

**SECURING THE NATION'S RAIL AND OTHER
SURFACE TRANSPORTATION NETWORKS**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

APRIL 21, 2010

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

66-169 PDF

WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

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ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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SECURING THE NATION'S RAIL AND OTHER SURFACE TRANSPORTATION NETWORKS

WEDNESDAY, APRIL 21, 2010

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:34 p.m. in room SR-253, Russell Senate Office Building, Hon. Frank R. Lautenberg, presiding.

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. We'll call the meeting to order, now that I've broken the equipment, here.

I want to thank each of you, all of you, for being here today and showing your interest in transportation security.

Last month, during the morning rush hour, two huge explosions erupted in Moscow's subway system, killing 40 people. They were killed on platforms, onboard trains. In recent years, we've seen similar bombing attacks in other train systems, including incidents in London, Madrid, Mumbai. We show here, on a chart, what has happened with terror attacks on mass transit and passenger rail service. Going back to 2004, in Spain, 191 people killed; in London, 2005, 52 people killed; Mumbai, 2006, 209 people killed; and the last one, in Moscow, in November of 2009, 27 people were killed then; and again a repeated attack in Moscow last month.

And make no mistake, although these attacks were far from our shores, our rail systems here are also targets. In February, an al Qaeda operative pled guilty to planning a stunning terrorist attack in which bombs would be strapped to suicide bombers and detonated in New York City's subway system. Attorney General, Eric Holder, called this plot one of the most serious threats to the United States since 9/11.

The evidence is clear, we've got to do everything possible to keep our Nation's transportation system safe; and, unfortunately, it's not clear that we're meeting the obligation to keep our passenger rail system, our freight networks, and other surface transportation networks protected. And that's why we're here today.

For years, I've been sounding the alarm that our attention has been too one-sided, that we can't focus on aviation security alone, that we need also to concentrate on safeguarding our surface transportation network. The 9/11 Commission echoed this concern when it characterized the Federal emphasis on aviation security, and here I quote, "as fighting the last war," and noted that, "opportuni-

ties to do harm are as great or greater in maritime and in surface transportation.” That’s why we’ve worked so diligently to provide the Department of Homeland Security and TSA what they needed to secure our Nation against attacks and fulfill their responsibilities under the 9/11 Commission Act.

Still, DHS and the TSA have been far too slow to meet these responsibilities, especially when it comes to addressing rail security. In fact, the 9/11 Act required TSA to complete, by 2008, a comprehensive risk assessment and a national security strategy for the rail sector. They still have not completed either one of these. It’s no wonder, then, that the White House released a report earlier this month in which the National Security Council called TSA to task for its failure to lead in protecting our surface transportation systems.

Imagine what it might mean if a terrorist managed to carry out an attack on any one of these systems. We’ve got 140,000 miles of freight rail track, ushering coal, chemicals, and other materials. Liquid and national gas that fuel our Nation flow through more than one-and-a-half million miles of pipeline. More than 70,000 people board Amtrak trains every day. And 35 million Americans rely on public transportation every day. The bottom line is that we cannot afford to be anything less than vigilant, and that’s why we’re going to keep working to do what it takes to make sure our families, the traveling public, and all Americans are safe.

I look forward to hearing from today’s witnesses about what we need to do to ensure we deter any potential terrorist attack.

I’m pleased to have Senator Hutchison here with me today, and would ask her now if she would like to make her opening statement.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Well, I want to thank you, Senator Lautenberg, for chairing today’s hearing.

And thank all of you for being here.

I will not be able to stay for the whole hearing, but I certainly will look at the information produced here. And, Senator Lautenberg, you have been an ongoing and committed champion of surface transportation, and certainly that includes security, so I think this is a timely hearing.

It has been 8 and a half years since 9/11, and since that time there have been over 700 attacks on rail and bus systems around the world, killing more than 2500 and injuring 10,000. Fortunately, there have not been any successful attacks in America, but, as the Chairman mentioned, there was a plot that was overturned that would have done terrible damage to the New York subway system.

I think that it is time for an open and frank discussion about how we can all take action to close the gaps in addressing surface transportation security. I do believe our transit, rail, and pipeline systems are safer today, due to the actions of TSA, DOT’s modal agencies, Amtrak, the commuter authorities, and private-sector rail, truck, bus, and pipeline companies.

But, despite that fact, the Act, which created TSA, states unequivocally that TSA shall be responsible for security in all modes

of transportation. All indications are that TSA really has more of a supporting role with respect to transit and passenger rail security. TSA mostly encourages security improvements by the freight, rail, motor, and bus carrier, and pipeline sectors, since they are owned and operated in the private sector.

Recent reports by the GAO are cause for concern. GAO has concluded that TSA has still not completed an overall risk assessment of mass transit, the passenger rail system, or the commercial vehicle sector. Its preliminary conclusions, in an ongoing assessment of pipeline security, suggest that TSA is not following up with pipeline operators to make sure that they are making the security improvements included in their security plans.

I'm especially troubled that TSA has so strongly resisted the recommendation of the DHS IG to have TSA inspectors focused on surface transportation security report to an official with surface responsibilities, rather than to supervisors in the aviation arena. I'm concerned that over two-thirds of the recently hired surface transportation inspectors had no surface transportation experience.

The White House apparently is not satisfied either in this area, since it conducted its own independent assessment of surface transportation security. And that was released on April 2, conducted by reaching out to government and private-sector stakeholders, and found that there is a significant overlap in Federal programs and agencies, and a need for more coordination between government agencies with the private sector.

It is critical that TSA, the expert agency on security, step up to the plate and exercise more leadership, while continuing to operate in a collaborative way with surface transportation interests. The first step is the appointment of a TSA administrator, a position that has been vacant for more than a year. I hope the Administration will be sending up a nominee soon who can be confirmed.

The Committee intends to mark up legislation to reauthorize TSA later this year, and we need TSA's recommendations. We want to make informed decisions about transportation security, with input from all the stakeholders.

Now, we know this is a huge area. And we know that there are budget constraints on something that is so vast, but we've got to use our resources wisely, and I think there is evidence that we are not doing as well as we could, even with the resources that we have.

So, Mr. Chairman, thank you for having this hearing, and I will stay as long as I can, and then I know Senator Thune is on his way.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Thank you for chairing today's hearing, Senator Lautenberg, and thank you to all of the witnesses for being here today. I think this hearing is so important. The security of the Nation's surface transportation systems, although long overshadowed by aviation security, is one of the Transportation Security Administration (TSA)'s central missions and must be one of this committee's highest priorities.

It has been eight and one-half years since the terrorist attacks of September 11 and, during that time, there have been over 700 attacks on rail and bus systems around the world, killing more than 2,500 and injuring 10,000. Fortunately, there has not been a successful attack in the United States. But the recent "Zazi" plot

to detonate explosives on the New York City subway system demonstrates the seriousness of the threats to our surface transportation systems.

I have long expressed concern that enough effort and resources are not being committed to secure our transit, passenger and freight rail, highway, motorcoach, and pipeline networks. Currently, the budget for surface transportation security is just \$110 million, a little over 2 percent of TSA's total budget, a level of funding far from commensurate with the level of risk. And while another \$360 million has been appropriated to the Federal Emergency Management Agency (FEMA) for security grants, we clearly are not doing enough in this area. I hope today we can have a frank discussion about what has, and has not, been accomplished since 9-11, and how this committee, together with the Administration, can take action to close gaps in addressing and funding surface transportation security.

I do believe our transit, rail, and pipeline systems are safer today due to the actions of TSA, DOT's modal agencies, Amtrak, the commuter authorities, and private sector rail, truck, bus, and pipeline companies. But despite the fact that the Aviation and Transportation Security Act, which created TSA, states unequivocally that TSA "shall be responsible for security in all modes of transportation," all indications are that TSA sees itself as only having a supporting role with respect to transit and passenger rail security. TSA also seems reluctant, except at the specific direction of Congress, to do more than simply encourage security improvements by the freight rail, motor and bus carrier, and pipeline sectors, since they are owned and operated by the private sector.

Recent reports by the U.S. Government Accountability Office (GAO), and the DHS Inspector General are cause for concern. GAO has concluded that TSA has still not completed an overall risk assessment of mass transit, the passenger rail system, or the commercial vehicle sector. Its preliminary conclusions in an ongoing assessment of pipeline security suggest that TSA is not following up with pipeline operators to make sure they are making the security improvements included in their security plans.

I am especially troubled that TSA has so strongly resisted the recommendation of the DHS IG to have TSA inspectors focused on surface transportation security report to an official with surface responsibilities, rather than to supervisors in the aviation arena. And I am concerned that over two-thirds of the recently hired surface transportation inspectors had no surface transportation experience.

The White House apparently is not satisfied with TSA's performance either, since it conducted its own independent assessment of surface transportation security. That assessment was conducted by reaching out to government and private sector stakeholders, and it found that there is significant overlap in Federal programs and agencies. Clearly, there is a strong need for more coordination between government agencies and with the private sector.

It is critical that TSA, as the expert agency on all security matters, step up to the plate and exercise more leadership, while continuing to operate in a collaborative way with surface transportation interests. The first step, as we all realize, is the appointment of a TSA Administrator, a position that has been vacant for more than a year. I think I speak for the entire Committee when I say that I hope the Administration will be sending up a new nominee—and one who we can confirm—as soon as possible.

The Committee intends to mark up legislation to reauthorize TSA later this year, and we need TSA to come forward with its recommendations. We want to make informed decisions about surface transportation security, with input from all of the stakeholders, and a good understanding of the resources needed to address the risks terrorism poses to our surface transportation network.

Thank you, Mr. Chairman. I look forward to the testimony of our witnesses, and discussing these important issues with them.

Senator LAUTENBERG. Thank you for being with us, Senator Hutchison. Everybody's got lots of things to do. And——

Senator HUTCHISON. Yes.

Senator LAUTENBERG. But, you show your respect for the importance of this hearing and the job that we have to do here, so thank you.

I want to welcome our first panel of witnesses: Mr. David Heyman, the Assistant Secretary for Policy at the Department of Homeland Security; Mr. Stephen Lord, Director of Homeland Security and Justice Issues at the U.S. Government Accountability Of-

rice; and Mr. Carlton Mann, Assistant Inspector General for Inspections at the Department of Homeland Security Office of the Inspector General.

Thank you all for being here.

Mr. Heyman, if you would, you have 5 minutes to give your statement. And if you need more time, I would ask that you submit your full statement for the record, but meanwhile—please.

STATEMENT OF HON. DAVID HEYMAN, ASSISTANT SECRETARY FOR POLICY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. HEYMAN. Thank you. Thank you, Senator Lautenberg, Senator Hutchison.

I'm pleased to appear before you today to discuss safeguarding our Nation's surface transportation systems and the Department of Homeland Security's collective efforts with Federal, state, and local partners to improve the security of these systems.

Safeguarding our Nation's mass transit and passenger rail networks is of critical importance. The Nation's surface transportation infrastructure is a vast, open system of interconnected networks of commuter rail trains, subways, and buses that move millions of our citizens every day, and are vital to our economy and our way of life.

The scope of these networks is impressive. Consider, for example, the New York City subway network has 468 stations, with over 31,000 turnstiles allowing direct access to the subway, and average weekday ridership of over 5 million passengers. Similarly, Amtrak's operations are nationwide, with stations in close proximity to, or collocated with, mass transit stations. The huge benefits of these networks to our Nation include the inherent vastness and openness of the systems, but that, unfortunately, makes them targets for terrorists. As we have sadly learned from attacks in London, Mumbai, Madrid, and Moscow, as well as the New York City subway plot, mentioned by you, Senator Lautenberg.

For the past decade, the Nation's transportation network has been at an elevated risk of attack. The failed and foiled terrorist plots in the past year against mass transit and aviation are powerful reminders that terrorists will go to great lengths to defeat the security measures that have been put in place since September 11.

The Administration is determined to thwart terrorist plots and disrupt, dismantle, and defeat terrorist networks by employing and enhancing the multiple layers of defense that work in concert with one another to secure our country.

A significant way that DHS contributes to enhanced security on all modes of surface transportation is through the award of grants. In Fiscal Year 2009, the Department directed more than \$500 million to mass transit passenger rail agencies through its Transit Security Grant Program; \$78 million in American Recovery and Reinvestment Act funding went to approximately 240 new law enforcement officers at 15 transit systems across the country; and \$72 million in Recovery funds went to capital projects, such as improvements to high density tunnels, stations, and bridges.

The Department has three principal tools in which we address surface security: intelligence, operational deterrence, and infrastructure protection. Through each of these, and through our grant program, our efforts are to secure the Nation's surface transpor-

tation system. But, we do this through what—through the notion of a homeland security enterprise, a collective effort of shared responsibilities of Federal, state, local, tribal, territorial, nongovernmental, and private-sector partners.

This enterprise connotes a broad base of community of common interest in safety and security. It is a partnership. Indeed, strong working partnerships with state and local government, law enforcement, and emergency response officials, and hundreds of transit system operators, private sector and individuals, are critical to the success of surface transportation security programs. The Federal Government has a role to play, and it is also in great partnership with all of these participants.

While there has been significant progress over the last several years in improving surface transportation security, there is still much work to be done. Our mission remains clear: providing the traveling public with confidence that these vital arteries that support our daily lives are secure.

I look forward to working with you and this committee to achieve this goal. I would like to submit my full statement for the record. And I look forward to your questions.

[The prepared statement of Mr. Heyman follows:]

PREPARED STATEMENT OF HON. DAVID HEYMAN, ASSISTANT SECRETARY FOR POLICY,
U.S. DEPARTMENT OF HOMELAND SECURITY

Good afternoon, Chairman Rockefeller, Ranking Member Hutchison, and distinguished members of the Committee. I am pleased to appear today to discuss safeguarding our Nation's open surface transportation systems and the Department of Homeland Security's (DHS) collective efforts with Federal, state and local partners to improve the security of these systems. I appreciate the Committee's efforts in support of this vital mission.

The Nation's surface transportation infrastructure is a vast, open system of interdependent networks that continually moves millions of passengers and millions of tons of commodities. The network and its four subsectors—Mass Transit, Highways, Freight Rail, and Pipelines—are critical to our economic well-being and our way of life. The security of this system is a shared responsibility among many governmental and private sector entities, including DHS.

For the past decade, the Nation's transportation network has been at an elevated risk of attack. The failed and foiled terrorist plots in the past year against mass transit and aviation are powerful reminders that terrorists will go to great lengths to defeat the security measures that have been put in place since September 11, 2001. This Administration is determined to thwart terrorist plots and disrupt, dismantle, and defeat terrorist networks by employing and enhancing the multiple layers of defense that work in concert with one another to secure our country.

President Obama has articulated the need to do more to safeguard surface transportation by building on existing security efforts. The President's guiding principles for homeland security, including working with key stakeholders, investing in the most pressing short- and long-term infrastructure needs, and safeguarding the transportation systems that Americans use every day, will lead to a more resilient surface transportation system that improves public safety and enables efficient commerce.

The Surface Transportation Security Priority Assessment

This Administration recognized that the Nation's surface transportation system is an open and sprawling network and therefore we must look to the capabilities of Federal, state, local and private sector entities to secure the system and address threats through intelligence and the application of a risk-based approach. To this end, the White House led an interagency effort under the aegis of the National Security Staff to assess the security of the surface transportation system and determine what additional measures and initiatives could be undertaken to improve the security of the system.

The result of this effort is the *Surface Transportation Security Priority Assessment*, released April 2, which represents an important step toward further pro-

tecting the traveling public from acts of terrorism. The Assessment presents a thorough review of security efforts in all modes of surface transportation by the Obama Administration during its first year, including mass transit, commuter and long-distance passenger rail, freight rail, commercial vehicles and pipelines. It examines existing surface transportation security priorities, identifies interagency priorities for the next 4 years, provides recommendations on how to address existing policy gaps in surface transportation security efforts, and directs designated agencies to develop implementation plans to accomplish the report's recommendations.

The Administration engaged stakeholders from Federal, state, local and tribal government and the private sector using DHS' National Infrastructure Protection Plan (NIPP) partnership model to furnish input into the comprehensive framework of recommendations set forth in the *Assessment*. In conducting the *Assessment*, common themes and recommendations included the need to enhance security through increased intelligence sharing, vetting, security planning, training, and exercises, improve efficiency and effectiveness, strengthen stakeholder partnerships, and employ a systems management approach to assessing risk. DHS served an active role in the *Assessment* supporting interagency efforts by assigning staff to support and coordinate the drafting of the assessment as well as preparation of the final report.

The *Assessment's* 20 recommendations are the building blocks for advancing our Nation's surface transportation security initiatives. These recommendations are consistent with recommendations received from the DHS Office of Inspector General and the Government Accountability Office (GAO) on how best to provide security in all modes of transportation. Among other things, the recommendations include the following:

- Implement an integrated Federal approach that consolidates capabilities in a unified effort for security assessments, audits and inspections to produce more thorough evaluations and effective follow-up actions to reduce risk, enhance security, and reduce burdens on assessed surface transportation entities.
- Implement a multi-year, multi-phase grants program based on a long-term strategy for surface transportation security.
- Establish an interagency process to inventory education and training (E&T) requirements and programs, identify gaps and redundancies in surface transportation owner/operator E&T, and ensure that Federal training requirements support counterterrorism and infrastructure protection.

These and other recommendations in the *Assessment* reflect the Administration's commitment to goals that are critical to surface transportation security, such as teaming with all government partners and the private sector to identify and reduce risk; improving the efficiency and effectiveness of Federal missions, organizations and programs; strengthening interactive stakeholder partnerships; and application of a systems management approach to surface transportation security.

The Administration remains committed to implementing the recommendations contained in the *Assessment*. Assistant to the President and Deputy National Security Adviser for Homeland Security and Counterterrorism, John Brennan released a memo to Departments and Agencies on April 14, 2010 directing the development of implementation plans for the 20 recommendations contained in the assessment. The implementation plans will:

1. Define actionable and measurable next steps;
2. Identify implementation metrics;
3. Determine a timeline for completion; and
4. Identify stakeholders for engagement in the development of the implementation plans.

DHS was designated in the *Assessment* as the lead Department for implementing 19 of the 20 recommendations. The Department looks forward to continued engagement with Congress on implementation of actions.

Security in All Modes of Surface Transportation

DHS plays a key role in the Administration's efforts to ensure the security of our Nation's surface transportation system. Employing an intelligence-driven and risk-based approach to assessing threats to the system, DHS and its partners have made substantial progress in the past few years in improving surface transportation security in this country. Our efforts to secure the Nation's surface transportation system are a clear illustration of the concept of the homeland security enterprise established by the Quadrennial Homeland Security Review. This concept refers to the collective efforts and shared responsibilities of Federal, state, local, tribal, territorial, and private-sector partners—as well as individuals, families, and communities—to

maintain critical homeland security capabilities. It connotes a broad-based community with a common interest in the safety and well being of America and American society.

Indeed, strong working partnerships with state and local government, law enforcement, emergency response officials, hundreds of transit system operators, private sector groups, and individual citizens around the country are critical to the success of surface transportation security programs. By communicating with one another, sharing intelligence, and planning collaboratively, these stakeholders have created a foundation for both building surface transportation security initiatives and reducing risk. Through national standards, sharing best practices, guidance and regulation, they are putting those initiatives into operation. And by conducting assessments and using metrics to measure our progress, DHS constantly is examining ways to improve security and reduce risk throughout the surface transportation system.

As a result of our risk-based and intelligence-driven approach, DHS has made real progress; some tangible accomplishments include the following:

- DHS' Transportation Security Administration (TSA) has assessed the top 100 U.S. pipeline systems—which transport 84 percent of the energy products in the U.S., such as oil and natural gas—to ensure security standards are being met. Over the past 18 months, TSA has inspected 200 critical facilities related to those pipeline systems, including pumping stations, bridge spans, and control centers.
- With respect to highway security, DHS' U.S. Customs and Border Protection (CBP) secures our northern and southern borders against dangerous passengers and cargo. For traffic within our borders, TSA has issued security guidelines for high hazard material transporters, provided security training for intercity bus and school bus operators, and is assessing key infrastructure vulnerabilities. Through TSA's Hazardous Materials Endorsement (HME) vetting program, all individuals who seek a hazardous materials endorsement to their state-issued commercial driver's license must go through a rigorous vetting program. This program covers approximately three million drivers authorized to transport hazardous materials. Additionally, as this committee is very much aware, TSA has conducted a full security threat assessment of, and issued a Transportation Worker Identification Credential (TWIC) to, 1.6 million workers requiring unescorted access to secure areas of port facilities.
- In freight rail, CBP secures our borders via inbound and outbound inspections, while TSA has reduced the toxic inhalation chemical risk in high threat urban areas by 80 percent since 2006, assessed security at 30 of the 50 key bridges throughout the nation, and issued a rail security rule on toxic inhalants to require a secure chain of custody from shippers to receivers. These impressive risk reduction results are a product of regulatory and voluntary efforts with the rail industry that are a model for the benefits of collaborative, data driven risk reduction.

A significant way that DHS contributes to the enhanced security of all modes of surface transportation is through the award of grants. In FY 2009, DHS directed more than \$500 million to mass transit and passenger rail agencies through the Transit Security Grant Program (TSGP), which focuses specifically on surface transportation; \$78 million in American Recovery and Reinvestment Act (ARRA) funding for approximately 240 new law enforcement officers at 15 transit systems across the country—including approximately \$36 million for 128 new officers at the New York Police Department—to enhance the Nation's ability to guard against acts of terrorism; \$72 million in ARRA funding for capital projects, such as improvements to high-density tunnels, stations and bridges; and \$388 million in Transit Security Grant Program and Freight Rail Security Grant Program funding for projects such as training, operational deterrence, hardening of tunnels, high-density stations and bridges. This funding also enhanced security efforts for Amtrak, which received almost \$100 million through the Transit Security Grant Program for operational deterrence, infrastructure hardening, training and other initiatives.

Additionally, TSA's Mass Transit Security Training Program targets grant funds for recurring training of law enforcement officers and frontline employees in core areas of security awareness, behavior recognition, and immediate response to a threat or incident. DHS also conducts training, workshops, table top exercises, and "lessons learned" sessions that integrate mass transit and passenger rail agencies with regional law enforcement and emergency response partners to expand and enhance coordinated deterrent, threat and incident management capabilities. Par-

ticular emphasis is placed on prevention, specifically broadening capabilities for collaborative activities for deterrence.

In the area of freight rail, TSA earlier this month provided the full Committee, and others in Congress, its study on the feasibility and appropriateness of requiring a non-Federal match for grants awarded to freight railroad carriers—the study was mandated by the Implementing Recommendations of the 9/11 Commission Act of 2007. The particular grants being examined are funded through the DHS Freight Rail Security Grant Program (FRSGP), managed jointly by TSA and the Federal Emergency Management Agency (FEMA). The purpose of FRSGP is to raise the security baseline in freight rail by funding vulnerability assessments and security plans, providing security training to frontline personnel, and installing Global Positioning System (GPS) tracking on railroad cars within the freight rail industry. Of note, the study recommended that a non-Federal match under FRSGP should not be required for certain high-priority projects, such as developing vulnerability assessments and security plans, and providing security training for frontline employees.

The Obama Administration recognizes the critical importance of safeguarding our Nation's mass transit and passenger rail networks. These open access, interconnected networks of commuter rail trains, subways, and buses move millions of our citizens every day and are vital to our economy and our way of life. The scope of these networks is impressive. Consider, for example, that the New York City subway network has 468 stations with over 31,000 turnstiles allowing direct access to the subway, and an average weekday ridership of over 5 million passengers. Amtrak's operations are nationwide, and many Amtrak stations are in close proximity to, or co-located with, mass transit stations.

The huge benefits of these networks to our nation, including the inherent vastness and openness of the systems, unfortunately, makes them prime targets for terrorists, as we have sadly learned from attacks in London, Mumbai, Madrid and Moscow, as well as the New York City subway plot uncovered last year. As an example of the Obama Administration's efforts to meet this threat, in October 2009, Amtrak and TSA partnered to conduct random passenger and baggage screening at multiple locations across the Northeast Corridor. This effort is ongoing and is expected to expand nationwide. Such random screening teams are among DHS' most effective deterrence and detection tools for countering terrorist threats.

Tools for Protecting Surface Transportation

As I have testified in the past, securing our modes of travel is one of the most powerful weapons we have to counter the ability of terrorists to attack us. The tools at our disposal fall into three primary categories:

- *Intelligence* drives our efforts and helps prioritize how we allocate our resources. Our Federal Joint Terrorism Task Forces (JTTFs), composed of DHS and other Federal and state personnel operating under FBI leadership, coordinate Federal and local investigations and information gathering operations and share that information among law enforcement and security partners, both public and private.
- *Operational deterrence* focuses on using Federal, state, and local government personnel and resources in collaboration with private sector partners to prevent, deter, and detect threats from terrorists and criminal organizations. Activities currently employed for this purpose, including explosive detection canine teams and random, unpredictable transportation passenger screening by Visible Intermodal Prevention and Response (VIPR) teams, are highly effective operational tools for deterring and detecting terrorist threats. The funding in the FY 2010 DHS appropriation to expand the number of dedicated VIPR teams from 10 to 25 has been welcome news for TSA and surface transit alike. Congress overwhelmingly approved this funding increase, and we are grateful for your support.
- *Infrastructure protection initiatives*, such as the effective administration of Federal grants for physical security improvements and training, focus on hardening the Nation's critical transportation infrastructures, including underwater tunnels, subway stations, and bridges, as well as educating our fellow citizens to become partners in security. TSA's Transportation Security Inspectors work with state and local officials to assess security vulnerabilities and recommend how to use limited resources to get the most security bang for the buck.

Conclusion

The Obama Administration is dedicated to ensuring the security of our Nation's surface transportation system. As evidenced by the creative and collaborative effort

of the *Surface Transportation Security Priority Assessment*, security for our Nation's surface transportation system is a responsibility shared among key Federal, state, local and private sector partners. DHS, the Department of Transportation, the Department of Energy, and others are working collaboratively with our state and local partners and the private sector, and are making significant strides in improving security.

While the Administration and DHS have made significant progress over the last several years in improving surface transportation security, much work remains to be done. With the additional resources from Congress, expanding collaboration with surface transportation partners and local law enforcement and emergency response officials, and a focus on uncovering and addressing deficiencies in a cost-effective manner, there is a strong foundation and clear path toward meeting our security goals for the Nation's surface transportation systems. Our mission remains clear: providing the traveling public with confidence that these vital economic arteries are secure.

Thank you again for the opportunity to address surface transportation security. I will be happy to answer any questions you may have.

Senator LAUTENBERG. Appreciate that.
Mr. Lord, please.

**STATEMENT OF STEPHEN M. LORD, DIRECTOR,
HOMELAND SECURITY AND JUSTICE ISSUES,
U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. LORD. Thank you, Mr. Chairman and Senator Hutchison, for inviting me to testify at today's hearing.

As you noted in your opening remarks, the recent terrorist attacks in Moscow, London, and Madrid highlight the vulnerability of these systems to terrorist attacks.

Before I begin, it's, first, worth noting that about 2 percent of TSA's 2011 budget request is designated for surface transportation issues, while 80 percent of the budget is designated for aviation security, including the Federal Air Marshal Service.

Today, I would like to discuss the three key issues: first, TSA's use of risk management principles to identify security priorities; second, TSA's efforts to coordinate with other industry stakeholders; third, TSA's efforts to measure the impact of its security improvement initiatives.

Regarding risk management the large body of work we completed in this area has shown that TSA has taken some actions to better manage these risks, but still needs to improve its overall risk assessment process. This will help them identify security gaps and inform the allocation of resources across all transportation modes. For example, our 2009 Risk Management Report found that TSA had not conducted comprehensive risk assessments across the major modes of transportation that would help them identify priorities and judge whether the current levels of investment are appropriate.

In addition, we reported that TSA needs to improve their risk management efforts within each particular mode to help focus their efforts and identify potential security gaps. For example, our April 2009 Freight Rail Report found that TSA's security strategy had focused almost exclusively on rail shipments of toxic inhalation hazards, such as chlorine, which can be fatal if inhaled. And while reported—while we reported that TSA's initial focus was a good first step, we recommended that TSA consider other threats, such as sabotage to bridges and tunnels. The good news is, TSA agreed

with our recommendation and developed a risk tool to help identify vulnerabilities to bridges and tunnels.

We also assessed TSA's risk management efforts in our ongoing review of pipeline security. And although the findings are preliminary, we found a weak statistical correlation between a pipeline system risk rating and the time taken to schedule the very important corporate security reviews of a facility's security plans. Specifically, among the 15 highest risk-rated pipeline systems, the time between a first and second review ranged from 1 to 6 years. And two of these high-risk systems had not had a second review in more than 6 years, even though they were deemed high risk. TSA officials agreed with our observations, but noted that other factors, such as geographical proximity and other related inspection activities, influenced the timing of such reviews.

In terms of coordination, TSA has developed several initiatives to improve coordination with Federal, state, and private-sector partners. However, our recent reports found that these coordination efforts could be improved in many areas. For example, our Freight Rail Report found that TSA was not requesting data on deficiencies and security plans and training, even though the FRA was collecting this information during their inspection process. We believe this information could be useful to TSA. And I'm encouraged that the Administration's Interagency Policy Committee Report on Surface Transportation, that you mentioned in your opening remarks, also highlights the needs for Federal entities to better coordinate their various activities.

Finally, I would like to briefly discuss how TSA measures its progress in improving security. As you may know, TSA has developed national strategies, called "modal annexes," for each surface transportation mode. However, our body of work, collectively, shows that TSA needs to strengthen its efforts to measure whether the goals listed in each of these modal annexes are being achieved.

For example, in June 2009, we reported that TSA's modal annex for mass transit and passenger rail lacked outcome-oriented measures and targets to help assess progress over time. The good news is that TSA agreed with our recommendation to improve the measures, and now more accurately reports results.

In sum, our collective body of work has identified several important steps that TSA could take to improve risk management, coordination with other entities, and the way it measures what all these activities result in, at the end of the day.

Thank you, Mr. Chairman. I look forward to any questions you may have.

[The prepared statement of Mr. Lord follows:]

PREPARED STATEMENT OF STEPHEN M. LORD, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. Chairman and members of the Committee:

I appreciate the opportunity to participate in today's hearing to discuss key surface transportation security issues. Surface transportation modes include mass transit, freight rail, pipeline, and highway systems.¹ Terrorist attacks on surface trans-

¹The six major transportation modes defined in the Transportation Security Administration's (TSA) Transportation Security Sector Specific Plan (TS-SSP) are: aviation; maritime; mass transit; freight rail; pipeline, and highway systems.

portation systems in Moscow, Mumbai, London, and Madrid that caused significant loss of life and disruption have highlighted the vulnerability of transportation facilities to terrorist attacks worldwide.² While there have been no successful terrorist attacks against U.S. surface transportation systems to date, securing these systems is a significant undertaking. In the United States, the surface transportation system includes more than 100,000 miles of rail, 600,000 bridges, more than 300 tunnels, and 2 million miles of pipeline. Securing these systems is further complicated by the number of private and public stakeholders involved in operating and protecting the system and the need to balance security with the expeditious flow of people and goods. Further, surface transportation systems generally rely on an open architecture that is difficult to monitor and secure due to its multiple access points, hubs serving multiple carriers, and, in some cases, lack of access barriers. An attack on these systems could potentially lead to significant casualties due to, for example, the high number of daily passengers, especially during peak commuting hours. In the 2011 budget request for the Department of Homeland Security's (DHS) Transportation Security Administration (TSA), \$137.6 million of the \$8.2 billion total request is for surface transportation security, while \$6.5 billion is requested for aviation security, including the Federal Air Marshal Service.³

My testimony today focuses on the extent to which: (1) DHS has used a risk management framework to guide efforts to strengthen the security of the surface transportation sector, (2) TSA has coordinated its strategy and efforts for securing the surface transportation sector with other Federal entities, states, and private-sector stakeholders, (3) TSA has measured the effectiveness of its surface transportation security-improvement actions, and (4) TSA has made progress in deploying surface transportation security inspectors, and what challenges, if any, it faces in these efforts.

This statement is based on related public GAO reports issued from January 2009 through June 2009.⁴ All of this work was conducted in accordance with generally accepted government auditing standards, and our previously published products contain additional details on the scope and methodology for those reviews. In addition, this statement includes preliminary observations based on ongoing work assessing the security of the Nation's pipeline systems for this committee. This ongoing work, which will be completed later this year, is assessing, among other things, TSA's risk assessment efforts and performance measures for this area of surface transportation. For our ongoing review of pipeline security, we reviewed relevant laws and program management and planning documents, including pipeline performance measures, and interviewed TSA Pipeline Security Division officials to discuss, among other things, their identification of the most critical pipeline systems and their development and use of the pipeline risk assessment model and performance measures. We also analyzed TSA's pipeline risk assessment model by measuring the strength of the relationship between the frequency of Corporate Security Reviews for each pipeline system and that system's ranking based on risk.⁵ We determined that the data we analyzed were sufficiently reliable for the purposes of this statement. Specifically, we reviewed related documentation, interviewed knowledgeable agency officials, and tested those data to identify missing information or

sit (including transit buses, subway and light rail, and passenger rail—both commuter rail and long-distance); highway; freight rail; and pipeline.

²Subway attacks occurred in Moscow March 29, 2010, in Mumbai on July 11, 2006, in London on July 7, 2005, and in Madrid on March 11, 2004. Each attack caused dozens of deaths and injuries.

³Additional funding is requested for accounts such as transportation security support, which supports both aviation and surface transportation security programs. Some of the Federal Air Marshal Service funding support nonaviation activities.

⁴GAO, *Transportation Security: Key Actions Have Been Taken to Enhance Mass Transit and Passenger Rail Security, but Opportunities Exist to Strengthen Federal Strategy and Programs*, GAO 09 678 (Washington, D.C.: June 2009); *Transit Security Grant Program: DHS Allocates Grants Based on Risk, but Its Risk Methodology, Management Controls and Grant Oversight Can Be Strengthened*, GAO 09 491 (Washington, D.C.: June 2009); *Freight Rail Security: Actions Have Been Taken to Enhance Security, but the Federal Strategy Can Be Strengthened and Security Efforts Better Monitored*, GAO 09 243 (Washington, D.C.: Apr. 2009); *Transportation Security: Comprehensive Risk Assessments and Stronger Internal Controls Needed to Help Inform TSA Resource Allocation*, GAO 09 492 (Washington, D.C.: Mar. 2009); *Commercial Vehicle Security: Risk-Based Approach Needed to Secure the Commercial Vehicle Sector*, GAO 09 85 (Washington, D.C.: Feb. 2009); *Highway Infrastructure: Federal Efforts to Strengthen Security Should Be Better Coordinated and Targeted on the Nation's Most Critical Highway Infrastructure*, GAO 09 57 (Washington, D.C.: Jan. 2009).

⁵Corporate Security Reviews are on-site security reviews that TSA's Pipeline Security Division conducts with pipeline operators to develop a firsthand knowledge of operators' security plans and implementation, establish working relationships with key pipeline security personnel, and identify and share good security practices.

outliers. Our ongoing work related to pipeline security is being conducted in accordance with generally accepted government auditing standards. In addition, this statement contains selected updates conducted from September 2009 through April 2010 on TSA's efforts to implement our previous recommendations regarding surface transportation security. In conducting these updates, we obtained new information from TSA regarding the agency's efforts to enhance its surface transportation inspections and meet legislative requirements, among other things. We conducted these updates in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings based on our audit objectives.

Background

TSA is the primary Federal agency responsible for overseeing the security of surface transportation systems, including developing a national strategy and implementing security programs. However, several other agencies, including DHS's Federal Emergency Management Agency (FEMA) and the Department of Transportation's (DOT) Federal Transit Administration (FTA) and Federal Railroad Administration (FRA), also play a role in helping to fund and secure these systems. Since it is not practical or feasible to protect all assets and systems against every possible terrorist threat, DHS has called for using risk-informed approaches to prioritize its security-related investments and for developing plans and allocating resources in a way that balances security and commerce.⁶

In June 2006, DHS issued the National Infrastructure Protection Plan (NIPP), which established a six-step risk management framework to establish national priorities, goals, and requirements for Critical Infrastructure and Key Resources protection so that Federal funding and resources are applied in the most effective manner to deter threats, reduce vulnerabilities, and minimize the consequences of attacks and other incidents. The NIPP, updated in 2009, defines risk as a function of three elements: threat, vulnerability, and consequence. Threat is an indication of the likelihood that a specific type of attack will be initiated against a specific target or class of targets. Vulnerability is the probability that a particular attempted attack will succeed against a particular target or class of targets. Consequence is the effect of a successful attack. In May 2007, TSA issued the Transportation Systems Sector-Specific Plan (TS-SSP), which documents the risk management process to be used in carrying out the strategic priorities outlined in the NIPP. As required by Executive Order 13416, the TS-SSP also includes modal implementation plans or modal annexes that detail how TSA intends to achieve the sector's goals and objectives for each of the six transportation modes using the systems-based risk management approach.⁷

To address the objectives and goals laid out in the TS-SSP, TSA uses various programs to secure transportation systems throughout the country, including Visible Intermodal Prevention and Response (VIPR) teams and Surface Transportation Security Inspectors (STSI). VIPR teams employ a variety of tactics to deter terrorism, including random high-visibility patrols at mass transit and passenger rail stations using, among other things, behavior-detection officers, canine detection teams, and explosive-detection technologies.⁸ STSIs, among other things, conduct on-site inspections of U.S. rail systems—including mass transit, passenger rail, and freight rail systems—to identify best security practices, evaluate security system performance, and discover and correct deficiencies and vulnerabilities in the rail industry's security systems.⁹

In August 2007, the Implementing Recommendations of the 9/11 Commission Act (9/11 Commission Act) was signed into law, which included provisions that task DHS and other public and private stakeholders with security actions related to surface transportation security.¹⁰ Among other things, these provisions include man-

⁶A risk management approach entails a continuous process of managing risk through a series of actions, including setting strategic goals and objectives, assessing risk, evaluating alternatives, selecting initiatives to undertake, and implementing and monitoring those initiatives.

⁷The TS-SSP includes modal annexes for Aviation, Maritime, Mass Transit, Highway Infrastructure and Motor Carrier, Freight Rail, and Pipeline.

⁸TSA VIPR teams, which TSA has reported using since late 2005, work with local security and law enforcement officials to secure any mode of transportation.

⁹STSIs conduct their work by building collaborative working relationships with freight rail carriers, the mass transit and passenger rail industry, and applicable local, state, and Federal authorities.

¹⁰Pub. L. No. 110-53, 121 Stat. 266 (2007).

dates for developing and issuing reports on TSA's strategy for securing public transportation, conducting and updating comprehensive security assessments for public transportation agencies, and ensuring that transportation modal security plans include threats, vulnerabilities, and consequences for transportation infrastructure assets including mass transit, railroads, highways, and pipelines.

TSA Has Taken Some Actions to Implement a Risk Management Approach but Could Do More to Inform the Allocation of Resources across the Surface Transportation Sector

In March 2009, we reported that TSA has taken some actions called for by the NIPP's risk management process, but has not conducted comprehensive risk assessments across aviation and four major surface transportation modes.¹¹ In 2007, TSA initiated but later discontinued an effort to conduct a comprehensive risk assessment for the entire transportation sector, known as the National Transportation Sector Risk Analysis.¹² Consequently, we recommended that TSA conduct comprehensive risk assessments for the transportation sector to produce a comparative analysis of risk across the entire transportation sector, which the agency could use to guide current and future investment decisions. DHS and TSA concurred with our recommendation, and in April 2010 TSA identified planned actions, including integrating the results of risk assessments into a comparative risk analysis across the transportation sector. TSA officials stated in April 2010 that the agency has revised its risk management framework, TS-SSP, and modal annexes. They added that these documents are undergoing final agency review.

In addition, we have previously reported that while TSA has collected information related to threat, vulnerability, and consequence within the surface transportation modes, it has not conducted risk assessments that integrate these three components for individual modes. For example, we reported in June 2009 that TSA had not conducted its own risk assessment of mass transit and passenger rail systems that combined all three risk elements, as called for by the NIPP.¹³ Thus, we recommended that TSA conduct a comprehensive risk assessment that combines threat, vulnerability, and consequence. DHS concurred with this recommendation, and in February 2010, DHS officials said that TSA had undertaken a Transportation Systems Sector Risk Assessment that would incorporate all three elements of risk. In April 2010, TSA stated that this risk assessment is under review. Similarly, the Administration's Transborder Security Interagency Policy Committee (IPC) Surface Transportation Subcommittee's recently issued *Surface Transportation Security Priority Assessment* recognized that assessing transportation assets and infrastructure and ranking their criticality would help target the use of limited resources.¹⁴ Consequently, this subcommittee recommended that TSA identify appropriate methodologies to evaluate and rank surface transportation systems and critical infrastructure.

We have also identified other opportunities to improve TSA's risk management efforts for surface transportation. For example, in April 2009, we reported that TSA's efforts to assess security threats to freight rail could be strengthened.¹⁵ Specifically, we noted that while TSA had developed a freight rail security strategy, the agency had focused almost exclusively on rail shipments of toxic inhalation hazards (TIH), such as chlorine and anhydrous ammonia, which can be fatal if inhaled, despite

¹¹ GAO-09-492. The four major surface transportation modes are mass transit and passenger rail, freight rail, highway, and pipeline. A comprehensive risk assessment approach would assess threat, vulnerability, and consequence to inform the allocation of resources, as called for by the NIPP and the TS-SSP.

¹² Through this effort, TSA intended to estimate the threat, vulnerability, and consequence of a range of hypothetical attack scenarios and integrate these estimates to produce risk scores for each scenario that could be compared among each of the modes of transportation. However, officials stated that TSA discontinued this work due to difficulties in estimating the likelihood of terrorist threats.

¹³ GAO-09-678. Although all levels of government are involved in mass transit and passenger rail security, the primary responsibility for securing the systems rests with the mass transit and passenger rail operators. We have reported that most mass transit and passenger rail systems have made operational enhancements to their security programs, such as adding security personnel or transit police. Some of the largest systems have also implemented varying types of random passenger or baggage inspection screening programs. Additionally, mass transit agencies have invested in capital improvements, including upgrading closed-circuit television systems and installing explosives-detection equipment and silent alarms.

¹⁴ The White House Transborder Security Interagency Policy Committee Surface Transportation Subcommittee, *Surface Transportation Security Priority Assessment* (March 2010). In making its recommendations, the subcommittee gathered input from surface-transportation owners and operators, DHS and DOT, as well as state and local government representatives.

¹⁵ GAO-09-243.

other Federal and industry assessments having identified additional potential security threats, such as risks to bridges, tunnels, and control centers.¹⁶ We reported that although TSA's focus on TIH has been a reasonable initial approach given the serious public harm these materials potentially pose to the public, there are other security threats for TSA to consider and evaluate as its freight rail strategy matures, including potential sabotage to critical infrastructure. We recommended that TSA expand its efforts to include all security threats in its freight rail security strategy. DHS concurred with this recommendation and has since reported that TSA has developed a Critical Infrastructure Risk Tool to measure the criticality and vulnerability of freight railroad bridges. As of April 2010, the agency has used this tool to assess 39 bridges, some of which transverse either the Mississippi or Missouri Rivers, and intends to assess 22 additional bridges by the end of Fiscal Year 2010.¹⁷

Further, we reported in June 2009 that the Transit Security Grant Program (TSGP) risk model includes all three elements of risk, but can be strengthened by measuring variations in vulnerability.¹⁸ DHS has held vulnerability constant, which limits the model's overall ability to assess risk and more precisely allocate funds to transit agencies. We also found that although TSA allocated about 90 percent of funding to the highest-risk agencies, lower-risk agency awards were based on other factors in addition to risk, such as project quality. For example, a lower-risk agency with a high-quality project was more likely to receive funding than a higher-risk agency with a low-quality project. We recommended that DHS strengthen its methodology for determining risk by developing a cost-effective method for incorporating vulnerability information in its TSGP risk model. DHS concurred with the recommendation, and in April 2010 the agency stated that it is reevaluating the risk model for the Fiscal Year 2011 grant cycle. Further, TSA is evaluating the feasibility of incorporating an analysis of the current state of an asset, including its vulnerability, in determining Fiscal Year 2011 grant funding.¹⁹

Additionally, we are currently conducting an assessment of TSA's efforts to help ensure pipeline security; the resulting report will include an evaluation of the extent to which TSA uses a risk management approach to help strengthen pipeline security. Our preliminary observations found that TSA has identified the 100 most-critical pipeline systems in the United States and produced a pipeline risk assessment model, consistent with the NIPP. Furthermore, the 9/11 Commission Act requires that risk assessment methodologies be used to prioritize actions to the highest-risk pipeline assets, and we found that TSA's stated policy is to consider risk when scheduling Corporate Security Reviews—assessments of pipeline operators' security plans. However, we found a weak statistical correlation between a pipeline system's risk rank and the time elapsed between a first and subsequent review.²⁰ In addition, we found that among the 15 highest risk-ranked pipeline systems, the time between a first and second Corporate Security Review ranged from 1 to 6 years for those systems that had undergone a second review. Further, as of April 2010, 2 systems among the top 15 had not undergone a second review despite more than 6 years passing since their first review. TSA officials told us that although a pipeline

¹⁶Shipments of TIH, especially chlorine, frequently move through densely populated areas to reach, for example, water treatment facilities that use these products. We reported that TSA focused on securing TIH materials for several reasons, including limited resources and a decision in 2004 to prioritize TIH as a key risk requiring Federal attention. Other Federal and industry freight rail stakeholders agreed that focusing on TIH was a sound initial strategy because it is a key potential rail security threat and an overall transportation safety concern.

¹⁷We have previously reported that certain bridges, such as those over large rivers, play a key role in the national railroad system because capacity constraints limit options to reroute trains. As a result, incidents limiting or preventing their use could negatively affect the economy by severely delaying rail traffic for significant periods of time and causing transportation system delays and disruption.

¹⁸See GAO-09-491. DHS awards TSGP grant funding to owners and operators of mass transit and passenger rail systems that have used these funds for a variety of security purposes, including developing security plans, purchasing or upgrading security equipment, and providing security training to transit employees.

¹⁹Industry entities have also reported undertaking independent efforts to assess security risks to their systems and operations. These efforts include: (1) a 2008 rail industry security assessment conducted by the American Association of Railroads, which resulted in the identification and prioritization of over 1,000 rail assets, including bridges, tunnels, and control centers; and (2) comprehensive risk assessments that incorporate and combine all three risk elements, which have been conducted by the National Railroad Passenger Corporation (Amtrak) and some individual transit systems.

²⁰We calculated a simple correlation coefficient to measure the strength and direction of the linear relationship between systems' risk rankings and the time elapsed between TSA's first and subsequent Corporate Security Reviews for pipeline systems. The magnitude of the correlation coefficient determines the strength of the correlation. Our preliminary analysis resulted in a weak correlation coefficient score.

system's relative risk ranking is the primary factor driving the agency's decision of when to schedule a subsequent Corporate Security Review, it is not the only factor influencing this decision. They explained they also consider the geographical proximity of Corporate Security Review locations to each other in order to reduce travel time and costs, as well as the extent to which they have worked with pipeline operators through other efforts, such as their Critical Facility Inspection Program.²¹ Better prioritizing its reviews based on risk could help TSA ensure its resources are more efficiently allocated toward the highest-risk pipeline systems. We expect to issue this report by the end of this year.

TSA Has Generally Improved Coordination with Key Stakeholders but Additional Actions Could Enhance Current Efforts to Improve Surface Transportation Security

TSA has developed several initiatives to improve coordination with its Federal, state, and private sector stakeholders. However, we have previously reported that TSA's coordination efforts could be improved. For example, we reported in April 2009 that Federal and industry stakeholders have taken a number of steps to coordinate their freight rail security efforts, such as implementing agreements to clarify roles and responsibilities and participating in various information-sharing mechanisms.²² However, Federal coordination could be enhanced by more fully leveraging the resources of all relevant Federal agencies, such as TSA and FRA.²³ For example, we reported that TSA was not requesting data on deficiencies in security plans and training activities collected by FRA, which could be useful to TSA in developing regulations requiring high-risk rail carriers to develop and implement security plans. To improve coordination, we recommended that DHS work with Federal partners such as FRA to ensure that all relevant information, including threat assessments, is shared. DHS concurred with this recommendation and stated that it planned to better define stakeholder roles and responsibilities to facilitate information sharing. Since we issued our report, DHS reported that TSA continues to share information with security partners, including meeting with FRA and the DHS Office of Infrastructure Protection to discuss coordination and develop strategies for sharing relevant assessment information and avoiding duplication.²⁴

In addition, we reported in January 2009 that although several Federal entities, including TSA and the U.S. Coast Guard, have efforts underway to assess the risk to highway infrastructure, these assessments have not been systematically coordinated among key Federal partners.²⁵ We further reported that enhanced coordination with Federal partners could better enable TSA to determine the extent to which specific critical assets had been assessed and whether potential adjustments in its methodology were necessary to target remaining critical infrastructure assets. We recommended that to enhance collaboration among entities involved in securing highway infrastructure and to better leverage Federal resources, DHS establish a mechanism to systematically coordinate risk assessment activities and share the results of these activities among the Federal partners. DHS concurred with the recommendation. In February 2010, TSA officials indicated that the agency had met with other Federal agencies that conduct security reviews of highway structures to identify existing data resources, establish a data-sharing system among key agencies, and discuss standards for future assessments.²⁶ The Administration's *Surface Transportation Security Priority Assessment* also highlighted the need for Federal

²¹The Pipeline Security Division began inspections under the Critical Facility Inspection Program in November 2008. The program involves on-site physical security inspections of each critical facility of the 100 most-critical pipeline systems.

²²Some rail industry stakeholders have independently implemented other types of operational and procedural changes to secure their hazardous rail shipments, such as making modifications to procedures for how rail companies manage and schedule trains and railcars. Rail industry organizations also play a role in disseminating pertinent information, such as threat communications from DHS and DOT, to their members.

²³See GAO-09-243.

²⁴DHS's Office of Infrastructure Protection is an organizational entity within the National Protection and Programs Directorate, whose mission includes leading the coordinated national effort to reduce the risk to critical infrastructure and key resources posed by acts of terrorism.

²⁵GAO-09-57. The U.S. Coast Guard is the lead Federal agency responsible for the security of the Nation's ports and waterways, which may include highway assets that have a maritime nexus, such as bridges.

²⁶In addition to Federal efforts, highway-sector stakeholders have taken a variety of voluntary actions intended to enhance the security of highway infrastructure. Key efforts include developing security publications, sponsoring infrastructure security workshops, conducting research and development activities, and implementing specific protective measures intended to deter an attack or reduce potential consequences, such as security patrols, electronic detection systems, and physical barriers.

entities to coordinate their assessment efforts. That report included a recommendation to establish an integrated Federal approach that consolidates capabilities in a unified effort for security assessments, audits, and inspections to produce more thorough evaluations and effective follow-up actions for reducing risk, enhancing security, and minimizing burdens on assessed surface transportation entities.

We also reported in February 2009 that TSA, which has the primary Federal responsibility for ensuring the security of the commercial vehicle sector, had taken actions to improve coordination with Federal, state, and industry stakeholders with respect to commercial vehicle security.²⁷ These actions included signing joint agreements with DOT and supporting the establishment of intergovernmental and industry councils. However, we also reported that additional opportunities exist to enhance security by more clearly defining stakeholder roles and responsibilities. For example, some state transportation officials stated that DHS and TSA had not clarified states' roles and responsibilities in securing the transportation sector or communicated to them TSA's strategy to secure commercial vehicles, which in some cases has caused delays in implementing state transportation security initiatives. Industry stakeholders also expressed concerns with respect to TSA communicating its strategy, roles, and responsibilities; leveraging industry expertise; and collaborating with industry representatives.²⁸ As a result, we recommended that TSA establish a process to strengthen coordination with the commercial vehicle industry, including ensuring that the roles and responsibilities of industry and government are fully defined and clearly communicated, and assess its coordination efforts. DHS concurred with this recommendation and in April 2010 reported that its TS-SSP Highway Modal Annex is under review and is expected to delineate methods to enhance communications and coordination with stakeholders.

Using Targeted, Outcome-Oriented Performance Measures Could Help TSA Better Monitor Strategy and Program Effectiveness

In accordance with Executive Order 13416 and requirements of the 9/11 Commission Act, DHS, through TSA, has developed national strategies for each surface transportation mode.²⁹ However, we have previously reported the need for TSA to strengthen its evaluation of the results of its efforts through the use of targeted, measurable, and outcome-based performance measures. Our prior work has shown that long-term, action-oriented goals and a timeline with milestones can help track an organization's progress toward its goals. The NIPP also provides that DHS should work with its security partners, including other Federal agencies, state and local government representatives, and the private sector, to develop sector-specific metrics.

Using performance measures and an evaluation of the effectiveness of surface transportation security initiatives can help provide TSA with more meaningful information from which to determine whether its strategies are achieving their intended results, and to target any needed improvements. For example, in January 2009, we reported that TSA's completion of a Highway Security Modal Annex was an important first step in guiding national efforts to protect highway infrastructure, but it did not include performance goals and measures with which to assess the program's overall progress toward securing highway infrastructure.³⁰ As a result, we recommended that TSA establish a time-frame for developing performance goals and measures for monitoring the implementation of the annex's goals, objectives, and activities. Similarly, in June 2009, we reported that TSA's Mass Transit Modal Annex identified sectorwide goals that apply to all modes of transportation as well as subordinate objectives specific to mass transit and passenger rail systems, but did not contain measures or targets on the effectiveness of operations of the security pro-

²⁷ GAO-09-85. The term "commercial vehicles" refers to vehicles used in the commercial trucking industry (*e.g.*, for-hire and private trucks moving freight, rental trucks, and trucks carrying hazardous materials) and the commercial motor coach industry (*i.e.*, intercity, tour, and charter buses). For the purposes of this statement, we are including them in the highway infrastructure mode.

²⁸ Although all levels of government are involved in the security of commercial vehicles, primary responsibility for securing these vehicles rests with the individual commercial vehicle companies themselves. Truck and bus companies have responsibility for the security of day-to-day operations. As part of these operations, they ensure that company personnel, vehicles, and terminals—as well as all of the material and passengers they transport—are secured.

²⁹ Strengthening Surface Transportation Security, Exec. Order No. 13416, 71 Fed. Reg. 71033 (Dec. 5, 2006). The primary purpose of Executive Order 13416 is to strengthen the security of surface transportation. The executive order requires DHS to assess the security of each surface transportation mode, and evaluate the effectiveness and efficiency of current transportation security initiatives, among other things.

³⁰ GAO-09-57.

grams identified in the annex.³¹ As a result, we recommended that TSA should, to the extent feasible, incorporate performance measures in future annex updates. DHS concurred with both of these recommendations. In February 2010, TSA indicated that the updated annex would incorporate performance measures among other characteristics we recommended, and as of April 2010, the annex is under review. We will continue to monitor TSA's progress in addressing these recommendations.

We also reported in April 2009 that three of the four performance measures in TSA's Freight Rail Modal Annex to the TS-SSP did not identify specific targets to gauge the effectiveness of Federal and industry programs in achieving the measures or the transportation-sector security goals outlined in the annex.³² We also reported that TSA was limited in its ability to measure the effect of Federal and industry efforts on achieving the agency's key performance measure for the freight rail program, which is to reduce the risk associated with the transportation of TIH in major cities identified as high-threat urban areas. This was because the agency was unable to obtain critical data necessary to consistently measure results. We reported that TSA was unable to obtain critical data necessary to consistently calculate cumulative results for this measure over the time period for which it calculated them—from 2005 to 2008. In particular, some baseline data needed to cumulatively calculate results for this measure were historical and could not be collected. As a result, the agency used a method for estimating risk for its baseline year that was different than what it used for calculating results for subsequent years.

Consequently, to help ensure the strategic goals of the modal annex are met and that TSA is consistently and accurately measuring agency and industry performance in reducing the risk associated with TIH rail shipments in major cities, we recommended that TSA ensure that future updates: (1) contain performance measures with defined targets that are linked to fulfilling goals and objectives; and (2) more systematically address specific milestones for completing activities and measuring progress toward meeting identified goals. We further recommended that TSA take steps to revise the baseline year associated with its TIH risk reduction performance measure to enable the agency to more accurately report results for this measure. DHS concurred with these recommendations and has indicated that it will incorporate them into future updates of its Freight Rail Modal Annex, which will be designed to more specifically address goal-oriented milestones and performance measures. In April 2010, TSA stated that the agency has revised its risk management framework, TS-SSP, and modal annexes and that these documents are undergoing final agency review.

In addition to developing performance measures to assess the success of its security strategies, we have also identified the need for TSA to develop or enhance its performance measures for specific programs such as the TSGP, VIPR Program, and pipeline security programs. Specifically, in June 2009, we reported that the TSGP lacked a plan and milestones for developing measures to track progress of achieving program goals.³³ While FEMA—which administers the grants—reported that it was beginning to develop measures to better manage its portfolio of grants, TSA and FEMA had not collaborated to produce performance measures for assessing the effectiveness of TSGP-funded projects, such as how funding is used to help protect critical infrastructure and the traveling public from possible acts of terrorism.³⁴ We recommended that TSA and FEMA collaborate in developing a plan and milestones for measuring the effectiveness of the TSGP and its administration. DHS concurred with our recommendation, and in November 2009, FEMA stated that it will take steps to develop a plan with milestones in coordination with TSA. Likewise, the administration's *Surface Transportation Security Priority Assessment* discussed the importance of establishing a measurable evaluation system to determine the effectiveness of surface transportation security grants and recommended that TSA coordinate with other Federal agencies, including FEMA, to do so.

In June 2009, we reported that TSA had measured the progress of its VIPR program in terms of the number of VIPR operations conducted, but had not yet developed measures or targets to report on the effectiveness of the operations themselves.³⁵ TSA program officials reported, however, that they were planning to intro-

³¹ GAO-09-678.

³² GAO-09-243. The transportation-sector goals identified in the Freight Rail Modal Annex include: (1) prevent and deter acts of terrorism against the transportation system, (2) enhance resiliency of the U.S. transportation system, and (3) improve the cost-effective use of resources for transportation security.

³³ GAO-09-491. The purpose of the TSGP is to provide funds to protect critical surface transportation infrastructure and the traveling public.

³⁴ In Fiscal Year 2008, FEMA's Grant Programs Directorate became responsible for administering TSGP grants.

³⁵ GAO-09-678.

duce additional performance measures no later than the first quarter of Fiscal Year 2010. They added that these measures would gather information on, among other things, (1) interagency collaboration by collecting performance feedback from Federal, state, and local security, law enforcement, and transportation officials prior to and during VIPR deployments; and (2) stakeholder views on the effectiveness and value of VIPR deployment. In April 2010, TSA reported that the VIPR program introduced four performance measures for Fiscal Year 2010; these measures will be reported quarterly.³⁶ TSA has also stated that it has identified performance targets for these measures, which it will revisit when baseline program data is available.

As part of our ongoing review of TSA's efforts to help ensure pipeline security, we are assessing the extent to which TSA has measured efforts to strengthen pipeline security.³⁷ While our work has not been completed, our preliminary observations have identified that TSA has taken actions to measure progress as called for by the NIPP, but could better measure pipeline security improvements. More specifically, our preliminary observations have identified that effective performance measurement data could better inform decisionmakers of the extent to which pipeline security programs and activities have been able to reduce risk and better enable them to determine funding priorities within and across agencies. Also, developing additional performance measures—particularly outcome-based measures—that assess the effects of TSA's efforts in strengthening pipeline security and are aligned with transportation-sector goals and pipeline security objectives could better enable TSA to evaluate security improvements in the pipeline industry. Our upcoming report that will be issued later this year will provide additional details.

TSA Has More Than Doubled Its Surface Transportation Inspector Workforce but Faces Challenges in Balancing Priorities and Directing Current and Future Workforce Needs

Over the past 2 years, TSA has reported having more than doubled the size of its Surface Transportation Security Inspection Program, expanding the program from 93 inspectors in June 2008 to 201 inspectors in April 2010.³⁸ Inspectors have conducted baseline security reviews that assess, among other things, the overall security posture of mass transit and passenger rail agencies and the implementation of security plans, programs, and measures, and best practices. However, TSA had not completed a workforce plan to direct current and future inspection program needs as the program assumes new responsibilities associated with the implementation of certain provisions of the 9/11 Commission Act by passenger and freight rail systems.³⁹

Since establishing the inspection program in 2005 to identify and reduce vulnerabilities to passenger rail and ensure compliance with passenger rail security directives, TSA has expanded the roles and responsibilities of surface inspectors to include additional surface transportation modes—including mass transit bus and freight rail—and participation in VIPR operations. For example, as of April 2010, TSA's surface inspectors had, among other things, conducted security assessments of 142 mass transit and passenger rail agencies, including Amtrak, and over 1,350 site visits to mass transit and passenger rail stations to complete station profiles, which gather detailed information on a station's physical security elements, geography, and emergency points of contact. However, we also reported that TSA faced challenges in the following areas:⁴⁰

- *Balancing aviation and surface transportation priorities:* We reported in June 2009 that TSA has reorganized its field unit and reporting structure since establishing the inspection program, and surface inspectors raised concerns about its effect. These reorganizations placed TSA's surface inspectors under the command of Federal Security Directors and Assistant Federal Security Directors for Inspections—aviation-focused positions that historically have not had an active

³⁶According to TSA, the four measures introduced in Fiscal Year 2010 for the VIPR program include: (1) total VIPR asset deployments; (2) completion percentage at high risk locations; (3) percentage of national special security event; and (4) percentage of primary stakeholders with repeat deployments.

³⁷TSA has not issued pipeline security regulations, but works with the pipeline industry to implement suggested security measures to make pipeline systems more secure. Private companies who own and operate pipeline systems are responsible for assessing their own specific security needs and incur the costs associated with implementing security measures.

³⁸TSA intends to hire an additional 179 surface inspectors in Fiscal Year 2010. According to TSA, the April 2010 data includes headquarters staff.

³⁹See, for example, Pub. L. No. 110-53, §§ 1512, 1517, 121 Stat. 266, 429-33, 439-41 (2007).

⁴⁰GAO-09-678.

role in conducting surface transportation inspection duties.⁴¹ According to TSA, these changes were designed to support its pursuit of a multimodal workforce and ensure a more cohesive and streamlined approach to inspections. However, we noted that surface inspectors raised concerns that these changes had resulted in the surface transportation mission being diluted by TSA's aviation mission. Among these concerns is that the surface inspectors were being assigned airport-related duties, while aviation inspectors had been assigned surface responsibilities that had affected performance in conducting follow-up inspections to determine progress mass transit and passenger rail systems had made in addressing previously-identified weaknesses. TSA officials reported that they had selected their current command structure because Federal Security Directors were best equipped to make full use of the security network in their geographical location because they frequently interacted with state and local law enforcement and mass transit operators, and were aware of vulnerabilities in these systems.

- *Workforce Planning*: At the time of our June 2009 report, TSA did not have a human capital or other workforce plan for its Surface Transportation Security Inspection Program, but the agency had plans to conduct a staffing study to identify the optimal workforce size to address its current and future program needs. TSA reported that it had initiated a study in January 2009, which, if completed, could provide TSA with a more reasonable basis for determining the surface inspector workforce needed to achieve its current and future workload needs. However, in March 2010, TSA officials told us that while they were continuing to work on the staffing study, TSA did not have a firm date for completion.

Mr. Chairman this concludes my statement. I look forward to answering any questions that you or other members of the Committee may have at this time.

Senator LAUTENBERG. Thank you very much, Mr. Lord.

And now, Mr. Carlton Mann, Assistant Inspector General for Inspections at the U.S. Department of Homeland Security Office of the Inspector General.

Mr. Mann, please.

STATEMENT OF CARLTON I. MANN, ASSISTANT INSPECTOR GENERAL, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. MANN. Good afternoon, Chairman Lautenberg and Ranking Member Hutchison. Thank you for the opportunity to testify on the challenges within the surface transportation mode confronting Transportation Security Administration.

Mr. Chairman, as you noted in your remarks, the terrorist incidents abroad have underscored the need to focus more on mass transit, highways, pipelines, and freight rail. Within the last 2 years, we've issued several reports related to surface transportation issues, including the Surface Transportation Security Inspector Program. In total, we made 14 recommendations to TSA to promote more efficient, effective, and economical operations. I'd like to highlight, briefly, the results of those reviews.

In June 2008, we issued an inspection report, TSA's Administration and Coordination of Mass Transit Security Programs. This report addressed the strengths and weaknesses of TSA's oversight and assistance programs for mass transit rail. Our goal was to evaluate how well TSA managed these programs and how well the programs met the security needs of the major mass transit rail systems.

We identified important challenges to improve transit rail security. For example, we observed unclear chains of command, insuffi-

⁴¹ Federal Security Directors are the highest-level TSA officials at an airport and provide operational leadership for transportation security responsibilities within an airport.

cient guidance, inadequate communication, and TSA's need to be more consistent in its interaction with its mass transit rail stakeholders. In that report, we recommended that TSA place surface inspectors under the direct authority of a TSA headquarters official responsible for surface transportation.

And, Ranking Member, as you noted, TSA did not concur with that recommendation.

As mandated in the 2011 Commission Act, we conducted a follow-up review of surface inspection—of the Surface Inspection Program. In February 2009, we issued a report: *The Effectiveness of TSA's Surface Transportation Security Inspectors*. We determined that TSA needed to look critically at how it is deploying resources and assess how planned exercises could use inspectors better. The program appeared to be understaffed for the long term, and aviation-focused command structure had reduced the quality and morale of the workforce. TSA concurred with our recommendation to examine how many inspectors it needed to perform necessary functions by assessing current and anticipated duties.

We also recommended, again, that TSA place the surface inspectors under the direct authority of a TSA headquarters official. And once again, TSA did not concur. TSA stated its belief that the current surface command structure did not inhibit its inspectors' effectiveness.

In August 2009, TSA informed us that it was conducting a staffing study of its entire inspection work force. In September 2009, we learned that TSA began to implement a multi-phased restructuring of its surface resources. The restructuring plan appeared to affect numerous senior staff within the surface inspector program. TSA has not formally communicated how the reorganization will strengthen the surface inspection program, or whether the plan will enable surface inspectors to operate adequately and independently of TSA's aviation security mission.

In March 2010, we issued a report: *TSA's Preparedness for Mass Transit and Passenger Rail Emergencies*. In that report, we evaluated TSA's effectiveness in assisting passenger rail and mass transit stakeholders with preparing for and responding to emergencies. We noted that TSA could support passenger rail agencies better by improving its assessments of emergency preparedness and response capabilities. TSA can also ensure that drills and exercises are more realistic. We believe that will help strengthen response capabilities.

TSA has focused primarily on security and terrorism prevention efforts, while providing limited staff and resources to emergency preparedness and response. As a result, passenger rail agencies and the first responders they rely upon, may not be prepared to handle all emergencies. TSA concurred with that report's four recommendations.

While most of my statement summarizes weaknesses in TSA's Surface Transportation Security Programs, it is important to point out that we generally found that TSA's surface inspector assessments and domain initiatives are helpful and have been effective.

We certainly look forward to working with the Department to identify ways to strengthen its surface transportation security.

Sir, that concludes my statement. I'd be glad to answer any questions that you may have.

[The prepared statement of Mr. Mann follows:]

PREPARED STATEMENT OF CARLTON I. MANN, ASSISTANT INSPECTOR GENERAL,
U.S. DEPARTMENT OF HOMELAND SECURITY

Good afternoon Chairman Rockefeller, Ranking Member Hutchison, and distinguished members of the Committee. Thank you for the opportunity to testify on challenges within the surface transportation mode confronting the Transportation Security Administration. When discussing transportation security, people usually think of aviation security first. However, terrorist incidents abroad have underscored the need to focus more on surface transportation modes—mass transit, highway, maritime, pipelines, and freight rail.

The Aviation and Transportation Security Act of 2001 gave the Transportation Security Administration authority and responsibility for securing all modes of transportation. Congress further clarified TSA's oversight role with the 9/11 Commission Act. Beginning in 2004, TSA increased its efforts to mitigate the vulnerability of mass transit rail systems across the United States. This was accomplished by introducing mass transit stakeholder security forums; developing guidance, memorandums and directives; using its Surface Transportation Security Inspection Program (STSI) to provide voluntary vulnerability assessments; and providing support through grants and direct operational assistance.

Within the last 2 years, we have issued several reports related to surface transportation issues, including the STSI Program. I would like to highlight the results of those reviews. Most of my statement focuses on our findings and recommendations. However, it is important to point out that we also reported that TSA's surface inspector assessment and domain initiatives have been effective, and have helped the program achieve many of its goals.

In June 2008, we issued an inspection report, *TSA's Administration and Coordination of Mass Transit Security Programs*. This report addressed the strengths and weaknesses of TSA's oversight and assistance programs for mass transit rail, including the Surface Transportation Security Inspection Program, the Transit Security Grant Program, the Visible Intermodal Prevention and Response (VIPR) Program, and the National Explosives Detection Canine Team Program. Later that year, we conducted a follow-up inspection and in February 2009 issued another report, *Effectiveness of TSA's Surface Transportation Security Inspectors*. This report addressed the strengths and weaknesses of TSA's Surface Transportation Security Inspectors. Most recently, in March 2010, the OIG issued a report, *TSA's Preparedness for Mass Transit and Passenger Rail Emergencies*. It addressed TSA's effectiveness in supporting mass transit and passenger rail stakeholders with preparing for and responding to emergencies. In total, we made 14 recommendations to TSA to promote more efficient, effective, and economical operations.

In our mass transit report, we identified important challenges to improve transit rail security, meet the needs of mass transit authorities, and comply with legislation, which expanded TSA's statutory authority and responsibility. In our review of the Surface Transportation Security Inspector program, we concluded that TSA needed to look critically at how it is deploying resources. The central issue in both reports was the mission, organization, and command structure of its surface inspectors. In particular, its command structure appeared to be aviation-focused.

This year, we evaluated TSA's effectiveness in supporting mass transit and passenger rail agencies in preparing for and responding to emergency incidents. That evaluation overlapped our previous reports in one respect. In our earlier reports, we discussed TSA's use of the Baseline Assessment for Security Enhancement Program and pointed out that they have led to security improvements in the mass transit systems reviewed, but did not analyze the BASE program or processes. In our most recent report, we identified weaknesses in the BASE program's ability to assess passenger rail stakeholders' emergency preparedness and response capabilities.

Following is a more detailed summary of each report.

TSA's Administration and Coordination of Mass Transit Security Programs (OIG-08-66)

The purpose of our review was to evaluate TSA's four largest oversight and assistance programs for mass transit rail: the Surface Transportation Security Inspection Program, the Transit Security Grant Program, the Visible Intermodal Prevention and Response program, and the National Explosives Detection Canine Team Program. Our goal was to evaluate how well TSA managed these programs and how well the programs met the security needs of the major mass transit rail systems.

The 9/11 Commission Act, which was enacted shortly after we began this review, introduced new mass transit rail standards and responsibilities for TSA. Where we

obtained information on the status of TSA compliance with standards introduced by the 9/11 Commission Act, we included it in our report. The review did not encompass TSA's responsibilities for freight rail and for intercity passenger rail, or for other forms of mass transit, such as buses. We conducted our fieldwork from June 2007 to October 2007.

We reported that TSA could improve certain aspects of each of these mass transit security programs. We observed unclear or unduly complex chains of command; an unclear mission, insufficient guidance; and insufficient communication. TSA needed more consistency in its interactions with mass transit rail stakeholders—who were at odds over the best approach for allocating funds and prioritizing projects for the Transit Security Grant Program—although it acknowledged and attempted to address some early missteps that strained stakeholder relationships. Nonetheless, we noted TSA should further integrate stakeholder expertise to implement more effectively its oversight and assistance programs and fulfill its responsibility for mass transit security. We reported considerable satisfaction among mass transit agencies using the National Explosives Detection Canine Team Program.

The report contained seven recommendations aimed at improving the TSA's oversight and assistance programs for mass transit rail. TSA concurred, or concurred in part, with recommendations to direct its Transportation Security Network Management office to provide Transportation Security Inspectors information and updates on the rail-related programs. TSA also agreed to develop procedures for incorporating asset-specific risk and vulnerability assessments, including information provided by Transportation Security Inspectors, into the grant decision-making process and grant guidance; include in its annual report to Congress how it used grants to implement its transportation security goals; and each grant recipient's assessment of the grant application and award process. In addition, TSA acknowledged the need to seek Memorandums of Agreement with all relevant transit authorities regarding VIPR deployments; and revise grant program eligibility criteria to allow start-up funds for mass transit systems that do not already have a canine explosive detection unit.

TSA did not concur with our recommendations to place the Transportation Security Inspectors—Surface under the direct authority of a TSA headquarters official responsible for surface transportation, and to develop specific, feasible security standards for mass transit systems.

A few of the report's recommendations are not yet resolved, pending additional information from TSA and the resolution of recommendations in the follow up STSI report.

Effectiveness of TSA's Surface Transportation Security Inspectors (OIG-09-24)

The 9/11 Commission Act directed that we evaluate the performance and effectiveness of TSA's Transportation Security Inspectors-Surface and whether there is a need for additional inspectors. The act stated, "Not later than September 30, 2008, the Department of Homeland Security Inspector General shall transmit a report to the appropriate congressional committees on the performance and effectiveness of surface transportation security inspectors, whether there is a need for additional inspectors, and other recommendations." We conducted our fieldwork from February to July 2008.

We determined that TSA needed to look critically at how it is deploying resources, and assess how planned exercises could better use the inspectors and their activities. The program appeared understaffed for the long term and an aviation-focused command structure had reduced the quality and morale of the workforce.

TSA agreed that Transportation Security Inspectors and their unique expertise in mass transit and rail should be integrated into VIPR planning and deployment. TSA stated that it has addressed the potential role of Transportation Security Inspectors in its *VIPR Team Capabilities and Operational Deployment* guide. TSA did not agree that Transportation Security Inspectors' comprehensive inspection activities, such as BASE and Security Action Item reviews, should be integrated into VIPR operations.

TSA concurred with our recommendation to examine how many inspectors it needed to perform necessary functions by assessing current and anticipated future duties, and then expand the Transportation Security Inspector workforce to ensure that each field office has sufficient staffing. However, at the time of our report we did not agree with the approach TSA proposed to carry out this recommendation.

TSA did not agree with our earlier recommendation, which we repeated in this report, to place the Transportation Security Inspectors-Surface under the direct authority of a TSA headquarters official who is responsible for surface transportation. TSA did not agree that the Transportation Security Inspector command structure inhibited the inspectors' effectiveness and we were unsuccessful in persuading TSA

to implement this recommendation. Ultimately, in the absence of a commitment from TSA management to modify its command structure, we retracted our original recommendation and instead recommended that TSA eliminate practices that undermined efforts to establish a more transparent chain of command. In its last update, TSA indicated that it was taking steps to strengthen communication between the STSI program and Federal Security Directors and their staffs in the field.

TSA's Preparedness for Mass Transit and Passenger Rail Emergencies (OIG-10-68)

The purpose of this audit was to evaluate TSA's effectiveness in assisting passenger rail and mass transit stakeholders with preparing for and responding to emergencies. We conducted this performance audit between April and August 2009, and the OIG issued its final report in March 2010.

We determined that TSA could better support passenger rail agencies by improving its assessments of emergency preparedness and response capabilities. TSA can also improve its efforts to train passenger rail agencies and first responders, and ensure that drills and exercises are live and more realistic to help strengthen response capabilities. TSA has focused primarily on security and terrorism prevention efforts, while providing limited staff and resources to emergency preparedness and response. As a result, passenger rail agencies and the first responders that rely upon may not be adequately prepared to handle all emergencies or mitigate their consequences.

The report made four recommendations. TSA concurred with, and took corrective actions for, all four recommendations.

Evolution of the Surface Transportation Security Inspector Program

The STSI program's organization and chain of command continues to evolve, but in a manner which is not consistent with our recommendations. As discussed above, we reported our concerns twice about the organization and authority for the program and in both reports recommended that TSA place the responsibility for the STSI program with an official at TSA headquarters. After considering TSA's comments on the STSI report, we revised our recommendation to TSA to eliminate practices that undermined efforts to establish a more transparent chain of command.

In December 2006, TSA shifted from a system where Transportation Security Inspectors reported to surface-focused supervisors to a system where they reported to aviation-focused supervisors. TSA reorganized the program to match the field command model for aviation and cargo inspectors. Supervisory Transportation Security Inspectors became Assistant Federal Security Directors-Surface (AFSDs-Surface) who reported to the local FSD. The FSD was the administrative manager, but the STSIP headquarters office still set the priorities and provided the budget resources for the inspectors in the field. AFSDs-Surface, therefore, effectively had two chains of command.

In May 2008, TSA made further changes. In primary field offices that have an AFSD-Surface, Transportation Security Inspectors were reporting to that individual. In satellite field offices without an AFSD-Surface, inspectors were reporting to the local Assistant Federal Security Director—Inspections (AFSD-Inspections). However, the AFSD-Surface at the nearby primary field office still mentored and advised all surface inspectors within that area, even when they were not under his or her direct command. Under this structure (at the time of our report), 55 (37 percent) of Transportation Security Inspectors were reporting to an AFSD-Surface, and the remaining 95 (63 percent) were reporting to an aviation focused AFSD-Inspections.

At the time, we also observed several problems regarding FSDs' involvement with the STSIP that were leading to tension and confusion over the program's chain of command. In response to our STSI report, TSA stated that it chose this command structure because FSDs are better able to use the security network in the area. TSA noted that FSDs frequently interact with state and local law enforcement and mass transit operators. TSA believes that FSDs understand the vulnerabilities and challenges of the mass transit modes "in their backyard." In our final report, we maintained that the program continued to operate differently than that outlined in a management directive that TSA cited.

In August 2009, TSA informed us that it was in the process of conducting a formal independent comprehensive staffing study of the entire inspection workforce, to include surface, with the results due in the fourth quarter of Fiscal Year 2009. TSA has not communicated the results of its study.

In September 2009, we learned that TSA began to implement a multi-phased restructuring of its Office of Security Operations, Office of Compliance, Surface Inspection and Oversight to meet mission demands and to utilize resources better. TSA planned to abolish positions, establish new positions, realign some functions among positions, and reallocate resources among field offices throughout the coun-

try. The restructuring plan appeared to affect numerous senior staff within the surface inspector program. To our knowledge, TSA has not formally communicated how the reorganization will strengthen the STSI program and resolve the primary issue raised in our reports. On a broader level, we remain concerned whether this plan will better enable surface resources to operate adequately and independently of TSA's aviation security mission.

Thank you for the opportunity to discuss these matters. We look forward to continuing our work with the department to identify ways to strengthen surface transportation security. I would be pleased to answer any questions you might have.

Senator LAUTENBERG. Thank you all very much for your testimony.

Mr. Heyman, the 9/11 Act set a number of deadlines for securing our surface transportation system, but TSA has missed many of these deadlines. One of the deadlines was a comprehensive risk assessment and national security strategy for our Nation's rail system. This was due last year, and I'm asking you, I hope for the last time, when the Department will complete this long overdue risk assessment. What do you say to that?

Mr. HEYMAN. Senator, the risk assessment is in interagency review right now. It should be coming to Congress after that review is complete.

Senator LAUTENBERG. After what?

Mr. HEYMAN. After that review is complete.

Senator LAUTENBERG. When will that be?

Mr. HEYMAN. These—the interagency review process is one which you have comments from agencies, and it goes through the OMB process, and they have to be adjudicated by TSA. So, depending upon the comments that are—get back—matters of weeks, probably.

Senator LAUTENBERG. Mr. Heyman, that doesn't sound very good. I reminded you, in my question, that the report was due last year. And to be told now that, "Well, they'll get it done when the comment period is over," that is outrageous.

I used to run a corporation, I can tell you that we wouldn't have permitted that kind of thing to take place. And I don't understand the delay, with the risk that we've got, just in New Jersey, 150,000 people ride the train every day. The area that I live in abuts the area that is declared by the FBI to be the most appealing target for a terrorist attack in the country. The two-mile stretch between Newark Airport and the Harbor is filled with chemical companies and all kinds of threats to human safety. We're walking around, with a bureaucratic delay. It's not fair to the people who we serve, you and I and Senator Hutchison and all of us, to say, "Well, it's work in process." I hope that something better can come out of this.

The National Security Council recently released a report, finding that TSA has failed to take the lead on coordinating surface transportation security efforts. What specific actions does TSA plan to take in order to address the NSC's recommendation? How long is that going to take?

Mr. HEYMAN. First, Senator, I share your concern about the delays on the risk assessment. As somebody who was sworn in last summer and have taken a look at some of the recommendations that have yet to be implemented, let me assure you that it is a priority to move quickly as we can through these types of recommendations that have not been completed. The—if there is a sil-

ver lining on this, about 90 percent of the 9/11 recommendations have already been put in place. But, the risk assessment needs to be completed, and I share that with you.

Even so, during the grant processes, which is one of the most effective tools that we have for putting in place security at these places, the—they are—the investments are based on risk. They are done, looking at threat, looking at vulnerability. Those risk assessments have been completed, and, as you say, rightly, New York is not only—and the New Jersey corridor—not only of greatest risk, but has also received perhaps the greatest amount of funds, as a result of that. And that's a reflection of the risk assessments that have been done to promote the grant programs.

As it pertains to the White House Report, the TSA played a leadership role in supporting that effort. It was an interagency report that was completed with the contributions of the Department of Transportation and the Department of Energy and the Department of Homeland Security. And a—I met, yesterday, with the President's advisor at Homeland Security. He is very much interested in putting forward an implementation plan which will be delivered to the White House at the end of next month.

Senator LAUTENBERG. I'm told that 36 of 77 recommendations for surface security have not yet been completed. I can tell you, Mr. Heyman—nothing personal here, but I'm not comforted by the response that you gave. The fact that you're a relatively recent arrival, you're called in as the next management group, and it's not very heartwarming to hear the fact that we're going to still be delayed on one part of this, and—we're talking about something that was begun a long time ago.

So, I would say to you, take the message back to the Secretary of DHS that we're going to look further into this. I am absolutely dissatisfied with the response given.

Excuse me, Senator Hutchison, for running it a little longer, I want to hear from you, please.

Senator HUTCHISON. No, I appreciate your line of questioning.

Let me talk about the area of the inspectors. In the February 2009 report to Congress on the effectiveness of TSA's surface transportation inspectors, the DHS inspector general noted that TSA has its surface-focused inspectors report to aviation-focused supervisors, rather than surface-focused supervisors. Two-thirds of the inspectors hired after the reorganization had no rail or mass transit experience.

The IG concluded that, the current TSI command structure inhibits TSI effectiveness, and recommended, three times, that TSA place surface inspectors under the authority of a TSA official that is surface-transportation-oriented. TSA rejected the recommendation each time, and the IG's office ultimately backed off the proposal.

Mr. Heyman, your policy of having surface-focused inspectors report to aviation-focused supervisors, and the hiring of surface inspectors with no surface experience, doesn't seem like a good way for TSA to address the issues that we are concerned about, the security issues in surface transportation. Could you explain how you are trying to achieve this with this kind of IG report?

Mr. HEYMAN. Senator, thank you. I have looked at that IG report, and I know those at TSA who I've spoken with have looked at it. And I believe that there is an interest—an additional recommendation in the report about the command-and-control structures, in terms of how those inspectors are implemented and deployed into the field. I know that TSA has said that there is a broader interest in reorganizing that to more effectively deploy inspectors. And I believe that they will be doing so. I suppose that part of the challenge, of course, is that, even though there has been a change in administration, there has not, at this point, been a TSA Administrator. And, of course, those kinds of reorganizations or changes are usually left for the incoming team. But, I think the—that the report was, as you said, well received by TSA. And I think they are looking to implement that with new leadership on board.

Senator HUTCHISON. OK. So, you are saying, today, that you think the inspectors hired will, going forward, have surface experience, and also that there would be a surface person as the supervisor?

Mr. HEYMAN. I'm not quite sure how the—how it will be organized, but I know that they will look into that. And I'm happy to give you additional information after the hearing.

Senator HUTCHISON. I would—well, I'd like to have the information when there is a policy that is set, if it, in fact, is going to change, because I certainly would have questions, going forward, and probably of the nominee for TSA—

Mr. HEYMAN. Sure.

Senator HUTCHISON.—when that appointment is made.

TSA's current policy only requires the surface transportation inspectors for the top 50 transit systems to visit the property once every 3 years. Does that seem like enough supervision if the transit agencies know that, once an inspection is done, that they won't be inspected for 3 years? And is that still the policy?

Mr. HEYMAN. That is the policy, as far as I know. The inspections are in sync with the granting cycle, and so, it is meant to synchronize funding and assessments. There are about 5,000 transit sites across the country, and with—given the limited inspectors, that's the tempo of operations, I think, that can be sustained at this point.

Senator HUTCHISON. I'd like to ask Mr. Lord and Mr. Mann, number one, Do you think that it is a good policy to indicate to an agency that they will have an inspection once every 3 years? Number two, Do you think surface inspectors should still report to aviation supervisors?

Mr. Mann, you have recommended that the surface-focused inspectors report to surface transportation people.

And, Mr. Lord, you have indicated, in your reports, that they should have surface transportation experience.

So, would you speak to this and let's see if—

Mr. LORD. Sure. I'd be glad to.

Senator HUTCHISON.—we can generate some—

Mr. LORD. The—in regard to your first question, I'm a little concerned about locking the inspectors into a rigid schedule, primarily because if you fully embrace a risk-based approach, I would argue,

you should focus your management time and resources on the highest-risk facilities. So, they may want to revisit that policy. You can't—it's not one-size-fits-all, obviously. If you have higher-risk facilities and you are—and you haven't embraced risk management principles, I would argue you should focus where the risks are greatest first, then use scarce resources to look elsewhere.

In terms of this issue of reporting to the aviation-side of the house, obviously those are where the biggest programs are. That's the most visible component, in some respects, of the agency's operations. This has been a longstanding problem. I don't think there is a simple solution. I know we have met with the inspectors. They believe the function needs to be elevated, organizationally.

And I was encouraged by the fact that H.R. 2200, the TSA Reauthorization Act, which passed the House last year, it would elevate the surface inspector function within the agency. And perhaps that's one mechanism you could use to, you know, ensure more attention is focused on it, if you have higher-level officials leading the effort within the agency.

Senator HUTCHISON. Mr. Mann?

Mr. MANN. Infrequent inspections does pose some risk. But, I also agree with my colleague, Mr. Lord, that where the risk seems to be greatest is perhaps where we should not be locked into a rigid schedule of every 3 years and perhaps do something more frequently or more unannounced.

Regarding the—we've made it clear that we've recommended that TSA should have its surface transportation inspectors report directly to a person in TSA, for a variety of reasons. First of all, the Federal security directors are aviation-focused, and generally do not have the surface transportation expertise. The chain of command is somewhat convoluted, simply because direction comes from headquarters, it comes from the Federal security directors. And we've got those inspectors, who are out on the ground, getting conflicting—sometimes conflicting messages, and certainly getting messages from several different sources. And we stand by our recommendation that TSA should have a central person at TSA headquarters in charge of the surface transportation program.

Senator HUTCHISON. Well, thank you.

My time is up. And we now have other Senators to ask questions. I would just say that I hope that you, Mr. Lord and Mr. Mann, both of you, will continue to make these recommendations. There's no reason to back down. I know that this is a big area, and I know that there's no TSA Administrator. Those are certainly legitimate concerns. But, I think we do need to have much better use of our taxpayer dollars. And I think we can do better. And I hope that the next leader that is appointed for this agency is of the same mind and will take some of the advice from the GAO and the IG.

Thank you very much.

Senator LAUTENBERG. Thank you, Senator Hutchison.

Senator Thune, the Ranking Member of the Subcommittee, we are pleased to have you with us.

Senator LAUTENBERG. Please.

**STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you, Mr. Chairman. Thank you for holding this hearing.

I want to thank our panelists today for being here and sharing their perspectives on an issue that's very important to this country and to our economy. Transportation infrastructure is critical, and all of the different modes are, at some point or another, vulnerable or susceptible to attacks. We want to make sure that we are taking all the steps that are necessary to protect that infrastructure.

Let me ask a question, if I might, Mr. Heyman. What do you see as the biggest threat to surface transportation security? And which surface modes, if you can discuss this in an open session, are most vulnerable to a terrorist attack? And how prepared are we to prevent that sort of an attack?

Mr. HEYMAN. Thank you, Senator. Welcome.

Let me just say, generally speaking, we are still concerned about aviation threats and surface threats, as it pertains to mass transit. The discussion that we've had here, the recent events that we've seen over the last year, and the recognition of this being a largely open networks of—network of networks creates great challenges and, obviously, opportunities for those who seek to do harm. We are, as noted, trying to take a risk-based approach to buy down the risk at the highest value and highest concerns. We do that across all modes of transportation. This past year, we are completing our multimodal risk assessment, for the purposes of assessing where the next investments go. But, this is an area that we do need to be concerned about. And I can give you more details in a classified briefing.

Senator THUNE. OK, thanks.

And I would, I guess, direct this to Mr. Lord. We've got 2 million miles of pipeline across this country, including over 6,000 miles in my home State of South Dakota pipelines that carry oil, natural gas, and other products. Given that a threat to our Nation's pipelines could have some grave economic consequences, how should TSA use risk management to calibrate its attention to critical threats to the Nation's pipeline and, consequently, our energy supply?

Mr. LORD. Well, they've taken the first step. They've ranked—they developed a list of the 100 critical pipeline facilities, based on risk. And even though our observations are preliminary, our upcoming report is going to suggest, and use that risk information as part of your inspection process. Use it to help guide you on where the—you conduct your corporate security reviews, how frequently you get out there to make inspections. And also, once you do identify a problem, we think it's very important to have a follow up mechanism to ensure any deficiency and planning you identify is implemented.

So, it's—they're at the first step, and our report's going to highlight the need to carry forward what they're doing. You know, have a more frequent inspection process at the higher risk facilities. And third, follow up on any deficiency, to close the loop, so to speak.

Senator THUNE. Mr. Mann, there is a DHS IG report on the effectiveness of TSA's surface transportation security inspectors, and

in that report, TSA rejected the IG's recommendation to have surface inspectors report to fellow surface transportation experts; instead, they are reporting to TSA airport personnel. My question is, Are TSA's surface inspectors expected to be multipurpose field inspectors, jacks-of-all-trade instead of masters of a particular field?

Mr. MANN. It is our understanding that they are not. In fact, one of the assistant Federal security directors, in fact, told us that these inspectors, who are aviation-oriented, are incapable of doing most of the duties that the surface inspectors are required to do.

Senator THUNE. The FRA has about 400 safety inspectors across the country. Is it possible for those inspectors to be trained to handle security responsibilities to improve efficiency and lower the cost of inspections to the taxpayers?

Mr. MANN. I think it is possible.

Senator THUNE. Thank you.

Thank you, Mr. Chairman.

[The prepared statement of Senator Thune follows:]

PREPARED STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

Thank you, Mr. Chairman, and thank you for holding this important hearing. I also want to thank all of our witnesses for being here today.

While aviation security gets most of the public's attention, the security of our Nation's surface transportation system—our railroads, highways, and pipelines—must also be a national priority and a priority for this committee. The past few years have seen attacks on rail transit systems in major cities throughout the world including London, Madrid, and Moscow, as well as an unsuccessful plot to detonate explosives on the New York City subway system.

In addition to keeping passengers secure, we must also work to keep our Nation's freight network secure. Many rural states, including my state of South Dakota, depend on surface transportation to ship their products within the United States, and around the world. An attack on our Nation's surface transportation system could disrupt the timely delivery of goods and significantly weaken our Nation's economy.

The private sector, and the railroads in particular, should be commended for their leadership following the 9/11 terrorist attacks in putting in place their own security plans, and installing cameras, fencing and other security equipment to "harden" facilities. The Transportation Security Administration (ISA) seems to have taken a collaborative approach in working with the private sector transportation companies, a good approach I believe, because initiatives to guard against terrorism must be balanced with the need to not place undue burdens on commerce.

I do find the conclusions of the recently released White House assessment on surface transportation security rather troublesome. At a time of record Federal deficits, the last thing we need are duplicative security programs and overlapping responsibilities among Federal agencies. I hope our witnesses will have recommendations for how DHS, and if necessary, Congress, can more clearly delineate roles and responsibilities for surface transportation security.

Thank you again, Mr. Chairman, and I look forward to hearing from our witnesses.

Senator LAUTENBERG. Thank you, Senator Thune.
Senator Warner?

**STATEMENT OF HON. MARK WARNER,
U.S. SENATOR FROM VIRGINIA**

Senator WARNER. Thank you, Mr. Chairman.

Thank you, gentlemen. I've just got couple of quick questions. One is—and obviously recognizing that some of this could fall in the classified area—as a Senator from the Commonwealth, I am very concerned about the safety of Metro. Recognizing some incidents in both Moscow in Madrid over the last year and a half, I'd

love for you to tell us about what we should do more here in the Nation's capital, in terms of safety and security around Metro. And whether this area poses any unique challenges. When you think about how Metro intersects with the challenges of three different jurisdictions—you've got a Metro system, you've got a VRE system, you've got a separate Maryland rail system, you've got CSX, you've got this configuration of all these different systems coming together within the national capital area to move people around. And I would love to hear—again, respecting the confidentiality of some of these aspects, any comments you might have, particularly Secretary Heyman and Mr. Mann or Mr. Lord. Any one of you.

Mr. LORD. I'll go first. I don't mind. The—without divulging anything classified—and I'll defer to Mr. Heyman on the threat information—I think, obviously, the arrest of Mr. Zazi, up in New York, shows terrorists are determined to attack our systems. And as the DHS IG recently pointed out, we perhaps need to spend more time dealing with the emergency response. You know, what happen—what do we do if something happens, and how to actual—respond to an actual emergency, give more training to front-line staff, have more joint exercises with all the emergency responders. I thought the IG did a nice job of laying that out in their March 2010 report. So, obviously you have to be concerned about threats, but you also have to focus on, "Well, what do we do if something happens?" And this is all public-level information.

Mr. MANN. Sure. I think—I thank goodness our intelligence enterprise is what it is, first of all. To have perhaps shortcut any planned attacks against our systems, as well as the total Federal response, with regard to security, as well as heightened awareness, even regular citizens. I mean, we're all—all of us who ride the Metro are certainly more aware of items being left unattended. I mean—so, overall, the heightened awareness, I think, is a very good thing.

But, I think four things really come to mind, with regard to what do we really need to do—or what does TSA need to do: more people, more resources, more training, better systems.

Senator WARNER. Well, let me follow up that. It's recognizing that so much—and particularly of our surface transportation system—is in private hands. Beyond simply more personnel, are there efficient but lower-cost ways to partner more with our private-sector partners in the surface transportation—

Mr. MANN. I think they are. One of the things that we have—we commented on in our reports is that TSA needs to do a better job of interacting with our transit stakeholders. There's a lot of expertise there that we're not certain that TSA has actually taken advantage of. So, we'd like to see a closer collaboration, take advantage of that knowledge that the individuals on the ground who are doing this all day, every day, bring to the table, to be able to provide us with a more efficient, and just a better—a safer environment for our public travelers.

Senator WARNER. Let me move to one other subject matter. I recognize that I'm joined by Senator Udall, and he'll want to ask some questions, as well. This is an area of concern beyond just the TSA realm, which is how we do a better job of measurements and metrics in all of our government performance. I noticed that one of

the TSA's deficiencies in GAO's risk management was that TSA had not developed performance measures for all surface activities. I think this is a challenge, not just for surface, but clearly across the whole way.

How do we get milestones and metrics that we can use to measure your performance, other than the avoidance of a catastrophic event? From an oversight standpoint, what should the public expect, in terms of truly measurable milestones that we should look to, to measure the performance, staying focused on the surface transportation area? Recognizing if you don't have that whole, "Here are the 47 points we ought to be looking at as our checklist," how do we get to that checklist so that we can do our job and work with you in evaluating your performance?

Mr. HEYMAN. So, on the—let me just say that the approach to performance metrics is a challenge across most areas, as you said. And in surface transportation, or transportation, broadly speaking, what we have started to do and to look at is the first level of analysis, which is, Have they done the training program that you required of them? Have they taken the preparedness steps that they should, whether it's emergency response, whether it's on law enforcement, behavioral-detection training? Have they put in place the capital investments for infrastructure hardening? Those steps are measurable. And while not on the level of—you suggest risk avoidance, so to speak, you can start measuring the buydown of risk. And we are starting to look at it that way.

Let me just also add, on your previous question—in fact, the Washington metropolitan area has in some sense an advantage, the challenges that other private-sector entities face or—in terms of receiving funding, because it's a regional entity, it can apply for grants, based—it has some benefit for applying for grants on a regional basis, in terms of either UASI grants, in addition to the normal transit grants, and that can be applied to Metro, if so needed.

And I would also add that one of the challenges we face—and this was actually in the White House report, but also the Department has made this recommendation, as well—and that's the multiyear capital investments. And what we want to be able to do is to say, over a period of time, "These are the capital investments we're going to do." We need to be able to design it and build it, and that takes time. And so, we need to put our grant programs in that order, as well, and have the funding linked to that. So, those are both an opportunity and a challenge.

Senator WARNER. As somebody who's grappled with these regional issues as Governor and now Senator, to actually see there's an advantage of this three-part jurisdiction sometimes is harder to see. I would love to come back and revisit with you, at some point, how we work through this, and recognizing it's an enormous challenge, other metrics we can measure, in terms of performance. Because, again, your challenge is—your success will be—the less we know about what you're doing is perhaps the best evidence of success, but we've got to also have some other milestones. And I do think your training is a good example. And, kind of, putting some procedures in place, but there probably needs to be additional—

Mr. HEYMAN. Yes, we're happy to do that.

Senator WARNER. Thank you.

Thank you, Mr. Chairman.
 Senator LAUTENBERG. Thank you very much.
 Senator Udall.

**STATEMENT OF HON. TOM UDALL,
 U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you very much, Chairman Lautenberg.

The area I wanted to focus on, but I also wanted to follow up on what Senator Warner was asking about—the first area is, these other countries where they’ve had attacks, you know the Moscow subway, what went on in Madrid and London—are those countries using the approach that we have? Or are they applying the model that we have with TSA with government people? What approach are they taking? And is there anything to learn from that?

Mr. HEYMAN. We work closely, have a good relationship with our British colleagues, and have learned from them, and also shared best practices, looking at ways of detecting or disrupting plots in advance, as well as engaging in what we call “operational deterrence.”

The three pillars to the—to our approach to transit security: intelligence, operational deterrence, and infrastructure protection. The centerpiece there on operational deterrence has to do with, “How do you prevent something from happening to—before it does?” That involves gaining the support and the involvement of the public, bringing your private-sector partners into having a greater understanding of the threat, and putting in place teams, like we’ve just started today, our VIPR teams in New York, for supporting local law enforcement in detection of explosives, and surge capacity, in terms of presence, when you have intelligence to address.

Senator UDALL. In the British example, are they partnering—or do they actually have TSA-type people onsite doing security with the rails? How is the British model specifically done?

Mr. HEYMAN. So—transport—the Ministry of Transport oversees the rail and transit security. And they work both with local law enforcement, as well as their own officers. And I’m happy to give you more details—

Senator UDALL. OK.

Mr. HEYMAN. All right.

Senator UDALL. OK. Tell me how the passenger rail and bus companies and others in the United States—how they’re doing on Senator Warner’s metrics and milestones? When you talk about training programs, about putting in place the capital investments, things like that. Where are they? And how far do they have to go?

Mr. HEYMAN. So, on training, the—there’s a challenge of getting the information, to know where they—where we are. We’ve done some surveys to assess the level of training. I think where we—what we’ve determined is, about two-thirds of the folks in the agencies have received training. And each year, we try to do more.

One of the things that we’ve done in the last year or so, for grants, is to add funding for—first of all, to prioritize rail, above all else, because of congressional interest, and, as well, it’s a national interest, but—the Congress has made that clear, as well—but also to provide funding for backfill. So, for—in order for some-

body to get training, they have to take time off of their job, and you have to backfill that individual. And the challenge that we saw, over a number of years, was that people would not be able to go take training, because we—there was no funding for the time-and-a-half overtime for the backfill. So, there's now funding available for that, to help improve that. We'll get beyond the 63 percent or so.

Senator UDALL. Great. Thank you very much.

And, Senator Lautenberg, I would thank you for holding this hearing and having such an interest in this and showing your leadership. Thank you.

Senator LAUTENBERG. Thank you very much, Senator Udall.

One of the things that I think is quite apparent here is that we're late on lots of things. Almost, I'm going to say, delinquent. When we think about the fact that 2 million people each day get in an airplane, on average, and 35 million get into transit—2 million, aviation; 35 million daily, in transit. And there are so many susceptibilities out there.

And I would say this—and I'm directing this aside to Mr. Heyman and the Department—and that is, "Get on the stick, here. Get going." This is an outrage, that it has taken so long. This is like the traffic cop, standing on the sidewalk and watching the traffic go by, and think about when he ought to interrupt the flow to keep the cars from crashing into one another. It's not acceptable, Mr. Heyman.

After the Moscow subway attack that killed 40 people, injured dozens more, a number of transit agencies across our country visibly increased their security presence. But, we've heard very little from TSA. When, heaven forbid, there's something to be aware of in aviation, we hear about it. But, after a major terrorist attack on a mass transit agency, though off our shores, shouldn't the agency responsible for our Nation's transportation system take a lead in communicating with the public, letting people know whether or not they're at unusual risk?

I remember the days of the color classification of threat. And I thought it was one of the worst things that I'd ever seen, because they would say "purple" and not tell you what to do. It didn't say stay away from the bridges, so all it did is make everybody nervous, but not more protected.

So, don't you think that TSA ought to be out there, talking to the people across the country, and giving them some assurances, some advice?

There's so much conversation about it, we have nice officers here from Amtrak, senior officers here. And I use Amtrak a lot, and I see them, and there is a presence. I think, in many of the large systems, that the presence is largely that of the local agency that runs security, and it's disheartening.

I want to ask either Mr. Lord or Mr. Mann, are DHS and TSA prepared to respond, if necessary, to an attack like the ones that occurred in Moscow or other passenger rail and mass transit systems throughout the world? What do you think?

Mr. MANN. Sure. In our March report, we questioned that very premise. The TSA's focus is terrorism and prevention. We're not so certain that it is as capable to respond and mitigate.

Senator LAUTENBERG. Any comments, Mr. Lord?

Mr. LORD. The—I think one activity they have ramped up in response to the recent attacks are the so-called VIPR deployments. These are visible intermodal protection and response teams. They're—they—they're aimed at deterring possible attacks on passenger rail and mass transit. But, these are more episodic, they—they're short-term. Over the longer term, I think it's important to reach out to the transit agencies and passenger rail companies themselves, because, as Senator Hutchison noted in her opening remarks, TSA's role is more supportive and indirect. It's different—fundamentally different from the aviation sector, where they Federalized that function. They control your access to the airport. So, they have to work hand in hand with other agencies and providers to provide that. So, they have a less visible role, based on how it's currently organized.

Senator LAUTENBERG. Therefore, in order to best protect our people who travel in transit, shouldn't they be more clear in their communications about what needs to be done, and, do the risk assessment plan, and at least give guidelines out there? The surface transportation lays down conditions that have to be met in order for communities to get grants. But, I don't know that TSA has provided any direction at all. And its, as I said, disheartening.

So, Mr. Heyman, you've heard from people today, and listened to your colleagues at the table. And I would hope that it's understood, at TSA. We heard talk about VIPR recently. Does TSA do anything to evaluate, for instance, the performance of these VIPR teams? And if GAO suggested some weaknesses, or at least asked for measures to determine the effectiveness of VIPR—where is TSA on these things?

Mr. HEYMAN. On the VIPR teams—first, I want to thank you and Congress for supporting additional funding for expanding of the VIPR teams. We have done red-teaming to address the effectiveness, and we've compared VIPR teams as a deterrent to action, versus other type of surge, such as additional local transit officers on the beat. And it has—is—it has consistently shown to be more effective as a deterrent for adversaries than other means. And so, we are red-teaming it. We are looking at continuing to perfect the deployment of the VIPR teams. And, as I think I noted, we have, just following up on the Moscow concern, deployed, for the first time, in New York City, today, VIPR teams in support of law enforcement for explosive detection. And we will continue to look at doing that. We've been doing that for the last year on the Northeast Corridor on Amtrak. And we'll continue to expand that program.

Senator LAUTENBERG. We'll keep the record open. Thank you.

Do you have something you wanted to add, Mr. Lord?

Mr. LORD. Yes, sir, Mr. Chairman. I—in my prior response, I would like to add, on a very important point, we're currently evaluating TSA's efforts to disseminate information—

Senator LAUTENBERG. Thank you.

Mr. LORD.—down to the local level. And we'll be formally reporting on that toward the end of the year. We're looking at the various mechanisms they have to help push information out to the transit agencies and passenger rail.

Senator LAUTENBERG. We'd like to hear from you as quickly as it can be developed.

Mr. LORD. Sure. Thank you.

Senator LAUTENBERG. Mr. Mann, did you—

Mr. MANN. Yes, sir. I'd just like to follow up what Mr. Lord said. This is not necessarily a TSA initiative, but the Department of Homeland Security is ramping up its Fusion Center concept, where intelligence on emerging threats, if it happens to be against a transit system, can, in fact, be pushed down to the effective system. And that's a very robust endeavor. It's improving. And we expect to have a national Fusion Center concept, where information can be shared online—when I'm saying “we,” the Department—soon.

Senator LAUTENBERG. We await with interest.

Thank you, each. And we'll keep the record open for a while and ask you to respond to any inquiries sent to you promptly, please. Thank you very much.

And I would call the second panel to the table: Mr. John O'Connor, Chief of Police, Acting Vice President of the Office of Security and Special Operations at Amtrak; Joseph Kelly, who is the Acting Chief of Police of New Jersey Transit; and Mr. Skip Elliot, the Vice President for Public Safety and the Environment for CSX.

[Pause.]

Senator LAUTENBERG. Thank you, all.

And I would now ask Mr. O'Connor to give us your testimony. Try to keep it to 5 minutes. We won't be too tough on the clock, but we do have to move along.

So, sir, welcome. Please, let's hear from you.

**STATEMENT OF JOHN O'CONNOR, VICE PRESIDENT AND
CHIEF OF POLICE, AMTRAK POLICE DEPARTMENT,
NATIONAL RAILROAD PASSENGER CORPORATION**

Mr. O'CONNOR. I'll do my best, Senator.

Good afternoon, Mr. Chairman, and thanks very much for the opportunity to testify.

My name is John O'Connor. I am currently the Chief of Police of the Amtrak Police Department. I have over 37 years' experience as a sworn police officer in the rail and mass transit environment, as both the Chief of Police for Amtrak, as well as for Long Island Railroad in my first career.

I'm here today to discuss policing on surface transportation systems and the critical task we are facing in combating terrorism. The Administration has been studying this matter and has just released its Surface Transportation Priority Assessment Report. We are in broad agreement with many of the recommendations it contains, such as the allocation of resources to address likely threats, information sharing, and the need to fund a multiyear security grant programs.

The need for focus, though, is critical, because, while terrorists can employ many tactics, attacks on surface transportation usually take three forms: the use of an improvised explosive device, or IED, on a train; the use of an IED in a station; or the new emerging threat of an active shooter scenario. Those are the three threats that I think we need to focus on in surface transportation.

The pattern is unmistakable. IEDs were used to attack trains in Madrid in 2004; London, 2005; Mumbai, 2006; Moscow on several occasions, including last month, to name a few. Active shooters also attacked a station in Mumbai in 2008. And according to the Mineta Transportation Institute, since January of 2007, there have been 284 attacks against surface transportation; of those, 130 were against rail.

There's obviously a range of threats, and our approach to them can range from "do nothing and hope for the best" to "spread your resources and attempt to respond to every possible threat, at the risk of underpreparing for the most probable threats."

We must identify the most likely threats, assess the likelihood and consequences, and focus our efforts on defending against those identified threats. We are working closely with countries around the world to share information and experience.

I recently traveled to Mumbai as part of a State Department initiative to exchange information and collaborate on strategy with Indian rail officials. Amtrak has become the first American rail police department to become an associate member of RAILPOL, a European organization of rail and transit police agencies cooperating to share intelligence, coordinate activities, and improve counterterrorism capabilities. These experiences have helped us understand the need for closer collaboration on all levels of government and among surface transportation agencies.

Today, the Amtrak Police Department is reorganizing to address these concerns. We have undertaken a number of initiatives to address these likely attacks. First and foremost is the expansion of our canine program. We have a poster here that depicts that. We have expanded our program from 20 canines to more than 45 teams, 10 of which have the capability of detecting suicide bombers. We've instituted random baggage screening, started in 2008, fashioned after the program started by the New York Police Department. We've had great collaboration with the TSA, including the deployment of VIPRs since the year 2007. And this year, as mentioned by a previous panel, we began joint screenings with TSA agents on Amtrak.

We are also heavily involved in DHS and ARRA grants, in our corporate security division, protecting our infrastructure. One of our biggest efforts is to form law enforcement partners. And the poster, there, depicts one of our operation alerts, where we have organized more than 150 police agencies, between Virginia and Maine, to deploy on a single day.

Earlier there was a question, "Can we respond in the event of an attack?" These types of exercises allow us to very quickly deploy not only our assets, but assets up and down a major area of the country.

Two more items are employee training and public outreach—we've invested heavily in that; and intelligence coordination. We have several members assigned to Joint Terrorism Task Forces around the country.

I'll be happy to elaborate on these initiatives during the question-and-answer period.

As Amtrak has more than 500 stations in 46 States, we face great challenges, with limited resources. Consequently, we are en-

thusiastic about programs that help us to bring more people, technology, and animals to bear on the task of keeping our systems secure. We are also working to improve cooperation with transit and commuter agencies, many of which share our facilities, to close the gaps that we see in coverage where systems meet. While we are definitely concerned about the whole spectrum of threats, we will continue to devote the bulk of our efforts to defending against the most likely and dangerous forms of attack. In future budgets, we will submit funding requests that will detail our needs, in that regard.

The security of our system is our top priority, and Amtrak looks forward to working with the Committee in the coming months to make sure that we have the resources, the people, and the intelligence to keep our system safe and secure.

Thank you once again for the opportunity to be here today, and I will be glad to answer any questions the Committee may have. [The prepared statement of Mr. O'Connor follows:]

PREPARED STATEMENT OF JOHN O'CONNOR, VICE PRESIDENT AND CHIEF OF POLICE,
AMTRAK POLICE DEPARTMENT, NATIONAL RAILROAD PASSENGER CORPORATION

Good morning, Mr. Chairman, and thanks very much for the opportunity to testify. My name is John O'Connor, and I am currently Vice President and Chief of the Amtrak Police Department; we have a total of 416 sworn officers. I have over thirty-seven years experience as a sworn police officer in the rail and mass transit environment. I joined Amtrak in 1998 after 25 years with the Long Island Rail Road, where I rose from Patrolman to Chief of Police.

I'm here today to discuss policing and security on surface transportation systems and the critical task we are facing in combating terrorism. The Administration has been studying this matter and has just released its "Surface Transportation Priority Assessment Report." We at Amtrak are in broad agreement with many of the overarching recommendations it contains, particularly those that deal with the allocation of resources to address likely threats, information sharing, and the need to fund a multi-year, multi-phase transportation security grant program. These are some of the major issues we have been dealing with as we work to identify likely threats and direct resources to meet them. While terrorists can employ many tactics, overwhelming historical evidence indicates that terrorist attacks on surface transportation will likely occur in three (3) forms:

- Use of an Improvised Explosive Device (IED) on a train
- Use of an IED in a station
- Emerging threat of an active shooter

The reasons are simple and clear. Surface transportation systems are open and densely packed with people. These systems are a big part of people's daily routine. The whole point of terror is shock, and nothing produces shock like unexpected and horrifying attacks. The pattern is unmistakable. IEDs were used to attack trains in Madrid in 2004, London in 2005, Mumbai in 2006, and Moscow on several occasions, including last month, to name a few. Active shooters attacked a station in Mumbai in 2008, in each case with tremendous loss of life. And these are just the attacks that made the front page—there are an astonishing number of attacks on rail transit systems going on around the world. The Mineta Transportation Institute, which tracks attacks on public transportation worldwide, states it added 88 attacks per month to its database between November 2009 and February 2010. Obviously, some attacks are failures, such as the fizzled July 21, 2005 bombing attempt on the London Underground, and the numbers may also be slightly inflated by delays in reporting. But they are nevertheless an illustration of how attractive a target public transportation has become. Explosives are clearly the preferred tactic. Of the total attacks on public surface transport, 74 percent were either explosive or incendiary in nature; when passenger rail was the target, the number jumps to 83 percent.

There's a wide range of possible threats, obviously, ranging from cyber attacks up to the ultimate and scarcely imaginable possibility of nuclear terrorism. Our approach to these can range from "do nothing and hope for the best" to "spread your resources in an attempt to respond to every possible threat, at the risk of underpre-

paring for the most probable threats.” Amtrak’s position is that we must identify the most likely threats, assess the likelihood and possible consequences of an attack, and focus our efforts on defeating or deterring the most dangerous and likely terror tactics. We are working closely with countries around the world in the hopes that we can share information and learn from their experiences. I recently traveled to Mumbai as part of a State Department initiative to exchange information with Indian Rail Officials and to collaborate on mutually beneficial counter-terror strategies and efforts. Amtrak has become the first American rail police department to become an associate member of RAILPOL, a European organization of rail and transit security agencies cooperating to share intelligence, coordinate activities and improve counter-terror capabilities. Structured like INTERPOL, this group embodies the type of multi-national surface transportation efforts needed to address the terrorist threat globally. These experiences have helped us to better understand the role and needs of surface transportation police and security and the need for more collaboration at all levels of government.

Today, the Amtrak Police Department is reorganizing to address these concerns. We have undertaken a number of measures designed to eliminate redundancy within the police and security functions and ensure our security needs are well represented at the top level of Amtrak. We have merged the two groups that were formerly responsible for security to eliminate some duplication of functions and allow better use of manpower and assets. Those two groups were OSSSO and APD, now simply APD. The Department has shifted its primary mission of customer-oriented policing to a blend of customer-oriented policing and robust counter-terrorism efforts. We have taken several steps to align our force to our new strategy, keeping in mind that we are operating in 46 states on a system that is very open. These steps fall into four specific categories of effort that we are now undertaking.

1. Growth of the Explosive Canine Detection Program

I am proud to say that Amtrak has more than doubled the size of bomb-detecting canine teams in the last few years. Canine assets are still one of the most accurate and useful tools for detecting and deterring explosive devices before they can be introduced on surface transportation systems. In 2005, the Department had about 20 canine teams, many of which were not trained to detect explosives. Today, there are 45 canine teams that are single-purpose dogs whose mission is bomb detection. Several of these teams are also “vapor wake” trained and can actually detect the presence of fumes left after someone passes through with an explosive device. Amtrak has moved to the forefront of the field with use of this canine application and continues to work to build this counter-terror capability.

2. Security Inspection Program

In 2008, Amtrak began a random baggage screening program similar to one pioneered by the NYPD. Using technology, screening teams deploy in an unpredictable fashion designed to make it harder for a terrorist to predict the level of security. To date, Amtrak has conducted hundreds of passenger screening operations during which thousand of trains were screened, resulting in tens of thousands of passengers being randomly selected for screening. Though an American Recovery and Reinvestment Act/Transportation Security Grant program (ARRA/TSGP) grant, Amtrak is expanding this screening program by adding three additional screening teams in the NEC and Intercity areas.

3. Collaboration with TSA

To address the chief terrorist threats, Amtrak has improved its working relationship with the Transportation Security Administration (TSA). Beginning in December, 2007, Amtrak and TSA started joint deployments with TSA’s “Visible Intermodal Protection and Response” (VIPR) team program, which was developed to augment the integral security operations of various transportation modes, such as the Amtrak Police or transit security. These provide a visible uniformed presence and can help dedicated law enforcement to deter or detect suspicious activity, and they provide the traveling public with a reassuring police presence. VIPR teams can include various useful capabilities, including air marshals, officers specially trained in behavior detection, and explosive detection. Included in the latter category are bomb-sniffing dogs, which are an important component of the overall security effort.

Our first VIPR exercise was held with the TSA at the Amtrak station in El Paso, Texas. These operations have basically involved the unannounced “surge” of TSA personnel onto Amtrak trains and stations at various points, and are designed to test the ability of TSA to flex support to surface transportation. A total of 328 VIPR operations have been held at various locations on the 21,100 mile Amtrak system, approximately 42 percent of them at stations off the Northeast Corridor.

In October, 2009, Amtrak requested that TSA expand the VIPR program to include a joint screening program with TSA, using additional TSA assets, including Bomb Appraisal Officers, Behavior Screening Officers and Surface Transportation Security Inspectors to augment our screening forces. We are very interested in expanding our partnerships and joint activities with other transit and Federal law enforcement agencies, and we are hopeful that we will be able to obtain the resources we need to build the effective partnerships we will need to reduce gaps in our security coverage.

4. Corporate Security

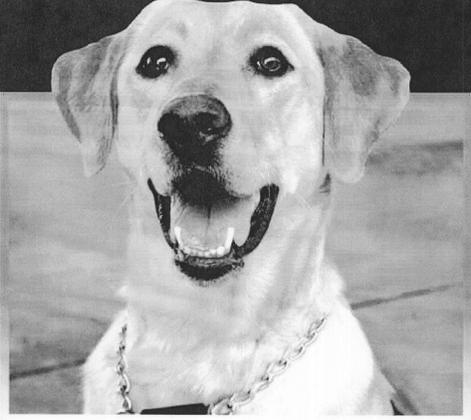
Amtrak has leveraged the Transit Security Grant and American Recovery and Reinvestment Act (ARRA) grant programs to improve protection for passengers, employees, and critical infrastructure. We will never stop assessing Amtrak's vulnerabilities. These build upon an earlier risk assessment performed for Amtrak and will be closely focused on addressing these individual vulnerabilities. Use of ARRA funds to install fences, close circuit TV and other security improvements is directly tied to Amtrak's commitment to let our risk assessments drive security investment. The majority of our ARRA funding efforts are being used to protect infrastructure we have identified as critical through vulnerability assessments designed to identify and implement risk reduction strategies. The security program is managed in part by Station Action Team personnel. They work closely with the Operations Department to ensure Amtrak security and emergency response policies are followed and coordinated as part of a larger risk reduction strategy that incorporates recovery and continuity of operations processes.

Amtrak employees and passengers will continue to be a key piece of our security strategy. They are very valuable sources of information that can "cue" the law enforcement system. Amtrak also benefits from the services and operational knowledge of upwards of 19,000 people who work on the railroad, and the hundreds of millions of passengers who pass through our stations and over our tracks are also capable of noticing when something's not right, and reporting it to us so we can investigate it. We have seen plenty of examples where the vigilance and courage of citizens have helped prevent or thwart an incident in recent years, and we are doing everything we can to make sure they know who to contact if they see something suspicious—and that those employees know what to do once the matter has been brought to their attention. Over the past few years, the Station Action Teams and Regional Security Coordinating Committees have involved our station staffs in the security planning process. This integration has improved coordination and raised employee awareness of potential security threats. We have trained and continue to train our police officers in Behavior Assessment Security Screening (BASS) to teach them to recognize the behaviors that might signal an imminent attack, and front-line employees have been provided with a non-law enforcement version, to improve their awareness and maximize their value as intelligence resources.

As Amtrak has more than 500 stations, we are always resource-constrained. Consequently, we are enthusiastic about programs that help us to bring more people, technology, and animals to bear on the task of keeping our stations and trains secure. We are also working to extend and improve our cooperation with transit and commuter agencies, many of which share our facilities, to get rid of the gaps in coverage where systems meet. This is another crucial area because intermodal systems can create gaps for potential points of entry—and once you're on a rail or transit system, it tends by its very nature to carry an attacker to a point where people are most concentrated and vulnerability is at its highest. TSA is aware of the need for cooperation and coordination among all rail and transit stakeholders but this is an area where continued improvement is the paramount need, because our opponents know how to exploit gaps—and they only need to get lucky once.

We are devoting our efforts to making it harder and harder for terrorists to use their preferred strategies to attack our stations, trains, and passengers. We will continue to devote the bulk of our efforts to defending against and deterring the most likely and dangerous forms of attack, which will continue to be IEDs and active shooters. We are, however, definitely concerned about the whole spectrum of cyber, chemical, biological and radiological threats, and we will continue to work with the Federal Government to defend against them. We hope to obtain additional funding to expand aggressively our efforts to defend our system against the most probable and devastating methods of attack, and we will work with DHS, TSA and the Committee to identify other potential funding sources. In future budgets, we will submit funding requests that will detail our needs; we expect to fund the necessary programs out of our FY 2011 budget. The security of our system is our top priority, and I look forward to working with the Committee in the coming months to make

sure that we have the resources, the people, and the intelligence we need to keep our system safe and secure.



**You Use Your Instincts...
She'll Use Hers.**

SEE SOMETHING suspicious or unusual?
SAY SOMETHING! Contact Amtrak® Police at
1-800-331-0008
or call 911



K-9 Teams Vital Piece of Station and Train Security

Strategically deployed at stations throughout the system and involved in up to 1,000 train trips a month, the Amtrak Police Department K-9 teams provide a psychological and physical deterrent to potential threats from explosives. These teams are part of a collaborative interagency initiative that includes Transportation Security Administration, federal and state Departments of Homeland Security, and state and local law enforcement agencies.

"Our K-9 teams play a significant role in ensuring that we maintain safe and secure operations in our stations and aboard our trains," said Chief Operating Officer William Crosbie. "Chief [John] O'Connor's direction and support have really been instrumental in making Amtrak's K-9 program excel."

This first line of defense begins with specialized training and a strong bond between the dogs and their handlers.

For explosives detection, the teams undergo an 11-week training program at either the Auburn University Canine Detection Training Center in Alabama or the Transportation Security Administration facility at Lackland Air Force Base in Texas, where the dogs are trained in odor recognition. During that time, handlers are taught to recognize the changes in their dogs' behavior as a response to "alerting" on a potential threat. Part of the standard explosives detection training includes vapor wake training, which only occurs at the Auburn Training Center, where the dogs are trained to alert on scents left in the wake of a passing individual.

"These dogs even have the training to detect odors that have lingered in an area for 15 minutes, which is a proactive approach to dealing with and tracking potential suicide bombers," said APD Capt. William Parker, who was brought on board in 2007 to revamp the K-9 corps. "These dogs are the 'Michael Jordans' of what they do. They are among the most sophisticated in the country."

The Amtrak teams — the only K-9 units in the railroad industry with vapor wake capabilities — were honored last summer with top honors at the National Railroad Canine Competition in Allen, Texas.

Since coming to Amtrak, Parker, a 20-year U.S. Army canine handler/supervisor, has upgraded the K-9 corps from 24 teams to 45, and expects to further increase that number by the middle of next year. This expansion, Parker said, is the result of stimulus funds, TSA and Department of Homeland Security grants and the strong support of Amtrak leadership.

Parker has also instituted a certification standard not previously in place and ramped up the pace of training, using a number of scenarios, including live decoys, luggage and hidden backpacks to strengthen the K-9 corps' vapor wake and explosives detection capabilities.

"Training is paramount to ensure that the team is effective and proficient at doing its job," said Parker. "We take the protection of our employees, passengers and infrastructure very seriously. So, we put the teams through consistent, rigorous exercises. We try to make it as real as possible."

Having worked on last year's presidential whistle stop train tour into Washington, D.C., and being part of the security detail for the 2010 Winter



APD Sgt. Robert Smith and his canine partner, Zorro, patrol New York Penn Station.

Olympics, how does Parker measure their success?

"Nobody knows they're there unless something goes wrong, which is a testament to their ongoing efficiency," he said. "A successful search is one where we don't find anything. That means we're doing our job of deterring would-be terrorists and criminals."

Part of what makes K-9 teams effective is the

high visibility nature of the job, according to one K-9 handler.

"We're on the front lines at platforms and at gates to detect explosive materials and look for suspicious behaviors based on our training," according to APD Sgt. Robert Smith, New York Penn Station.

"Because we're in New York City, we're constantly on alert. Even as things are happening, our proactive approach already puts us in the mix."

Smith and his Labrador retriever partner, Zorro, are rarely apart, even off duty, giving Smith ample insight into how to read his partner's moods and abilities to detect dangerous materials in and around the station.

"We train daily and at least three times a week on vapor wake, so I'm constantly learning things about him, how he reacts

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Operation ALERTS

Allied Law
Enforcement for Rail
and Transit Security



Amtrak, Police and Security, Transportation Security Administration (TSA) officials, and more than 100 police departments across 13 states and Washington, D.C., have mobilized today for Operation ALERTS (Allied Law Enforcement for Rail and Transit Security) – a joint, coordinated and synchronized rail security operation throughout the northeastern United States.

This train station is one of nearly 150 railway stations between Fredericksburg, Virginia and Essex Junction, Vermont involved in the operation.

Today's security deployment is NOT in response to any particular threat, but rather is part of an ongoing proactive approach to expand counterterrorism and incident response capabilities and enhance deterrence across Northeast Corridor railway systems.

During today's operation, passengers may notice enhanced security measures, including any of the following in stations or aboard trains:

- Uniformed police officers
- Uniformed TSA security officers
- Random passenger and carry-on baggage screening
- K-9 units
- Checked baggage screening
- On-board security checks
- Identification checks



Transportation
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Security Matters



While on board, please remember:

- Be aware of your surroundings.
- Keep your personal items secure and in close proximity. Laptop computers, PDA devices, portable music players, digital cameras, etc., are easy targets for pickpockets.
- Do not approach or pet police dogs.
- Report any suspicious activity or unattended luggage by notifying Amtrak Police and Security, personnel or by calling 1-800-331-0008.

Please feel free to consult a member of the on-board crew if you have any questions or concerns about this security program or if you need assistance. We thank you for your cooperation in helping keep the rail system safe and secure.

SEE SOMETHING suspicious or unusual?
SAY SOMETHING! Contact Amtrak Police and Security at 1-800-331-0008. Or Call 911.



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Senator LAUTENBERG. Thank you very much.
And Mr. Elliott?

**STATEMENT OF HOWARD R. "SKIP" ELLIOTT,
VICE PRESIDENT—PUBLIC SAFETY AND ENVIRONMENT,
CSX TRANSPORTATION, INC.**

Mr. ELLIOTT. Good afternoon, Senator Lautenberg.

My name is Skip Elliott. I have been a railroader for 33 years, and currently I serve as Vice President of Public Safety and Environment for CSX Transportation.

In my role at CSX, I am responsible for the environment, hazard material transportation safety, our railroad police, homeland security, and industrial hygiene programs. I am pleased to be here before the Committee today, testifying on behalf of CSX and the Association of American Railroads, on the freight rail industry's effort to enhance rail security.

I have submitted my full statement to the Committee, and I would like to make a few brief comments.

CSX and the rail industry remain deeply committed to rail security. We recognize that the security environment in this country has changed dramatically in recent years. There are new threats that demand new ways of thinking about our freight and passenger rail security and safety.

Immediately after September 11, 2001, and well before the focus on rail security by TSA, our industry moved rapidly to address the new threat environment. The significant and proactive measures CSX and the industry undertook immediately after 9/11, is well-documented and we have responded to the new security paradigm in a post-9/11 world.

CSX recognizes the role of TSA and the actions the Federal Government has taken to enhance freight rail security. Within the Federal Government, DHS and DOT share responsibility for securing the freight rail system. With great thanks to this committee's leadership, the Federal Government has enacted comprehensive legislation and extensive formal regulations aimed at strengthening freight rail security. CSX fully supports the goals of these regulations and is committed to full compliance.

In the last 7 years, there have been no less than nine sets of regulations and guidelines that the freight railroads have been required to implement to enhance security. Beginning in 2003, DOT issued regulations requiring employee training and security plans.

This was followed soon after by standards issued by U.S. Customs and Border Patrol to enhance security at railroad international border crossings and a U.S. Coast Guard security regulation at locations where we have port operations. Not long after, two sets of security action items for railroads were issued by TSA, as were additional U.S. Coast Guard rules requiring transportation worker identification credentials for those railroad employees who work in regulated maritime facilities.

This was followed next by TSA regulations requiring robust chain-of-custody measures for toxic inhalation hazards and a separate DOT rulemaking requiring that railroads conduct a comprehensive route analysis for toxic inhalation hazards, using 27 safety and security factors.

Finally, DOT introduced a regulation last year providing standards for tank cars used to transport toxic inhalation hazards, to help improve their survivability due to an accidental or nonaccidental event. We also anticipate receiving several new regulations currently being written by TSA and DOT, such as one that will provide further guidance for employee security training.

It is important to underscore the significance of these regulations and that the freight rail industry is fully complying with them. However, what we are most proud of is that they were built on a foundation of the immediate, comprehensive, proactive, and voluntary security measures taken by the railroads after the attacks of September 11.

But, we don't believe what we did proactively after September 11, or that complying with current and future regulations, is necessarily enough.

At CSX, we maintain a steadfast commitment to the safety and security of our operations and the communities in which we operate. CSX's security challenge extends to 21,000 miles of track in 23 states and the District of Columbia. The network crosses 700 counties and 13,000 local jurisdictions. CSX believes that partnerships and close coordination of security concerns is essential to enhancing public safety and benefits the communities we serve, our employees, and our operations.

The cornerstone of CSX's public/private partnership is our highly specialized, secure network operation workstation, called SecureNOW, which we share with Federal and state homeland security officials. Developed by CSX, the SecureNOW system allows security officials to promptly identify the location and status of CSX trains and railcars on our 23-state network. SecureNOW's—allow public agency officials to independently track the location of CSX trains, and to identify the contents of railcars in those trains, in a nearly real-time environment. Both the USDOT Crisis Management Center, located just a short distance from here, and the TSA Freedom Center have and are using this CSX-provided technology. We have similar partnerships at a number of State Homeland Security Fusion Centers. One in particular, in your state, New Jersey, has proven to be a very good example of what a long-term productive public/private partnership should be.

In conclusion, CSX and the freight rail industry recognize the complexity of challenges faced by both the government and American business in ensuring the safe and secure movement of people and products in a post-9/11 world. We also recognize that government responsibility, first and foremost, is to protect the public. Yet it is also important that DHS react to the new security environment with sound regulatory policies that do not impede the free flow of commerce.

To help achieve that outcome, we recommend meaningful coordination among regulators; improved communications between railroads and regulators, especially in areas such as intelligence sharing; and stronger collaboration, maximizing government use of railroad expertise. These are consistent with the 20 recommendations made recently by the Administration in its surface transportation security priority assessment.

CSX recognizes that the freight rail and national security environment in which it operates is continually changing. As such, safety and security are, and will remain, our top priority. CSX and the industry look forward to working with DHS to develop sound security policy and practices that are coordinated, flexible, and that ensure the continued efficient and effective flow of goods. We appreciate the opportunity to provide comments on this important topic. We also greatly appreciate the good work and guidance of this committee, and your role in improving freight rail security.

Thank you, Senator.

[The prepared statement of Mr. Elliott follows:]

PREPARED STATEMENT OF HOWARD R. "SKIP" ELLIOTT, VICE PRESIDENT—PUBLIC SAFETY AND ENVIRONMENT, CSX TRANSPORTATION, INC.

Introduction

On behalf of CSX Transportation, Inc. ("CSXT") and the Association of American Railroads ("AAR"), thank you for the opportunity to discuss the Freight Rail Industry's (the "Industry") efforts to enhance rail security.

CSXT and the Industry are deeply committed to rail security. We recognize that the security environment in this country has changed dramatically in recent years—there are new threats that demand new security considerations, and a new way of thinking about freight rail safety and security. Immediately after September 11, 2001, and well before the creation of TSA, the Industry moved rapidly to address the new threat environment. It is well documented what actions CSXT and the Industry have voluntarily taken and how we have taken the initiative to respond to the new security paradigm in a post-9/11 world. And much has been done since the initial rail efforts after September 11 in 2001. Industry security plans, a Surface Transportation Information Sharing and Analysis Center, an AAR Operations Center feeding information to an industry Rail Alert Network, annual desktop exercises, and the E-Rail Safe contractor credentialing program—all are voluntary industry initiatives that have enhanced the security of the Nation's rail network.

Compliance with Government Regulations and Action Items

CSXT recognizes the Transportation Security Administration's ("TSA") role and the actions the Federal Government has taken to enhance freight rail security since 2001. Within the Federal Government, DHS and DOT share responsibility for securing the freight rail system. Prior to September 11, 2001, the Department of Transportation ("DOT") was the primary Federal agency responsible for regulating freight rail transportation. With the creation of TSA in November 2001 and TSA's Freight Rail Security Program in 2003, the DOT, Department of Homeland Security ("DHS"), and TSA have worked diligently to identify freight rail security needs and coordinate various efforts to enhance freight rail security. Specifically, DOT, DHS, and TSA have enacted extensive formal regulations aimed at strengthening freight rail security. CSXT fully supports the goals of these regulations and is committed to full compliance.

Formal Federal agency reaction to freight rail security risks inherent in the post-9/11 world began as a cooperative and collaborative effort between the government and the Industry. Immediately after September 11, 2001, and before the creation of TSA, the Industry, in consultation with security experts and Federal agencies, implemented a rail security plan which included network-wide risk assessments and asset specific countermeasures, with each railroad implementing over 50 countermeasures, based on people, process, and technology. This concept of escalating alert levels, borrowed from U.S. Military Defense Condition (DefCon) protocols, is also used by TSA today.

Experience with the voluntary plans of the largest railroads led to adoption of formal requirements for all railroads. In September 2003, the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued rules requiring any railroad that handles hazardous materials to adopt a security plan and engage in training of its hazardous material employees. PHMSA's security planning rules require railroads to develop and implement security plans that address security risks and vulnerabilities related to the transportation of hazardous materials.

PHMSA's security planning rules require railroads to develop and implement a security plan based on an assessment of possible transportation security risks. The plan must address personnel security, unauthorized access, and en route security. The security plan must be based on an assessment of possible transportation security risks and must include at a minimum, an assessment of possible transportation security risks and appropriate measures identified by risk assessments. All security plans are required to be in writing, updated as necessary to reflect changing circumstances and must be retained for as long as the plan remains in effect.

PHMSA also issued rules that require security awareness training for hazardous materials employees. Railroads must provide "in-depth" security training and "security awareness" training to employees. In-depth security training must include security objectives, specific security procedures, employee responsibilities, actions to take in the event of a security breach, and the organizational security structure. Security awareness training requires that each employee receive training that provides an awareness of security risks associated with the transportation of hazardous materials and methods designed to enhance transportation security, including how to recognize and respond to possible security threats.

For CSXT, compliance with these rules was relatively straightforward. With a comprehensive security plan that had been in place for several years, we reviewed our existing plan in light of the regulations and made some modifications as needed to ensure that it met the new regulatory requirements.

Also in 2003, CSXT began participating in the U.S. Customs and Border Protection's voluntary C-TPAT (Customs-Trade Partnership Against Terrorism) program. C-TPAT is a voluntary government-private sector partnership to strengthen and improve U.S. border security and the security of the international supply chain. C-TPAT increases security measures, practices and procedures throughout all sectors of the international supply chain.

As a participating member of C-TPAT, this supply chain security program for international cargo is in place at CSXT's U.S.-Canadian border crossing points. It requires adherence to a variety of security-related performance measures in order to achieve certification in the program.

In 2003, CSXT also began working on compliance with United States Coast Guard's regulations under the Maritime Security Act of 2002. These extensive rules require comprehensive port threat and vulnerability assessments, security plans and security measures. CSXT has facilities in Maryland, Ohio, and Florida that fall under these regulations, and that undergo regular inspection and evaluation by the U.S. Coast Guard to ensure compliance.

In 2006, TSA and DOT began to give heightened attention to the transportation of certain ultra-hazardous commodities such as toxic inhalation hazard ("TIH") materials. They began by developing twenty-four voluntary security action items in a series of consultative meetings between the rail industry, TSA and other interested Federal agencies. These voluntary security action items, adopted in June 2006, were to be followed as recommended best practices of rail carriers handling these particularly sensitive products.

CSXT was a strong proponent of the cooperative process that led to the original set of guidelines, and continues to support voluntary cooperation. This original set of voluntary action items generally focused on three main areas: (i) system security, (ii) access control, and (iii) en-route security.

On November 21, 2006, TSA issued further voluntary "action items" for the handling of TIH. TSA Supplemental Security Action Item Number 1 concerns the transportation of TIH and generally focuses on: (i) enhancing access control and security awareness for rail facilities in federally designated High-Threat Urban Areas ("HTUAs"), (ii) monitoring the movement of TIH cars in HTUAs to substantially reduce dwell and transit time, and (iii) eliminating unattended TIH cars in HTUAs. Unlike the first set of action items, these were adopted by TSA unilaterally and without further dialogue with the rail industry.

In January 2007, the USCG and TSA issued new regulations requiring that workers who enter regulated maritime facilities must obtain a Transportation Worker Identification Credential ("TWIC"). The TWIC requirement applies to railroad employees who enter and work for CSXT at any regulated maritime facility in the United States. Train and Engine crews, Mechanical and Maintenance of Way personnel, Railroad managers, Special Agents and any other railroad employee entering these covered maritime facilities must have a TWIC.

On February 12, 2007, TSA again unilaterally issued further voluntary "action items" for the handling of TIH. TSA Supplemental Security Action Item Number 2 provides further guidance on the recommended scope and procedures for voluntarily conducted background checks.

Over time, TSA saw a need to move to a more formal interaction with the Industry over the transportation of certain ultra hazardous commodities such as TIH materials. These voluntary guidelines were gradually supplanted by progressively more active formal regulations.

In November 2008, the TSA issued final regulations imposing new "chain of custody" obligations regarding the handling of TIH cars in interchanges, *i.e.*, where one railroad transfers a TIH car to another railroad. The regulation required railroads to modify their routing operations to ensure that only attended interchanges are used for transporting TIH. This regulation also imposed similar requirements for the transfer of custody from shipper to railroad and from railroad to certain receivers at destination.

When TSA issued its final Chain of Custody rules in November 2008, it initially gave the rail industry just 30 days to implement new interchange practices and to train tens of thousands of employees on the new requirements. CSXT as well as the Industry persuaded TSA to extend the compliance date to April 1, 2009, thus enabling the Industry to adapt its operations without conflict with the new regulations. CSXT and the Industry greatly appreciate TSA's willingness to meet with us, dis-

cuss the practical implementation challenges we faced, and to give the Industry time it needed to do the job properly.

Additionally, TSA's final rule required railroads to designate a rail security coordinator ("RSC") and at least one alternate RSC to be available on a 24-hour, 7 days per week basis to serve as the primary contact for receipt of intelligence information and other security-related activities from TSA. The final rule also required Class I railroads to provide location and shipping information to TSA within 5 minutes of an inquiry if the request concerns only one car and within thirty minutes if the request concerns two or more rail cars.

Also in November 2008, the DOT issued final rules requiring railroads to perform a safety and security risk analysis for routes used to transport certain hazardous materials and to select the safest and most secure routes, using a provided list of 27 risk factors. Congress, through the good work and guidance of this committee, mandated this approach in 2007 in the Implementing Recommendations of the 9/11 Commission Act.

The DOT routing regulation (adopted by PHMSA and enforced by FRA) represents a commendable effort to address the public's routing concerns regarding the transportation of certain highly hazardous materials. DOT's routing rule requires railroads to compile annual data on certain shipments of explosive, TIH, and radioactive materials for use in making routing decisions. Railroads must use this data to analyze safety and security risks along routes used to transport these materials, assess alternative routing options, and make routing decisions based upon those assessments.

For the initial analysis, the government gave railroads the option of completing the initial route analysis by September 1, 2009, based on 6 months of data (from July to December 2008), or March 31, 2020, based on 12 months of data (full year 2008). CSXT was one of the first railroads to complete the initial route analysis, on September 1, 2009, using the Rail Corridor Risk Management ("RCRMS") tool, a Government-funded routing model. RCRMS is a statistical routing model that railroads may use to assist with compliance with the rule. The RCRMS model was developed by expert consultants with periodic reviews by a government executive oversight panel—officials from TSA, DOT, FRA, and PHMSA. Railroads are not required to use RCRMS and may choose other routing models for use in preparing their risk analyses.

We recognize the importance of this regulation, but nonetheless, the route analysis requirement was a complicated and burdensome process. It imposed significant demands on CSXT management time and resources. While this is important and necessary work, we must keep in mind at all times that the traffic subject to the routing rule represents about one-half of one percent of CSXT's total traffic base, and that these efforts are consuming—and will continue to consume—a disproportionate share of management resources.

In January 2009, the DOT issued interim tank car standards that mandate commodity-specific improvements in the safety features and design standards for tank cars transporting TIH materials. These interim standards were adopted to improve the accident survivability of TIH tank cars. At the same time, the DOT imposed speed restrictions on trains carrying even a single carload of TIH materials.

Voluntary Actions

CSXT appreciates the freight rail security guidance in the form of regulations from DHS, but we are still an Industry (and a railroad) that does act proactively and voluntarily to improve the safety and security of the rail network.

At CSXT, "Safety is a Way of Life" and we maintain a steadfast commitment to the safety and security of our operations and the communities in which we operate. CSXT's security challenge extends to 21,000 miles of track in 23 states and the District of Columbia. This network crosses 700 counties and 13,000 local jurisdictions.

CSXT believes that partnerships and close coordination of security concerns is essential to enhancing public safety and benefits the communities we serve, our employees, and our operations. We work closely with the Industry and with Federal, state and local officials, on improving the safety and security of rail transportation to help keep our employees, our communities, and our customers' employees safe. As part of this effort, CSXT has established public-private partnerships to provide Federal and state homeland security officials valuable, current information they can use to protect the communities they serve. Formalized partnerships allow CSXT, state officials and first responders to effectively and seamlessly share information and work side-by-side protecting the communities we serve and our employees.

At CSXT, we believe that public-private partnerships offer the best route to improving not only freight rail security but also national security. The cornerstone of CSXT's public-private partnerships is sharing our highly-specialized secure Network

Operations Workstation (“SecureNOW”) with Federal and state homeland security officials. The SecureNOW system is a proprietary, secure online computer tool used to monitor, identify and respond to rail-security and emergency issues throughout the CSXT network. This system, developed by CSXT, provides CSXT employees and trained state homeland security and public agency officials with a tool to promptly identify the location and status of CSXT trains and rail cars on our network. SecureNOW allows trained security and public agency officials in several states to independently track the location of CSXT trains and the contents of the rail cars in those trains in a nearly real-time environment. Before, officials needed to telephone CSXT to access this information.

CSXT’s SecureNOW system and our approach to information sharing helps homeland security officials prepare for and—if needed—respond to emergency situations. Access to SecureNOW also provides state and Federal officials with additional information about what is carried on our rails, and state officials can more efficiently allocate law enforcement resources, coordinate with CSXT security officials, and integrate rail security into on-going law enforcement operations.

In fact, CSXT has entered into partnerships with two Federal entities—the TSA Freedom Center (TSOC) and the DOT Crisis Management Center. This allows trained Federal homeland security officials to have nearly real time information regarding the location of CSXT trains and the contents of the rail cars transported on our lines. In addition to these Federal partnerships, CSXT also has partnerships for access to SecureNOW with New York, New Jersey, Kentucky, Maryland, Indiana, Ohio, Georgia, and Florida. These partnerships formalize and enhance CSXT’s ongoing commitment to these states and Federal agencies to share information, resources and strategies in order to better protect the communities in which CSXT operates.

As part of CSXT’s ongoing commitment to enhancing rail security, CSXT is collaborating with the National Alliance for Public Safety GIS, in the development of a GIS tool for sharing data to enhance decision support for the prevention, mitigation, and response to emergencies. The GIS tool includes CSXT’s comprehensive rail yard emergency response schematics, and detailed mapping of the rail lines connecting our yards. This project, when completed, will be directly accessible by emergency responders and will provide the location of known hazards in CSXT rail yards as well as identify access points onto CSXT property.

Additionally, CSXT is dedicated to educating communities and first responders about rail emergency response programs. We provide communities and emergency responders with the information and training necessary to address a rail-related emergency. Each year we conduct a tremendous amount of training and coordination with local first responders and security officials. We regularly provide first responders hazardous material incident-response training by our hazardous materials team. The training consists of classroom training, table top exercises, and hands-on training using the CSXT safety train. These training sessions familiarize first responders with the commodities moved by rail, the containers used, how to locate contact information and carry out appropriate response procedures. This training has been very well received by first responder agencies and we continue to build on this collaborative effort.

One outstanding example of the Industry’s effort to enhance training for emergency responders is witnessed by the AAR’s Transportation Technology Center located in Pueblo, Colorado, receiving Congressional authorization to become a member of The National Domestic Preparedness Consortium (“NDCP”). The NDPC includes eight other nationally recognized organizations that address the counter-terrorism preparedness and training needs of our Nation’s emergency responders. At TTTCI, emergency first responders receive comprehensive and realistic training on surface transportation security and emergency response.

CSXT, like all the Class I railroads, regularly provides first response agencies in every jurisdiction where we operate with a Community Awareness Emergency Planning Guide, which, for training and planning purposes, provides a list of the top 25 hazardous commodities shipped by rail in North America as well as a list of the top 25 shipped by CSXT. Upon request, we provide local first responders with a density study that details the top hazardous commodities for a specific community, and provides responders with the necessary information to plan for a commodity-specific and community-specific response.

CSXT also works cooperatively with local first responders to familiarize them with CSXT facilities and our operations. CSXT has a long standing practice of inviting local responders into rail yards and facilities so they may become familiar with on-site safety considerations. The benefit of this open door policy is two fold. First, responders are better equipped to safely and effectively aid CSXT in the event of a rail-related incident or other emergency on rail property. Second, this practice al-

lows local law enforcement officers to become familiar with rail property so that CSXT's police force and local law enforcement officials can coordinate on issues like rail crime, sabotage, and trespasser mitigation efforts.

CSXT is proud to offer industry-leading training programs to local first responders and emergency personnel in the communities we serve. But CSXT's training efforts do not stop here. CSXT also provides rail safety training to Short Lines. Our goal is to expand the sophistication of Short Line managers on important rail transportation safety issues. CSXT's safety training includes environmental regulations and compliance, waste management, hazmat awareness and response, security planning and train accident prevention. CSXT provides annual updates and makes CSXT project managers and the CSXT Public Safety Coordination Center hotline (1-800-232-0144) available to Short Lines to help them with issues on an ongoing basis.

Employee communication is central to CSXT's philosophy. We continue to have dialogue with labor union representatives on security training and employee perspectives on rail security issues. CSXT and the Industry are taking the initiative to engage labor on several different fronts. As recently as last week, CSXT and other Industry representatives met with the Teamsters Rail Conference on overall railroad security.

However, our actions cannot be solely focused on freight rail security. Given the information we have received from Federal intelligence sources, we believe that the greatest terrorist threat to CSXT comes from the approximately 8 million passenger and commuter train miles each year that operate on CSXT-owned rail lines. To that end, we work closely with the agencies entrusted to carry passengers on our lines to protect the 19 million riders on those trains. In 2007, CSXT developed a series of 149 safe havens for Amtrak trains operating on CSXT-owned rail lines. These safe havens allow for pre-identified and coordinated locations, approximately 25 to 30 miles apart, where during a time of increased terrorist concern or an actual attack, we can safely bring Amtrak trains to a stop in order to evacuate or tend to passengers needs. In 2009, we added safe havens for our commuter partners—VRE, MARC, Tri Rail, and MBTA. Emergency responders at all safe haven location received information and training to assist in their important role should we have to activate our safe haven plan.

CSXT also recognizes the vital role that freight railroad police play in enhancing freight rail and national security. CSXT, like all Class I railroads, has its own police force with commissioned railroad police officers to maintain the safety and security of the public and the freight entrusted to the railroad. However, the CSXT police department is the only U.S. based freight railroad police department to be nationally accredited by the Commission on Accreditation for Law Enforcement Agencies ("CALEA"). CSXT is proud of this accomplishment, as only approximately 10 percent of the police departments in the country have met the more than 450 required best practice standards to be awarded CALEA accreditation.

Additionally, in 2004, CSXT's police department developed and implemented a Rapid Response Team ("RRT") that consists of a group of highly-skilled CSXT Police special agents specifically trained to respond to security incidents. The RRT is an interdisciplinary team that is composed of CSXT Police special agents. Among them are explosive-detection K-9 teams, counter-surveillance specialists, and tactical response specialists, Hazmat managers with paramedic and engineer qualifications, and a medical support element.

The CSXT RRT is responsible for rail counter-terrorism to ensure that rail infrastructure does not become a target of domestic or foreign terrorists. RRT team members are positioned and equipped for a rapid response anywhere on the CSXT system. They are highly trained according to national and international guidelines, which makes the team the premier rail counter-terrorist experts in the industry. In fact, the RRT provides rail-specific anti-terrorism training to public agencies to support their mission and aid in response to railroad incidents and/or threats.

In fact, since its inception in 2004, our CSX RRT has trained over 90 local, county, state, Federal and military law enforcement agencies and nearly 900 tactical police officers on how to respond to a terrorist attack to a railroad—both passenger and freight using a one-of-a-kind tactical training train (T3) that allows for realistic force-on-force training.

Recommendations: Coordination, Collaboration, and Communication

1. Coordination among regulators
2. Communication between railroads and regulators (*i.e.*, intelligence sharing)
3. Collaboration (maximizing government use of railroad expertise)

CSXT and the Industry recognize the complexity of challenges faced by both the government and American business in ensuring the safe and secure movement of people and products in a post-9/11 World. We also recognize that government re-

sponsibility, first and foremost, is to protect the public. Yet, it is also important that DHS react to the new security environment with sound regulatory policies that do not impede the free flow of commerce. Open dialogue and collaboration with Industry stakeholders, including extensive and constructive discussions at the earliest stages, will ensure positive results with minimal impacts on our industrial economy.

Grant programs are an important component of government-industry collaboration. Federal money to support private security efforts is an effective means by which government can leverage resources. In this regard, it is important to remember that the rail security grant program, as originally conceived, was intended to enhance freight rail security. As implemented, however, most of the available funding has gone to projects other than freight security infrastructure. The Class I railroads would urge the Committee to direct future grant programs precisely to freight rail infrastructure security projects.

CSXT does not disagree with the importance of mandatory security regulations, but regulatory controls should be adopted only after meaningful coordination and collaboration. Most industries are more complicated than first meets the eye, and the rail industry is particularly so. By working with the Industry and fully understanding the implications of possible approaches to Federal policy, DHS would best be able to ensure that it minimizes the unintended consequences of new regulations and policies. Genuine, open communication between stakeholders and the government can not only lead to practical solutions; it can open the door to solutions that might not otherwise have been apparent.

We urge DHS to make early, frequent consultation with all affected industries a hallmark of its security policymaking. Establishing a formal collaborative rule-making process will give stakeholders the opportunity to be directly involved in improving rail transportation security and to develop mutually satisfactory rail security regulations and practices. It will ensure that final rules are well-conceived, consistent, and effective for Industry. This kind of coordination and consultation before decisions have been finalized, before agency direction has been determined, and before a notice of proposed rulemaking is published, can only improve the final product. True collaboration will ensure that we are taking maximum advantage of the best thinking in government and industry.

Specifically, CSXT recommends that DHS adopt a process that gives all stakeholders the opportunity to have an open dialogue with TSA on rail security issues similar to the FRA's Rail Safety Advisory Committees ("RSAC"). As the Committee may know, the RSAC is a formal advisory committee that provides advice and recommendations to the FRA on development of new safety regulations, revision of existing regulations, and non-regulatory options for improving railroad safety. The RSAC members consist of railroads, labor organizations, state associations, government agencies, and other key rail safety stakeholders. The RSAC gives stakeholders an opportunity to have an open dialogue on rail safety best practices, a forum to advise FRA on rail safety issues, and a process to identify reasonable solutions and regulatory options for enhancing rail safety. This process has proven effective in reaching consensus and limiting areas of disagreement. Importantly, the agency retains full responsibility and authority over the actual final rule adopted. The stakeholders contribute; the agency decides.

Establishing an RSAC-like process would not impede DHS from issuing proposed rulemakings in a timely manner. Rather, CSXT believes that a formal process like this would: (1) expedite adoption of future final rules, (2) facilitate more effective compliance, and (3) provide Industry stakeholders with a better understanding of the agency's expectations and its views on the scope of new rules.

Conclusion

CSXT recognizes that the freight rail and national security environment in which it operates is continually changing. As such, safety and security are, and will remain, our top priority. CSXT and the Industry look forward to working with DHS to develop sound security policy and practices that are coordinated, flexible, and that ensure the continued efficient and effective flow of goods. CSXT appreciates the opportunity to provide comments on this important topic.

Senator LAUTENBERG. Thank you very much.

And now like to hear from Joseph Kelly, who's the Acting Chief of New Jersey Transit Police.

Mr. Kelly, welcome.

**STATEMENT JOSEPH KELLY, ACTING CHIEF OF POLICE,
NJ TRANSIT**

Mr. KELLY. Thank you, and good afternoon, Senator Lautenberg. My name is Joseph Kelly, and I am the Acting Chief of Police for New Jersey Transit.

New Jersey Transit is the Nation's largest statewide public transportation system, operating in 3 states and providing nearly 900,000 weekday trips on buses, light rail, and commuter rail. My police department is authorized for 244 officers, including 39 positions full-time to counter terrorism.

Mr. Chairman, I want to thank you and the other distinguished members of this committee for providing me the opportunity to testify today on the criticality of protecting our Nation's passenger rail system.

Let me first describe some of the counterterrorism strategies we have put in place since September 11, 2001. And then I will outline some of the challenges we face at New Jersey Transit, going forward.

We acknowledge we cannot place a police officer on every corner. However, force multiplication is desperately needed to protect our passengers. To that end, we have focused our efforts on technology advancements, coordination, force augmentation, and education.

New Jersey Transit has been active in installing surveillance cameras and deploying radiological and explosive detection systems. We've also added a variety of other equipment aimed at prevention, detection, and recovery of all hazards. Thanks to grant funding from the Transit Security Grant Program, the Urban Area Security Initiative, and State Homeland Security Grants, we have recently been able to add a continuity-of-operations vehicle capable of emergency response and sustained redundancy, satellite communications, interoperable communications, a variety of hazardous material response equipment, rescue and extrication equipment, radiological pagers and isotope identifiers, explosives trace detection machines.

With respect to coordination, New Jersey Transit has created a crime analysis and intelligence unit. Our officers are assigned to the FBI's Joint Terrorism Task Force and the New Jersey State Police Fusion Center. Additionally, the department exchanges information with the Regional Transit Security Working Group and the Northeast Corridor Coalition.

Our department also relies heavily on force augmentation. We are assisted with patrols of our stations and facilities by local law enforcement agencies. In addition, we run regular counterterror exercises with the New Jersey State Police, the New Jersey Office of Homeland Security and Preparedness, and our regional transportation partners, including the NYPD, as well as some of New Jersey's rapid deployment teams.

In terms of education, our transit employees have been trained in terrorism awareness, dating back to 2002. Our front-line employees have also received related courses and are targeted to receive behavioral assessment training through a Regional Transit Security Grant. Some employees are also receiving advanced training through our Citizens Police Academy. Our police officers receive counterterrorism training now as part of their basic police officer

training, and have also been trained in behavioral assessment. Police officers assigned to the counterterrorism function have also attended a variety of specialized courses, such as federally funded courses including the incident response to terrorist bombing and the strategic counterterrorism training for transit managers.

We train our commuters through some nonconventional means, using uniformed police officers. Commuters and citizens alike are given information contain TIPS phone number, the type of information to report, and awareness of precursor terrorist activity. This information is distributed on counterterror deployments, such as our community outreach details.

New Jersey Transit is in constant communication with our Federal partners. The two principal Federal repositories for counterterrorism-related information are the FBI, JTTF, and the Transit Security Operations Center, known as TSOC, operated by the TSA. The required reporting of both these entities sometimes can be problematic and duplicative. A preferable approach may be to rely on the Joint Terrorism Task Force to communicate with the TSOC after the JTTF makes a determination as how it wants to proceed on any given piece of information.

Let me briefly touch on our budgetary challenges. As you know, the national economic downturn has had a dramatic effect on state and local revenue. A survey recently completed by the American Public Transportation Association found that 60 percent of APTA systems have already cut service or raised fares, and that 84 percent of public transportation systems will do so by the end of the year.

New Jersey Transit recently approved a 22-percent increase to close a projected \$300-million Fiscal Year 11 budget gap. In addition, we instituted a hiring freeze and are eliminating more than 200 positions. With these local funding challenges, Federal operating support for security efforts has become even more critical.

Since Fiscal Year 2007, New Jersey Transit has received much needed operating support for security efforts. The officers funded by these grants will be completely dedicated to counterterror, and will be a critical component to our prevention efforts. I urge the Committee to continue this support.

Thank you again for the opportunity to testify. And I look forward to answering any questions you may have.

[The prepared statement of Mr. Kelly follows:]

PREPARED STATEMENT OF JOSEPH KELLY, ACTING CHIEF OF POLICE, NJ TRANSIT

Chairman Lautenberg, Ranking Member Hutchinson and distinguished members of the Committee—my name is Joseph Kelly and I am the Acting Chief of Police of NJ TRANSIT. NJ TRANSIT is the Nation's largest statewide public transportation system, operating in three states providing nearly 900,000 weekday trips on 2000 buses, three light rail lines and 12 commuter rail lines. My department is authorized for 244 police officers, including 39 police positions full-time to counter-terrorism.

Mr. Chairman, I want to thank you and the other distinguished members of this committee for providing me the opportunity to testify today on the criticality of protecting our Nation's passenger rail system.

Let me first describe some of the counter-terrorism strategies we have put in place since September 11, including our close partnerships with Federal authorities. I will then outline some of the challenges we face at NJ TRANSIT going forward.

We know that we cannot place a police officer on every corner of our system. However, force multipliers are desperately needed to protect our passengers. To that

end, we have focused our efforts on technology advancement, coordination, force augmentation and education.

NJ TRANSIT has been very active installing security surveillance cameras and deploying radiological and explosives detection and protection systems. We have also added a variety of other equipment aimed at prevention, detection and recovery of all hazards. Thanks to grant funding from the Transit Security Grant Program, Urban Area Security Initiative Grants funding and State Homeland Security Grants, we have recently added:

- A Continuity of Operation Vehicles capable of emergency response and sustained operational redundancy.
- Satellite Communications (fixed and mobile).
- Interoperable communications equipment including ICRI and MACOM gateway switch. The "ICRI" is a small, portable "switch" used to interconnect municipal public safety radios, state and Federal radios and telephone.
- A variety of Hazardous Material response and investigative equipment.
- Rescue and extrication equipment.
- Radiological pagers and handheld isotope identifiers.
- Explosive Trace Detection Machines capable of detecting both nitrate and peroxide based explosives.

With respect to coordination, NJ TRANSIT has created a crime analysis and intelligence unit and we have implemented COMPSTAT aimed at information sharing and thorough investigation. NJ Transit Police officers are assigned to the FBI Joint Terrorism Task Force (JTTF) and the NJ State Police Regional Operations Intelligence Center. Additionally the department exchanges information with the Regional Transit Security Working Group and the Northeast Corridor Coalition. Through these partnerships, the NJ TRANSIT Police Department exchanges real time intelligence across the region and the Nation in a timely and efficient manner.

Our Department also relies heavy on force augmentation. We are assisted with park, walk and talk patrols of our stations and facilities by municipal, county and state law enforcement agencies. In addition, we run regular counter terror exercises with the New Jersey State Police, the New Jersey Office of Homeland Security and Preparedness and our regional transportation partners (including the NYPD) and some of New Jersey's county rapid deployment teams.

In terms of education, we have offered counter-terrorism related training in three groups; transit employees, police officers, and the commuters and public.

Our transit employees have been trained in terrorism awareness dating back to 2002. Our front line employees have also received related courses and are all targeted to receive behavioral assessment training through a 2008 Regional Transit Security grant. Some employees also receive advanced training through our citizens police academy program.

Our police officers receive counter-terror training now as part of their basic police training and have also been trained in behavioral assessment. Police officers assigned to counter-terror full time also attend a variety of specialized courses such as the federally funded Incident response to a terrorist bombing and the strategic counterterrorism training program for transit managers.

We train our commuters through some non-conventional means using uniformed police officers in the field. Commuters and citizens alike are given information containing our TIPS telephone number, the type of information to report and the precursors of terror related activity. This information is distributed on counter-terror deployments such as community outreach details.

As I mentioned earlier in my testimony, NJ TRANSIT is in constant communication with our Federal partners. The two principal Federal repositories for counterterrorism related information are the FBI's Joint Terrorism Task Force (JTTF) and the Transit Security Operations Center, known as TSOC, operated by the TSA. The required reporting to both of these entities can be problematic and duplicative at times. For instance, a lead provided to the JTTF by NJ TRANSIT has the potential to be compromised by virtue of the reporting process of the Transit Security Operations Center, which shares this information via e-mail when suspicious activity is reported. A preferable approach may be to rely on the Joint Terrorism Task Force to communicate with the Transit Security Operations Center after the JTTF makes a determination as to how it wants to proceed on a given piece of information.

Let me briefly touch on NJ TRANSIT's budgetary challenges. As you know, the national economic downturn has had a dramatic effect on State and local revenue. A survey recently completed by the American Public Transportation Association (APTA) found that 60 percent of APTA systems have already cut service or raised

fares and that 84 percent of public transportation systems will do so by the end of the year.

NJ TRANSIT recently approved a 22 percent fare increase to close a projected \$300 million FY11 budget gap. In addition, we have instituted a hiring freeze and are eliminating more than 200 positions. With these local funding challenges, Federal operating support for security efforts has become even more critical.

Since FY07, NJ TRANSIT has received much needed operating support for security efforts. The police officers funded by these grants will be completely dedicated to counter-terror and will be a critical component to our prevention efforts. I urge the Committee to continue this support.

Thank you again for the opportunity to testify today. I look forward to answering any questions you may have.

Senator LAUTENBERG. Thank each of you for your valuable testimony.

I want to just get an idea of what communications you get from the Department of Homeland Security—after the recent subway attacks, for instance.

And, Mr. Elliott, we include you in the rail discussion, even though we don't say "freight." But, the fact is, it's a very important element of our total economic system.

And so, the attack was there. Other attacks on passenger rail, mass transit systems throughout the world. What kind of actions did the Department of Homeland Security take to help you increase your level of security?

Mr. O'CONNOR. Senator the day of the last attack, in Moscow, we did get a call from TSA. I and, actually, Chief Kelly are part of a group; it's called a Peer Advisory Group. It's about a dozen police chiefs from around the country that conference once a month to discuss security issues. But, that call came about 12 or 1 o'clock that day. Obviously, the attacks had occurred almost 12 hours earlier, and many of us had already gone through what we thought we had to, in terms of reassuring the public.

So, while the—while it was commendable, on the TSA's part, to get the group together and kind of share information on what we're doing, I think it would have been more helpful if they were out a little bit quicker so that we could have had a common response to reassure the public.

Senator LAUTENBERG. Chief Kelly?

Mr. KELLY. Senator, thank you for the question. I echo Chief O'Connor's remarks, in that we do get information from the TSA, but normally it's not as timely as it could be. I—

Senator LAUTENBERG. How about the kind of communications you get, as well as the timing.

Mr. KELLY. We receive briefings, generally—in addition to the phone call, briefings via e-mail on a daily basis. However, when it comes to attacks, such as Moscow or Mumbai or Madrid, we're receiving in-depth briefings from our law enforcement partners in the region. And usually—I don't want to speak for Chief O'Connor, but I get in-depth briefings from my detective assigned to the Joint Terrorism Task Force, in a very timely manner, telling us what we're facing and what we need to do.

Mr. O'CONNOR. Just to follow up on that, in the Zazi investigation I got a call directly from the head of the New York Joint Terrorism Task Force when those warrants were being executed that night. So, we knew, before it went public, you know, what was hap-

pening and what the public might be alarmed about, and that gave us advance notice to prepare for that.

Senator LAUTENBERG. Yes. Mr. Elliott, do you have any comment to make on this connection?

Mr. ELLIOTT. Yes. I would, Senator. With over 8 million train miles of passenger and commuter operations on our private freight lines every year, we cannot disassociate ourself from the very real concern—security concern to passenger operations. I will tell you that, even though, from a freight railroad perspective, the relationship that we have with our passenger and commuter partners is admirable, including a longstanding relationship with Chief O'Connor, especially, in the Amtrak Police Department. I would like to echo his sentiment. I think the information we receive is adequate, but I don't think it's timely enough. I think one of the great things about the U.S. rail industry today is our ability to quickly respond to good intelligence. And if we don't get that good intelligence in a timely basis, then we are not able to take the steps that we need to provide both freight rail infrastructure, as well as the passengers that might be riding on that portion of the rail.

Senator LAUTENBERG. Does TSA give any of you advice on new technological discoveries, new equipment, new ideas on protecting your responsibilities? I'm not just trying to get TSA in a vise here, but I'm interested in what each of you does, each and every day. You have enormous responsibility of life and limb, the economy, the functioning of our society. Is TSA a significant source for data and information on what you can do to improve your operation, without simply suggesting you get more resources, which I think also—

Mr. O'CONNOR. Through the years, Senator, we have partnered with TSA to experiment or run pilot programs on different technology, whether it be millimeter wave technology that they're trying to detect someone carrying a suicide vest on their body, radiological detectors, explosive trace detection. That's one of the areas where DHS and TSA has been particularly helpful. I think they need to do more, you know, and I think that they have to, kind of, speed up getting some technology to us, in terms of cameras and face recognition and, you know, the ability to detect people who may be leaving things behind on trains and in stations. But, that's one area where TSA has been helpful to Amtrak.

Senator LAUTENBERG. There have been, thank goodness, no terrorist attacks on rail systems in our country. Attacks around the world have resulted in significant loss of life and system disruptions. The TSA only allocates about two percent of its budget for surface transportation security. How does—this structure, this prioritization by the Department affect you and your ability to meet your security needs?

Mr. KELLY. Senator, while—it wouldn't be fair to compare aviation to surface security. As I mentioned in my testimony, it's never—

Senator LAUTENBERG. You said—

Mr. KELLY.—been more—

Senator LAUTENBERG.—900,000 people board your trains every day?

Mr. KELLY. Yes, sir. But, it's an open system, as compared to a sterile environment. It has never been more critical than it is now,

with the budget constraints, I believe, that are pressing against most transit properties. We—we've received about \$59 million in support through Federal grants since 2003. And it's critical that that continues so that we can continue to provide the level of security that we do.

Mr. O'CONNOR. Senator, several of the panelists previously testified that decisions like this should really be based upon risk. And clearly, I think the risk to surface transportation has become greater over the years. So, that, to me, would suggest that TSA and DHS should take a step back and see if their formula that they thought was the right one several years back is still the right one today. You know, it would appear to me, as you said earlier, with 2 million to 35 million passengers at risk, the formula needs to be revisited.

Senator LAUTENBERG. But, also there are 45,000 people, thank goodness, inspecting baggage and passengers to make sure, as much as possible, that bad people don't get on the airplane. On a comparative basis, however, because of the widespread use of that surface transportation, it's—I'm not sure that there can be any comparison to that which is spent—87 percent of the budget is spent on aviation. And the question is, have we done enough—are we doing enough?

Chief Kelly, I hear what you're saying. I mean, we know that there are significant budget cuts in—New Jersey Transit and other facilities in the state, unfortunately. But, the question is, At what point do we impair our ability to provide the kind of security—that's a rhetorical question, you don't have to answer, because I know what your thoughts might be, even what your words might be different from—the fact of the matter is that these things could have consequences—that are unthinkable.

I was a Commissioner of the Port Authority before I came to the Senate. And one of the first things I did was to go down in the Port Authority tube tunnel. I wanted to see what it was like. And I found things in unacceptable condition, fire doors locked and an electrical system that was so antiquated—one system is one series, another is a different kind of system. So, one system, if you lose a bulb, half of the system goes out, things of that nature. It was shocking. And they got on it in a hurry, but the inspection for these things is essential. I mean, security is not simply, as all of you know, a terrorist taking action against our citizens, but there are also other security measures—fire, et cetera, and the terrible thing we saw on 9/11 that—

So, what I'm trying to do is to make sure that there is an awareness by TSA that response time has to be far better than that which—and I'm not asking for your opinion, I want to spare you that, but I'm giving you mine, based on what we heard here at the table today. And the thing that we have to do is step up to our full responsibility.

And I'm pleased to have you here with us. I appreciate the time that you've given.

We will keep the record open, to see if any other questions occur that we might want to talk to you about.

I want to ask Mr. Elliott a question. In 2007 CSX provided New Jersey's regional operations, intelligence center with access to on-

line systems that allow the center to track the location and contents of CSX trains in real time. You mentioned this. How has this partnership, do you think, improved rail security? And might it be replicated throughout the country?

Mr. ELLIOTT. Well, thank you, Senator Lautenberg, for the question. As you asked me the question, I think the example of the partnership that we have with the New Jersey State Department of Homeland Security is, again, an admirable one. Much is to the credit of then-Director of Homeland Security, Dick Canas. He is no longer in that position, but I give much of the credit for the success of that public-private partnership to his candor, his vision, and his frankness in wanting freight rail transportation to be an equal partner in helping to ensure the safety and security within the state.

And what we did, through the technology that we provided, was actually provide transparency to the state homeland security group within New Jersey. That allowed them transparency. This is something that then-Director Canas was very interested in having, so he could go to the leadership in New Jersey, and he could honestly say—and you talked about that corridor, the chemical coast up in North Jersey. Senator, so he could honestly say that he knew where every train was on CSX, and where every hazardous-material car might be in that train. We provided him with that transparency.

I think, in return, the Department of Homeland Security in New Jersey did some very positive things, unlike we have seen in any other state, in that they utilized some of their hard-to-get Federal DHS dollars and put that toward infrastructure protection of freight rail assets. And that is not something else that we have seen a model of.

As you know, while we receive some Federal dollars, it is solely for training. We get no Federal funds to enhance any of our security assets. But, in the case of New Jersey, they found a way to work closely with their freight rail partner, CSX, to come up with a win-win scenario. And, again, this is something—both the technology and the transparency—that we try to provide and we have in place in eight states. And we are actually working with approximately four other states to provide the same technology. And you heard me mention that both the TSA Freedom Center, in Herndon, and the DOT Crisis Center, here in Washington, both have that technology.

But, do I think it could be replicated? Yes. I think there is a need for—in the right hands, in the right secure hands—for security analysts and security officials to be able to have a better understanding where the Nation's freight railroads are operating. And give them better information so they, in turn, can do their part to help protect us.

Senator LAUTENBERG. Do you talk to others in the freight business about security measures? Is there an interchange of information?

Mr. ELLIOTT. Yes. Through our trade association, the Association of American Railroads, there is a standing security committee. And there is regular interaction, regular dialogue on what we are doing throughout the industry to enhance security.

Senator LAUTENBERG. Well, each of you has a responsibility that overlaps with your neighbor across the table. And the exchange of information is critical, information about things that might be happening, but also about improving your communications, timing and efficiency. And I would ask you, please—you know how to get a hold of my office, and if you have any commentary that goes beyond the questions that we may submit for the record, we'd invite you to volunteer your views on any of the ideas that come your way as a result of your people being in the field.

I wanted to check one thing with you, Mr. Kelly, before we finish. And I promise, this is the last, and I'll let you go, and I'll go. And that is, you talked about the complement that you have in your police department; 244—

Mr. KELLY. Yes, sir.

Senator LAUTENBERG.—positions. And did you have to take some cuts in that now?

Mr. KELLY. The police department lost no sworn positions, sir. We did—

Senator LAUTENBERG. All right—

Mr. KELLY.—we did lose some positions in the police department, but none of them were police officers.

Senator LAUTENBERG. Thank you all very much for being here. [Whereupon, at 4:21 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO HON. DAVID HEYMAN

Question 1. Can you please provide a status update, timeline, and plan of action for when each of the rules mandated in the Implementing the Recommendations of the 9/11 Commission Act related to comprehensive security training for rail, transit, and bus workers will be issued?

Answer. TSA has combined three requirements in the “Implementing Recommendations of the 9/11 Commission Act of 2007” (9/11 Act) for security training rules into a single regulation. Sections 1408, 1517, and 1534 of the 9/11 Act require the Secretary to develop and issue regulations for training frontline employees of public transportation, railroad, and over-the-road-bus operators, respectively. The Notice of Proposed Rulemaking (NPRM) is being developed, as required by the 9/11 Act, in consultation with representatives of government and law enforcement experts, emergency responders, private sector operators, and labor organizations. TSA anticipates that the NPRM would be available for public comment in early calendar year 2011.

Question 2. To what extent is each surface transportation mode applying, or adapting, the National Infrastructure Protection Plan’s threat, vulnerability, and consequence construct to their respective modes to produce comprehensive risk assessments and to rank assets or systems accordingly? Which modes have made the most progress in this effort?

Answer. As described in the National Infrastructure Protection Plan (NIPP), the Transportation Security Administration (TSA) is a co-Sector Specific Agency (SSA) for the Transportation Sector along with the U.S. Coast Guard (USCG), and TSA is responsible for developing and carrying out the provisions of the Sector Specific Plan (SSP) for Transportation Systems—including the modal annexes for the surface transportation modes. The USCG is a co-SSA for the Transportation Sector for the maritime mode of transportation. The Transportation Systems SSP addresses the applicability of the NIPP’s risk management framework construct to the Transportation Sector-Specific programs and how the sector has responded to the request to rank assets or systems accordingly.

Specifically, several risk assessment tools have been developed and implemented in support of the sector risk management framework, to identify and address measures required to build resilience in all the modes of transportation. The sector developed a comprehensive methodology for conducting annual assessments of terrorism-related risks across the sector. The Transportation Sector Security Risk Assessment (TSSRA) was designed to provide data for modal and cross-modal risk analyses and enable the Department of Homeland Security (DHS) to develop a baseline understanding of the risk landscape facing the sector. Similar methodologies such as the USCG’s Maritime Security Risk Analysis Model (MSRAM), and the Baseline Assessment for Security Enhancement in the mass transit mode have a more finite scope than TSSRA, but share the goal of helping to determine the individual mode’s most important risk considerations.

The Highway and Motor Carrier Security Division in TSA has developed a risk based methodology to determine the most critical highway infrastructures and has begun conducting in-depth risk assessments of these structures. TSA provided the individual states with the methodology to determine that these structures and this information were forwarded by each state to TSA. Although results were not received from all states, TSA, working with the Army Corps of Engineers, has begun conducting assessments on the top 58 and anticipates completing approximately 25–30 by the end of 2010. At the National level, the Office of Infrastructure Protection, Homeland Infrastructure Threat and Risk Analysis Center (HITRAC) is engaged in a systematic building of capability of transportation networks, system interdependencies, and consequence assessments through the National Infrastructure Simula-

tion and Analysis Center (NISAC) to assist with both risk assessment and consequence management during real world events.

Additionally, the Highway and Motor Carrier Security Division in TSA has completed industry risk assessments on the school transportation industry and the trucking industry as required by the 9/11 Act. TSA is also completing industry risk assessments on the over-the-road bus industry, an overview of the states' Departments of Transportation structures, and an overall assessment of the entire highway mode.

Question 3. Given that the Surface Transportation Security Program is under supervision of the aviation-focused Federal Security Directors, what steps does TSA take to ensure that surface transportation security gets the appropriate level of priority?

Answer. The Transportation Security Administration provides program oversight from headquarters to ensure work products at each location meet the frequency and quality mandated in the regulatory activities plan. In addition to oversight reports, six Regional Security Inspectors-Surface with extensive surface expertise are assigned to regions and conduct regular site visits to ensure standardization. Surface security training for all FSDs and AFSD-Is is ongoing to ensure they have the proper foundation to lead and manage the surface transportation security within their respective Area of Responsibility (AOR).

Question 4. How does TSA ensure that those responsible for surface transportation security have the necessary level of expertise?

Answer. The Transportation Security Administration has established experience requirements for transportation security inspectors. Those in lead or supervisory positions are required to have surface experience to provide stability to the surface program. Inspectors are assessed against these requirements throughout the interview, hiring, and promotion processes.

Question 5. What is the status of TSA's efforts to develop a national bridge strategy to supplement the Highway Infrastructure and Motor Carrier Annex to assist the stakeholder community in assessing both the criticality and the security vulnerabilities of its assets?

Answer. The Transportation Security Administration (TSA) is moving ahead to: identify critical structures; conduct vulnerability assessments on those structures; identify and share with stakeholders appropriate structural and operational vulnerability mitigation steps and tools; identify and recommend contemporary technological mitigation products; and promote appropriate security elements in planning and funding stages of new or significantly modified critical highway structures.

A National Strategy for Highway Bridge Security was developed in a multi-agency work group chaired by TSA and signed into policy by then-TSA Administrator Kip Hawley in 2008. It is currently under biennial review and possible update by the same work group. Participants in that group included TSA, the DHS Offices of Policy, Infrastructure Protection (IP) and Science and Technology (S&T), as well as the USDOT's Federal Highway Administration. Since the Strategy's approval, the principles agreed upon have guided TSA's initial selection and inspection of highway structures in a cooperative campaign with its fellow Federal agencies.

Using Strategy principles, TSA identified a list of 58 critical infrastructures to be assessed over the next 2 years, including 45 bridges and 13 tunnels. TSA has engaged the U.S. Army Corps of Engineers (USACE) through an Interagency Agreement to complete the assessments. Since February 2010, the USACE has completed eight bridge assessments. It is anticipated that the USACE will complete 20 to 30 assessments by the end of calendar year 2010. TSA will share the findings of these assessments with appropriate stakeholder communities.

IP conducts specialized field assessments to identify vulnerabilities of nationally significant critical infrastructure and key resources (CIKR). These vulnerability assessments provide the foundation of the risk-based implementation of protective programs designed to prevent, deter, and mitigate the risk of a terrorist attack while enabling timely, efficient response and restoration in an all-hazards post-event situation. IP has conducted 274 vulnerability assessments on CIKR Transportation Sector assets, including 102 assessments of surface transportation assets, on the Level 1/Level 2 List since 2004.

These assessments are conducted on a strictly voluntary basis. IP has no regulatory authority on transportation sector assets to conduct assessments and relies on the cooperation of its private sector partners. The final assessment report is classified Protected Critical Infrastructure Information (PCII), and is limited in distribution.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
HON. DAVID HEYMAN

Question 1. Please provide the Committee with your training program for surface transportation inspectors and VIPR teams.

Answer. Transportation Security Administration (TSA) Surface Inspectors receive 5 weeks of initial training that covers: Department of Homeland Security and TSA missions, core values, roles and responsibilities; the Aviation and Transportation Security Act (ATSA), the Implementing Recommendations of the 9/11 Commission Act of 2007, and other guiding legislation or documents; ethics and other legal issues; 49 CFR Part 1580 Rail Transportation Security; and TSA compliance and enforcement strategies. In addition, Surface Inspectors attend a one-week Railroad Operations Safety and Security training course that covers: safety; industry terminology; railroad and transit system organizational structure; rail and transit system operations; infrastructure; hazmat; emergency response; and railroad/rail mass transit security initiatives.

Follow-on training consists of various courses conducted by the Federal Law Enforcement Training Center, the Transit Safety Institute, the New Mexico Tech Energetic Materials Research and Testing Center; and the Federal Emergency Management Agency (FEMA).

The TSA Office of Law Enforcement/Federal Air Marshal Service has established an Intermodal Training Branch (ITB) at its training center in Atlantic City, New Jersey. The goal of the ITB is to develop Surface mode specific training curricula and tactics for Federal Air Marshals to utilize while conducting Visible Intermodal Prevention and Response (VIPR) operations. Training courses have been developed and are being implemented at the field level.

TSA VIPR assets at the management and field levels attend a Railroad Operations, Safety and Security Training class in Pueblo, Colorado, in an effort to familiarize them with the surface transportation domain. TSA also continues to leverage its transportation stakeholder/partners by attending training sponsored by transportation entities regarding operational safety and tactics in the surface transportation domain.

Locally, the TSA coordinates with the transit agency to train inspectors as well as other VIPR team members to operate within their system. The training usually includes work and track safety and an overview of the station to include emergency exits. The Inspectors have also been trained to conduct station profiles, which are also part of pre-operational planning for VIPR.

Question 2. For several years TSA has partnered with the private freight railroads and the Department of Transportation to develop the Rail Corridor Risk Management System to measure the risk of transporting hazardous materials by rail. How will the Department continue to support this important Rail Corridor Risk Management System?

Answer. Since its inception in 2005, the Freight Rail Security Grant Program (FRSGP) has allocated funding for the development of a Rail Corridor Risk Management System (RCRMS) to assist railroads with the analysis of routes used to transport certain hazardous materials. The Transportation Security Administration (TSA) believes that the RCRMS is now in an operations and maintenance phase and that future funding should be provided by the regulated parties that use RCRMS to assist them in complying with the provisions of 49 CFR 172.820. However, TSA will continue to work with the Federal Railroad Administration (FRA) to evaluate new funding needs for new capabilities, as/if they arise. TSA will also continue to work with FRA in reviewing the routing analyses submitted by the railroads by providing relevant threat and vulnerability intelligence to inform the RCRMS.

Question 3. As part of your rail risk assessment, have you considered whether encouragement of the chemicals industry to develop alternative products or manufacturing processes would have an effect on security risks?

Answer. The freight railroad risk assessment prepared by the Transportation Security Administration does not directly address the issue of product substitution or inherently safer technologies to replace toxic inhalation hazard (TIH) materials in rail transportation. The primary objective of the railroad risk assessment was to identify the risk to and from freight rail transportation in its current state.

Question 4. When will TSA develop performance measures to evaluate grants provided under its various transportation security grants?

Answer. The Transportation Security Administration (TSA) is currently working with the Federal Emergency Management Agency (FEMA) to develop performance measures for grant programs that can be objectively measured and incorporated into ongoing and regular site monitoring visits. TSA is also working to identify current

mitigation actions for high-risk critical infrastructure assets, including how/when they will be fully remediated. These actions will provide tangible results on the effectiveness of grant funding for implementation in the Fiscal Year 2011 grants cycle.

Question 5. When will TSA have measures in place to determine the effectiveness of its VIPR teams, as recommended by GAO?

Answer. The Transportation Security Administration (TSA) continues to work on enhancing and refining the current Visible Intermodal Prevention and Response (VIPR) performance metrics as improvements are made to data collection and analytical capabilities.

To continue to address the opportunities cited by the Government Accountability Office, the VIPR program is incorporating additional functionality into a new information system being implemented during calendar year 2010. This system will be readily available to all VIPR team members for documenting, planning, deploying, and follow-up of the VIPR program activities. Analysis of performance data over time at both the local and national levels will increase understanding of VIPR program effectiveness.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HON. DAVID HEYMAN

Question 1. As you know, ferry transportation is a critical component of Washington State's transportation system. I know that DHS has been very concerned about the vulnerability of ferries to terrorist attack. I appreciate how well you have worked with the Washington State Ferry System on security issues. How does the department evaluate the current safety and security regimes across the various ferry systems operating in the U.S.?

Answer. The United States Coast Guard's (USCG) Ports, Waterways, and Coastal Security (PWCS) strategy views security as a shared responsibility, requiring collaboration and cooperation at all levels of government, with the private sector, and international partners. All passenger vessels (including ferries) of over 100 gross tons that are capable of carrying more than 150 passengers in domestic service, or that are capable of carrying more than 12 passengers on an international voyage, are required to comply with the Maritime Transportation Security Act (MTSA) of 2002, and its regulatory provisions found in 33 CFR Parts 101–105.

The Transportation Security Administration (TSA) supports the USCG in ensuring compliance by applicable maritime facilities and vessels (including ferries) with 33 CFR parts 101–105 by leveraging its core competencies of passenger screening, explosives detection, Transportation Worker Identification Credentialing (TWIC) management, and intermodal transportation security.

Question 2. Are there aspects of ferry security that are of special concern to the Department?

Answer. The United States Coast Guard (USCG), in conjunction with U.S. Customs and Border Protection (CBP), and other Federal, State and local officials, has been interested in reducing the security risk posed by ferry vessels. Under the USCG's Operation Neptune Shield, Sector Commanders are directed to escort a percentage of high capacity passenger vessels, including ferries, to deter and protect them against small vessel attacks.

Question 3. Are we investing adequately in ferry safety and security in light of the number of passengers and vehicles ferries transport?

Answer. Maritime security is achieved through the combined and coordinated efforts of international, private, and governmental maritime security community members. A layered strategy is used to create a security regime that reduces risk and shares cost. For example, the FEMA administered Port Security Grant Program (PSGP) has made over \$1 billion available to eligible maritime stakeholders, including ferry systems, since the inception of the program in 2002. To reduce or eliminate vulnerabilities, certain high risk ferry systems, for a number of years, had access to their own separate allotment of PSGP money for which only they could apply. Though there is no longer a separate ferry allotment, eligible ferry systems can still apply for money from the general PSGP fund.

Question 4. Can you assure us that container cargo coming into the Port of Prince Rupert, British Columbia, and across the U.S.-Canada land border is subject to the same security scrutiny as import containers entering through U.S. ports?

Answer. U.S. Customs and Border Protection (CBP) exercises level of security scrutiny for container cargo coming into the Port of Prince Rupert, British Columbia as it does for import containers entering through other U.S. ports absent specific threat streams. Conveyances arriving in the United States from Canada through

land border ports of entry by truck or rail are arriving from foreign origins, and are thus subject to the same level of security scrutiny as containers being imported directly through U.S. ports.

Regardless of the mode of transportation, CBP concentrates its efforts on its primary mission of preventing terrorists and terrorist weapons from entering the United States, while at the same time facilitating legitimate trade and travel. CBP must secure America's borders while doing it in a way that does not stifle the flow of legitimate trade and travel through our borders.

We are accomplishing these equally important goals through the use of advance information, risk-management targeting systems, detection technologies and extended border strategies. CBP employs a layered enforcement approach to safeguarding U.S. borders from threat by land, air, and sea.

CBP recognizes that no single strategy or risk assessment is 100 percent effective and accurate, thus CBP focuses on layering multiple initiatives together to accomplish its mission. CBP works aggressively with trade and government partners to legislate improvements regarding data timeliness and quality, which augment the abilities of highly trained personnel to using cutting edge technology for targeting, detecting and securing terrorists, or implements of terrorism, destined to the United States.

The strategies and technologies used within our agency to help combat terrorism and prevent instruments of terror from entering the United States include:

- *The National Targeting Center (NTC)*—A single location for coordinating critical intelligence within CBP and with the Intelligence Community to rapidly implement targeting responses for passengers and cargo;
- *The Automated Targeting System (ATS)*—A decision support system that enables CBP to utilize automated risk-scoring algorithms to vet relative levels of risk for cargo shipments and passengers and focus inspection efforts. ATS is a highly adaptive system that allows CBP to fuse data from enforcement and commercial sources to assess risks. For cargo, ATS integrates entry declaration, carrier manifest data and enforcement data, and utilizes extensive and comprehensive historical data to identify unusual and high-risk shipments. The industry data that feeds ATS is substantial, and the Trade Act regulations requires detailed and accurate cargo information in advance of arrival to facilitate risk evaluation;
- *Regulatory Changes for Reporting Requirements*—CBP actively works with the trade community to evaluate new and refined reporting requirements that can enhance supply chain transparency and security. Recent and significant examples include the 24-Hour Rule and the Trade Act. These regulatory changes give CBP the authority and mechanisms needed to receive detailed electronic cargo information on all U.S.-bound sea cargo before it leaves a foreign seaport; allows receipt of cargo information for air, rail and truck shipments, and permits targeting decisions to be made before the arrival of conveyances;
- *The Container Security Initiative (CSI)*—CBP is targeting—and with our foreign counterparts—screening targeted containers; that may be used to conceal terrorist weapons before they are loaded on ships destined for the United States;
- *The Customs-Trade Partnership Against Terrorism (C-TPAT)*—Through C-TPAT, CBP has partnered with the private sector to implement security standards and best practices that better protect the entire supply chain against exploitation by terrorists—from foreign loading docks to U.S. ports of entry;
- *Non-Intrusive Inspection (NII) and Radiation Detection Technologies*—Another facet of our layered defense that enables CBP to screen a larger portion of the stream of commercial traffic in less time while facilitating legitimate trade and travel. These tools provide CBP with a significant capability to detect and interdict terrorist weapons and other contraband at U.S. ports;
- *Air Cargo Interagency Collaborations*—Efforts between CBP and other agencies have been established to strengthen air cargo security;
- And, the implementation of “Smart Border” agreements that involve a number of actions to improve information exchange and adopt benchmarked security measures that will reduce the terrorist threat at our borders, such as the sharing of significant seizure information that would enhance future targeting efforts.

These layers are interdependent and deployed simultaneously, to substantially increase the likelihood that contraband, including terrorists and weapons of terror will be detected. No single strategy could provide the level of security that CBP has worked to achieve and maintain since the tragic events of September 11, 2001.

Question 5. DNDO hasn't yet come up with a radiation screening solution for on-dock container transfers from ship to rail, so containers at Port of Tacoma have to be unloaded, scanned and then loaded on trains. Prince Rupert has on-dock intermodal rail facilities like Tacoma. Are they going to the same lengths to screen containers for radiation?

Answer. The Canada Border Services Agency (CBSA) concept of operations (CONOPS) for scanning ship-to-rail containers at Prince Rupert is similar to the CONOPS used at most of the terminals at Port of Tacoma (POT). The CONOPS used at Prince Rupert and most of the terminals at POT involves yard-haulers (*i.e.*, tractor and trailer with container) driving through "standard" 4-panel radiation portal monitors (RPMs) at multiple locations on each terminal. The Pierce County Terminal at the POT, however, has a much more challenging issue. They use straddle-carriers to move containers from the ship to the stacks and/or the train and have no physical space or infrastructure to add RPMs or tractor/trailer equipment. A straddle-carrier is much too large (size and shielding) to be scanned with a 'standard' RPM, which is driving the proof-of-concepts in the On-Dock Rail Program.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AMY KLOBUCHAR TO
HON. DAVID HEYMAN

Question 1. As a former prosecutor, I am always concerned that state and local law enforcement entities play an informed and active role in security initiatives. Can you explain in more detail how TSA is working to incorporate state and local law enforcement into mass transit security? What are some of your suggestions as to how we can better improve on that partnership?

Answer. The Transportation Security Administration (TSA) augments the efforts of Federal, state and local resources to deter potential terrorist and criminal activity across various modes of transportation by effective deployment of Visible Intermodal Prevention and Response (VIPR) teams.

VIPR teams work alongside stakeholders, including law enforcement, utilizing a variety of security tactics that are accomplished through coordination with stakeholders to deploy Federal, state and local resources, as well as integrated TSA assets, to conduct random high visibility patrols, passenger and baggage screening operations, and deployment of explosive detection canine teams, and technology.

TSA takes a proactive approach to initiating, building and maintaining stakeholder relationships by conducting face-to-face meetings, and conducting stakeholder teleconferences. TSA also meets bi-annually with the major rail and mass transit police chiefs at the Safety and Security Roundtable co-sponsored by the Departments of Transportation and Homeland Security, and maintains liaison with rail and mass transit police chiefs at the annual International Association of Chiefs of Police conference.

National Explosives Detection Canine Team Program (NEDCTP) has partnered and entered into Cooperative Agreements with 19 law enforcement agencies in the Mass Transit/Maritime arena. TSA also partially funds over 100 state and local explosives detection canine teams in mass transit/maritime, to offset operating costs experienced by municipalities.

Additionally, the Buffer Zone Protection Program (BZPP) is a DHS-administered, \$50 million targeted infrastructure protection grant program for local law enforcement focused on identifying and mitigating vulnerabilities at the highest-risk critical infrastructure sites and providing funding to local law enforcement for equipment acquisition and planning activities to address gaps and enhance security capabilities. The BZPP is designed to increase first responder capabilities and preparedness by bringing together private sector security personnel and first responders in a collaborative security planning process that enhances the buffer zone—the area outside a facility that can be used by an adversary to conduct surveillance or launch an attack, around individual assets.

Since FY 2004, IP has conducted 165 BZPP assessments on Level 1/Level 2 assets throughout the Transportation Sector, and distributed \$25 million in grant funding. As a subset, 19 BZPP assessments have been conducted in the mass transit sub-sector, providing a total of approximately \$4.5 million in grant funding.

Question 2. In your testimony, you mentioned that in October 2009, Amtrak and TSA partnered to conduct random passenger and baggage screening at multiple locations across the Northeast Corridor. I understand you intend to expand this initiative nationwide. You cite this program as among DHS' most effective deterrence and detection tools for countering terrorist threats. Can you elaborate on it?

Answer. The 2009 initiative referenced above was an Amtrak-led, Transportation Security Administration (TSA) supported, simultaneous security operation that oc-

curred during the morning and evening rush hours throughout the Northeast Corridor from New England to Northern Virginia. Amtrak Police, TSA Transportation Security Inspectors, and more than 100 police departments across 13 states mobilized for this coordinated operation that included random passenger and baggage screening at multiple locations among the 150 railway stations involved in the event.

The joint operation demonstrated the capability to implement random, unpredictable security enhancements, quickly and on short notice, at multiple passenger rail locations. Similar to previous operations held over the last 2 years, these continuing operations, through their emphasis on mutual cooperation, set the stage for future quick, short notice use of this capability. In addition to random passenger and baggage screening, other security enhancements implemented during the initiative that contributed to its success included the Visible Intermodal Prevention and Response (VIPR) operations and canine teams. The readiness of Amtrak; state, local and transit law enforcement partners; and TSA to act jointly and simultaneously was part of the continuous effort to advance a collaborative security strategy for the Northeast Corridor.

Question 3. In your testimony, you mentioned that in October 2009, Amtrak and TSA partnered to conduct random passenger and baggage screening at multiple locations across the Northeast Corridor. I understand you intend to expand this initiative nationwide. What evidence do you have to show that randomized screening has lowered the threat level to trains running on the Northeast Corridor?

Answer. There are significant indicators that suggest that the pro-active security program encouraged and fostered by TSA and its security partners, and consisting of numerous individual security programs and efforts, have served to lessen the overall risk to trains operating in the Northeast Corridor. These include: greater public awareness of increased, security measures based on visibility and media coverage underlining rail passenger vigilance; better communications with local law enforcement agencies, the transit police, and security forces as evidenced through the success of joint operations; and more efficient and timely sharing of information between law enforcement agencies.

UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE
Washington, DC, June 3, 2010

Hon. JOHN D. ROCKEFELLER IV,
Chairman,
Committee on Commerce, Science, and Transportation,
U.S. Senate.

Hon. FRANK R. LAUTENBERG,
Chairman,
Subcommittee on Surface Transportation and Merchant Marine Infrastructure,
Safety, and Security,
Committee on Commerce, Science, and Transportation,
U.S. Senate.

Subject: Surface Transportation Security: GAO Responses to Post-hearing Questions for the Record

On April 21, 2010, I testified before your committee at a hearing on Surface Transportation Security.¹ This letter responds to the four questions for the record you posed. Your questions and my responses follow.

Question 1. What measures can TSA or DHS put into place to determine if homeland security funds are effectively reducing risks to the Nation's surface transportation security networks?

Answer. In recent years, the President and Congress have provided that Federal agencies with homeland security responsibilities should apply risk management principles to inform their decisionmaking regarding allocating limited resources and prioritizing security activities. DHS's risk management principles include using metrics and other evaluation procedures to measure progress and assess the effectiveness of protection programs. However, we have previously reported that TSA has not established a mechanism to monitor how effectively the agency has implemented its risk management framework and used these results to improve its per-

¹GAO, *Surface Transportation Security: TSA Has Taken Actions to Manage Risk, Improve Coordination, and Measure Performance, but Additional Actions Would Enhance Its Efforts*, GAO-10-650T (Washington, D.C.: Apr. 21, 2010).

formance.² We recommended that TSA establish a system to monitor and improve how effectively DHS's risk management framework is being implemented. DHS concurred with our recommendation and in August 2009 stated that TSA has established an Executive Risk Steering Committee that will, among other activities, oversee TSA's risk management strategy and provide a structure to support standing and ad-hoc risk management working groups.

We have also reported that TSA has not always taken necessary steps to inform its resource allocation or fully assessed alternatives that could be pursued to achieve efficiencies and potentially enhance security.³ In March 2009, we recommended that TSA take several actions to promote the effective use of risk management, including adopting security goals that define specific outcomes, conditions, end points, and performance targets; conducting comprehensive risk assessments that combine individual assessments of threat, vulnerability, and consequence; and analyzing these risk assessments to produce a comparative analysis of risk across the entire transportation sector to guide current and future investment decisions.⁴ DHS concurred with our recommendation and in April 2010, TSA officials stated that the agency had revised its risk management framework, along with its Transportation Security Sector-Specific Plan and accompanying modal annexes. They added that these documents are undergoing final agency review. Until TSA completes risk assessments for each individual transportation mode and analyzes these assessments to produce a comparative risk analysis across all modes, the agency is limited in its ability to ensure that it is allocating its resources to those areas with the highest priority risks.

We have also reviewed DHS's Transit Security Grant Program (TSGP), which the agency uses to provide funds to owners and operators of mass transit and passenger rail systems to protect critical surface transportation infrastructure. In June 2009, we reported that the TSGP incorporated a risk model that included all three risk elements (threat, vulnerability, and consequence) and was intended to allocate grant funding to the highest-risk regions and transit agencies.⁵ However, we further reported that the TSGP risk model could be strengthened by measuring variations in vulnerability—which is considered a generally accepted practice in assessing terrorism risk—and recommended that DHS develop a cost-effective method for incorporating vulnerability information into future iterations of the TSGP risk model.⁶ DHS agreed with our recommendation and in April 2010, DHS stated that it has not yet taken action to vary vulnerability in its risk model, but is reevaluating the model for the Fiscal Year 2011 cycle. Further, DHS stated that TSA is evaluating the feasibility of incorporating an analysis of the current state of an asset in determining grant funding for the Fiscal Year 2011 cycle, which the agency believes would address our recommendation. Until DHS considers possible variations in vulnerability in the TSGP risk model, the agency will be limited in its ability to assess risk and more precisely allocate transit security grants.

Question 2. To what extent have Federal entities coordinated their efforts to assess the risks to the Nation's highway infrastructure?

Answer. In January 2009, we reported that although several Federal entities, including TSA and the U.S. Coast Guard (USCG), had efforts underway to assess the risk to highway infrastructure, these assessments had not been systematically coordinated among key Federal partners.⁷ Specifically, we found that DHS agencies and offices, including TSA, DHS's Office of Intelligence and Analysis, and USCG, each had efforts underway to assess the threats posed to highway infrastructure, including the most likely tactics that terrorists may use and potential targets. We also reported that Federal agencies were assessing the security vulnerabilities of,

²GAO, *Transportation Security: Comprehensive Risk Assessments and Stronger Internal Controls Needed to Help Inform TSA Resource Allocation*, GAO-09-492 (Washington, D.C.: Mar. 2009)

³See GAO-09-492; *Commercial Vehicle Security: Risk-Based Approach Needed to Secure the Commercial Vehicle Sector*, GAO-09-85 (Washington, D.C.: Feb. 2009); *Highway Infrastructure: Federal Efforts to Strengthen Security Should Be Better Coordinated and Targeted on the Nation's Most Critical Highway Infrastructure*, GAO-09-57 (Washington, D.C.: Jan. 2009); *Passenger Rail Security: Enhanced Federal Leadership Needed to Prioritize and Guide Security Efforts*, GAO-07-225T (Washington, D.C.: Jan. 18, 2007); and *Transportation Security: Systematic Planning Needed to Optimize Resources*, GAO-05-357T (Washington, D.C.: June 29, 2005).

⁴GAO-09-492.

⁵GAO, *Transit Security Grant Program: DHS Allocates Grants Based on Risk, but Its Risk Methodology, Management Controls, and Grant Oversight Can Be Strengthened*, GAO-09-491 (Washington, D.C.: June 2009).

⁶DHS has held vulnerability constant because it lacked data on the differences in vulnerability among transit agencies.

⁷GAO-09-57.

and consequences of an attack on highway assets to some degree, although the scope and purpose of these individual efforts varied considerably. For example, TSA's Highway Motor Carrier (HMC) division had chosen to identify highway infrastructure vulnerabilities by working primarily with state departments of transportation to identify the extent to which common security practices are employed given staffing limitations and the substantial number of highway infrastructure assets under their jurisdiction. However, we reported that more comprehensive, asset-specific vulnerability analyses were being conducted by both DHS's Office of Infrastructure Protection and the USCG, although the scope and purpose of the resulting products varied considerably. In addition, we reported that TSA conducts reviews of security practices at the state level through its Corporate Security Review (CSR) program to develop a baseline assessment of security nationwide. While TSA's CSR assessments have a wide scope, other Federal agencies operate programs that assess the security vulnerabilities of specific highway assets. However, we found that the various assessments conducted to date were not well coordinated among these key Federal partners, and the results have not been routinely shared. We noted that enhanced coordination with Federal partners could better enable TSA to determine the extent to which specific critical assets had been assessed and whether potential adjustments in its CSR methodology were necessary to target remaining critical infrastructure assets. We recommended that to enhance collaboration among entities involved in securing highway infrastructure and to better leverage Federal resources, DHS establish a mechanism to systematically coordinate risk assessment activities and share the results of these activities among the Federal partners. DHS concurred with the recommendation and in February 2010, TSA officials indicated that its HMC division had initiated an interagency agreement with the U.S. Army Corps of Engineers to conduct on-site risk assessments. The agency also reported that it has met with other Federal agencies that conduct security reviews of highway structures to identify existing data resources, establish a data-sharing system among key agencies, and discuss standards for future assessments.

Question 3. To what extent has TSA assessed the security risk for the commercial vehicle sector and used its lessons learned to implement a security strategy?

Answer. In February 2009, we reported that TSA had taken actions to assess the security risks associated with the commercial vehicle sector, including assessing threats and initiating vulnerability assessments, but more work remained to fully assess the security risks of commercial trucks and buses, and to ensure that this information is used to inform TSA's security strategy.⁸ Specifically, we reported that although TSA had completed a variety of threat assessments and was in the process of developing several threat scenarios with likelihood estimates, its key annual threat assessments did not include information about the likelihood of a terrorist attack method on a particular asset, system, or network, as required by the National Infrastructure Protection Plan (NIPP). We also found that although TSA co-sponsored a large number of vulnerability assessments through a pilot initiative in the State of Missouri, the agency had made limited progress and had not established a plan or time frame for conducting a vulnerability assessment of this sector nationwide. Moreover, we reported that TSA had not determined how it will address recommendations from an evaluation of the Missouri pilot initiative regarding the ways in which future vulnerability assessments can be strengthened. In addition, we reported that TSA had not conducted assessments of consequences of a terrorist attack on the commercial vehicle sector, or developed a plan to conduct sectorwide consequence assessments. As a result, we found that TSA had not completed a sectorwide risk assessment of the commercial vehicle sector or determined the extent to which additional risk assessment efforts are needed, nor had it developed a plan or a time frame for doing so, including an assessment of the resources required to support these efforts. In addition, TSA had not fully used available information from its ongoing risk assessments to develop and implement its security strategy.

We recommended that TSA establish a plan and a time frame for completing risk assessments of the commercial vehicle sector, and use this information to support future updates to the Transportation Sector Strategic Plan, to include conducting: (1) to the extent feasible, threat assessments that include information about the likelihood of a terrorist attack method on a particular asset, system, or network as required by the NIPP; (2) a vulnerability assessment of the commercial vehicle sector; and (3) consequence assessments of this sector. DHS concurred with this recommendation and in August 2009 stated that TSA is conducting comprehensive security assessments that will determine the risks associated with a terrorist attack

⁸GAO-09-85.

upon the Nation's general trucking population, and specifically, the hazardous materials trucking system; and the Nation's school bus transportation system.

Question 4. The GAO and the National Security Council have identified the need for performance measures to determine the effectiveness of grants provided under the TSGP. What performance measures should TSA have in place to determine if homeland security funds are effectively reducing risk?

Answer. We reported in April 2009 that TSA's performance measures for surface transportation security initiatives should be targeted, measurable, outcome-based, and reasonably free of significant bias and subjectivity that would distort the accurate measure of performance.⁹ We also reported that performance measures should provide a reliable way to assess progress such that the same results would be achieved if applied repeatedly to the same situation. Moreover, since implementing the Transit Security Grant Program (TSGP) is a joint responsibility between TSA and the Federal Emergency Management Agency (FEMA), we reported in June 2009 on the importance of agency collaboration in developing performance measures for this program.¹⁰ For example, we identified that FEMA was taking some steps to develop their performance monitoring efforts; however, the agency had not collaborated with TSA to produce performance measures for assessing the effectiveness of TSGP-funded projects, such as how funding is used to help protect critical infrastructure and the traveling public from possible acts of terrorism. We further reported that FEMA did not yet have performance measures in place for its administrative duties, such as measuring the time taken to complete reviews of financial and administrative requirements. FEMA officials reported that while they were in the process of establishing baselines and targets for measures, additional work was needed to develop meaningful measures. We noted that until TSA and FEMA collaborate to develop a plan with related milestones, it will be difficult for the agencies to provide reasonable assurance that measures are being developed to ensure that the program is achieving its stated purpose of protecting critical surface transportation infrastructure. We recommended that TSA and FEMA collaborate to develop a plan and milestones for measuring the effectiveness of the TSGP and its administration. DHS concurred with our recommendation and in November 2009, FEMA officials stated that they agreed to develop a collaborative written plan with milestones as part of a formal agreement between TSA and FEMA on their roles and responsibilities with respect to managing the TSGP.

STEPHEN M. LORD,
Director,

Homeland Security and Justice Issues.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO CARLTON I. MANN

Question 1. Does TSA effectively use risk in determining its resource allocations between its aviation security and surface transportation security missions?

Answer. That is a larger question that we did not address in the three reports that provided the basis of our testimony. We did raise concerns in both the mass transit report and the surface inspector report that the surface inspection program's chain of command was unclear due to an aviation-focused command structure. We are not certain that TSA's staffing plan for its surface resources will enable surface inspectors to operate adequately and independently of TSA's aviation security mission.

Question 2. To what extent have Federal entities coordinated their efforts to assess the risks to the Nation's highway infrastructure?

Answer. We have not specifically reviewed the department's risk assessment activities for the Nation's highway infrastructure. We did gain some insight into related activities while conducting our review, *Effectiveness of the Federal Trucking Industry Security Grant Program* (OIG-08-100, September 2008). We became familiar with the Highway Infrastructure and Motor Carrier Modal Annex to the Transportation Sector-Specific Plan, which describes how Federal, state, local, and private sector entities will work together to protect the highway transportation system. We observed interaction between certain stakeholders, including how the Highway Information Sharing and Analysis Center meets highway and highway-transport-re-

⁹See GAO, *Freight Rail Security: Actions Have Been Taken to Enhance Security, but the Federal Strategy Can Be Strengthened and Security Efforts Better Monitored*, GAO-09-243 (Washington, D.C.: Apr. 2009).

¹⁰GAO-09-491.

lated security needs and issues. We recommended that DHS retain the Highway Watch program, but also concluded that DHS needed to look for ways to improve the effectiveness of the program.

Question 3. To what extent has TSA assessed the security risk for the commercial vehicle sector and used its lessons learned to implement a security strategy?

Answer. We have not performed sufficient work related to security risks for the commercial vehicle sector to answer this question.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO
CARLTON I. MANN

Question. How should TSA be monitoring whether security deficiencies found by security inspectors during BASE reviews, Corporate Security Reviews, and other inspections are remedied?

Answer. BASE Assessments are voluntary. To validate passenger rail stakeholder responses to BASE Assessments, TSA's surface inspectors review documents, meet with and question personnel, and observe security measures within the transit system. In freight rail, TSA conducts Security Action Item reviews and like BASE Assessments, compliance is voluntary. During our reviews, TSA reported that information it gathered from these inspection activities would drive the formulation of regulations. To the extent that these efforts lead to security standards and promulgation of regulations, TSA's ability to effect improvements or address noncompliance, would increase. TSA may also indirectly monitor how stakeholders address security deficiencies by incorporating how well they implement TSA's recommendations into eligibility criteria for relevant grant programs, such as the Transit Security Grant Program.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AMY KLOBUCHAR TO
CARLTON I. MANN

Question 1. Assistant Inspector General Mann, in your testimony, you indicated that TSA needs better consistency in its interaction with mass transit rail stakeholders—again, a public-private partnership issue like we saw after the Christmas bombing attempt. Is TSA working effectively with private sector partners in implementing security programs and sharing guidance and information?

Answer. In general, TSA's communication with mass transit stakeholders has improved since the Department of Homeland Security Appropriations Act of 2005 established the Surface Transportation Security Inspection Program (STSIP), and TSA has taken steps to streamline its programs and information sharing. Part of my comment about TSA's consistency related to TSA's evolving administration of its Visible Intermodal Prevention and Response program.

We remain concerned whether recent changes to the organizational structure of the STSIP will enhance TSA's relationships and communication with its surface transportation partners. The presence of dedicated Assistant Federal Security Directors—Surface afforded TSA recognizable liaisons to transit systems and enabled information sharing.

Question 2. In your view, what else must TSA do to integrate stakeholder expertise into its oversight and assistance programs?

Answer. Integrating stakeholder expertise into its oversight and assistance programs is important. Regional Working Groups have provided a forum for stakeholders to provide input on TSA's programs. Despite having regional working groups, TSA and transit systems have not always agreed on transit systems' greatest risks and threats or the best approaches to addressing them. Surface Transportation Security Inspectors' presence in the field has benefited TSA's mission considerably due to their relationships with transit systems. We are uncertain how organization changes within the STSIP might affect those relationships or the program's ability to integrate information it collects from stakeholders. The STSIP must remain distinct from aviation-related security programs, or TSA risks alienating transit security stakeholders.

SUPPLEMENTAL PREPARED STATEMENT OF HOWARD R. "SKIP" ELLIOTT,
VICE PRESIDENT—PUBLIC SAFETY AND ENVIRONMENT, CSX TRANSPORTATION, INC.

CSX Transportation, Inc. ("CSXT") thanks the Committee for the opportunity to submit these supplemental comments in response to Senator Lautenberg's invitation

at the close of the hearing on Securing the Nation's Rail and Other Surface Transportation Networks (the "hearing") on April 21, 2010.

These separate comments by CSXT are intended to first, address Senator Hutchinson's observations regarding the limited experience of many Transportation Security Administration ("TSA") surface transportation inspectors, and second, to address Senator Lautenberg's comments regarding the need for more coordination between TSA and the private sector on surface transportation security issues.

As indicated in our oral statement and more fully in our written statement submitted to the Committee at the hearing on April 21, 2010, CSXT maintains a steadfast commitment to the safety and security of our operations and the communities where we operate. We recognize that Government and Industry cooperation and collaboration are essential components of rail transportation security. At CSXT, we truly believe that partnerships and close coordination of security measures is essential to enhancing public safety and national security.

As part of CSXT's ongoing commitment to, and relentless focus on, safety and security, CSXT continues to reach out to, and work with, Government and Industry officials to find solutions for rail security issues. At the hearing, we highlighted some of CSXT's public-private partnerships and initiatives to improve rail safety and security. We would like to take this opportunity to discuss a newly developed CSXT training program for TSA surface transportation security inspectors ("TSA Inspectors") along our network.

CSXT developed this training program to familiarize TSA Inspectors with the many ways in which CSXT is complying the Department of Homeland Security ("DHS") regulations. This program will also give TSA Inspectors a detailed overview of CSXT's approach to rail security. CSXT's training program will also provide TSA Inspectors with a greater understanding of CSXT's network, operations, resources, and roles of employees at all levels to enhance rail transportation security. Although CSXT recognizes that TSA Inspectors may receive some type of general railroad familiarization training, each railroad has unique operating characteristics that underscore the importance of this carrier specific training.

CSXT coordinated with TSA in the development of this training program. And, TSA has agreed to work with CSXT to implement this training program. We believe that this joint training partnership—the first of its kind in the rail industry—will enhance TSA Inspectors' knowledge and awareness of CSXT rail security initiatives. CSXT is proud of the cooperative and collaborative working relationship that we have developed with TSA, and we hope to continue this relationship in the future.

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