day or so after the act was passed, I told my Acting General Counsel that I wanted him to put together for me a map about what we need to do to go forward in terms of implementing the necessary rules and regulations to make the act effective.

Mr. DENT. OK. Finally, with respect to the so-called Minutemen Project, what are your thoughts about that organization and whether or not there should be any utilization by those folks through your Department?

Secretary CHERTOFF. You know, it is a free country and people are, of course, entitled to go peacefully wherever they want and demonstrate or raise issues. What people cannot do, of course, is take the law into their own hand or interfere with either law enforcement authorities or, in fact, try to engage in self-help to interfere with people coming across the border.

You know, we are committed to have a professional system of controlling our border, and that means a system that involves well trained people who know what the rules are, who are properly backed up with equipment. And our strategy is to go forward and find the best mix of personnel and technology to give us control of the border.

Mr. DENT. Would that include the temporary placement of National Guard on the border until these new Border Patrol agents are trained?

Secretary CHERTOFF. I don't know that the National Guard is in a position from a training standpoint or resources standpoint to play that role. There are issues of appropriate legal authorities to be exercised against people coming across the border, which, frankly, do require a certain amount of training and a certain amount of supervision, which is typically something we accomplish through putting Border Patrol agents through training and is not, as I un-

derstand it, typically a part of the training you get in the National Guard. So I would hesitate to suggest that is a solution.

Mr. DENT. Thank you, Mr. Chairman.

Chairman TOM DAVIS. The gentleman has a minute remaining. I know Mr. Cannon would like you to yield to him.

Mr. CANNON. Thank you, Mr. Chairman. I do have a question.

In the first place, welcome to your new job, Mr. Chertoff. I am a big fan and I know that you are going to do a great job there. The Federal Protective Service is a component of the Department of Homeland Security, and that has been transformed into a proactive law enforcement agency in the aftermath of September 11, 2001.

I am concerned that the officers and agents of the FPS are not allowed to have in their possession their authorized weapons while off duty. I think it is vital that the FPS, like other Federal law enforcement officers with the same training, be authorized to carry their firearms while off duty and be available to respond to problems. I suspect you would agree with this, that having trained officers with the authority to carry weapons while off duty would increase our security. Would you work with me to see that we can rectify this anomaly?

Secretary CHERTOFF. I will certainly work with you to see what the issue is and make sure we come to an appropriate resolution.

Mr. CANNON. Thank you, sir. I appreciate that.

I yield back.

Chairman TOM DAVIS. Thank you.

Mr. Clay.

Mr. CLAY. Thank you very much, Mr. Chairman.

Thank you, Mr. Secretary, for being here. Recently, the Department of Homeland Security Inspector General issued yet another report on the poor performance of airport screeners and found once again that undercover agents were often able to smuggle weapons past TSA airport screeners at multiple airports around the country, including those used by the September 11th hijackers. Why are airport screeners continuing to demonstrate poor performance and, bluntly put, are our airports and airplanes still vulnerable?

Secretary CHERTOFF. Let me begin by saying our airports and airplanes are safe, and the reason they are safe is because we use a layered strategy of protection, meaning, unlike before September 11, our strategy now involves several different layers of defense. We have the inspection when people come through the checkpoint at the airport; we have hardened cockpit doors which repel anybody who tries to get in the cockpit and take control of the plane; we have Federal air marshals, we have Federal flight deck officers who are armed. So we have a lot more layers of protection in place now, which I think do make the system safe and sound. That is not to say we don't always try to improve it.

In the area of screening, a question arises whether we have essentially hit the limit of what we can do to reduce human error in the absence of deploying more advanced technology. We actually have more advanced technology. We are now deploying these air puffers which detect trace amounts of explosives at airports. I saw one in Los Angeles last week.

There are back scatter machines, which would allow us actually to see organic compounds and explosives concealed on a person. Some of these issues are financial issues. Some of them, frankly, are making a decision to go forward. Some people don't like some of the technologies. I think we have to make a decision, if we are going to keep our airports secure, that we are going to have to deploy these technologies; we are going to have to take appropriate steps to preserve privacy; but that in order to move to the next level of detection, we have to start to make use of the one thing we have that the terrorists don't have, which is our ingenuity in getting technology out into the real world.

Mr. CLAY. Mr. Secretary, how does it work as far as the first persons that you see when you go in line are usually with the airlines or a private security company, and then you are transferred to TSA personnel. Has that been seamless? Has it been pretty trouble-free?

Secretary CHERTOFF. You know, TSA has the responsibility for dealing with the screeners. I think, as with any other human system, anecdotal reporting indicates that there are sometimes problems. Sometimes people say the system works very well; sometimes people say there are slips in the seams. And that is why we build layers, because I think human experience tells us that statistically, out of every 1,000 people, you are going to get a small number who are going to mess up.

What we want to do, though, as I say, is by building the technology in place, we want to reduce the scope of human error. And I have to say, in fairness to the TSA screeners—because I was out there in Los Angeles and I have been in a number of airports—they actually do a phenomenal job working with the technology in being able to identify dangerous items on baggage or on people. It is not just machines, it requires trained people. So we have to treat that work force with respect.

Mr. CLAY. Let me say that since September 11 I too feel safer boarding an airport and feel safer in airports. But, hypothetically, would you say Mr. bin Laden may be sitting around with some of his compatriots and saying look at those foolish Americans, they have now spent billions on airport security and we will never use another airplane again as far as a weapon?

Secretary CHERTOFF. Well, first of all, based on some of the successes we have had overseas in the last few years, it is my belief that Mr. bin Laden and his compatriots are spending a lot of time worrying about their own hides, which, of course, is part of the strategy, is to force them to worry about themselves. I do think you are right, we can't really just fight the same battle over and over again. And we are looking at maritime, land borders, the whole complex of issues we have to be concerned about.

I do have to say, though, that the intelligence continues to support the idea, and has supported the idea over the last few years, that the terrorists still regard the airplanes as a significant target. And the economy of this country is so dependent on air transportation that we have to be careful to preserve that system and its integrity and public confidence in the system.

Mr. CLAY. I appreciate your responses. Thank you very much.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you.

Mrs. MILLER. Thank you, Mr. Chairman.

Mr. Secretary, I appreciate your attendance here today. I am from Michigan, and I know there is a lot of consternation about the southern border of our Nation, but I am very concerned about the northern border of our State. In fact, in my particular district and in the region in southeast Michigan, I had your predecessor in and we took him on a helicopter tour, and I would like to invite you to do the same thing just to get a perspective of the kinds of dynamics that we have that have a lot of concern for all of us.

The Ambassador Bridge, which is the first busiest commercial artery on the northern tier, is there, along with the tunnel to Windsor. In my district, we have the Blue Water Bridge, which is the third busiest commercial artery and the only one that allows for transit of hazardous material. We have the Sea and Rail Tunnel there. We have an interesting dynamic along the liquid border that we share with Canada. We call it Chemical Valley because there is a huge concentration of petrochemical plants along there.

And, of course, being right on the lakes, the Great Lakes, which are fully one-fifth of the freshwater supply of the entire planet, there are a number of interesting dynamics that we have there. As well, we, of course, document as much as we can the kind of illegal immigration that is happening there, whether they are transiting across the infrastructure or just simply coming across by boat. That is happening all the time, in all types of weather conditions.

And there had been some talk with the Department of Homeland Security about the potential of having regional homeland security headquarters across the Nation. In fact, we were very interested in pursuing that in the Midwest region there with your Department. I don't know where that has all gone. I also sit on the House Armed Services Committee. Obviously, we are very interested in the BRAC process.

And part of the criteria for the BRAC process was that the DOD should be working with the DHS about not only national security, but homeland security for some of the various bases. And one of the bases that is in my district has some of the components under your umbrella. It is an Air National Guard base, but it has the Coast Guard, the Border Crossing, some of these different kinds of things.

I am just wondering if you could fill me in on where you are with the concept, if you have plans to move ahead with any of these regional homeland security headquarters.

Secretary CHERTOFF. Well, this is a matter I know that has been proposed and it is something that we are looking at. My concern is I want to be sure that whatever we do is something that does not add a layer of bureaucracy, but that actually streamlines things and flattens the organizations. So as we move forward we will obviously look at all different kinds of configurations for making sure we maximize the—we want to get the outcome of more regional cooperation. What the right way to do that is and how to organize the individual elements of the Department to do that is still something, frankly, that is kind of an open question.

Mrs. MILLER. If I could ask just one more question. As well, a particular dynamic that occurs on our border, because of a number of reasons, we have been cannibalizing nurses from Canada to

work in our health care system, particularly in southeast Michigan. In fact, if you go into any of our hospitals, probably 25 percent of all the nurses are Canadian citizens.

And there was some consternation about how they were transiting across with the kind of work permits that were required through your Department. And I think, for the most part, most of them are now operating under this NEXUS program. If you could comment on how is that working and were you aware about the Canadian—we actually, during September 11, had to stop surgeries for all practical purposes, because we couldn't get our nurses across the border. So it is a concern there.

Secretary CHERTOFF. I can't say that I was particularly aware of the nurses, but I am aware of the fact that our economy is very interdependent with the Canadian economy. It is true in services, it is true in manufacturing. And a critical challenge for us is to have the right balance between security and efficiency, because if either one of those gets out of balance, we are really going to hurt our economy, we are going to hurt our country.

So NEXUS is a terrific program, it is a program that basically allows us to check people and make sure they are essentially trusted travelers, and then let them move back and forth more quickly. And, frankly, that is the way forward across the board for this country in terms of travel in and out of the country and in terms of a whole series of things.

We need to offer people the opportunity to get into a program where we can do a reasonable background check, get some biographical information, make sure they are not a threat, and then build them a biometric identification card that assures that the person holding the card is the person we have checked, and then let them move through the system rapidly. That gives us both more security and more efficiency, which is, I think, a win-win for everybody.

Mrs. MILLER. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for your testimony. I have a couple of questions. One has to do with the personnel system. I note in today's Washington Post that the Pentagon is delaying implementation of its personnel system, very much like what was approved for your Department. Your Department, of course, has even more employees. This is a radical change, obviously, in the Government, a profound change. I don't envy you, having all you have to do, having also to deal with these—arcane is the only word for them—details.

We had a witness here at one point who seemed not even to understand the root reason for this rather ponderous system that the Government has. You, of course, are not a lawyer. Due process comes into play here when you are talking about pay for performance; due process doesn't come into play when you are talking AT&T or whoever in the private sector. So it becomes really complicated. One doesn't want to build a system that is full of opportunities for litigation and the like.

What is being changed, of course, is everything from pay for performance—and that is the real zinger if you are talking about a Government system where you have to show that you are being fair given Constitutional strictures on the Government—but there are label disputes. Frankly, from top to bottom, the personnel system is being changed. The Pentagon is delaying major aspects, it looks like, of its plan, and I would like to know the status of the changes, comparable changes in your Department.

Secretary CHERTOFF. Well, let me first identify I think the philosophical and practical reasons for having this new set of improvements in the personnel system. You know, we brought together legacy personnel systems that had to be integrated, and rather than integrate them according to the least efficient model, the thought was let us take the opportunity, as long as we have to do some integration, to integrate to the 21st century state-of-the-art with respect to personnel.

We need to get high performers into the Government. We have jobs that need to be done now that are increasingly more sophisticated. We are competing with the private sector and, candidly, we cannot do that if we cannot offer some reasonably competitive rates, including pay bands and pay for performance, so that people who are good performers have some degree of confidence that they are going to be rewarded.

At the same time, I think the cornerstone of the philosophy is our system has to be fair, it has to be transparent, and also has to be efficient. And a key piece of that is training. We need to make sure that as managers and supervisors get involved in the process of reviewing as part of this system, they really understand how to do it in a way that is fair, transparent, and efficient. And, by the way, we should be reviewing the reviewers. We should be making sure that the very fairness, transparency, and efficiency levels that they employ are themselves a function that is being reviewed.

Ms. NORTON. Of course, that would assume standards. This is the Government. That sounds like any personnel system. This sounds like what any manager anywhere in the United States would say. When you are talking about 800,000 employees going to pay for performance, for example, those are words.

The real challenge for you and your Department is how do people make that judgment so that you are not overridden with litigation, grievances or complaints. And that is really my question. The question goes to standards and whether or not you believe your Department is ready to move forward, as apparently the Pentagon, with its civilian employees, does not.

Secretary CHERTOFF. I believe we are ready to move forward. I think we are looking to implement the current regulations in August of this year and to start the new performance management system; not the pay piece, but the performance management in October. And the idea is to do this in stages to lay down specific metrics, the kinds of things that are going to be measured in terms of performance, and to train managers to do that so that everybody has confidence in the system.

But in that regard I do have to make a point about a problem that we have. As I look at what has been done in the current stage of the appropriations, we have had a substantial cut of money, a

$26 million from MaxHR and $98 million from management, which also is responsible. Frankly, if we want to have the system work well, if we want it to be fair and transparent and efficient, we have to pay for it. We can't shortchange the training; we can't shortchange putting in place a process that is going to be fair and efficient. And that is why I think it is very important to fund the system so that it works.

I guess the last observation I would make is this. I think delay is the worst of all worlds. I lived most of my life in a pay for performance system in the private sector, and I think that it can work and it will work. I think the uncertainty after transition is always the hardest piece and, frankly, the longer we delay the transition and the more we drag it out, the more apprehension people are going to have and the more anxiety. And that is why I think we are committed to doing this and we should move in a disciplined but brisk manner in getting this implemented.

Ms. NORTON. I couldn't agree more.

Chairman TOM DAVIS. The gentlelady's time has expired.

Ms. NORTON. Just to finish, I couldn't agree more. Grievances and complaints that go on for years and years, I don't see how they assist either the agency or the person. I must say, though, Mr. Secretary, that if a court gets grievances or gets cases, training will not be what the court will look at. The court will look at something you mentioned in passing that is so important, and that is the measures, what they were and whether the supervisor has indeed met those measures.

And I just want to emphasize again—and the reason I do it is because we had someone before us who acted as if due process did not come into play with the Government. Whether you go into pay for performance or whether you have this old GSA system—I ran a Federal agency; you will not find me a fan of that system—that standard is not going to change if people, of course, sue the agency.

And let me just finally say that I am very pleased to hear what you said about screeners, that we have probably reached the level of what you can expect of human screening, and instead of just beating up on screeners, we now have to face the fact that the next level is the technology level.

Thank you very much.

Chairman TOM DAVIS. Thank you. The gentlelady's time has expired.

Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman. I appreciate your holding this hearing concerning the Department of Homeland Security.

Mr. Secretary, I want to thank you for all of your efforts in the important and enormous job of keeping our country safe. Your dedication to that critical goal is certainly what will be part of our great success in keeping this country safe.

You have already acknowledged that one of the challenges that you face is the area of information sharing and data warehousing, trying to get the various branches of the Federal Government and of your Department to share information and effectively use it. The January 2005 GAO High-Risk Series Report identifies appropriate and effective information sharing mechanisms in Homeland Security as one of the new areas of high risk, and when they issued this

report this year, they stated, "As in prior GAO High-Risk Update Reports, Federal programs and operations are also emphasized when they are at high risk because of their great vulnerabilities to fraud, waste, abuse, and mismanagement, and are in need of transformation."

In looking to the processes of transforming that area, which is going to be so critical to our success, I wanted to ask you some questions of your thoughts of the issues of the application of commercial processes for information sharing. In my district we have NCR, which is one of the preeminent data management and terror data companies in the country. They do the processes for Wal-Mart and Federal Express, which are both known as companies that utilize information and data sharing to make certain that they are successful. And in talking to representatives of NCR, they talk about the process that they work with with clients, in looking to what information is needed and then designing systems both that produce data and that can manage data and effectively transmit data.

So many times I think we are fearful when the Federal Government begins to look at trying to seek the acquisition of systems, for example, in trying to acquire a hammer, that they might try to redesign the hammer instead of just going and looking for a hammer. In this instance we know that out in the commercial sector are companies in the United States that have focused on data management that have been highly successful. There is both technical expertise and management expertise that we can tap into.

Could you talk to us for a moment about your efforts to reach out to the commercial sector so that, as we look to this important issue that GAO has identified as high-risk, we could take advantage of some of the resources we already have here?

Secretary CHERTOFF. As a matter of fact, this morning I met with CEOs from the software industry and the Business Software Alliance to talk generally about some of their issues, and I said to them I thought that we need to do a better job of tapping into the ingenuity of the private sector in providing solutions. In other words, not necessarily coming in and saying let us build something from scratch, which I think, as experience shows, has often resulted in an overpriced and underperforming system. And this is not just computers, it is across the board. But sometimes we should be a little less ambitious, take what already has worked and figure out how to adapt it to our current circumstance.

We need to do that in this Department. We need to do it by completing the process of integrating our IT acquisition and rollout coordination, which we are in the process of doing. We then need to make sure that we are looking at what is out there in the real world as examples, as opposed to buying pie-in-the-sky promises. We also have the challenge, of course, of having existing legacy systems which we can't entirely scrap, and we have to figure ways to bridge between those existing systems with platforms that will operate across them.

The desired end stage, as you say, is an ability to have, like we are on the verge of having now, single email system, single information system, and one that has adequate screening and adequate security so we are not worried about penetration from the outside.

Mr. TURNER. Thank you. I appreciate your efforts in that regard, because it certainly will enhance our success to the extent that we go to those that are already being successful in these processes. Thank you.

Chairman TOM DAVIS. Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman, for holding this incredibly important hearing.

And welcome, Mr. Chertoff. I represent New York City, lost many friends and neighbors on September 11, and we certainly wish you well.

But this copy that came out recently, June 6th, on U.S. News & World Report entitled, "Pigging Out: How Homeland Security Became Washington's Biggest Porkfest," is not encouraging, to say the least. It is extremely discouraging and really frightening, in my opinion. Unfortunately, this is not the only article on this. We have seen headlines like this too often. This article highlighted TSA spending $500,000 for silk plants and artwork, and then they were purchasing sub-zero refrigerators at a cost of $3,000 each. And as one who represents what remains to be target No. 1 in America, New York City, I find that very troubling.

But even more troubling is not addressing the moneys toward really preventing danger coming to our citizens. In this they talked extensively about our Nation's cargo screening strategy, and in it they reported, "that nuclear specialists say some of the efforts suffer from misplaced priorities and rely on detectors so primitive that they cannot tell the difference between highly enriched uranium and naturally occurring radiation in kitty litter."

And on the same day that this report came out, ABC News reported that, "the new drive-through detection machines being installed at a cost of half a billion dollars cannot detect the enriched uranium that many say poses the greatest threat to our Nation," and this expert says that it could leave our country's ports—and I represent, along with New Jersey, one of the biggest ports in our country—but it would leave our ports susceptible to terrorists smuggling nuclear weapons or material in one of the thousands of containers that came into the country every day.

And in this report they quoted Dr. Tom Coburn, the Director of the National Resource Defense Council, a nuclear program, as saying, "Unfortunately, we have about a half a billion dollars worth of kitty litter detectors that will not detect enriched uranium reliably." They further reported that in tests it conducted in 2002 and 2003, uranium shielded and lead easily passed by detection machines that were in place.

I believe that this is totally an unacceptable situation. The smuggling of nuclear material, a dirty bomb or weapons of mass destruction, in a commercial cargo still represents probably one of the most important, if not the most important or most significant, security threat to our Nation and to our citizens. In fact, there was a movie out of England that showed what would happen if a dirty bomb exploded in England, and it was horrifying. And some economists estimated if one happened in our country, there would be well over a million casualties and an impact of well over $300 billion to several trillion dollars.

But despite this threat, the fact is that most currently deployed non-intrusive inspection systems in ports were designed to intercept contraband, stolen vehicles, stowaways, and not designed to detect—which is truly our most important threat—dirty bombs or weapons or mass destruction. So I would like to go to the root of the problem. The article alleges that the problem is a sole source contract. That is what the article alleges, that is the problem.

So based on that situation, I really would like to ask you how you feel about this. And specifically, Mr. Chairman, do you believe in best value procurement so that DHS can properly balance cost and technical capacity in purchasing key technology? Do you agree that the lowest cost is not necessarily the best value? Do you believe in full and fair and open competition for DHS procurements? Do you believe DHS should procure by sole source methods when there are possibly multiple U.S. sources available? And do you think the best technology should be used to detect weapons of mass destruction in cargoes?

Chairman TOM DAVIS. The gentlelady's time has expired.

Mrs. MALONEY. And my time is up.

Secretary CHERTOFF. Let me, if I may, just take a moment to answer. I agree that nuclear material being smuggled in is a very, very high priority for us, and that is one of the reasons the President's budget has asked for funding of about $227 million for a domestic nuclear detection office, which would bring together a lot of the programs we now have to develop systems and technology to identify and detect and thereby intercept nuclear bombs or nuclear material coming into the country. That is a very high priority.

I have to say this about articles like that, though. It strikes me you can pretty much find a self-styled expert to say something about everything. And I think the article overstates dramatically the problem that we have. The radiation detector monitors which we have in ports in fact do detect radiation quite well; they are extremely sensitive to radiation.

There are certain inherent physical limitations as between different types of radioactive material—for example, plutonium versus highly enriched uranium—which are endemic in the physical substance. In other words, we don't create that problem, God creates the problem because that is the way the physics of nuclear energy works. So we do actually have a robust detection system.

Second, it is misleading to say that the machines can't distinguish between kitty litter and other kinds of isotopes, because the way the system is structured is there is a capacity to send back to a targeting center a profile of the particular characteristics of what is being read on the monitor, and scientists sitting in the targeting center are in fact capable of distinguishing between kitty litter and isotopes. So that is, again, a misleading statement in the article.

Finally, with respect to shielding, it is true that shielding can create a problem for radiation detection? What the article doesn't tell you, though, is that part of what you do in a layered protection system is you build in a detector that detects the presence of shielding. So that there may be sufficient shielding to protect the radioactive material from direct detection, but another detector will point out that there is shielding. And if I see there is shielding in a container, I am going to open it up and I am going to look inside.

Mrs. MALONEY. But, Mr. Chertoff, my question was not whether kitty litter could be detected or not. My question was, was this a sole source contract; where is the justification document for that contract? Do you believe——

Chairman TOM DAVIS. Well, unfortunately, Mrs. Maloney, your time is up.

Mrs. MALONEY. Could you just answer in writing to my questions since my time is up?

Chairman TOM DAVIS. Well, you had a 4½ minute question, and that made it tough for him to get everything in. So I am going to have to go on to the next.

I would just say to Members everybody has been waiting here, and I am just trying to move this along fairly.

Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

Secretary, I have a border region in San Diego, and I have a unique situation that I have been working through your predecessor organizations for a very long time, and that is, as you well know—but most people in the United States don't know—we have border checkpoints more than 70 miles inside the United States. And the Border Patrol, under management after management and different secretaries, has always tried to defend these even though the Government Accountability Office study shows that they are hard to defend.

It would be perfect to tell you exactly how hard to defend the effectiveness of these except that the Border Patrol systematically doesn't deliver accurate information as to where apprehensions are. Every time there is a study, every piece of released information always simply talks about regions and areas, when in fact there are exact points that they could say we apprehended them here, here, and here.

Having said that, I want to make it very clear that I support the Border Patrol when they try to do things that make sense. In June 2004, the Temecula Border Patrol station conducted a series of illegal immigrant sweeps in inland areas in my district. During that time, they were called Mobile Patrol Group, made up of 12 Border Patrol agents. They successfully had 450 arrests in 18 days, nearly double the monthly average for 2003 not for 12 people, but for the whole station, for everybody.

Secretary, those mobile patrols, at the orders of Washington, were stopped. A lot of double-talk about, well, they weren't officially stopped. They were stopped. The Border Patrol wants to conduct those, and I don't really care if it is a Border Patrol, it is ICE, it is the man in the moon, who it is. Your organization is reorganizing exactly like the Polish cavalry before World War II. If you continue to use horses that don't succeed, well, there are tanks that do succeed.

Effective enforcement, when demonstrated in Southern California, is being thwarted through your Department by simply not allowing the Border Patrol to organize under whatever set of rules and guidelines you have to, or ICE, in order to go after illegal immigrants who otherwise would not be caught.

I want to make it very clear that it is not about just catching illegals. Because if you want to catch illegals, you can go to any

farm in my district, any hotel in my district, you can go anywhere you want; but, in fact, about successfully collecting the worst offenders.

And to that extent, although it is not directly your jurisdiction, I want to make you further aware—and get your comments on this—the fact that the U.S. attorney in San Diego has refused to prosecute coyotes, no matter how many times they are arrested, unless they use violence or specifically endanger a life or are carrying drugs. And if you think that is appropriate or not would be my first question. Should we be having a zero tolerance for the coyotes even if we cannot effectively arrest the more than 11 million illegal immigrants in this country?

Secretary CHERTOFF. Well, of course, it is true that the U.S. attorneys are not in my purview. I used to be a U.S. attorney, but that was many years ago and that was in a different part of the country. Obviously we need to focus on deterring people who are trafficking, starting, of course, our highest priority are the organizations. If we can take down the organizations, we get the maximum bang for the buck.

The more deterrence we can bring to bear, the better off we are. I recognize that U.S. attorneys have constraints. Among other things, you have court constraints; there are only so many judges, so many courtrooms. When you charge people, you have to try them. So that is a numerical limit.

As far as the particular tactic you are telling me about, I, frankly, don't know whether it was stopped or why it was stopped. What I can tell you is that——

Mr. ISSA. But are you familiar with the mobile patrols and the success? It was nationally covered in a fairly broad way.

Secretary CHERTOFF. I think I was probably a judge when it was being covered, and I was focused on doing judicial things. But I do think that we have recently unified our command and control over Border Patrol across the board, the idea being that we don't want to have ad hoc decisions made about how border tactics are operated, we want to have a comprehensive picture, recognizing that there are different tactics that work on different parts of the border because of the topography. So we are committed to the best practices. If there is anything there that works well that is legal, we are going to do it.

And I am more than happy to go back and say, look, let us see if this worked and it is not continuing, what else do we need to do; should we re-inaugurate it. There is no pride of authorship here. We want to do the best to maximize the effect we have with the resources we can bring to bear.

Mr. ISSA. I appreciate that. And if, after you have looked at the success of the mobile patrols out of the Temecula checkpoint, you would get back to my office with either your comments in the negative, if you don't think it worked or if there were serious problems, or how, on a centralized basis, perhaps we could begin using these kinds of techniques to target those who are either the most dangerous or the least desirable among the 11 million illegals that operate here in the United States today. Thank you.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

Mr. Ruppersberger.

Mr. RUPPERSBERGER. Mr. Secretary, first, I want to say you have one of the toughest jobs in Washington. But don't feel alone, because we all need to come together to work with you in our different agencies. I mean, to take 22 different agencies, it is tough enough getting 2 agencies together. And I think really what starts in anything that we do is management, and management at the top.

Now, I have a letter, it is a bipartisan letter written on October 15, 2001, and it was to the President and it is a letter that I am going to give you a copy of. Basically what the letter says and asks, it asks what are our vulnerabilities as it relates to terrorism and national security, what are the threats, what are our priorities, and how do we link that to funding, and that is basically risk management. Now, what I am interested in is to find out where you are today or where you think you are today as it relates to the threats, the budget priority and the funding.

Now, I have other questions—and I know that we have 5 minutes—that I am going to submit to you and ask that you respond to that and maybe to the contents of this letter. But I think it is important. We can talk about immigration, we can talk about money going to the locals. There are a lot of things, but we are not going to be able to accomplish it. So let us start from a management perspective, from risk management, all the threats, what we are looking for as it relates to funding.

Secretary CHERTOFF. We are 110 percent on board with the proposition that we have to be risk-based in funding, and that means we look at three characteristics: we look, first of all, at consequence; we look at vulnerability; we look at threat. We have a national preparedness plan which identifies, again, against that template of those three characteristics, the kinds of capabilities and tasks that individual localities or States ought to be able to carry out in order to be prepared to meet the risks as we have outlined them. And we are capable of working with computer modeling resources that we have—for example, at the National Sciences Laboratories—at being pretty specific in determining—using, again, consequence, vulnerability and threat—what our highest priority targets are, what are the things we ought to be worrying about the most so we can address those things first.

That is the template that we use in terms of driving everything that we do. And one of the things we are undertaking in the second stage review is we are trying to build a way of looking at all the threats, vulnerabilities and consequences, and having accountability as part of a three dimensional matrix for making sure that we have in place everything we need to address the highest priority targets in terms of those characteristics.

There is something Congress can do to help. We have to continue to move to a funding system that is risk-based. The more ability we have to apply our funding based upon risks that are identified through this disciplined process, the closer we are in giving the American public what they are entitled to expect, which is the maximum value for their hard-earned dollars.

Mr. RUPPERSBERGER. Based on what you just said and the matrix that you have, what would you say are your top five threats from

a priority point of view? I mean, management, again, is about prioritizing.

Secretary CHERTOFF. It is a little hard to take a matrix and compress it into five. I would say that among the things that are high priority are obviously things which could yield a catastrophic response, a threat which would yield a huge loss in human life or a huge economic impact. So we do think about, for example, nuclear/biological/chemical. Those are things which would be very significant.

Mr. RUPPERSBERGER. With each one that you are going to talk about, how much funding are you putting into these areas?

Secretary CHERTOFF. Well, again, it is a little more granular than that, because we have, for example, in the nuclear area, the President has requested $227 million for a domestic nuclear detection office. Obviously, there are programs; Department of Energy is doing stuff, Department of Defense——

Mr. RUPPERSBERGER. All right, I see my yellow light is coming on. I want to get one more question out, and we will see where we can go. Two years ago Congressman Waxman and I asked GAO to do a risk management of Department of Homeland Security, especially as it related to maritime security. And, by the way, I think GAO has some of the top risk management people, and I would hope that you would use them in your second stage review and get information, as we do, from them, because I think it is a great resource.

But getting back to the question that I asked about your priorities—and we are not going to have enough time to finish it—it is important, I think, that we pick those priorities, and I would like to know where they are and also where your priority of funding, because it is all about funding in the end.

I have the letter I am going to give you, and I have other questions that I would like you, if you could, to get back to me.

Chairman TOM DAVIS. OK, thank you.

Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman.

Mr. Secretary, I appreciate your being here, and certainly thank you for your many years of public service, especially now as head of the Department of Homeland Security. I wanted to touch on two specific issues that relate to the passage of the Department of Homeland Security Financial Accountability Act last October. I sponsored that legislation, and this committee moved it and the House and Senate passed it, and the President signed it into law. We worked very closely with your Department, prior to your being there, in drafting, amending, and kind of getting a consensus.

Two parts that have not yet either been fulfilled or the Department is showing now, after the fact, an unwillingness to comply. The first is the issue of your CFO. The law says that within 6 months of its passage, that the President would nominate for Senate confirmation a new CFO or designate CFO, and that the current CFO could continue serving until confirmation occurred. That 6 months passed about 45 days or so ago. My understanding is you have not yet even begun interviewing potential nominees, and I would be interested in why the delay. The law says what it does; it was written in cooperation with the Department and the admin-

istration. What is the timeframe that is in place today to get this law complied with?

Secretary CHERTOFF. Well, we have a very able CFO on board now and, of course, we know we need to find somebody who is going to ultimately be nominated for a Senate-confirmed position. As you know, there has been a substantial turnover in the Department. I mean, when I came in with the deputy, we had a large number of vacancies in the top management of the Department. We have been working very hard to fill those. Some of those are getting filled. I think you know the process of searching tends to be a cumbersome process, not the least of all because, first of all, these are challenging jobs, and sometimes the people you want for them don't necessarily want to give up their lucrative careers to take them, and sometimes because it is a cumbersome background check process.

So we are aware of the legal requirement; we are committed to meeting it. We are dealing with market constraints and kind of practical constraints, but we are actively involved in the process of trying to fill the position.

Mr. PLATTS. Well, I hope that the process will pick up, because it is something regularly in my subcommittee, when we talk about various agencies, that we have laws on the books and agencies just fail to comply with the law and there are never any consequences. That certainly doesn't work back home when citizens don't comply with the law.

The law was agreed to by the administration, and the fact that we are now a month and a half past the 6-month deadline, so we are 7½ months past when the Department knew this was a requirement. And it is not simply to go through the process; it is because Congress has said we believe that in these departments it is important to have the best possible officials in place, and that Senate confirmation process is part of ensuring that.

I certainly don't have anything bad to say about Andy Maner, your current CFO, but the law is as it stands and it needs to be complied with.

Related to that, the same piece of legislation deals with internal controls. The President's management agenda, one of the core areas was financial management, and through the legislation we have sought to help strengthen your Department's financial management process. You inherited, I think, more than 15 material weaknesses in the various agencies. Getting to that foundation is assessing your internal controls.

The law, as passed, said in the current year 2005 you have to make an assertion regarding your internal controls, and in 2006 have an audit of your internal controls. In this year's budget that came up to Congress from the administration, there was language proposing to delay the assertion 1 year and to delay the internal control audit 2 more years, so a total of 3 years from the time the law was passed.

I would like to know why you don't want to go forward with that and what is the Department's position today in compliance with the law as it stands?

Secretary CHERTOFF. Let me tell you where we are. In March of this year the CFO established an internal control committee which

was responsible to implement the provisions of PO 108330. Last month, in May, we developed an implementation guide for the internal control provision, working with OMB and an interagency committee.

We also began executing the planning phase of implementation to determine what documentation we would need and the kind of testing that would need to be performed. And over the summer we plan to complete the GAO internal control management and evaluation tool as the assessment process to support the statement of assurance in fiscal year 2005.

We have also, in the fiscal year 2006 budget, which is pending, requested a little over $5.2 million and five full-time equivalents to support remediation efforts to transform the legacy internal control structured in an integrated control framework.

So we are moving forward on this briskly. It is a challenge. As you point out, we have a lot of legacy agencies, so we have not only the challenge of meeting a new standard, but also bringing together and binding all the existing legacies. And I think we have a brisk program to move forward and complete what we need to do.

Mr. PLATTS. Thank you, Mr. Secretary. If you could followup maybe in writing to the committee a timeline proposed for confirmation of the CFO and specifically your intent to comply with the law passed last year regarding the assertion for 2005 and the internal control audit for 2006, that would very much be appreciated.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much, Mr. Platts.

Mr. Porter.

Mr. PORTER. Thank you, Mr. Chairman.

Mr. Secretary, I appreciate your being here and your depth of knowledge in such a short time of being in that role.

If you look at the economies of every State in the Nation, each has their strengths, from ranching, farming, industrial, chemicals. It depends on the State. I represent the community of Las Vegas, NV, area, one of the major tourist destinations in the world, where close to 40 million a year visit a State of about 2 million. Of course, after September 11th we experienced some very, very serious downturn in our economy.

But, more importantly, we realized at that point, more than ever, the importance of coordination between the Federal Government and the State governments. In that Nevada's No. 1 economy is tourism, I think many times overlooked that in every State in the Union travel and tourism is one, two, and three in every State as far as their economic base, but also employment.

I believe so much in the fact that we needed to have representation in the Department of Homeland Security. We worked, in the bill that passed last year, of course, the Reform Act, to create a role for your special assistant, Alfonzo Martinez-Fonts, who is now working closely with the tourism travel industry. So first let me say thank you for the efforts of your assistant.

But also to reiterate the importance, as you are developing your new plans—I know you are creating in the Department possibly a Department-wide policy office—that the tourism and travel industry—whether it be Anaheim, Disneyland, Orlando, Chicago, New

York, wherever in this country, New Orleans—we handle a lot of people, and a great mass of people, and we work closely with TSA and other parts of your Department.

I want to reiterate the importance of that communication so we can play a major role in helping you, because security certainly is paramount. The community of Nevada, our hotels, our resort industry are state-of-the-art, the latest security, the latest technology, and we appreciate the efforts so far, but want to reiterate for the future that is important.

So more of a comment than a question. And if I could followup now with a more specific question.

As you know also, Nevada has been chosen as the site for high-level nuclear waste to be buried at Yucca Mountain. I appreciate comments today about the current uranium detection methods being problematic. As we are looking at homeland security and the possible transportation of 77,000 tons of nuclear waste through most every State in the Union, I would appreciate, one, a comment, of course, on the tourism aspect, but also on plans to secure our community as this waste travels by schools and churches and malls and parks, that we have the proper security in place.

Secretary CHERTOFF. Let me try to address both of those issues. We are very sensitive about the fact that tourism and travel is a significant component of the economy, not just for the hotels, the airlines and shipping. I mean, across the board it has a major ripple effect. And one of the things that we are trying to do, as we move forward, for example, with security in airports and infrastructure security, is to build a system that actually facilitates ease of movement in travel and tourism while building in security.

Now, you need both of those, because we know if there are security problems people are not going to want to travel. But we also know that if it is inconvenient and inefficient, people are not going to want to travel. So we try to maximize both.

In line with that, I met, when I was in New York a month or so ago, with representatives of the travel and tourism industry, when I was overseas a couple weeks ago I met with overseas travel and tourism representatives, to make this point, to say that we want to build systems for security that work with the needs of our travel and tourism sectors of the economy, and not across purposes.

As far as nuclear goes, we work hand-in-hand with the NRC and the other agencies that have the substantive expertise in terms of transporting and storing nuclear waste, to make sure that they have the benefit of our insights with respect to security-type issues. They often own the expertise and have been doing a lot of work, frankly, over a number of years, even before September 11, in modeling the kinds of threats there are to nuclear material and how you can best protect against them. And that is an area where we are going to continue to be actively involved, again, working with the NRC and the other responsible agencies who have direct supervision over nuclear material, to make sure that we are assuring safety for communities.

Mr. PORTER. And I appreciate two diverse questions in a 5-minute period. But back to the tourism, I think it is important and imperative to note that our goal, like yours, is the security and the safety of these individuals. We work closely with TSA, and we have

evolved, I think, a premier facility at our airport, McCarran Airport, in handling these 30-some million that travel through our airport. And we would like to offer our assistance in other areas because of our expertise. It is certainly economic but, more important, that we can help balance the security with that.

I appreciate your comments. Thank you.

Chairman TOM DAVIS. Thank you.

Mr. Mica, followed by Mr. Duncan.

Mr. MICA. Thank you, Mr. Chairman. I apologize; I have had to run in and out for another hearing across the hall, actually, two hearings today.

Nice to see you, Mr. Secretary. Thank you for participating today and giving us sort of an update of where we are and where we want to go. One of the concerns that we have, and I have heard expressed on the floor, is the checking of cargo. They say that only some 6 percent of cargo is examined, either coming in or commercial aircraft, etc., and right now you have a system that is based on really going out and doing spot checks and using sort of intensive and costly personnel.

Have you given any consideration to setting standards, looking at a system that relies more on you setting sort of the rules and, again, process that should be followed and checking of companies, as opposed to sort of a massive—it would probably bankrupt the system or completely slow down the economy or bring it to a halt if we did 100 percent cargo check. Are you looking at an optional approach?

Secretary CHERTOFF. I think the answer is, first of all, we are acutely aware of the fact that we screen and then we inspect a percentage based on what we screen. But if we were to physically inspect everything, I think you are quite right, the system would grind to a halt. So we have to take into account a number of things. We have to consider the risk. You know, we deal with cargo that travels on passenger planes versus cargo that travels on cargo planes. There may be some differences in the way we want to handle that.

And as a general principle I think we are always open to the question of are there ways we can build a process that does not require Federal ownership of the process, but where the Federal Government sets standards and checks the checkers, but puts the responsibility on the people who are other players in the process, private players, to actually make sure that they are keeping standards.

Now, the devil is in the details. There may be different requirements in different settings. That, by the way, is a model we use in a lot of different areas in government. We use it in the securities area. I know when I was in the area of being a prosecutor, we had increasingly found the use of private sector ombudsmen or inspectors general as a way to have compliance in business that did not require the Federal Government itself to own the compliance. But we could create a model in which someone else would have that responsibility with our supervision and checking.

So that is probably a long-winded answer to the question that we are open to systems that minimize cost, maximize efficiency, and give us the best possible protection.

Mr. MICA. Well, the same type of approach or similar approach, having you set standards, say, for passenger screening. I believe you have already certified some companies, and we have five private screening companies that have worked very well under Federal supervision. Micro-managing all of that from Washington in sort of a Soviet style system has proven very difficult. I mean, you haven't been in office that long, but you will be getting requests from Members here. The lines are backed up at my airport. What are you going to do in Orlando? And I am chairman of Aviation.

We had a request for additional screeners. It took some 6 months to do an evaluation. Then by the time the folks got on board—well, they changed the numbers slightly—the situation had changed because of the fluctuation of schedules and requirements and season, conventions, all kinds of things.

Is it possible for us to look at decentralizing the system? You know, we have the opt-out which I authored in the bill. And the major problem, too, we have with opt-out right now—and many airports would do it across the country if the liability question was satisfactorily resolved for them. Where are we on that?

Secretary CHERTOFF. Well, as I say, we do have some pilot programs, I think five. We have had five opt-outs. We are always interested, obviously, in seeing how that approach compares with the current approach. As I said earlier, I continue to think—well, we have identified, but deploying existing technologies that would do a better job in terms of puffers and back-scatter, if we can finance that and get it out there, that is going to make a big difference.

As far as the SAFETY Act goes, that is a very significant tool if we are going to get the private sector involved in carrying its share of the burden of security. And I am pleased to say that we have, in the, I guess, 3½ months I have been on the job, we have approved I think more than twice as many applications than had been approved during the preceding 2 years. But I don't regard that as a mission accomplished; I regard that as merely a kind of a direction we have to point the way.

Philosophically, my understanding of the intent to Congress with the SAFETY Act was not to put the DHS in the position of picking the best or the winner or having a competition, but picking technologies that were good, that added value, and then getting them reasonable protection under the SAFETY Act. And I think if we have an appropriate philosophy, we are going to see a much more efficient use of that process.

Mr. MICA. Well, the high-tech proposal that we have offered, just in conclusion, we solicited your support because high tech is the answer, not only expediting checked baggage screening, but also passengers, and giving us better detection at much lower cost, as GAO had pointed out.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you.

Mr. Duncan.

Mr. DUNCAN. Thank you very much, Mr. Chairman.

Mr. Secretary, a couple of years ago, when the Congress passed the farm bill and it had the word security in it, the Wall Street Journal had an editorial which said that any time a bill had the word security in it, we should give it four times the scrutiny, be-

cause their point was that every department and agency was trying to come up with security measures so they could get higher funding.

And I remember when Governor Gilmore, who chaired the President's Commission on Terrorism and what to do about it, in his final report to the President, in his letter he said we must resist the urge to try to seek total security, because it is not achievable and it will drain resources away from things that are attainable.

So it seems to me that what the most difficult question here is how do you achieve the balance necessary? Because we all want to keep the country as safe as possible, and, yet, we are thousands of times more likely to be killed in a car wreck on the highways, or even more likely to be struck by lightning or win a lottery, than being killed by a terrorist.

So how do you achieve that balance? What is the common sense approach that is necessary to do what we need to do but not go ridiculously overboard in that process? I have heard on the news and read that there are hundreds of companies now and thousands of ideas that have been submitted to your Department. Everybody has the latest product, the latest idea. I mean, this seems to me to be a very difficult process, but I just wanted to get your thoughts in response to what I have just said.

Secretary CHERTOFF. My response is I agree 100 percent with what you just said. We should be a secure nation, but not a security nation; meaning our life should not just be about security, our life should be about our prosperity and our freedom. And our security is what is indispensable to preserve our way of life.

I think the first thing we do is we have an honest—we are honest with the American people; we say exactly what you have said and what I have said, we are not going to protect everybody against every bad thing every place at every moment. Before September 11, apart from terrorism, there have been bad things that have happened; there have been train derailments, there have been fires, there have been things of that sort. We have to take reasonable precautions.

And that is where risk management comes in. We have to identify those things that are truly catastrophic and we really have to work hard on those. And then there are things that are going to happen that are going to be bad, but, frankly, we are going to look to our State and local partners and private citizens to take reasonable precautions.

As you say, every day we make judgments, we take some risks, because we want to be able to get in the car, go to work or go to the movies. So part of it is we have to make sure we have a very clear statement to the American people, which I think, by the way, they will have no trouble understanding, because I think they do it in their own life. We need to build risk management into our programs and we need to then walk the walk, meaning we need to make decisions that do not overprotect.

And what I am happy to say is I think in some of the things we have been able to do since I got here, which I know about, we have started to make some decisions that I think are common sense decisions that balance risks. For example, there was an issue about should we remove placards, hazardous material placards, warning

placards from railcars because there is some risk that might identify a target for a terrorist.

And we balanced the risk, we said, look, it is more important to have first responders know what is in the car, if there is an accident, than it is to worry if some terrorist is going to read it. So we said, OK, we are going to keep the placards up. General aviation at Reagan. Again, we balanced risks against benefits, and we have, in principle, come up with the idea that we are going to open it up in a limited, controlled fashion.

So we are now starting to make decisions in this Department that produce results that balance properly, and I think the more we do that the better off we are going to be.

Mr. DUNCAN. Well, very good answer. Let me go to another direction very quickly. I have read several articles that we are most vulnerable now on cybersecurity. We have taught especially young people, but we are teaching almost everybody the worst of the computer today. And I know they can do miraculous things, but are you also discussing or looking into encouraging companies and agencies to keep old-fashioned backup paper systems? Or what steps are you taking to really work on this cybersecurity threat, which I read is extremely dangerous?

Secretary CHERTOFF. Well, as I said, I met this morning with the Business Software Alliance, which are CEOs of a number of prominent companies, to talk about cybersecurity. We have identified that as something we need to beef up in our Department. Part of it is having defenses against various kinds of cyber attacks; part of it is physical security. You know, there are technologies now where you have dual authorizations; not only a password, but it is a thumb print. And promoting that kind of security and building those kinds of standards in what we do internally, as well as what our private sector does, is an important step in protecting our computer assets.

Mr. DUNCAN. All right.

Thank you very much, Mr. Chairman.

Chairman TOM DAVIS. Mr. Secretary, thank you very much for being here. I am going to try to move quickly through my questions.

The new personnel system that is being implemented, the House took some actions on an amendment a couple weeks ago that basically hurt the funding for that. Do you want to comment on that? It is at a critical stage in its development, and zeroing out those funds, has that hurt?

Secretary CHERTOFF. Mr. Chairman, it is essential we have the funding to move the program forward. The worst possible world would be to have a system that we cannot properly operate because we haven't trained people. If nothing else, fairness to the people in the system requires that we fund it in a way that allows us to get it moving.

Chairman TOM DAVIS. I talked to Mr. Menendez, whose amendment took the money. I don't think he was even aware that this was the money to implement that system. And I hope we can make sure in the conference that money is restored.

Two weeks ago we did a press conference; your people were just excellent. We had former TSA Assistant Secretary Stone announc-

ing the pending release of interim final rule reopening Reagan National Airport to general aviation. Do you know what the status of that rule is?

Secretary CHERTOFF. I believe we are working on the technical aspects of the rule, and I hope to have it out within a few weeks.

Chairman TOM DAVIS. Thank you very much.

The U.S. VISIT program is absolutely critical at this point. What kind of plans does the Department have to generate stakeholder ownership, as well as a buy-in at the Department of State and the Department of Justice in order to have a really, truly integrated border management system? Also, what are the next major increments of the U.S. VISIT program that DHS would deliver, and how is it going from your perspective?

Secretary CHERTOFF. Well, it has been very successful so far. By the way, when I was in Europe, I had unsolicited praise from three separate government officials in European countries about how Europeans like the system because it moves them much more efficiently. We are working to put—we have pilot programs with U.S. VISIT at several ports of exit, so we can get the exit piece of it, and we are now more efficient about being able to tap into both our own data base and the FBI's data base from a single point of contact at each of the ports of entry where we have deployed U.S. VISIT. We are going to continue the program going forward and we are going to use it as a platform to actually have a more robust effort to have knowledge of who is coming in and who is leaving our border.

Chairman TOM DAVIS. Thank you.

Switching to cybersecurity, do you see a need to have a senior person in the White House or OMB to coordinate cybersecurity policy across the Government agencies, or is this DHS's role, or do you think DHS should be maybe working with the critical infrastructure that is owned by the private sector and coordinating policies? I think you know what I am asking.

Secretary CHERTOFF. Yes. We are looking to upgrade our capability in terms of doing our cybersecurity piece, and a large part of what we do is we network, not surprisingly, with the private sector, because they actually own most of the assets and they have a good deal of the ingenuity. So we are looking to, as part of our second stage review, find a way to further build on those relationships to give us kind of a comprehensive approach to dealing with cybersecurity.

Chairman TOM DAVIS. Thank you.

Let me just finally ask—there has been a considerable debate up here over container security and how much is actually inspected. Could you just give us your views in terms of how safe the containers are coming to this country, what other strategies might be pursued, how open you are to some new ideas in those areas?

Secretary CHERTOFF. I will answer both parts of that. We use a layered approach now. We screen 100 percent, we inspect those containers that, under our screening system, are high risk. We are continuing to move to commence the inspection process at the port of departure, as opposed to the port of entry. We are deploying radiation detection monitors. I announced last week that by the end of the year the Port of Los Angeles, which I think is the largest

in the United States for containers, would be fully deployed with radiation portal monitors by the end of the year.

The next stage, which I think you asked about, is equally important. I think——

Chairman TOM DAVIS. Let me just try to take that a different way. Let me look at an idea. For example, the SEC would require traded companies to have their financial affairs in order. But they don't actually check the books themselves; they have third-party auditors, certified auditors with their reputations on the line, accomplish that. Is there any way that the CBP should look at shifting that type of system where you could be prepared by independent third-party auditors, rather than having you do that? Is that a concept, do you think?

Secretary CHERTOFF. Absolutely. I think a concept we look at is the idea, again, of using, as I said, the private inspectors general and modern supply chain management. Companies now have the ability to track their stuff at a very specific level. We are starting to talk about how we can tap into that expertise, so we don't have to own everything ourselves. We want to set the baseline, we want to be confident and assured; we don't necessarily want to operate it all as a government operation.

Chairman TOM DAVIS. Thank you very much.

Mr. Souder.

Mr. SOUDER. Mr. Secretary, if anything anybody has watched is the breathtaking scope of the job that you have, and I wanted to raise—it is an unusual opportunity here as you are redoing the Department—a couple of additional questions, and I know we will continue to work through these both on homeland security and other areas.

First, let me thank you for your efforts on the Coast Guard, because that is one of the classic examples of multitasking. If the boats go out of Alaska, the fishing industry and all of Alaska and the Northwest United States could be destroyed. If we don't have search and rescue in the Great Lakes, people are going to drown, and off Florida and elsewhere. In the Caribbean we depend on the Coast Guard for drug interdiction, as well as terrorist interdiction. And the bottom line is if you don't have more boats, these boats can't be in harbor, in the Caribbean, in Alaska, on the Great Lakes. And I appreciate your support for our boats, and we are going to meet more. But I appreciate your earlier comments.

Also, I know yesterday the drug task force meeting was canceled. I hope you can do that. Many members have expressed to me—because you are the largest combined drug agency that there is because of the legacy Border Patrol, legacy Customs, Air and Marine, Shadow Wolves, Coast Guard. All those things are in your Department, and 30,000 people die from narcotics. Terrorism is a perceived and there is certainly a great potential threat, but every year narco-terrorists are doing this, and the money is very interrelated.

Also, I have interacted with your staff on the Capitol airspace security question. I spent quite a bit of time with Chairman Rogers last night, and he is working with that. I just believe there needs to be better coordination. We weren't even out of the cloakroom and that building would have been blown up.

We are dependent, here in the Capitol Building, on earlier warning, earlier detection, and certainty of security, because there is no way they can move us out of these buildings, no matter how hard they try, and they were yelling at all of us but we can't get out. And it is clear there are still arguments going on between the different agencies, and it isn't just a matter of the White House. Congress and the Supreme Court are equal branches, and there has to be some kind of coordinated security.

Also, Congressman Reyes raised on Fox and Friends this morning another unusual thing related to the border, and that is Mexicans are immediately deported if you don't have another crime. At El Paso they used to have 17 times you were detained, but as long as you don't have another crime now, they just send you back to Mexico.

But we have about 10 percent of the people who aren't Mexicans. When I was on the border last, there were Brazilians, Middle Easterners being picked up, and we don't have detention facilities to put them in. They are then on a deportation hearing up to their own recognizance. We have enough of a problem with people coming in with Mexican IDs and going back to Mexico.

But clearly, we are going to have to have some kind of way to address these others who are not coming back for their deportation hearings. And while they may not have a criminal record, they certainly are potential. It is a huge vulnerability. And I wonder if that and one other question if you could address. Do you support additional detention centers for non-Mexicans so that we don't just release them into the United States?

And then the last thing is, given the incident on the Canadian border last week with the murderer who killed the two Canadian citizens, we have a problem at these small border crossings. Short-term it is not our greatest problem, but the millennium bomber came across at a small crossing at Port Angeles. It was dependent on the local agent from your Department actually intuitively saying this person seems suspicious.

And we don't have adequate blood detection equipment; we don't have adequate other types of things to put at all these small borders. But I wonder if this has done any re-evaluation. This guy had a bloody chain saw in his back seat and other guns. Is there some kind of additional type of check that this has made you re-evaluate, like a bloody chainsaw rule or something?

Secretary CHERTOFF. Those are a lot of questions. I think they break into two parts. Let me try to answer them both.

We are very mindful of the issue of people other than Mexicans across the southern border. One approach which we have expanded is expedited removal, which allows us to remove them more quickly. There is now additional funding in the budget for more beds. Clearly, the ability to detain—you know, we detain those who have criminal records. The ability to expand and detain others, particularly those who are flight risks, is important.

We also are looking at alternative ways of ensuring that if we release people, we can get them back, which is bracelets or monitoring and supervision. So those are our approaches that we are working on now to see if we can have a better ability to make sure people don't just get released into the population and never return.

On the issue of the report on the Canadian citizen, I don't want to get too specific. I will say that, as with the Rissom case, our best weapon in many cases is still good old-fashioned, well trained intuition. Even with the machinery, even with the high tech, you have to read it, and that requires training. And I am continually impressed by the phenomenal job that our folks do at the border and at the airports in picking up on the cues that you need to know something.

I think in this particular case, in fairness, there was not a failure to identify that there was an issue. My understanding is that the local Border Patrol folks questioned the person, seized the weapons, checked relentlessly to see if there were any outstanding warrants or paper or charges.

At the end of the day, though, a U.S. citizen is entitled to return to the country, and we cannot hold people without a legal basis. And I think in that particular case, whatever the ultimate disposition of the case is, there was no legal basis on which to hold this person. So it was not a failure of investigation or failure of the process, it was kind of an inherent limitation of our system of law.

Mr. SOUDER. Is there an automatic check with the RCMP?

Secretary CHERTOFF. I don't know if there is an automatic check, but my understanding is they checked with every conceivable—in every way they could think of to see if there was paper out. I think they caught onto the fact that there was something to ask about. That is my understanding; that is what I have been told.

Mr. SOUDER. Thank you.

Mr. SHAYS [presiding]. I thank the gentleman.

Mr. Secretary, you have a reputation that says that you think strategicly, that you are organized, that you are demanding. I think those are some very important characteristics, and we appreciate the job you are doing and we appreciate your coming before this committee.

Some of your staff, when we put in the legislation on color coded in the authorization bill, almost seemed offended that we would put it in the legislation, because I think you folks are moving away from colors to be a little more helpful. But I just want to understand your attitude about how the alert system should work.

Secretary CHERTOFF. Well, first of all, I want to be clear, because there is sometimes a little bit of a misunderstanding. The Department of Homeland Security is not on the alert system, it is actually an HSPD, a Presidential directive. And a number of agencies participate in the process of setting the alert. The system serves two functions——

Mr. SHAYS. Let me just say parenthetically, that is why we wanted to have some say in that by why we put it in the authorization bill.

Secretary CHERTOFF. I think it serves two functions. One is we have geared in the private sector and State and local government a series of measures that one takes when we get up to orange, including certain funding mechanisms. So obviously we now have baked into the system a whole lot of stakeholders who have made their own arrangements based on the idea of elevating the level.

Sometimes, as was the case last year, I think in the financial sector, in the New York metropolitan area, we are able to give some

specificity to the threat. Sometimes the threat, although credible, is not particularly specific, and we have to weigh whether, under the circumstances, we should advise State and locals and private sector to take additional protective measures. That is a hard task.

There is a public awareness dimension as well, which is also important but has certain different dynamics. As with anything else, this is a system which we have had experience with for 2 or 3 years. It clearly makes sense to look at it and see if there are improvements that should be made. Congress has indicated we should do that.

We want to make sure, at the end of the day, we can preserve both elements, we can have a system that works for our stakeholders operationally and also a system that is not overly alarming to the public, gives them reasonable insight into what is going on in the world around them, but does not place a burden on them or impede the living of their daily lives.

Mr. SHAYS. Well, let me just share with you that I think our legislation clearly wants you to be geographic when you can be, to be economic sector specific when you can be, and it wants us to tell the public what it means, in other words, what actions they might take.

And I can tell you a few years ago, just close to the New Year's Eve, we knew that we were looking for radioactive material; we knew we were looking in five cities. And I will tell you every staff member who had that briefing made sure they took specific action and didn't go in specific places. And it seemed outrageous to me that the people who knew what the threat was took one action and the people in general, who didn't, had no sense of what action they should have taken.

Secretary CHERTOFF. Well, you know, we do try, and obviously want to continue to try, to be as specific as to sector or as to geography as we can be. You know, the issue of what we can tell people, we are obviously always constrained by sources and methods, and we have to be careful sometimes not to create a panic. I mean, often we get information that is very—you really have a doubt and you have to balance whether it is sufficiently definite that you want to put out a warning, particularly if it is going to result in people taking dramatic activity that could have real unintended consequences.

The last piece you raise is kind of a moral issue. You have more insight into threats than the average person, and we often struggle with the fact that we cannot take steps on our own behalf that we would not warn other people about. That is kind of a personal moral issue we have to deal with. But we clearly want to convey as much information as we can consistent with not overly alarming people and consistent with the quality of the intelligence and the preservation of sources and methods.

Mr. SHAYS. It is clearly a tradeoff. But I will tell you if you know that a site is dangerous, at least parents should—and it is a public place—at least parents should have the recognition that if they go there, they take a chance. And maybe they want to go but not bring their kids. There are things that I think the public has a right to know, and I hope that the Department will move more in that direction than the other direction.

I know you want to leave. Let me just quickly ask you about the cargo issue. And the cargo issue is, frankly, we don't check cargo on passenger aircraft. That is the bottom line. And I hope we refrain from saying we check it, because we have known cargo.

It strikes me that Congress has been reluctant to even put a deadline on this. We did it for baggage, we did it for luggage under the belly of an aircraft. Why shouldn't we be expecting from you that you should tell us this is what we can do by this period of time and this is what we can do by this period, and this is what we can do by this?

Secretary CHERTOFF. One of the things I asked when we set out the second stage review is specifically this question. I said we need to develop a plan to determine how we are going to handle the issue of cargo on passenger planes and cargo on cargo planes. It has to be a system that works in a way that does not destroy the cargo industry, because it makes it impossible to ship things because it takes too long.

And it has to assure us reasonable security. Whether the approach is the one suggested by Chairman Mica or whether it is another approach, I do agree this is one of the things we need to have an answer in really the short term, and I expect one of the things that will emerge from the second stage review will be a plan and a set of recommendations about how to go forward to address this very important issue.

Mr. SHAYS. OK.

I know that you just have one question. The Secretary wanted to leave by 12 noon, so if it could be a quick one.

Mr. RUPPERSBERGER. Sure.

I was a former county executive during September 11, and one of the bigger issues is the standards of getting money and resources to first responders to State and local, and then holding them accountable for their performance. As you know, there has been some lack of accountability, a lot of money that has been wasted. And I just want to throw it out as far as where we are with respect to the standards as it relates to getting resources, money to the first responders, and then the issue of what is going for what purpose and then holding them accountable for performing it?

Secretary CHERTOFF. We have a set of national preparedness goals which breaks down basically all the things you need to be prepared to do across the spectrum, from prevention through response, for first responders, and below each of the categories are some very specific things that every particular region or area needs to have. We don't give design, we give performance.

You know, we recognize there are differences geographically and in terms of communities. That is the template we are going to be using in terms of distributing grant money. We are going to be saying these are the things you need to be coming forward and saying I need money to do this, that, or the other thing under this particular goal or standard.

That tool, when it is fully deployed, will be a tool that will allow us to have both intelligent application of resources and real accountability.

Mr. RUPPERSBERGER. Which includes areas, for instance, like Washington, Baltimore, Philadelphia, New York versus maybe Jackson Hole, WY.

Secretary CHERTOFF. Well, there are two separate issues. One is how we divide among areas. And I think that we are going to do based on a risk-based theory. And as I said, the President's budget and the administration has urged that we move away from large guaranteed amounts per State, down to I think the House passed 0.25, because that gives us more money we can allocate.

But, you know, we are not driven by State; we are driven by infrastructure, we are driven by consequence. It is not a question of jurisdictional lines, it is a question of what our analytical tools show us is the most intelligent way to spend money.

Mr. SHAYS. Mr. Secretary, you have been generous with your time, and we wanted to get you out by 12. Thanks for staying a little later.

We would ask that the record remain open for 10 days for Members' questions and any other information we need to insert into the record.

Secretary CHERTOFF. Thank you very much.

Mr. SHAYS. And we will put Mr. Ruppersberger's letter into the record.

[The information referred to follows:]

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BERNARD SANDERS, VERMONT,
INDEPENDENT

October 15, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing regarding the appointment of Governor Tom Ridge to the new cabinet-level post of Director of Homeland Security. The appointment provides an important opportunity to address one of the most serious shortcomings in our national security policy: the lack of a national strategy based on a comprehensive threat assessment. We believe conducting this type of analysis and developing this kind of plan should be among Governor Ridge's top priorities.

The need for a comprehensive threat assessment has been documented by independent national commissions and other experts. Earlier this year, the U.S. Commission on National Security, a bipartisan group headed by former Senators Warren Rudman and Gary Hart, found that "no overarching strategic framework guides U.S. national security policymaking or resource allocation."[1] A panel headed by Governor James Gilmore made a similar finding, concluding that "the United States has no coherent, functional national strategy for combating terrorism."[2]

The U.S. General Accounting Office (GAO) has pointed out several times that the basis for our national security strategy should be a comprehensive analysis of the full spectrum of potential threats.[3] Proceeding without such an assessment, according to GAO, risks wasting

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[1]The United States Commission on National Security/21st Century, *Road Map for National Security: Imperative for Change* (Mar. 15, 2001).

[2]Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, *Toward a National Strategy for Combating Terrorism (Second Annual Report)* (Dec. 15, 2000).

[3]*See, e.g.*, U.S. General Accounting Office, *Combating Terrorism: Threat and Risk Assessments Can Help Prioritize and Target Program Investments* (April 1998) (GAO/NSIAD-

limited resources on unlikely threats, while neglecting potential dangers that are more apt to materialize. As GAO states:

> Threat and risk assessments are decision-making support tools that are used to establish requirements and prioritize program investments. Without the benefits that a threat and risk assessment provides, many agencies have been relying on worst case chemical, biological, radiological, or nuclear scenarios to generate countermeasures or establish their programs. By using these worst case scenarios, the federal government is focusing on vulnerabilities (which are unlimited) rather than credible threats (which are limited).[4]

The terrorist acts of September 11 dramatically illustrate the need for a comprehensive and comparative analysis of all threats to national security. According to the RAND Corporation:

> Our national security architecture is fundamentally a cold war-era artifice, created more than half a century ago to counter a specific threat from a specific country and a specific ideology. That architecture, which is oriented overwhelmingly towards military threats and hence to gathering military intelligence, was proven anachronistic with last Tuesday's devastating attacks carried out by non-state/non-military adversaries.[5]

Currently, the annual defense budget totals about $329 billion, while the federal government spends just $12.8 billion to counter all forms of terrorist threats combined.[6] In light of the recent attacks, these priorities need to be rethought, and the starting point should be a comprehensive threat assessment. Although we may hold divergent views about the best use of resources to protect the country, all of us — both in Congress and the Administration — would benefit from the information conveyed in a comprehensive threat assessment.

98-74); *and* U.S. General Accounting Office, *Combating Terrorism: Need for Comprehensive Threat and Risk Assessments of Chemical and Biological Attacks* (September 1999) (GAO/NSIAD-99-163).

[4]U.S. General Accounting Office, *Combating Terrorism: Selected Challenges and Related Recommendations* (GAO-01-822) (September 2001).

[5]Testimony of Dr. Bruce Hoffman, Director, RAND Washington Office, Committee on Government Reform, *Preparing for the War on Terrorism: Understanding the Nature and Dimensions of the Threat,* 106th Cong. (Sept. 20, 2001).

[6]Office of Management and Budget, *Annual Report to Congress on Combating Terrorism* (2001).

The President
October 15, 2001
Page 3

For these reasons, we believe one of the first jobs of the Director of Homeland Security should be to obtain intelligence from all agencies to evaluate all risks to the United States — military, terrorist, state, non-state, foreign, domestic, conventional, and unconventional. He should evaluate these threats comprehensively, comparing them side-by-side. He should analyze their causes, whether political, economic, or social, examine their likelihood, and gauge their potential effects. He should then prioritize them in a way that will foster rational decision-making to counter all the dangers we face.

We wish Governor Ridge the best of luck, and we stand ready to assist him in this critical endeavor.

Sincerely,

Dan Burton
Chairman

Henry A. Waxman
Ranking Minority Member

Christopher Shays
Chairman
Subcommittee on National Security, Veterans Affairs and International Relations

Dennis J. Kucinich
Ranking Minority Member
Subcommittee on National Security, Veterans Affairs and International Relations

Mr. SHAYS. Thank you very much, Mr. Secretary.

This hearing is adjourned.

[Whereupon, at 12:20 p.m., the committee was adjourned.]

[The prepared statements of Hon. Jon C. Porter and Hon. Kenny Marchant and additional information submitted for the hearing record follow:]

STATEMENT FOR THE RECORD
CONGRESSMAN JON C. PORTER (R-NV-3)
"Assessing the Department of Homeland Security's Mission Effectiveness: Is it Enough to Meet the Terrorist Threat?"
JUNE 9, 2005

Mr. Chairman, thank you for holding this hearing today. I would also like to thank Secretary Chertoff for taking the time to be here today.

The goal of the Department of Homeland Security (DHS) is to ensure the safety of the nation. Therefore, the organization of and programs relating to DHS must be able to operate effectively, as any misstep could result in the compromise the well-being of our cities, towns, and families.

As the Chairman of the Subcommittee on Federal Workforce and Agency Organization, I am deeply interested in issues relating to DHS. As a matter of a fact, I held a hearing in March regarding DHS and the Office of Personnel Management's issuance of regulations for the new personnel management system at DHS. This has been the first major change to our civil service process in fifty years, which is a fact that neither DHS nor the Subcommittee on Federal Workforce takes lightly. There are still a lot of details relating to this issue that need to be worked out, but I look forward to continuing to work with Secretary Chertoff on this issue.

On a final note, Mr. Chairman, I represent a congressional district that includes much of the greater Las Vegas Valley. It should come as no surprise that Las Vegas is a popular vacation destination; therefore, I am very interested in ensuring that everyone who goes to Las Vegas, or anywhere else for that matter, are able to travel safely. This is why I worked to secure a post within DHS that handles tourism issues within the National Intelligence Reform Act of 2004. My initiative ensured that DHS has a senior official that recognizes the importance of the tourism industry, and works with the private sector to keep our citizens and visitors at tourist destinations safe. Travel and tourism is the number one, two, or three industry in every state in the nation and it is vital that the tourism industry has the appropriate contact and communication at the federal level.

Again, I would like to thank Chairman Davis for holding this important hearing. I look forward to hearing Secretary Chertoff's testimony, and I am interested in hearing his views on the future of DHS.

Thank you.

***

Prepared Statement of Virginia Brown-Waite
Committee on Government Reform:
Oversight Hearing: Homeland Security
06/09/2005

Mr. Chairman:

Thank you for holding this very important oversight hearing on America's homeland security. I look forward to hearing from Secretary Michael Chertoff.

An essential element of our nation's homeland security is border security.

After 9/11, Congress learned that we must vigorously protect our nation's borders against the threat of terrorism. Yet this need for increased security is an issue with which our nation continues to struggle.

My own Congressional district saw the unfortunate confluence of illegal immigration and a potential homeland security threat converge this past February.

In my hometown of Crystal River, FL, our nuclear power plant was working with a contractor who employed illegal immigrant day laborers.

Thankfully, these men have been arrested by the FBI and have been fully interviewed by Immigration and Customs Enforcement agents.

The contractor, Brock Enterprises, was also responsible for the employment of 60 other illegal immigrants recently arrested by DHS agents. These illegal immigrants were working at 12 critical infrastructure sites in 6 other states.

This is evidence of a systemic problem of illegal aliens successfully finding employment at our nation's most sensitive sites.

There is also reason to believe that illegal immigrants may be easily influenced by terrorists organizations and could very easily heave been their agents.

Additionally, increasing numbers of the illegal immigrants who cross the porous border with Mexico originate from Asia, Central and South America and the Middle East.

In 2003, the Border Patrol apprehended 39,215 illegal immigrants described as "other-than-Mexicans," along the Southwest border. In 2004, the amount increased 68% to 65,814, non Mexican illegal immigrants.

While DHS succeeded by arresting illegals employed sensitive power plants, I want to know what is being done to prevent illegal workers with invalid identification from getting into the U.S. and gaining access to these sites?

I am concerned that the Department of Homeland Security (DHS), the Social Security Administration, and the Nuclear Regulatory Commission (NRC) are still not working together to protect our critical infrastructure.

This possibility was brought to my attention when my staff and I tried working with the three agencies to find a solution at the Crystal River Nuclear Plant. My office was passed from one agency to the next, given the typical bureaucratic line of "that is not in our jurisdiction."

Clearly, this is unacceptable.

I do not blame the staff at the Crystal River nuclear plant, as an investigation by the NRC concluded that the plant was following all federal guidelines.

I do blame DHS for allowing these illegal workers to get through our borders. We can not expect our power plants and critical infrastructure sites to be the first line of defense against illegal immigrants when there is a department charged with this responsibility.

Mr. Secretary, I look forward to hearing the planed improvements DHS has to protect us.

I yield back the balance of my time.

TOM DAVIS, VIRGINIA,
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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 20, 2005

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave., N.W.
Washington, D.C. 20393

Dear Secretary Chertoff:

On June 9, 2005, the Committee on Government Reform held a hearing assessing the Department of Homeland Security's (Department or DHS) operations, management, and opportunities for performance improvement, at which you testified. I greatly appreciate your appearance at the hearing and having the benefit of your testimony and answers to our questions.

During the hearing, we were able to cover a wide range of issues. However, the Committee has a number of questions that we would like to have your responses for the hearing record. Those questions are as follows:

US VISIT

1. When will DHS' strategic plan for a 21st Century Border Management System be available to us for review? Are outside groups being allowed to comment on the strategic plan?
2. What plans does the Department have to generate stakeholder ownership and specific "buy in" at the Department of State and the Department of Justice, in addition to the use of FBI databases at ports of entry, in order to have a truly integrated border management system?
3. What are the next major increments of the US VISIT program that DHS will deliver?
4. Does the Department possess adequate resources and funding to continue implementing the US VISIT program?

BIOSHIELD

The Department of Health and Human Services (HHS) has started to use the special authorities granted by Congress in the Project Bioshield Act of 2004 legislation for appropriate medical countermeasures to protect our population against a biological attack.

5. How has DHS acted in concert with HHS in implementing the Bioshield program?

6. Do you believe HHS has acted quickly enough in exercising its authorities to provide expedited procedures related to procurement, hiring and awarding of research grants to develop suitable countermeasures?

7. Do you believe the contracts awarded under Bioshield have the potential to offer adequate protection for all Americans against imminent biological threats?

8. What are the significant and imminent biological threats identified by DHS for which HHS has not currently acquired and stockpiled effective medical countermeasures?

IMMIGRATION

A high number of complaints regarding poor service and long wait times and reports of a considerable backlog of cases raise questions concerning the status of IT systems at the U.S. Citizenship and Immigration Services (USCIS). Specifically, what steps are DHS taking to address the following issues:

9. USCIS employees are unable to sweep the USCIS database for cases that have languished unattended for months or even years, cases which only receive attention when the applicants call to complain;

10. Thousands of cases were recently transferred from USCIS District Offices to the National Benefits Center in Missouri where they were erroneously dated, resulting in additional four- to six-month delays for the applicants;

11. Applicants who have already received employment authorization from USCIS have to wait 30 days or more for the Social Security Administration to receive verification of their status; and,

12. Thousands of applicants have waited since 2003 for the FBI to complete their name and background checks because of overburdened, antiquated systems at the FBI.

UTILITY FACILITY SECURITY

A number of utilities and local governments have converted paper engineering drawings, facility maps and other infrastructure plans to a digital format. This includes nuclear power plants, conventional fuel power plants, pipelines, water supply systems, underground utilities and other

critical infrastructure. During the conversion process, much of the work has been subject to price competition. The possibility exists that the converted information is more widely available and could pose a security threat, particularly after 9/11. I understand that several federal agencies have taken steps to restrict access to this type of information. However, the extent and the effectiveness of these policies remains a question. A study was to have been conducted by DHS to assess the potential vulnerability related to this situation.

13. Was such a study conducted? If so, what is the status of that study?

CHIEF FINANCIAL OFFICER

14. What is the proposed timeframe for complying with the provisions of PL 108-330, which require that an individual be nominated to the position of Chief Financial Officer within 180 days of October 16, 2004?

15. In your testimony, you suggested that the current CFO was well qualified for the position. Why has he not been nominated or submitted to the confirmation process, in fulfillment of the requirements of PL 108-330?

Please provide your responses to these questions by July 15, 2005. If you have any questions, please contact Jennifer Safavian or John Hunter at (202) 225-5074.

Sincerely,

Tom Davis
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 10, 2005

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20528

Dear Secretary Chertoff:

Yesterday in my opening statement at the Government Reform hearing entitled, "Assessing the Department of Homeland Security's Mission Effectiveness: Is it Enough to Meet the Terrorist Threat?" I asked a series of questions that I requested to have answered. The questions are as follows:

1. Are you at least considering merging the enforcement components of CBP and ICE?
2. What specific steps are you taking to improve coordination and cooperation on intelligence and information sharing within the Department?
3. Do you support the House-passed legislation that moved the Shadow Wolves to ICE, and will you expand the program to include other Native American reservations along the northern border?
4. When are you going to dedicate specific funds to the Office of Counternarcotics Enforcement, to allow it to carry out the coordination and oversight responsibilities that Congress gave it?

I look forward to your written answers to the questions and ask that you respond by July 1. If you have any questions, please contact Malia Holst at 202-225-2577.

Sincerely,

Mark Souder

Rep. Mark Souder
Chairman
Subcommittee on Criminal Justice,
Drug Policy and Human Resources
Government Reform Committee

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14TH DISTRICT, NEW YORK

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June 13, 2005

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Chertoff,

Thank you for coming before the Government Reform Committee on Thursday, June 9, 2005. As a New Yorker who lost neighbors and friends on September 11th, I can tell you that Homeland Security remains a top priority for me and my constituents - which is why I am very concerned about the recent reporting by *U.S. News & World Report, U.S.A. Today*, and *ABC News* about the serious inadequacies of the cargo screening equipment your Department is purchasing for our ports.

The smuggling, through our ports, of nuclear materials, a dirty bomb, or Weapons of Mass Destruction in a commercial cargo container still represents one of the most significant security threats to our nation and its citizens. Further, the shutting down of port-delivered cargo traffic after an attack would cause severe, and perhaps irreparable, damage to the U.S. economy. Some estimates put the losses at up to 1 million casualties, and the economic impact at $300 Billion to $1.2 Trillion dollars.

With that daunting scenario in mind, on Monday, June 6th, *USA Today* ran a front page story concerning our nation's cargo screening strategy, reporting that "nuclear specialists say some of the efforts...suffer from misplaced priorities and rely on detectors so primitive that they can't tell the difference between highly enriched uranium and naturally occurring radiation in cat litter."

It also reported that "[t]he monitors are notorious for false alarms, set off by innocuous products."

On that same day, *ABC News* reported that "the new, drive-thru detection machines being installed - at a cost of a half-billion dollars - cannot detect the enriched uranium that many say poses the greatest threat," and that "[t]his, experts say, could leave the country's ports susceptible to terrorists smuggling nuclear weapons or material in one of the thousands of containers that come into the country every day."

Clearly, we have a problem on our hands. The question is why. Unfortunately, the limited time at the hearing did not allow us to complete our exchange and left this important topic unexplored. I think the public has a right to know how its tax dollars are being spent, and whether their families are being protected by the best technology available.

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I have heard it reported that your Department has had in effect a sole source contract for the purchase of these cargo screening devices in our ports. Given the importance of this technology, and the need to determine and use the best technology available, I find this hard to fathom. In fairness to you, if this is indeed the case, such a contract was surely in effect before you began your tenure as Secretary, and perhaps even pre-dates the creation of the Department itself.

If that is the case, you have the opportunity to correct this problem on your watch; and so I request that you look into and respond to these important questions:

1. What is the nature of the contract under which the devices have been bought? (In responding, please provide me with copies of the Commerce Business Daily or other competition notices, as well as the actual RFPs sent from the government to companies, and an indication of how many companies responded.)

2. Have the devices purchased by ICE to image cargo containers, and look for WMDs, been bought on a sole source basis from a single vendor, without competition from other vendors?

3. If so, was a sole source justification document drafted? In responding, please provide a copy of any such document.

4. Which contracting groups in DHS control this procurement?

5. Has there been a full, fair and open competition for procurement of these devices?

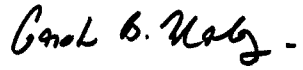
6. Do you agree that lowest cost is not necessarily best value for such devices?

7. Do you believe DHS should procure by sole source methods when multiple U.S. sources of technology such as this are available?

8. Do you think the best technology should be used to detect WMDs in cargo containers, and, if so, why is the Department not using it?

I would appreciate your carefully reviewing and answering these important questions for the Record. I look forward to your response and appreciate your time and attention to this important matter.

Sincerely,



CAROLYN B. MALONEY
Member of Congress

cc: The Honorable Tom Davis, Chairman, House Government Reform Committee
The Honorable Henry A. Waxman, Ranking Member, House Government Reform Committee

Questions For the Record
House Government Reform Committee
"Assessing DHS' Mission Effectiveness: Is it enough to meet the Terrorist Threat?"
June 9, 2005
Secretary Chertoff

Questions from Chairman Tom Davis

US VISIT

1. When will DHS' strategic plan for a 21st Century Border Management System be available to us for review? Are outside groups being allowed to comment on the strategic plan?

Response: The strategic plan for immigration and border management in the 21st century is currently in clearance within DHS. Our goal is to obtain very near-term clearance within DHS, consistent with further evaluation of this issue as part of our Second Stage Review (2SR) implementation. During the creation of the strategic plan, input was received regarding the concepts and vision with a limited number of stakeholders and interested parties outside the members of the enterprise. We anticipate actively engaging with appropriate outside groups to solicit feedback and create awareness and acceptance of the content.

2. What plans does the Department have to generate stakeholder ownership and specific "buy in" at the Department of State and the Department of Justice, in addition to the use of FBI databases at ports of entry, in order to have a truly integrated border management system?

Response: Since the inception of the US-VISIT program, the Department of State (State) and the Department of Justice (Justice) have served on both our Integrated Program Team (IPT) and our Federal Stakeholder Advisory Board. Both State and Justice were integral in the development of the strategic plan, as well as past successful implementation of increments. Both Departments also are members of the IDENT/IAFIS IPT, the ultimate goal of which is interoperability between the systems. The IDENT/IAFIS IPT has made great strides in resolving long-standing challenges to interoperability, and is successfully forging a path forward for long-term "ownership" and "buy-in." We anticipate similar targeted efforts will continue for the three agencies as we proceed in further identifying requirements for information to support redesigned processes. A report to Congress on IDENT/IAFIS interoperability was requested in FY 05 and FY 06 appropriations language. DHS prepared this report and delivered it to Congress on August 22, 2005.

3. What are the next major increments of the US-VISIT program that DHS will deliver?

Response: Currently, US-VISIT is working on several major projects:

- To deploy the ability to capture biometric exit data from air and sea departure locations. DHS is conducting an evaluation of three different exit technology alternatives. This evaluation will guide how DHS implements the selected exit solution at the remaining air and sea ports of entry.

- To deploy US-VISIT capability to the remaining land ports of entry. DHS is on track to complete deployment and begin operations prior to the December 31, 2005 deadline.
- To add the capability to compare and authenticate biometrically documents issued to aliens by the United States, such as Permanent Resident Card holders, Reentry Permit holders, or Refugee Travel Document holders. DHS is working towards achieving this goal by October 26, 2005, as required by the Enhanced Border Security and Visa Entry Reform Act.
- To test using radio frequency identification (RFID) technology to record automatically and electronically the arrival and departures of aliens issued Arrival/Departure Form I-94 at the land borders. DHS deployed the first stage of a pilot of RFID a pilot to 5 locations on August 4 that will test the ability to record individuals crossing the border (arriving or leaving) either on foot or by vehicle.
- To develop an implementation plan for IAFIS/IDENT interoperability. Also, on July 13, as part of the Second Stage Review results, Secretary Chertoff announced that US-ISIT will migrate to taking 10-prints at enrollment of first-time visitors to the United States, vice the current practice of taking 2-prints.

4. Does the Department possess adequate resources and funding to continue implementing the US-VISIT program?

Response: US-VISIT program resources for FY 2006 are $340 million -- $50 million less than the President's Budget request of $390.2 million support administration initiatives

BIOSHIELD

The Department of Health and Human Services (HHS) has started to use the special authorities granted by Congress in the Project Bioshield Act of 2004 legislation for appropriate medical countermeasures to protect our population against a biological attack.

5. How has DHS acted in concert with HHS in implementing the Bioshield program?

Response: The Project BioShield Act of 2004 charges the Secretary of DHS with the responsibility to determine which biological, chemical, radiological and nuclear threats constitute a "material threat" to our Nation's security. To fulfill this responsibility, DHS's Science and Technology (S&T) Directorate, in partnership with the Information Analysis and Infrastructure Protection (IAIP) Directorate, has been conducting formal threat assessments of the agents of greatest concern to establish plausible high consequence scenarios. These assessments are used by the Secretary in determining whether to issue a Material Threat Determination.

To date, the Secretary of DHS has issued Material Threat Determinations for four "agents": anthrax, smallpox, botulinum toxin, and radiological/nuclear devices. Additional assessments are underway and are expected to be completed this year. Additional medical countermeasure

needs will be guided by the formal biological risk assessments required in the President's *Biodefense for the 21st Century* and now underway at S&T. The first such formal risk assessment is due in January 2006 and will address 29 different biological agents. DHS and HHS are also working together and with other interagency partners on the generation of integrated WMD risk assessments through the WMD Medical Countermeasures Subcommittee

The threat assessments performed by DHS also inform the modeling of medical and public health consequences of threat agents that are conducted by HHS. The Interagency Weapons of Mass Destruction Medical Countermeasures Subcommittee, which DHS co-chairs with HHS and the Department of Defense, utilizes the DHS threat assessments, HHS medical consequence modeling, and expert advice from across the interagency to define medical countermeasure requirements and establish recommendations for acquisitions under Project BioShield. The Subcommittee recommendations are then considered by the DHS and HHS Secretaries and, if approved, result in joint DHS/HHS recommendations to the Office of Management and Budget for the utilization of the Special Reserve Fund authorized under the Project BioShield Act of 2004 to support the acquisition.

S&T also is partnering with HHS in formulating and implementing a strategy for anticipating and responding to emerging threats. The strategy will provide an informed estimate of the types and potential impacts of emerging threats that might be within the ability of a terrorist organization to develop over the near-term (one to three years), mid-term (four to ten years), and longer-term (ten years and beyond).

6. Do you believe HHS has acted quickly enough in exercising its authorities to provide expedited procedures related to procurement, hiring and awarding of research grants to develop suitable countermeasures?

Response: HHS has acted promptly in exercising its authorities. Fifteen months after the enactment of the Project BioShield Act, the U.S. government had awarded contracts utilizing the Special Reserve Fund authorized under Project BioShield totaling over $1 billion. These have included acquisitions of first and second generation anthrax vaccines, and a pediatric formulation of potassium iodide. HHS has lead efforts to secure OMB approval for the acquisition of anthrax therapeutics, botulinum antitoxins and a next generation smallpox vaccine and has made good progress in moving those acquisitions forward. Those additional awards are anticipated in FY06. Furthermore, HHS has released a draft RFP for industry comment addressing medical countermeasures for acute radiation syndrome that can follow exposure to radiological or nuclear agents and an RFI to address exposure to nerve agents.

The National Institute of Allergy and Infectious Diseases (NIAID) has utilized its BioShield authorities to award sixteen grants and five contracts totaling approximately $35.8 million in FY 2005 to support the early development of new therapeutics and vaccines against some of the most deadly agents of bioterrorism including anthrax, botulinum toxin, Ebola virus, pneumonic plague, smallpox and tularemia, as well as medical countermeasures for radiological and nuclear

threats. NIAID has also already utilized its streamlined personnel authority under BioShield to hire personnel critical to the biodefense effort.

7. Do you believe the contracts awarded under Bioshield have the potential to offer adequate protection for all Americans against imminent biological threats?

Response: As described in the Presidential directive "Biodefense for the 21st Century", a comprehensive biodefense strategy must include capabilities for threat awareness, prevention, surveillance and detection, and response and recovery. Medical countermeasure development and acquisition are critical components of the overall USG preparedness efforts. The contracts already awarded or under consideration, under BioShield are good first steps toward providing adequate medical countermeasure protection to Americans against the highest priority biological threats (anthrax, botulinum toxin and smallpox). However, the Special Reserve Fund authorized under Project BioShield does not provide sufficient funds to support the acquisition of medical countermeasures for every American for each agent. Procurement levels for these priority medical countermeasures are therefore based on requirements developed by the Interagency Weapons of Mass Destruction Medical Countermeasures Subcommittee that take into account the maximum credible threat, likely medical and public health consequences, and the concept of operations strategy for utilizing medical countermeasures in a public health emergency.

8. What are the significant and imminent biological threats identified by DHS for which HHS has not currently acquired and stockpiled effective medical countermeasures?

Response: HHS is executing medical countermeasure acquisition programs for all of the biological threats determined by DHS to pose material threats to the US population. As noted above, the contracts already awarded, or under consideration, under BioShield are a good first step toward offering adequate protection to Americans against the highest priority threats: anthrax, botulinum toxin, smallpox. The ongoing threat and risk assessments mentioned previously are prioritizing the remainder of the HHS Centers for Disease Control and Prevention's Category A, B and certain of Category C agents for guiding the next rounds of BioShield procurements to address additional biological threats, with results available by January 2006. These biological agent risk assessments, in conjunction with integrated prioritization of chemical and radiological/nuclear threats will continue to ensure the most effective utilization of the Special Reserve Fund authorized under Project BioShield.

IMMIGRATION

A high number of complaints regarding poor service and long wait times and reports of a considerable backlog of cases raise questions concerning the status of IT systems at the U.S. Citizenship and Immigration Services (USCIS). Specifically, what steps are DHS taking to address the following issues:

9. USCIS employees are unable to sweep the USCIS database for cases that have languished unattended for months or even years, cases which only receive attention when the applicants call to complain;

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Response: Actually, U.S. Citizenship and Immigration Services (USCIS) employees can indeed "sweep" their systems for old files; in fact, USCIS Service Centers routinely run aging reports to identify old cases. In addition, USCIS employees go through undeliverable/returned mail and check the AR11 (change of address) database for updated address change notice information. They also routinely use systems sweeps to facilitate and streamline operations, largely accounting for the tremendous levels of success they have realized in reducing and/or eliminating backlogs.

The operational use of these sweeps includes:

- Identifying adjudication-ready cases;
- Identifying old cases that have slipped through the cracks;
- Streamlining adjudications procedures by completing many of the simple verifications and validations that are part of the regular adjudicative process, leaving adjudicators time to focus their attention on issues of regulatory substance;
- Fully completing the adjudication of some simple case types, using our systems in to determine benefit eligibility;
- Identifying cases that may be statutorily ineligible for the benefits sought;
- Identifying fraud trends and patterns;
- Quality control; and
- Quality assurance.

10. Thousands of cases were recently transferred from USCIS District Offices to the National Benefits Center in Missouri where they were erroneously dated, resulting in additional four- to six-month delays for the applicants;

Response: In October 2003, the National Benefits Center began processing applications for Adjustment of Status, which, if approved, results in Legal Permanent Residency for the applicant. From that date until December 2004, District Offices forwarded their daily intake of these applications to the lockbox for intake processing. Thus, there was a delay from the date on which USCIS received the applications at its District Offices and the date on which these applications were processed for intake at the lockbox. In addition, USCIS offices in New York, NY, and Arlington, VA, forwarded to the lockbox thousands of cases that had never undergone initial data entry into USCIS case processing systems.

In processing these cases, the lockbox used the "received" date stamped on the applications by District Office personnel to establish applicants' place in line. For example, if an application had been received by a District Office on June 25, 2003, the "received" date on that applicant's receipt notice should indicate that USCIS received the application on June 25, 2003, even though the "notice" date indicated that USCIS (via the lockbox) did not perform intake data entry until December 15, 2003. Again, USCIS completes processing of the case according to the date it was "received," not the date that intake processing was performed.

To address this problem, USCIC, beginning in December 2004, instructed applicants to begin mailing their applications directly to the lockbox. This "direct mail" arrangement eliminates the time lag associated with sending the cases from District Offices to the lockbox, thus closing the gap between the "received" and "notice" dates.

Background: USCIS utilizes "lockboxes" to perform cash receipting/management and basic data entry functions for a variety of applications. These lockboxes are under contract with the Department of the Treasury (Treasury). USCIS in turn maintains an agreement with Treasury and specifies the business rules under which these lockboxes perform their functions. For example, a JP Morgan Chase lockbox in Chicago services the National Benefits Center.

When a lockbox accepts an application on behalf of USCIS, it generates a receipt notice and sends it to the applicant. The receipt notice contains two dates: the "received" date and the "notice" date. The received date is the date on which USCIS received the application, regardless of where USCIS received the application (e.g., at the lockbox or at a USCIS District Office). The notice date indicates the date on which USCIS, through the lockbox, performed intake processing on the application (i.e., cash receipting and initial data entry).

The received date is the date that establishes an applicant's "place in line." Thus, barring circumstances in a particular case that would prompt USCIS to expedite or delay processing, USCIS completes application processing according to the received date.

11. Applicants who have already received employment authorization from USCIS have to wait 30 days or more for the Social Security Administration to receive verification of their status; and,

Response: The Social Security Administration (SSA) participates in the USCIS' Systematic Alien Verification for Entitlements (SAVE) Program to verify the immigration status and/or work eligibility of non-citizens before issuing a Social Security Number (SSN). For security purposes, SSA will not issue the SSN until the verification is complete.

This verification is conducted electronically, and 75 percent of all queries are verified immediately. However, if the applicant's immigration status/work eligibility information cannot be immediately verified through the SAVE database, which is an extract of USCIS' Central Index System (CIS), and Customs and Border Protection's (CBP) Nonimmigrant Information System, a response of "Institute Additional Verification" is returned.

SSA then completes a Document Verification Request (Form G-845) and mails the form, along with copies of document(s) presented by the non-citizen, to the nearest USCIS field office for further researching and response. DHS has 15 days from receipt of the Form G-845 to reply to SSA.

USCIS has automated this additional verification process and is currently working with SSA to change its systems to accommodate the Web Services Access Method. Once SSA begins using the automated additional verification process, verifications not completed immediately should take no longer than ten business days.

12. Thousands of applicants have waited since 2003 for the FBI to complete their name and background checks because of overburdened, antiquated systems at the FBI.

Response: For the vast majority of cases, the FBI name-check process is timely. We recognize that, in some instances, FBI name-check requests can require much more time to resolve. USCIS has taken several steps to help facilitate resolution of name-check requests that remain in a "pending" status with the FBI as follows:

Background:
In December 2002, as part of an effort to improve the integrity of the FBI background check process, CIS resubmitted 2.6 million records to the FBI for an updated background check. The initial response for approximately two million requests was "no record," while 440,000 name-checks resulted in an initial response of "pending." Currently, there are fewer than 5,500 records that remain PENDING from December 2002.

Since December 2002, the average processing time for the FBI to return an initial name-check response has been two weeks; approximately 80% of the name-check requests result in an initial response of "no record" and 20% have a result of "pending." Most "pending" responses are resolved within four to six weeks and less than 1% remain in a "pending" status beyond six months. To date, CIS has submitted to the FBI more than 5.9 million name-check requests, of which 5.7 million have received a final response and 160,000 remain in a "pending" status.

Review of Usefulness:
In November 2002, and again in 2005 while adopting new procedures for persons seeking certain forms of relief under Executive Office for Immigration Review (EOIR), CIS reviewed the effectiveness and value of the FBI name-check. It was determined that the FBI name-check was very effective in producing information that was not found through traditional background checks performed by CIS. In comparison with other background checks, approximately 50% of the derogatory data produced through the FBI name-check was not produced through any other background check. In many instances, the FBI name-check has produced national security information pertaining to terrorist activities.

Staffing:
CIS has met with the FBI on many occasions to discuss the name-check process and backlog reduction efforts. The FBI indicated the most useful resource would be additional staff support from CIS. Therefore, in March 2005, CIS detailed five staff members to the FBI to assist with reducing the number of pending name-check requests.

UTILITY FACILITY SECURITY

A number of utilities and local governments have converted paper engineering drawings, facility maps and other infrastructure plans to a digital format. This includes nuclear power plants, conventional fuel power plants, pipelines, water supply systems, underground utilities and other critical infrastructure. During the conversion process, much of the work has been subject to price competition. The possibility exists that the converted information is more widely available and could pose a security threat, particularly after 9/11. I understand that several federal agencies have taken steps to restrict access to this type of information. However, the extent and the effectiveness of these policies remains a question. A study was to have been conducted by DHS to assess the potential vulnerability related to this situation.

13. Was such a study conducted? If so, what is the status of that study?

Response: While many government agencies reviewed and eliminated some electronic files related to critical infrastructure on their website, DHS is unaware of any requirement to conduct a study of the potential vulnerabilities resulting from that information. To date, we have not conducted such a study.

CHIEF FINANCIAL OFFICER

14. What is the proposed timeframe for complying with the provisions of PL 108-330, which require that an individual be nominated to the position of Chief Financial Officer within 180 days of October 16, 2004?

Response: We acknowledge the requirement to submit a nomination for the Chief Financial Officer (CFO). DHS has several key leadership positions to fill in order to build the leadership team, so we are thankful that Andrew Maner, our CFO prior to the legislation, continues to be the Department's CFO. The nomination should be forthcoming.

15. In your testimony, you suggested that the current CFO was well qualified for the position. Why has he not been nominated or submitted to the confirmation process, in fulfillment of the requirements of PL 108-330?

Response: Mr. Maner, the current CFO, is very well qualified for the position and is doing an excellent job, serving an important function for the Department. The Department is taking the candidate search for this position very seriously and considers identifying a top quality candidate a high priority.

Questions from Representative Mark Souder

1. Are you at least considering merging the enforcement components of CBP and ICE?

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Response: Following the Department's Second Stage Review (2SR), we concluded that we should not merge CBP and ICE. However, it is critical that we ensure that these organizations coordinate better. I will continue to work closely with the leaders of ICE and CBP to improve cooperation and coordination between these agencies. In addition, following 2SR, I proposed the creation of an Office of Operations Coordination, as well as a Department-wide Office of Policy, to improve operational efficiency and coordination and to centralize and strengthen policy development and coordination. These two entities will help me make certain that the Department's components, including CBP and ICE, are working seamlessly.

2. What specific steps are you taking to improve coordination and cooperation on intelligence and information sharing within the Department?

Response: Improving intelligence and information sharing within the Department was one of the key areas that we studied during 2SR. The Department must operate under a common picture of the threats the country faces, making certain that it is culling, analyzing and fusing intelligence from its many components and then communicating it quickly and effectively to the Department's leadership and the Intelligence Community, as well as to our State, local, tribal and private sector partners. To achieve that important goal, following 2SR we concluded that the Office of Information Analysis, which is currently in the Information Analysis and Infrastructure Protection Directorate, should be elevated to a stand-alone office in order to reach across the Department's components to manage the integration of DHS intelligence activities. As a distinct office and direct report, the renamed Office of Intelligence and Analysis (IA) will be led by a Chief Intelligence Officer. IA will work much more closely with the intelligence capabilities in CBP, Transportation Security Administration, United States Coast Guard, ICE, the United States Secret Service and other Department components. It will also serve as a more effective conduit of information and intelligence to our State, local and tribal partners and other Federal Agencies, including the Director of National Intelligence. We have tasked IA with leveraging the intelligence capabilities of the entire Department, so that it serves as a DHS-wide analytic entity that is empowered to coordinate activities and fuse information from all intelligence offices in DHS.

3. Do you support the House-passed legislation that moved the Shadow Wolves to ICE, and will you expand the program to include other Native American reservations along the northern border?

Response: Established in 1974, the Shadow Wolves program has achieved a great level of success in border protection by merging state-of-the-art crime fighting technology with Native American tracking techniques. It has have an important mission in preventing terrorists from illegally entering the United States and interdicting alien and drug smugglers who do cross our borders. The Shadow Wolves, as a border interdiction entity, is properly placed within CBP.

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We are always looking at opportunities to make our northern border more secure and we will consider many alternatives using the proper mix of personnel, technology and infrastructure to secure the homeland.

4. When are you going to dedicate specific funds to the Office of Counternarcotics Enforcement, to allow it to carry out the coordination and oversight responsibilities that Congress gave it?

Response: The President's FY 06 Budget provides $1.8 million through DHS' Office of the Chief of Staff for the Office of Counter-narcotics Enforcement.

Questions from Representative Carolyn Maloney

[Re: smuggling, through our ports, of nuclear materials, a dirty bomb, or Weapons of Mass Destruction and the cargo screening equipment DHS is purchasing for our ports]

1. What is the nature of the contract under which the devices have been bought? (In responding, please provide me with copies of the Commerce Business Daily or other competition notices, as well as the actual RFPs sent from the government to companies, and an indication of how many companies responded.)

Response: Due to the specialized technical nature of the procurement of radiation detection devices, the Department of Energy (DOE) Pacific Northwest National Laboratory, with CBP oversight, provided direct support of the procurement.

Under the most recent procurement award, offers were solicited from 15 suppliers, and five offers were received: Science Applications International Corporation, Thermo Electron, Ludlum, Canberra and RAD/COMM Systems.

Attachments:
- Federal Business Opportunities Sources Sought Notice 68103 titled "Sensors for detection of radioactive Materials and/or special nuclear materials at border crossings and ports of entry," posted March 4, 2002
- Request for Proposals

2. Have the devices purchased by ICE to image cargo containers, and look for WMDs, been bought on a sole source basis from a single vendor, without competition from other vendors?

Response: No. Radiation Portal Monitor (RPM) detection devices used by CBP to screen incoming containerized cargo for radioactive materials and/or special nuclear materials at border crossings and ports of entry to include seaports were competitively procured and not purchased as sole source from a single vendor.

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In addition, CBP's non-intrusive inspection systems that image containers were procured using various methods. This included R&D development contracts with other agencies, Broad Agency Announcements, and various GSA contracts for commercial products.

3. If so, was a sole source justification document drafted? In responding, please provide a copy of any such document.

Response: Not applicable for competitive procurements.

4. Which contracting groups in DHS control this procurement?

Response: Due to the specialized technical nature of the procurement of radiation detection devices, DOE's Pacific Northwest National Laboratory directly supported this procurement with oversight from CBP's Office of Procurement and the Office of Information and Technology, Applied Technology Division. Beginning in FY 06, the newly established Domestic Nuclear Detection Office (DNDO) will assume the acquisition responsibility for future radiological and nuclear detection capabilities. The contracting staff assigned to the DNDO will conduct the procurement activities under the management of the DNDO systems development and acquisition office. CBP has detailed personnel to DNDO to ensure that its requirements are met and to facilitate transition to deployment for systems successfully chosen through the DNDO competitive process. [Please see response to question 7.]

5. Has there been a full, fair and open competition for procurement of these devices?

Response: Yes, a full, fair and open competition was conducted for the procurement of the RPM systems equipment.

6. Do you agree that lowest cost is not necessarily best value for such devices?

Response: We agree that making procurement decisions based solely on lowest "equipment price" may not be the best method for the selection of highly specialized devices like RPMs. Best value judgments entail the consideration of other important factors beyond the immediate acquisition price like the cost of maintenance, installation expenses, the amount of labor needed for daily operations, equipment reliability and/or its availability to operators. Likewise, system performance must be a critical factor when assessing overall best value. Many life-cycle cost factors should be considered in making procurement decisions about how best to meet our needs for these items within applicable budget constraints. Therefore, the lowest cost is not necessarily the best value.

7. Do you believe DHS should procure by sole source methods when multiple U.S. sources of technology such as this are available?

Response: Certainly the use of competitive procurement procedures is preferred. Sole source acquisition by Government contracting officers is closely managed, including monitoring by

independent competition advocates who review and approve written justifications for higher dollar value noncompetitive contracts. The development and acquisition methodology that has been established by the Department's DNDO is based on sound competitive practices that include selection of new concepts by the issuance of Broad Agency Announcement and in the selection of systems through RFPs. For unique circumstances, sole source procurements or limited competitions will be considered if the market and scope of a particular requirement is limited and specialized in nature and/or other sources cannot meet technical requirements or urgent schedules.

8. Do you think the best technology should be used to detect WMDs in cargo containers, and, if so, why is the Department not using it?

Response: Yes. The Department believes that the RPM using plastic scintillators is, currently, the best commercially available technology for screening cargo containers for WMDs at U.S. ports of entry considering the threat and operational requirements. Through the DNDO, the Department is actively pursuing advanced spectroscopic radiation monitors that are expected to provide significant improvements in both identification of threat versus non-threat material (naturally occurring radioactive material) and in alarm resolution that allows false alarms to be more effectively dismissed. The DNDO is currently conducting a comprehensive test and evaluation program at the Radiological and Nuclear Test and Evaluation Complex at the Nevada Test Site to characterize fully the system performance of the advanced spectroscopic systems as well as systems currently deployed by CBP and DOE. Upon completion of this test series, a competitive process will result in the selection of three systems to enter limited production and operational evaluation prior to committing to full-scale production. The Request for Proposal for the advanced spectroscopic systems is expected to be released in September 2005.

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