

S. HRG. 107-408

**THE ROLE OF THE DEPARTMENT OF DEFENSE
IN HOMELAND SECURITY**

HEARING
BEFORE THE
COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE
ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION

OCTOBER 25, 2001

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THE ROLE OF THE DEPARTMENT OF DEFENSE IN HOMELAND SECURITY

THURSDAY, OCTOBER 25, 2001

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 2:37 p.m. in room SR-222, Russell Senate Office Building, Senator Carl Levin (chairman) presiding.

Committee members present: Senators Levin, Cleland, Landrieu, Reed, Akaka, Carnahan, Dayton, Warner, Inhofe, Santorum, Roberts, Allard, Hutchinson, Sessions, and Collins.

Committee staff members present: David S. Lyles, staff director. Majority staff members present: Richard D. DeBobes, counsel; Evelyn N. Farkas, professional staff member; Jeremy L. Hekhuis, professional staff member; Maren Leed, professional staff member; Peter K. Levine, general counsel; and Michael J. McCord, professional staff member.

Minority staff members present: Romie L. Brownlee, Republican staff director; Judith A. Ansley, deputy staff director for the minority; Edward H. Edens IV, professional staff member; William C. Greenwalt, professional staff member; Gary M. Hall, professional staff member; Carolyn M. Hanna, professional staff member; George W. Lauffer, professional staff member; Thomas L. MacKenzie, professional staff member; Joseph T. Sixeas, professional staff member; Cord A. Sterling, professional staff member; Scott W. Stucky, minority counsel; and Richard F. Walsh, minority counsel.

Staff assistants present: Dara R. Alpert, Jennifer L. Naccari, and Nicholas W. West.

Committee members' assistants present: Craig Bury, assistant to Senator Byrd; Andrew Vanlandingham, assistant to Senator Cleland; Marshall A. Hevron and Jeffrey S. Wiener, assistants to Senator Landrieu; Elizabeth King, assistant to Senator Reed; Davelyn Noelani Kalipi, assistant to Senator Akaka; William K. Sutey, assistant to Senator Bill Nelson; Neal Orringer, assistant to Senator Carnahan; Brady King, assistant to Senator Dayton; Wayne Glass, assistant to Senator Bingaman; John A. Bonsell, assistant to Senator Inhofe; George M. Bernier III, assistant to Senator Santorum; Robert Alan McCurry, assistant to Senator Roberts; Douglas Flanders, assistant to Senator Allard; James P. Dohoney, Jr., assistant to Senator Hutchinson; Arch Galloway II, assistant to Senator Sessions; Kristine Fauser, assistant to Senator Collins; and Derek Mauer, assistant to Senator Bunning.

OPENING STATEMENT OF SENATOR CARL LEVIN, CHAIRMAN

Chairman LEVIN. Good afternoon, everybody. The committee meets today to receive testimony on the role of the Department of Defense in homeland security.

The committee welcomes Thomas White, Secretary of the Army, who has been designated by Secretary of Defense Rumsfeld as the Interim Executive Agent for Homeland Security. Welcome also Vice Chairman of the Joint Chiefs of Staff, Gen. Peter Pace, joined by our two military leaders with direct responsibility for military contributions to homeland security, Gen. William Kernan, Commander in Chief, Joint Forces Command, which includes the Joint Task Force-Civil Support that coordinates military assistance to civilian authorities in the event of a major incident or attack on U.S. soil, and Commander in Chief, U.S. Space Command, Gen. Ralph Eberhart, who joins us in his capacity as Commander in Chief of NORAD, the North American Aerospace Defense Command. We welcome both of you.

On behalf of the entire committee, let me welcome each of you to the committee for a very important hearing. We had planned to hold this hearing in the larger central hearing room in the Hart Senate Office Building, but that building remains closed because of anthrax contamination, so our very setting today underscores the new threats facing the United States.

This committee has focused on these threats for several years. In 1998, Senator Warner created with my support the Emerging Threats and Capabilities Subcommittee, chaired first by Senator Roberts and now by Senator Landrieu. At extensive hearings, the Emerging Threats and Capabilities Subcommittee has focused on improving the ability of the Armed Forces to meet nontraditional threats including nonterrorism and unconventional means of delivering weapons of mass destruction.

In fact, based partly on those hearings, a Combatting Terrorism Initiative to improve the ability of U.S. forces to deter and defend against terrorism was approved by this committee in the National Defense Authorization Bill, which we voted to approve prior to the horrific terrorist attacks of September 11. We had acted in that way prior to September 11, but the attacks on New York and Washington have prompted an unprecedented military role in ensuring the security of the United States and the American people.

The extraordinary has become the ordinary. In their State capacity, National Guardsmen stand guard at airports throughout the Nation. U.S. military aircraft, assisted by NATO AWACS surveillance aircraft, routinely patrol American skies. U.S. warships patrol our shores. These aircraft and warships are prepared to carry out a once unthinkable mission, if approved by the chain of command: to shoot down hijacked U.S. civilian airliners that threaten Americans on the ground.

These are extraordinary responses to an extraordinary threat, and they require a reexamination of the proper role of the U.S. Armed Forces in helping to ensure the security of the American people. That reexamination and reorganization has already begun. On September 30, the Department of Defense released its report on the Quadrennial Defense Review, which elevated the mission of homeland defense to the Department's "highest priority."

On October 2, the Secretary of Defense designated Army Secretary White as the Interim Department of Defense Executive Agent for Homeland Security. On October 8, the President designated Pennsylvania Governor Tom Ridge as the new Assistant to the President for Homeland Security. On October 12, the President designated Secretary White as the Acting Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

The Commander in Chief of NORAD, General Eberhart, now exercises operational control of military aircraft over the United States, to include their mission of flying combat air patrols over New York, Washington, and other cities. Under General Kernan, the Joint Task Force-Civil Support stands ready to coordinate military assistance to civilian authorities in the event of a major incident or attack on U.S. soil.

Overarching all of these efforts is the Posse Comitatus Act of 1878, a criminal statute that prescribes the limited circumstances under which the United States Armed Forces can be used to enforce the domestic law. That act states: "Whoever, except in cases and under circumstances expressly authorized by the Constitution or act of Congress, wilfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws, shall be fined under this title or imprisoned not more than 2 years, or both." It is because this act does not apply to National Guardsmen in their State status that guardsmen are now being employed at airports.

This new environment requires careful consideration of some important questions by the committee. Among them are the following:

What exactly is the definition of homeland security, and to what extent should the Department of Defense be involved in homeland security?

How does the Department of Defense relate to the Office of the Assistant to the President for Homeland Security, Tom Ridge's new office?

Is the Department of Defense organized properly to deal with the many aspects of homeland security? For instance, is there a need for a new Commander in Chief, or CINC, for homeland security to coordinate the various military contributions to homeland security? If so, how would that command interact with NORAD and the Joint Forces Command? Is it appropriate for a Service Secretary to be in the chain of command?

Should the Posse Comitatus Act be revised or repealed? If so, do we want the Armed Forces enforcing the law, as would be required in an insurrection? What impact would training our Armed Forces to make arrests, seize property, and preserve evidence have on their capabilities and readiness to accomplish their warfighting mission?

Should every State have a weapons of mass destruction civil support team, such as the 32 already authorized and 27 already established, to assist civilian authorities in responding to an incident or attack on U.S. soil involving weapons of mass destruction?

While there has been a tendency in the past to use the Armed Forces to support civilian authorities in such events, is that still realistic, given the Armed Forces involvement in a war that is likely to last for an extended period of time?

Secretary White, we know that you and your colleagues do not have all the answers to all those and other questions yet. We are only 6 weeks removed from the attacks of September 11. We are 19 days into the military campaign against the Al Qaeda terrorist network and their Taliban protectors. But in times of national emergency, few questions are as important as the proper role of the U.S. Armed Forces in defending the Nation and the American people, especially if that mission takes them not only overseas, but to the skies and to the streets of America itself. We look forward to hearing the options that you are now considering, or the decisions that you have already made, to address this new and evolving mission.

Senator Warner.

STATEMENT OF SENATOR JOHN WARNER

Senator WARNER. Thank you, Mr. Chairman. Mr. Chairman, your excellent opening statement embraced much of the text that I have here, and so I will ask unanimous consent to put mine in the record.

Chairman LEVIN. It will be made a part of the record.

Senator WARNER. There are several comments I would like to make. I would like to read two sentences: "The protection of America itself will assume a high priority in a new century. Once a strategic afterthought, homeland defense has become an urgent duty."

That was incorporated in a speech given by President Bush, then Candidate Bush, at The Citadel University in South Carolina in September 1999. We are fortunate that our President had the presence of mind and the foresight to look into the future to begin to prepare America for the exact task that is before us.

Second, our committee, as my distinguished chairman acknowledged, did establish a subcommittee some 3 years ago when I was privileged to occupy that chair, but it was a joint action by all Senators around this committee. We laid a solid foundation in those several years, under Senator Roberts and Senator Bingaman, and other members of that subcommittee. The very teams you referred to, the civil defense teams, previously known as Rapid Assessment Initial Detection (RAID) teams, were an outgrowth of the work of the Department and that subcommittee.

Much has to be done now, and it has been entrusted to you gentlemen and your subordinates. I cannot recall, really in the history of the United States, and I have been privileged to live longer than just about everybody in this room, when a greater challenge has been posed to a man or woman, whether they be President, or an ordinary citizen, to meet this challenge and keep America strong and going.

Earlier in this very room, the Subcommittee on Emerging Threats and Capabilities, under the chairmanship of Senator Landrieu, held a hearing with the former chairman of this committee, Sam Nunn, on the potential threat of smallpox, a disease that was eradicated when I was a young man. Yesterday the chairman and I had the privilege of sitting with the President of the United States, the Vice President, members of his Cabinet, and several other Members of Congress as we worked with the new Cabinet officer, Governor Ridge, who you referred to.

I just mention those things so that those citizens following this hearing should understand that there are no politics in this battle, in this war we are waging, whether it is in Afghanistan by the superb leadership of the men and women of the Armed Forces or here at home. We are all in it together, and we cannot allow our lives not to go forward because of our children and future generations, and because so much of the world depends upon the United States of America to remain strong and free, and to lead in the cause of freedom.

You are here today to outline your initiatives with regard to following through on the President's speech given 13 months ago, and the foundations that the Secretary and Deputy Secretary of Defense have laid down and charged you with. We wish you well, gentlemen, and generations will look back hopefully grateful to your contributions and those of your subordinates.

Thank you, Mr. Chairman.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT BY SENATOR JOHN WARNER

Thank you, Mr. Chairman, and thank you for holding this important hearing on the Defense Department's role in homeland security. I join you in welcoming our witnesses today.

We meet today as our Nation remains under attack, and regrettably, will remain under attack from terrorists who have used unimaginable threats, and as our Armed Forces are engaged in operations against those responsible for the September 11 attacks. Our thoughts and prayers are with those who have suffered as a result of these continuing attacks on our Nation, and with the men and women of the Armed Forces who are in harm's way, defending our freedom.

I commend our President and members of his administration for the actions they have taken to respond to the attacks of September 11. It is important to note, however, that President Bush identified homeland security as his highest priority long before the heinous attacks of September 11. In speeches at The Citadel in September 1999 and at the National Defense University in May 2001, President Bush called for a primary emphasis on homeland security and the transformation of our Armed Forces to be able to deter, detect, and defeat the very different threats we face in the 21st century. I want to highlight a quote from then-Governor Bush's Citadel speech of September 23, 1999:

"The protection of America itself will assume a high priority in a new century. Once a strategic afterthought, homeland defense has become an urgent duty."

We have experienced a great tragedy in our Nation and a blow to our sense of security and freedom. We do not know from where the next challenge to our freedom, security and vital national interests will come, but of one thing we can be sure—it will come, and we must be ready to confront the full spectrum of threats the enemies of freedom may direct toward our country.

I think it is critically important that we all recognize that we must not focus only on this most recent terrorist attack. Our review of homeland defense and homeland security must look at all aspects of our Nation's vulnerability. Because of the proliferation of weapons of mass destruction around the world, and the related proliferation of ballistic missile technologies to deliver such weapons, we must include ballistic missile defense in any concept of homeland security.

These recent attacks on our Nation show, with complete clarity, that our adversaries will use any means they have at their disposal to attack the United States and indiscriminately kill American citizens. They have now killed thousands with hijacked airplanes. This form of attack took the world by surprise. How will the terrorists, or any other potential adversaries, strike next? We must be prepared.

I also raise another issue—a controversial issue—and would welcome the thoughts of our witnesses. On October 11, I wrote to Secretary Rumsfeld asking that he re-examine the long-standing Posse Comitatus doctrine in light of the September 11 attacks. This doctrine—which prohibits the involvement of the Armed Forces in civilian law enforcement—has served America well since its adoption in 1878. But,

in light of recent events and the unique capabilities that the Armed Forces can bring to emergency situations, is it not time to re-examine this doctrine?

I thank all of our witnesses for your extraordinary service to our Nation, and for your testimony today. I cannot overstate the importance and urgency of this subject we will discuss today—a collective effort to understand the role of our defense structure in protecting our homeland, as well as protecting our vital interests around the world.

Thank you.

Chairman LEVIN. Thank you, Senator Warner. I have never seen a Nation more united than we are in the war against terrorism. I have never seen Congress as united as they are in this war. A huge burden has been placed on you, gentlemen, and we know you are up to it, but we are there to support you in every possible way that we can.

I want to just take 30 seconds for a scheduling note which is important to all of us, because it is so difficult for us to rearrange schedules.

Tomorrow morning we will meet in S-407 of the Capitol at 9:30 a.m. to receive an update briefing from the Office of the Secretary of Defense and JCS officials on the ongoing military operations in Afghanistan. Staff attendance will again be restricted because of the classification level.

This morning, at the conclusion of our conference meeting with the House, Chairman Stump and I agreed that we would make completing our conference our highest priority for next week. Members of the committee therefore can expect full conference meetings with the House throughout next week, starting on Wednesday morning. We are going to have a back-to-back conference on Wednesday, and then we will continue on Thursday, hopefully finish on Thursday, if not Friday, and of course we will get the exact details of our schedule to the members of this committee as soon as possible.

Thank you very much.

Senator INHOFE. Mr. Chairman, does that mean we are not going to be doing the late Tuesday afternoon meeting we had previously discussed?

Chairman LEVIN. That is correct.

Senator INHOFE. Thank you.

Chairman LEVIN. Secretary White.

**STATEMENT OF HON. THOMAS E. WHITE, SECRETARY OF THE
ARMY AND INTERIM DEPARTMENT OF DEFENSE EXECUTIVE
AGENT FOR HOMELAND SECURITY**

Secretary WHITE. Mr. Chairman, Senator Warner, distinguished members of the committee, I appreciate this opportunity to appear before you in my role as Interim Department of Defense Executive Agent for Homeland Security, along with my colleagues who you have already recognized: General Pace, Vice Chairman of the Joint Chiefs of Staff; General Eberhart, Commander in Chief, North American Aerospace Defense Command; and General Kernan, Commander in Chief, U.S. Forces Command.

Mr. Chairman, I would like to make a brief opening statement on behalf of all of us, and then respond to any questions the committee may have, if that is acceptable to you.

Before I begin, I would like to make one thing very clear. The 2001 Quadrennial Defense Review published last month restores the defense of the United States as the Department's primary mission. Put another way, homeland security is the number 1 job for the United States military, and it has our full attention. I would like to assure the members of the committee and the American people that we will spare no effort in our endeavor to protect this Nation from aggression.

The attacks of 11 September and since prove beyond doubt that terrorism is a permanent part of our future. Our traditional response to terrorism at the Department of Defense level has been to organize around crisis management and consequence management functions, with the former being an activity managed by the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, while the latter is principally accommodated by the Director of Military Support within the Department of the Army.

In my view, that construct no longer works. It is far more useful to view homeland security as an overarching effort that includes two simultaneous and mutually supporting functions. First is homeland defense, a DOD-led task involving protection of the United States in areas where we in the Department of Defense have unique military capabilities such as air defense. The fighter aircraft flying combat air patrols over Washington and New York City under the operational command of General Eberhart are a prime example of the homeland defense mission.

Second is civil support, where DOD provides assistance to a lead Federal agency, which can range from the FBI, for domestic counterterrorism tasks, to Health and Human Services, for biological attacks. Key to this civil support effort is a layered approach, beginning with local and State first-responders, progressing through deployment of State-controlled National Guard units, and then finally to application of Federal assets, including unique DOD capabilities on an exception basis.

Above all, homeland security demands a comprehensive approach to accommodate evolving threats and the reality of finite resources. Properly focusing on this complex mission and providing the coordination necessary for joint and interagency integration requires, in my opinion, a reorganization of DOD efforts. From my perspective, there are three fundamental tasks that must be accomplished if we are to be successful.

First, DOD must consolidate its efforts in homeland defense into a single staff organization. This will enhance the coordination of policy planning and resource allocation responsibilities that relate to homeland security. By focusing our efforts, we can avoid gaps and duplication in capabilities while dramatically improving the quality of our planning and responsiveness.

Second, we must develop operational arrangements for the future. Currently, the military responsibilities for homeland security are assigned to several of the Unified Commanders on an interim basis, pending revision of the Unified Command Plan, and that, of course, includes North American Air Defense Command, Aerospace Defense Command and Air Defense Space Command, and Cyber and Info, Land and Maritime with Joint Forces Command.

I will defer operational details to other members of the panel, but I want to emphasize a key point. As we look to the future, apportionment of forces must be balanced between meeting warfighting requirements abroad and the need to defend America at home, and this is a concurrent activity, obviously, from what we are doing today. This is a threshold event with, in my opinion, profound implications for the military.

As for the last task, we must improve the interagency coordination process to guarantee timely and efficient cooperation among the many Federal, state, and local organizations that have or share homeland security responsibilities. I have already met with Governor Ridge, as you have stated, the President's Special Assistant for Homeland Security. I have assured him the Department will fully assist his office in the execution of his mission.

While doing so, DOD will continue to focus on its broad and critical responsibilities: defending our Nation against attacks of war and terrorism, providing the capacity to respond to chemical, biological, radiological, nuclear, and high-yield explosive events of so-called weapons of mass destruction, whether intentional or unintentional, and supporting lead agencies in the event of natural disasters.

The victims of a disastrous event do not necessarily distinguish between whether the event was a result of actions of non-State terrorists or State actors engaging in a war, or just an unfortunate accident. What matters to the American people is the knowledge that our homeland is secure against any and all threats. We in the Department of Defense stand ready to do our part to meet that challenge.

Thank you, Mr. Chairman, for this invitation. This concludes my statement. I look forward to the committee's questions, along with my colleagues. Thank you, sir.

Chairman LEVIN. General Pace.

**STATEMENT OF GEN. PETER PACE, USMC, VICE CHAIRMAN,
JOINT CHIEFS OF STAFF**

General PACE. Mr. Chairman, thank you very much, members of the committee. I do deeply appreciate the opportunity to appear before you again today and to have one more opportunity to say thank you for the very strong, sustained bipartisan support of this committee for all the men and women in your Armed Forces.

If I may, Mr. Chairman, I would like to have my written statement entered into the record and save the time to answer your questions.

[The prepared statement of General Pace follows:]

PREPARED STATEMENT BY GEN. PETER PACE, USMC

INTRODUCTION

On behalf of General Myers, I want to thank you for the opportunity to appear before this committee to discuss the important topic of Homeland Security. It is an honor to be here. I should also thank Congress, and especially the members of this committee, for your enduring and significant support of America's Armed Forces. Your deep commitment to our great men and women in uniform, who today are waging war against international terrorist organizations, is very much appreciated.

Of course, it was the tragic events of September 11 that led to this hearing. So let me also add, on behalf of General Myers and the Joint Chiefs, that our hearts

and prayers go out to the thousands of innocent Americans and other victims who lost their lives or were injured that day, as well as to their families, friends, and colleagues.

SEPTEMBER 11

Six weeks ago the terrorist attacks against the Pentagon and the World Trade Center shocked the world. Today, we who serve in uniform join with the rest of America, and with our friends and allies around the world, in a multinational effort to take down the network of terrorist organizations responsible for these acts. No one should mistake our unified purpose and strength of our resolve. We did not ask for this fight, but we will win it. The dastardly act of terrorism against America will in no way diminish our commitments to our allies, and it will in no way prevent our military from performing its duties and responsibilities to defend the United States' interests around the world.

As President Bush and Secretary Rumsfeld have frequently noted, this is a new type of war—one that will require an unprecedented pooling of all elements of our national power, at all levels of government. It is also a war that will require us to work in close concert with our friends and allies to maximize our effectiveness.

Our adversaries, unable to confront or compete with the United States militarily, continue to spend millions of dollars each year on terrorist organizations that target U.S. citizens, property, and interests. These terrorists are indiscriminate killers who attack where and when their victims are most vulnerable. They seek to find and exploit perceived weaknesses, striking at us with what we call "asymmetric means" to achieve their goals. The September 11 attacks were the most recent example of this strategy. Attacks such as these further reinforce the necessity of improving our ability to protect our homeland and the American people from future attacks.

HOMELAND SECURITY

Defending the homeland has always been a vital mission for the military. Our traditional national military strategy has been to defend the homeland by engaging threats beyond our Nation's shores; however, the September 11 attacks have graphically illustrated the need to do more to meet this threat. We must now focus on improving our levels of security here at home, with appropriate deference to our constitutionally guaranteed freedoms, while simultaneously continuing our strategy of detecting and defeating threats outside our Nation's borders.

This new emphasis is reflected in the 2001 Quadrennial Defense Review (QDR) Report, which states: "The highest priority of the U.S. military is to defend the Nation from all enemies." The report also states that "The U.S. will maintain sufficient military forces to protect U.S. domestic population, its territory, and its critical infrastructure . . ."

Homeland security also involves providing appropriate military assistance to the responsible civilian authorities to mitigate the consequences of such attacks. So we divide Homeland Security into two major subsets, Homeland Defense and Civil Support.

The Homeland Defense piece of Homeland Security is about warfighting missions, with the military clearly in the lead. These missions include the defense of maritime, land, and aero-space approaches to the United States. In the future, this will include defense against ballistic missiles.

Today, your Armed Forces are conducting many of these missions. For example, we have over 100 military aircraft involved in fighter Combat Air Patrols (CAP) and on strip alert for increased air defense; approximately 18,000 National Guard personnel are stationed in airports, port facilities, and other critical infrastructure sites reassuring our public, deterring future attacks, and providing temporary increased security capabilities to other lead Federal agencies; and finally, the U.S. Coast Guard has established over 90 coastal Security Zones on both the east and west coasts, using 60 cutters and patrol boats.

The Civil Support piece of Homeland Security is where the military provides support to other lead Federal agencies to help manage the consequences of a Weapons of Mass Destruction (WMD) event, assist in disaster relief efforts, and provide some counter-terrorism support. The Department of Defense also provides unique capabilities to respond to the effects of chemical, biological, radiological, nuclear and high explosive weapons of mass destruction, complementing Federal, state and local first responder capabilities.

Even before the horrific events of September 11, we had been exploring organizational improvements to support Homeland Security. For example, on 1 October 1999, we established Joint Task Force-Civil Support (JTF-CS), an organization that is now fully operational under the command of General William Kernan, Com-

mander in Chief, United States Joint Forces Command. This standing JTF currently has a major role in the development of training and doctrine associated with providing support to civilian first-responders for a WMD event. JTF-CS also provides expertise and command and control to those DOD assets deployed in support of civil authorities.

Additionally, on 1 November 1998 we created another standing task force to defend the Defense Information Infrastructure against cyber-aggression. Our Task Force-Computer Network Operations currently operates under the command of General Ralph Eberhart, Commander in Chief of the United States Space Command.

In the wake of the attack, we have placed an even greater emphasis on these missions while continuing to examine other steps to more effectively respond to emerging threats. We are also in the process of carefully reviewing our Unified Command Plan (UCP). Currently a number of Combatant Commanders are assigned different roles within our homeland defense mission. Consequently, we are looking at ways of eliminating any seams that may exist between the various organizations and agencies involved in the Homeland Security efforts. We will be reviewing the UCP with an eye toward developing a seamless command and control of all DOD assets—active, reserve, guard, and civilians—required to execute our Homeland Security responsibilities.

This past July, we established a new Homeland Security Division within the Strategy and Policy Directorate (J5) of the Joint Staff. This new division will serve as the focal point for the development and coordination of the military strategy and policy aspects of Homeland Security. Additionally, we recently established a General Officer Steering Committee to facilitate the coordination of Homeland Security issues.

Of course Homeland Security is not a DOD-only effort. An effective Homeland Security posture requires that multiple Federal departments, agencies, state and local governments, and the military all work together as a team. Therefore, anything we do within DOD must be synchronized as part of a comprehensive interagency effort. DOD is currently represented in key interagency-working groups, identifying and responding to emerging homeland security requirements.

Indeed, an overall Homeland Security strategy of preventing and deterring future attacks, while simultaneously protecting the American people and our critical infrastructure, demands improved communication and sharing of information across the government. It also demands a laser-like focus and unity of effort, and this is where Governor Ridge and his team at the Office of Homeland Security will play such a critical role.

CONCLUSION

The Chairman, the Joint Chiefs, and I recognize that much work remains to be done. Together, with Secretary White, DOD's new Executive Agent for Homeland Security, we will get the job done. For inspiration we need look no further than the mountain of rubble in New York City or the gaping hole in the Pentagon where so many from our DOD family were suddenly taken from us. We will continue to focus our attention on efforts to protect our homeland, our people, and our national interests.

Chairman LEVIN. Thank you very much. General Eberhart, do you have a comment?

STATEMENT OF GEN. RALPH E. EBERHART, USAF, COMMANDER IN CHIEF, UNITED STATES SPACE COMMAND/NORTH AMERICAN AEROSPACE DEFENSE COMMAND

General EBERHART. Sir, in the interest of time, I will submit my statement for the record also, and I add my thanks to those of the Vice Chairman for your continued support over the years, and more so for your support in the upcoming weeks and months as we challenge this task ahead of us.

[The prepared statement of General Eberhart follows:]

PREPARED STATEMENT BY GEN. RALPH E. EBERHART, USAF

Senator Levin, Senator Warner and members of the committee: Though the circumstances that led to this hearing are tragic, it is an honor to appear before you to represent the outstanding men and women of North American Aerospace Defense

Command (NORAD). Our hearts and prayers go out to those great American heroes who lost their lives or were injured on September 11, 2001, as well as their families and friends.

Our combined U.S. and Canadian response to the unprecedented terrorist attacks on the World Trade Center and the Pentagon was a tribute to the professionalism of our people. We are proud to be part of the national security team now focused on defeating terrorism.

MISSIONS

For 43 years NORAD adapted to the changing threats—transitioning from an initial “air” defense orientation to a broader aerospace dimension—one that provides surveillance and warning of ballistic missile attacks and space events. The unprecedented attacks on 11 September 2001 were a reminder to our Nation of the need to detect, validate and warn of hostile aircraft or missile attack against North America. Proper attack assessment ensures the U.S. National Command Authorities and the Prime Minister of Canada can take appropriate action in response to an attack. Clearly, our ability to provide surveillance and control of U.S. and Canadian airspace remains vital and constitutes a critical component to the defense of North America.

NORAD’s mission now has clearly expanded to protect North America against a domestic airborne threat. Prior to 11 September 2001, our air defense posture was aligned to counter the perceived external threats to North America air sovereignty. Within this context, our aerospace control and air defense missions have traditionally been oriented to detect and identify all aircraft entering North American airspace, and if necessary, intercept potentially threatening inbound air traffic. These threats were generally considered as hostile aircraft carrying bombs or cruise missiles. Based on the recent events, we are now also focused on threats originating within domestic airspace such as hijacked aircraft. While we have adjusted to provide a rapid response to domestic air threats, we continue to execute our previously assigned missions.

NORAD’S RESPONSE

On 11 September 2001, we quickly transitioned to an interoperable, joint and interagency force consisting of active and National Guard units, U.S. and Canadian military aircraft and U.S. Navy ships. Additionally, we have positioned portable air control radars to more rapidly respond to Federal Aviation Administration (FAA) requests for assistance. We are also working together with FAA representatives to access FAA radar data and now maintain a continuous communications loop.

With the approval of the President and the Secretary of Defense, we now have streamlined the Rules of Engagement for hostile acts over domestic airspace to ensure the safety of our citizens and critical infrastructure. We have increased our alert posture from 20 fighter aircraft standing alert to more than 100 U.S. and Canadian aircraft. These aircraft and aircrews now support the continuous combat air patrols over Washington, DC, and New York, as well as random patrols over other metropolitan areas and key infrastructure. They remain on a high state of alert at 26 air bases across the country.

As a result of this heightened posture, our air defense activity has increased significantly. Last year, we scrambled fighter aircraft 7 times (including exercises) from 10 September–10 October 2000. During the same period this year, we scrambled 41 times, and we diverted 48 fighter patrols from ongoing combat air patrols to assess tracks of interest, for a total of 89 events. Likewise, all of our units supporting Operation NOBLE EAGLE have experienced a significant increase in NORAD-related flying sorties. Normally, our units fly 4–6 sorties a month in support of the NORAD air defense mission. Since 11 September 2001, several of our units such as the one at Otis ANGB in Massachusetts have flown in excess of 100 sorties in the last month (approximately one-third of Otis’ entire yearly flying program).

CHALLENGES

From a resource perspective, we must address our manpower shortfalls at the units charged with conducting our aerospace warning and control missions. The administration’s call-up of Reserve and National Guard forces was the right solution. In the near term, we need to ensure we allocate these forces to meet our greatest needs in the field. For the longer term, the execution of our National Military Strategy will hinge on our ability to attract and retain high quality, motivated servicemen and women and civilian employees. As always, our tremendous warfighting capability depends on our people. If we take care of them, they will take care of our

mission. Without them, even our most effective weapon systems are of little value. Congress' initiatives to improve military and civilian pay, health care and housing for our professionals in uniform are a step in the right direction. We are very grateful for your continued support in these areas. However, we still have work to do.

CONCLUSION

NORAD remains committed to protect our homeland in the face of this national tragedy. We believe we will be key to fighting and winning this new war on terrorism against a faceless, cowardly enemy. To do this, we need to provide the right people and equipment to get the job done and we once again appreciate Congress' continued support. We are heartened by the ongoing efforts to improve security at our airports. Our hope is that this increased vigilance will deter foul play on the ground and eliminate the need to commit fighters in the air. We should be the last course of action, implemented only after all other protective measures have been tried.

We stand with you and the rest of the Nation to meet every challenge and ensure freedom prevails. I am honored to appear before you and look forward to your questions.

Chairman LEVIN. General Kernan.

**STATEMENT OF GEN. WILLIAM F. KERNAN, USA, COMMANDER
IN CHIEF, UNITED STATES JOINT FORCES COMMAND**

General KERNAN. Sir, I would just like to echo the thanks of all of our military for this committee and all of Congress' staunch support, and in the interest of brevity I would like to submit my written statement for the record.

Thank you, sir.

[The prepared statement of General Kernan follows:]

PREPARED STATEMENT BY GEN. WILLIAM F. KERNAN, USA

Mr. Chairman, distinguished members of the committee, thank you for the opportunity to address this panel on this most fundamental of military responsibilities, defense of our homeland. For the purposes of this testimony, Homeland Security comprises Homeland Defense and Military Assistance to Civil Authorities.

With over one million soldiers, sailors, airmen, and marines—some 80 percent of the Nation's general-purpose forces—U.S. Joint Forces Command stands ready to defend our homeland and provide trained and ready forces to combat terrorism worldwide. As the supported Command for the land and maritime defense and civil support aspects of Homeland Security, U.S. Joint Forces Command is responsible for defense against land and maritime aggression targeted at our territory, sovereignty, domestic population, and infrastructure, as well as directly supporting the lead Federal agency in the management of the consequences of such aggression and other domestic civil support. These responsibilities are complementary to Federal, state and local responsibilities and capabilities.

Additionally, we are pressing forward with our other mission areas of joint force training, integration, and experimentation with the overall objective to transform our Armed Forces to meet the unique challenges of the post-Cold War environment.

The 11 September 2001 attacks have put our Nation and our command on a war-time footing. This is a two-front war—at home and abroad. We are moving aggressively forward with the Secretary of Defense, the Secretary of the Army as the Department's Executive Agent, the Chairman of the Joint Chiefs of Staff, the other combatant commanders, and our National, state, and local governments to improve our collective ability to defend our homeland. Likewise, our deployed forces are actively defending the Nation through their offensive actions overseas. Make no mistake, the status quo is not an option, and we are developing solutions to combat terrorism both at home and abroad.

OUR RESPONSE TO THE 11 SEPTEMBER 2001 ATTACK

Within minutes of the terrorist attacks against the World Trade Center (WTC), our Joint Operations Center, which operates 24 hours per day, began notifying U.S. Joint Forces Command's senior leadership and coordinating with the National Military Command Center in the Pentagon as well as our component commanders (Atlantic Fleet, Air Combat Command, Marine Forces Atlantic, and Army Forces Com-

mand). Next, the command's operations director activated the Crisis Action Team and began assembling key decision makers and planners from throughout the command to respond as needed. This action began prior to the impact of the second aircraft into the WTC, which ultimately confirmed our suspicion that this was an act of terrorism. Actions taken were focused in two directions: the possible need for DOD resources to augment first responders, and the need to raise the threat condition and force protection levels to ensure the safety of military personnel and facilities in the United States.

Immediately after the terrorist attacks, U.S. Joint Forces Command rapidly responded to the air, maritime, and land force requirements for Operation Noble Eagle. Atlantic Fleet ships and Air Combat Command tactical aircraft were deployed in support of North American Aerospace Defense Command's (NORAD) mission and responsibilities. Aegis-equipped ships were used to enhance the NORAD early warning radar system, two aircraft carriers were dispatched to provide sea-borne combat air patrol, and the 26th Marine Expeditionary Unit was placed on alert. The Joint Task Force-Civil Support was also marshaled and an assessment team dispatched to New York City to evaluate whether military resources were needed in the consequence management efforts and to coordinate support with the designated lead Federal agency. Within 6 hours of the attack, Federal authorities made their first request for DOD assistance, a request that was passed to U.S. Joint Forces Command by the Department of the Army's Director of Military Support (DOMS) for quick action. Also, our Service components postured forces to protect our critical military infrastructure. Concurrent with these domestic support efforts, trained and ready joint forces deployed, and continue to deploy, as part of Operation Enduring Freedom, to support the fight against terrorism abroad.

Support to civil authorities has been narrowly focused due in great part to the nature of the attacks on New York City and the Pentagon and the extent of New York City's robust response capability. However, it is clear that other localities might not have such robust and sustained capabilities in the face of a similar catastrophe. Clearly, we must be ready to provide responsive military support if required while striving for deterrence and prevention of future threats. There are numerous measures required to realize this posture, both at the military and interagency level.

In concert with ongoing operations and support, we initiated a comprehensive Homeland Security planning process working hand-in-hand with the Office of the Secretary of Defense, the Joint Staff and my fellow combatant commanders. This planning effort additionally included extensive coordination and synchronization with the Services, our components, and relevant government agencies, including the National Guard Bureau.

As part of this effort, we organized and activated a 90-person Homeland Security Directorate from within the command, with a two-star Army general in charge, to oversee planning, organization and execution of our responsibilities towards Homeland Defense and Military Assistance to Civil Authorities. Leveraging the insights and concepts gained from our joint training and experimentation work, we are employing emerging concepts to organize, train and operate this new organization as a highly functional command and control headquarters to conduct Homeland Security.

These efforts have borne fruit as we take on responsibility for the land and maritime defense of our Nation. We are postured to execute our responsibilities in support of the National Homeland Security effort in accordance with the Secretary of Defense's direction. We are continuing to adapt ourselves for a sustained effort and to respond rapidly in support of civil authorities.

In addition to the innovative organizational and operational approaches mentioned above, we are conducting parallel planning with the Joint Staff and our components to develop a Homeland Security Campaign plan. We have established liaison with the appropriate military, defense and select Federal agencies and we are prepared to work in concert with them to execute the Homeland Security mission.

We have been in close coordination with the applicable unified commands, particularly with Adm. Denny Blair at U.S. Pacific Command and Gen. Ed Eberhart at NORAD, to outline and discuss campaign plans for Homeland Defense. These efforts will continue, coordinating with Service components and other commands to refine details of a campaign plan and prepare necessary orders as additional guidance is received.

Finally, we are ready to provide command, control, and assessment capabilities in response to chemical, biological, radiological, nuclear, or enhanced high explosive incidents using Joint Task Force-Civil Support (JTF-CS), Regional Task Forces East and West, the Marine Chemical Biological Immediate Response Force, Weapons of Mass Destruction-Civil Support Teams (WMD-CST), and other forces as necessary. This will be discussed in greater detail later in this statement.

SUPPORTING HOMELAND SECURITY

U.S. Joint Forces Command is currently working in support of DOD leadership to dynamically refocus national responsibilities for homeland defense and security. The goal is to coordinate all national security elements to ensure the best possible predictive capability and proactive response.

With this planning and command and control capability as a foundation, our components are protecting our critical military infrastructure. Likewise, after a careful review of applicable contingency plans and functional plans with our components, U.S. Joint Forces Command is ready to execute and support the national campaign to protect our country.

As the command responsible for the land and maritime defense of the continental United States, we work closely with many Federal organizations to achieve unity of effort. Our key partners include the U.S. Coast Guard and the law enforcement community. In developing our ties to law enforcement, there has been much innovative and path breaking work since 11 September to share critical information while still safeguarding the liberties of American citizens. We have more work to do to achieve full intelligence fusion and gain a true measure of accurate, actionable, predictive analysis. That will enable all of us, in support of and led by law enforcement, to transition from today's posture of deter and respond to a more proactive stance of effective prevention.

In the area of military assistance to civil authorities, we are an active member of the Federal response community, and coordinate with and support the various Federal response organizations, most notably the Federal Emergency Management Agency (FEMA). These are long-standing ties and feature well-practiced procedures previously used in support of Federal efforts to deal with the effects of wildfires, floods, and storms. Our partnerships in the area of military assistance are solid and well-understood.

In light of these responsibilities, here is U.S. Joint Forces Command's posture for providing responsive support to the Nation:

We have designated selected active duty ground forces as rapid reaction forces and placed them on increased readiness. These Army and Marine forces are stationed at bases that provide regional coverage throughout the continental United States. Our intent is to provide the President and the Secretary of Defense a flexible and responsive capability in the event of unexpected incidents. We have also designated necessary air transport from the Air Force's active, Guard, and Reserve C-130 fleet to enable these reaction forces to rapidly respond when requested to support local, state, or Federal emergencies. We have exercised and trained these forces, and prepositioned aircraft at the Reaction Force departure airfields where they are ready to load now.

In our role as the joint force provider, U.S. Joint Forces Command is providing forces as tasked to support military operations overseas in support of Operation Enduring Freedom.

We are prepared to provide naval forces in support of Coast Guard operations in ports and adjacent waters.

We provide active and Reserve component tactical aircraft to NORAD and, in partnership with Pacific Command, will provide maritime assets, if needed, to defend our coasts.

We are also identifying additional support forces, such as chemical and biological detection and defense units, many of which reside in the Reserve component, which might require mobilization to maintain the appropriate capabilities.

We have worked closely with local, state, and Federal authorities to be ready. I have met personally with Lieutenant General Russ Davis, Chief of the National Guard Bureau and Admiral Jim Loy, Commandant of the U.S. Coast Guard to discuss how best to integrate National Guard, Coast Guard, and Active and Reserve Forces to secure our homeland. They have sent liaison officers to U.S. Joint Forces Command, who are integrated into our planning and operations, and our respective staffs are working closely to ensure a seamless response to any event.

JOINT TASK FORCE-CIVIL SUPPORT

U.S. Joint Forces Command also has the responsibility to provide military assistance to civil authorities. Along with traditional assistance to local, state, and Federal agencies in the event of natural disasters or civil disturbances—which we have planned and organized for previously—we are also charged with providing Consequence Management support.

Consequence Management is a critical task and for that purpose we had previously formed and trained a standing joint task force headquarters called Joint Task Force-Civil Support (JTF-CS). Joint Task Force-Civil Support is a command

and control headquarters ready to respond today to support the lead Federal agency in the event of an attack by weapons of mass destruction (WMD).

Let me outline the genesis of Joint Task Force-Civil Support and clarify what it is and what it is not. The 1999 Unified Command Plan (UCP) assigned U.S. Joint Forces Command the responsibility for planning and executing military assistance to civil authorities for consequence management of weapons of mass destruction within the continental U.S. The 1999 UCP also tasked U.S. Joint Forces Command with responsibility for consequence management response to chemical, biological, radiological, nuclear and high yield explosives (CBRNE) for the 48 contiguous states and the District of Columbia. U.S. Pacific Command and U.S. Southern Command were given responsibility for CBRNE consequence management within their respective areas of responsibility; U.S. Joint Forces Command provides support to them as necessary for their Consequence Management missions. Joint Task Force-Civil Support was activated in 1999, and following a rigorous training and validation process, JTF-CS achieved full mission capability in April 2000. It is currently authorized 36 personnel with a requested growth to 103 by 2003. In light of current conditions, and in order to maintain a continuous 24-hour response, I have authorized through assignment and augmentation the expansion of the headquarters to 164 personnel.

Joint Task Force-Civil Support has the mission to command and control all DOD assets deployed to mitigate the effects of a chemical, biological, radiological, nuclear and high yield explosives-incident, in order to save lives, prevent injury and provide temporary critical life support. I want to emphasize that JTF-CS is not a lead agency nor does it provide a first response capability. Joint Task Force-Civil Support's mission is to provide command and control of military forces in support of the designated lead Federal agency, for example, Federal Emergency Management Agency (FEMA). Joint Task Force-Civil Support's primary functions also include consequence management support to national special security events such as the State of the Union address last February.

As envisioned, JTF-CS was designed to be a command and control headquarters without assigned forces, organic communications, or dedicated transportation. Required forces, communications and transportation assets are allocated as the mission dictates. We are taking steps to allocate forces to habitually train and work with JTF-CS. It has the normal staff organizations you would expect, with the addition of an interagency coordination element, comprising seven personnel to include a U.S. Coast Guardsman, that is the conduit for working with Federal agencies. This coordination element interfaces regularly with FEMA headquarters and FEMA regions as well as the Department of Health and Human Services.

Joint Task Force-Civil Support has developed detailed force requirements for a variety of likely consequence management contingencies. These requirements include communications and transportation units, as well as service support, engineers, medical, aviation and specialty units like the National Guard Civil Support Teams (CST). The Service components are working through sourcing for these contingency packages to facilitate joint training and exercises to maximize proficiency. With forces allocated based on the mission, the headquarters is ready for employment, but needs more depth. It is a "one of a kind" organization. With that in mind, we are assessing its current structure and whether a second JTF-CS organization is required.

To further unity of effort between the varieties of forces that may potentially be involved in providing support to a CBRNE incident, JTF-CS has directly coordinated with a wide array of Federal, state, local, and military organizations to conduct training and planning.

As you can see, U.S. Joint Forces Command has aggressively moved forward since we received the military assistance to civil authority mission as outlined in the 1999 UCP.

WEAPONS OF MASS DESTRUCTION—CIVIL SUPPORT TEAMS

Another critical asset in Homeland Security are the National Guard WMD-CSTs. These teams immediately deploy to the incident site to (1) *assess* a suspected nuclear, biological, chemical, or radiological event in support of the local incident commander (2) *advise* civilian responders regarding appropriate actions and (3) *facilitate* requests for assistance to expedite arrival of additional state and Federal assets to help save lives, prevent human suffering, and mitigate property damage. The WMD-CSTs are National Guard assets that are manned by their respective states, and trained and equipped by the National Guard Bureau. We currently are funded for 32 WMD-CSTs, of which ten have been certified by the Secretary of Defense (in Washington, Colorado, New York, Texas, Massachusetts, Missouri, California, Illi-

nois, Pennsylvania, and Georgia). Seventeen are in various levels of training and equipping (not yet ready for certification); five still need to be activated. We eventually expect to have a certified WMD-CST in each U.S. State and in all U.S. territories.

Joint Forces Command is tasked only with training and readiness oversight of the WMD-CSTs and does not assume that responsibility until a WMD-CST receives Secretary of Defense certification. We are working closely with the National Guard Bureau and the states where those teams reside to standardize their training, tactics, techniques and procedures.

LEVERAGING JOINT TRANSFORMATION

As our President stated, this is a war “unlike any other.” It demands fresh approaches and new thinking. We are and have been working on just such innovative joint operational concepts.

With our redesignation as U.S. Joint Forces Command on 1 October 1999, we assumed the responsibility to lead the transformation of the U.S. Armed Forces to achieve dominance across the width, depth, and breadth of any battlespace. That means that whether in peace, conflict, or war, anywhere on the spectrum of operations, we will fight and defeat any adversary. Our command is focused on achieving that objective, and the events of the last month, both at home and abroad, have shown that we must accelerate those efforts. We need today’s forces to get to the objective area quicker, dominate the situation, and win decisively. Comprised of highly trained, competent units and leaders, those forces need to operate with agility, versatility, precision and lethality.

Combating terrorism, protecting the homeland, and transformation are inextricably linked. We are working today with Enduring Freedom’s joint warfighters to rapidly operationalize the innovative ideas we have been working on through our joint concept development and experimentation program. The war on terrorism cannot be won with legacy means alone. Development of advanced techniques, tools, and organizations for these challenges require new thinking and aggressive experimentation to develop alternatives for the future joint force.

For more than a year, U.S. Joint Forces Command has been working on proposals for transformation that can directly address the operational requirements we face today. Our most recent experiment on advanced concepts, Unified Vision 2001 last May, envisioned a set of conditions similar to those we face today. The intellectual foundation for dealing with these new conditions should put us in the position of being able to more rapidly operationalize our best concepts.

Converting these concepts into operational capabilities is now our challenge. As we task organize our command for its role in winning this war, we are also integrating many of our new ideas into our organization and operations. Our execution of the Homeland Security mission, and the fight against terrorism abroad, will be built around the doctrinal, organizational, and technical findings that come from our transformational efforts.

Our efforts to date have set the conditions for unified transformation activities to take place across the Services and the Joint Force. Our concept development and experimentation efforts over the past 2 years have established the common joint context for service concept development, have facilitated collaborative concept development across the Services, and have synchronized the joint and service experimentation programs.

Further, I think that these insights are compelling and have immediate application. As I mentioned earlier, we leveraged these concepts to guide our efforts to stand up our Homeland Security Directorate and guide development of our Homeland Security Campaign Plan. But in all of this, we have to remember the basics. War remains close, personal, and brutal. There is no silver bullet that can change that. There have been revolutions in how we fight . . . gunpowder, nuclear weapons, and computers. But in the end, it still comes down to our willingness and capability to decisively defeat our enemy. It’s never safe, easy, or risk-free. The enemy sees to that. Today while I talk to you, there are people flying, sailing, and standing in harm’s way, under enemy guns, at night, and far from America. Our national will, combined with their spirit and tenacious commitment, will define our success. I look forward to working with you to give our troops what they need.

In closing Mr. Chairman, the soldiers, sailors, airmen and marines of U.S. Joint Forces Command are ready to defend our homeland and are deploying to fight terrorism abroad. We are acting now, and ready to do more. Each day, we improve our capabilities, refine our plans and increase our Homeland Security capabilities while providing trained, ready, and—over time—fundamentally transformed forces for combat operations against terrorism.

Chairman LEVIN. Thank you very much. We will follow the usual procedure here. We will have an early bird rule with a 6-minute round.

Secretary White, can you describe what your authority is as the DOD Executive Agent for Homeland Security? For instance, does it extend to authority over the combatant commanders, or the forces assigned to them?

Secretary WHITE. Senator, my authority as Executive Agent is to act on behalf of the Secretary to organize and get moving the whole business of homeland security. I do not see myself as having any operational authority or being a part of the chain of command. I will make recommendations to the Secretary, and he will exercise his authority.

Chairman LEVIN. Is it clearly established that you are not in the chain of command?

Secretary WHITE. The Secretary is the chain of command along with the President, and I, as his Executive Agent, make recommendations to him, but I do not exercise command authority.

Chairman LEVIN. Thank you. Mr. Secretary, would you describe what you understand your relationship with Governor Ridge and his office is going to be? How would, for instance, good faith disagreements be resolved between the two agencies? I know in your opening testimony you said you intend to fully assist him, but there will be differences from time to time, and the question is, when they are not resolved, who wins? Who prevails? I know truth and justice will win, but who will prevail?

Secretary WHITE. Well, you know as well as I, the charter that Governor Ridge has for homeland security is directly from the President. We have had excellent initial meetings with Governor Ridge. We have detailed a senior officer of the Department who has extensive experience in homeland security to serve on his staff. If there are differences of opinion between the Department and Governor Ridge, I would presume that they would be resolved, like any disputes in the executive branch, either at the principal's level or at the Cabinet level, or ultimately with the President himself.

Chairman LEVIN. Mr. Secretary, could you give us your position on the suggestion that the Posse Comitatus Act needs to be revised?

Secretary WHITE. I think, Senator, that at this stage our general view is that the act is fine the way it sits. It has a longstanding tradition of not using Federal forces in a law enforcement role that I think serves the Nation well.

The General Counsel of the Department, in response to your communication, is studying it in more detail to see if there are revisions that need to be made to certain aspects of it, either for flexibility or to deal with the new situation, but in general this longstanding tradition is one that we would like to see prevail. There may, of course, be necessary minor revisions.

Chairman LEVIN. As part of that consideration, are you looking at what the impact of training and using our Armed Forces to enforce the law would have on their warfighting capabilities, their readiness? Is that all being considered as a part of this review, or is it just a legal issue?

Secretary WHITE. It is principally a legal review of the law against the current situation. The broader issue that you raise gets to the whole fundamental question of having a common force pool of active and Reserve components that have longstanding primary missions in support of the combatant commanders in chief, but that also have important homeland security responsibilities either on a State or a Federal basis. Obviously with the current events these challenges are on us concurrently.

As we sit here today, the 29th Division from the Virginia Guard is deployed in Bosnia, and consequently the elements that are in Bosnia are not available to the Governor of Virginia for title 32 purposes for homeland security, so as my colleagues and I go about our business of the operational planning for homeland security, one of the issues that has to be dealt with is force apportionment, and how much time will be focused on homeland security, and how much time will be focused on normal warfighting activities.

Chairman LEVIN. Thank you.

General Eberhart, there has been some confusion about the sequence of events on September 11 that maybe you can clear up for us.

The time line we have been given is that at 8:55 on September 11, American Airlines Flight 77 began turning east, away from its intended course, and at 9:10 Flight 77 was detected by the FAA radar over West Virginia, heading east. That was after the two planes had struck the World Trade Center Towers.

Then 15 minutes later, at 9:25, the FAA notified NORAD that Flight 77 was headed towards Washington. Was that the first notification NORAD or the DOD had that Flight 77 was probably being hijacked, and if it was, do you know why it took 15 minutes for the FAA to notify NORAD?

General EBERHART. Sir, there is one minor difference. I show it as 9:24 that we were notified, and that was the first notification we received. I do not know, sir, why it took that amount of time for the FAA. You will have to ask the FAA.

Chairman LEVIN. Do you know if that was the first notification to the DOD?

General EBERHART. Yes, sir, that is the first documented notification we have.

Chairman LEVIN. Either NORAD or any other component of the DOD?

General EBERHART. Yes, sir.

Chairman LEVIN. I have a number of other questions relative to that issue which should be clarified, and I am going to ask you those questions for the record to clear that up. It seems to me we all should have a very precise timetable and the precise indication of why other agencies or entities were not notified by FAA, if they were not.

Perhaps you could make that inquiry for us, or we will ask the FAA directly, if you prefer. We would also ask what notification was given to the buildings in Washington once it was clear that this plane was headed towards Washington, but we will save those for the record.

Senator Warner.

Senator WARNER. I would have thought all of you in this chamber would have gone back and rehearsed these things, figured out what happened, what went wrong, so that we ensure it will not happen again. If there was that significant a delay and you cannot tell us why, how do we leave with an assurance that you and your subordinates have taken steps so that it will not happen again?

General EBERHART. Sir, I assure you we have, and we practice this daily now. It now takes about 1 minute from the time that FAA sees some sort of discrepancy on their radar scope, or detects a discrepancy in terms of their communication, before they notify NORAD, and so that certainly has been fixed.

I think at that time the FAA was still thinking that if they saw a problem, it was a problem that was a result of a mechanical failure, or some sort of crew deviation. They were not thinking hijacking. Today, the first thing they think is hijacking, and we respond accordingly.

Senator WARNER. So working with the FAA, NORAD had not rehearsed the possibilities of an aircraft being seized for some terrorist activity?

General EBERHART. Sir, the FAA is charged with the primary responsibility in terms of hijacking in the United States of America. We are charged with assisting the FAA once they ask for our assistance. The last hijacking of a commercial aircraft in the United States of America was 1991, so although we practiced this day in and day out, the FAA sees on their scopes scores of problems that are a result of mechanical problems, switch errors, pilot errors, et cetera, and that is what they think when they see this.

Although we have exercised this, we have practiced it, in all the hijackings I am aware of, where we have plenty of time to react, we got on the wing, and we followed this airplane to where it landed, and then the negotiations started. We were not thinking a missile, an airborne missile that was going to be used as a target, a manned missile, if you will. In most cases when we practiced this, regrettably we practiced it, the origin of the flight was overseas, and we did not have the time-distance problems that we had on that morning. We had plenty of time to react, we were notified that for sure there was a hijacking, and we were notified that they were holding a gun to the pilot's head and telling him to fly toward New York City or Washington, DC.

So that is how we had practiced this, sir. I certainly wish we had practiced it differently, but I really think that for sure in the first two instances of 11 September, and probably in the third, time and distance would not have allowed us to get an airplane to the right place at the right time.

Senator WARNER. Let me just ask the following. You are now the commanding officer in charge of the Combat Aircraft Patrol (CAP) missions being flown over our various communities, which so far as I know have functioned exceedingly well and serve, I think, as a strong deterrent. It is being performed by Guard and regular aviators, am I not correct?

General EBERHART. That is correct, sir.

Senator WARNER. Are the missions for the Guard any different than for the regular aviators?

General EBERHART. No, sir.

Senator WARNER. They fly the same?

General EBERHART. Yes, sir.

Senator WARNER. If an aircraft begins to deviate and such security measures as are on board fail, whether it is an armed guard and so forth, then your aircraft is instructed, with certain procedures, to fire and take that plane down. That is basically what happens.

General EBERHART. When given the proper authority, yes, sir.

Senator WARNER. Here is my problem, and it is one of the reasons that I raise this posse comitatus situation. I have done some independent research on this matter. The Air Guard person is up there within the law of posse comitatus. It is a criminal penalty, as our chairman stated. By what authority is the regular performing duty that the Air Guard is doing so we get around the posse comitatus?

General EBERHART. Sir, I believe in this case it is not a law enforcement action. I believe it is a national defense action.

Senator WARNER. Well, you say that. It could be a bunch of drunks on the plane who have caused it—I mean, there are scenarios by which it could not be terrorism. That is one of the reasons I have raised this issue. I have been criticized roundly for bringing this up, first in a question to the Secretary of Defense, who acknowledged at that time in the hearing that he felt it ought to be reviewed.

It is a subject of considerable debate in the *National Journal*, and I do not mind taking criticism, but I really think somebody ought to look at this very carefully, because what that aircraft is doing is supplementing what the armed guard is doing on the plane. If that measure fails, then and only then will that aircraft perform its really awesome mission. I just think we had better look at this posse comitatus.

We also have to look at it because we could have situations where enormous numbers of our citizens could be put in harm's way by some disaster, and the military folks who remain nearby could come in and help the police establish some law and order, if only to protect the citizens in some way against further harm. So I am glad somebody is taking a look at the situation of posse comitatus.

I agree with you, Mr. Secretary, the document has served us very well, but there comes a time when we have to reexamine the old laws of the 1800s. Given the challenge that we are faced with today, I would take a look, and have your lawyers take a look at that situation, because in Europe I am told by the Department of the Air Force that they are referred to as air police. Have you ever heard that term in Europe applied?

Secretary WHITE. No, sir.

Senator WARNER. Take a look at it. Have you or General Eberhart?

General EBERHART. No, sir, I have not.

Senator WARNER. You ought to have a chat with a couple of the other two-stars around the hall. We ought to clarify that.

To you, General Pace, the Secretary of Defense, in consulting with Senator Levin and myself and members of the House, talked about proposals by which to either modify a current CINCs respon-

sibility and/or maybe even the creation of another CINC to deal with the homeland defense, and also the possible need for an additional, say, Deputy Secretary of Defense to be the counterpart for Governor Ridge and such other individuals within the Department of Defense and other agencies and departments will begin to form the structure to deal with these important challenges of homeland defense. To what extent can you elaborate on that for us?

General PACE. Senator, thanks. The Unified Command Plan is a plan that breaks down the individual authorities of the individual commanders and, as you also know, it is the Chairman's responsibility to recommend to the Secretary of Defense changes to those.

As we speak, the individual service chiefs and the combatant commanders are proposing changes to the Unified Command Plan. They will be in to the Chairman by the end of October. The Chairman will quickly synthesize all of those and go forward to the Secretary with his recommendations for the changes. One of the key elements in there is the requirement for a CINC specifically designated for homeland defense.

If I may go back to your previous question, sir, just to elaborate on the airmen who are flying right now. Because the authority to shoot down that airplane must come from either the President or the Secretary of Defense, and because the President has emergency powers to use his Armed Forces in that capacity, the particular pilot who is ordered to take that action would not be, in my judgment, subject to criminal prosecution.

Senator WARNER. There is this exception in there, and I think you raise a very important aspect of it. By virtue of the President ratifying the subordinate commander's recommendation that the shootdown occur, he then would be operating under that exception of *posse comitatus*?

General PACE. Yes, sir, and we should certainly take a look at that, sir, but we do not have your service members today in any jeopardy.

Senator WARNER. But, I mentioned it could be a bunch that is intoxicated. It could be a mentally deranged person on the plane. There are other hypotheses, regrettably, that jeopardize the safety of aircraft from time to time which are apart from terrorism.

Chairman LEVIN. Thank you very much, Senator Warner.

Senator Cleland.

Senator CLELAND. Thank you very much.

I would like to pursue this question of *posse comitatus*. I am not a lawyer, but I really agree with Senator Warner, that I think the events of September 11 have given us a new demarcation here in our reaction as a defense team, or as a defense system, and I will say that I think it was proper in 1947 for the U.S. War Department to then be called the Defense Department. Since 1947 we have all been in the defense business. The defense of what? The defense of NATO, certainly. The defense of Bosnia, the defense of South Korea, certainly, but ultimately the defense of our homeland.

So I think the number 1 lead agency for the defense of America is the Defense Department. That is where we put our money, our time, and our energy. We ask young Americans to risk their lives in harm's way in America and all over the globe for that purpose, so that is where I am coming from.

Regarding posse comitatus, to me the date 1878 says it all. In my understanding, that is when President Grant asked Sherman's troops to leave Georgia and said, don't come back. I mean, that was the era where we had for 10 years Federal occupation of a number of States in America. There was great resentment of that, so I think the posse comitatus law that you could not in effect nationalize the American Armed Forces and have them go somewhere and occupy somebody, I think that was a direct reaction to that particular era.

The point is, when it came to the war on drugs, in 1980 we amended the posse comitatus law to allow the American military to do what, to defend our homeland, and American blood has been shed on American soil by a foreign foe on September 11, and now we are under attack by germ warfare. I do not think we need much more evidence to understand that we are not dealing with a crime. If this were a crime we would put the FBI Sherlock Holmes detectives on it, and we would nail Timothy McVeigh and execute him.

This is war, and so I am not quite comfortable with the FBI leading the war against terrorism and being the lead agency when we have the entire Department of Defense out there taking second seat. I think we have to figure out a new posse comitatus amendment that allows the Department of Defense to step forward and defend America.

It is interesting that when the commander in chief was faced with that on September 11 he said, not only yes, but definitely yes, put your aircraft in the air, General Eberhart, without batting an eye. So in reality, that posse comitatus went out the window real quick. The commander in chief said so, and he had a right to say so, and he did the right thing, and so I do not think we are in a crime scene here. I think we are in a war.

If we are in a war, then I think the Department of Defense ought to be the lead dog here. If we work from that premise, then everybody else can follow in, or follow along and be part of a homeland defense team, but I have been looking for a leader in this thing. We just got a briefing here from Senator Nunn, who sat in that chair, Mr. Secretary, just a few hours ago. He played the President in a Dark Winter exercise, a germ warfare attack against the United States, and what did he find? He said, "I found myself getting very impatient with bureaucracy." In other words, he found that the agencies were not coordinating, were not cooperating with one another, and that is where we are today.

So I think we are in search of defining exactly what we want to do as a Nation here. If we want to defend ourselves, especially our homeland, the lead agency ought to be the Department of Defense. I think there should be maybe a CINC for the homeland area, to work closely with the homeland guard, or the homeland czar, or whatever, but I am beginning to see that we need somebody to step up to the plate, and I think that is the Department of Defense.

Now, I know it was not popular to be involved in counterterrorism and so forth, and the American military wanted to be engaged elsewhere, but up until September 11 counterterrorism was buried over there in the Justice Department and the FBI somewhere. Now we realize it is homeland defense. It is what we are

in the business of, survival, and so I just thought I would throw that out.

Mr. Secretary, I want to ask you one question. The President mobilized the Air Force within a matter of hours to defend our Nation and said, we are in a war against terrorism. The Coast Guard, in a war, comes under the Department of Defense. Have you thought about asking for the authority, since the President says we are in a war, to put the Coast Guard in the Department of Defense now?

Secretary WHITE. On a permanent basis, not in a national emergency, but—

Senator CLELAND. I would settle for a national emergency basis.

Secretary WHITE. That is a good question, and there has been thought on that, obviously. If you look at the events of 11 September, the Navy and the Coast Guard have worked very closely for maritime and coastal defense, as they have for a long time, and the Commandant of the Coast Guard regularly attends coordination meetings in the tank with the other leaders of the military, so there is close coordination, albeit at this point no direct chain of command authority.

Senator CLELAND. Because the Coast Guard currently is under the Secretary of Transportation, and in so-called peacetime it is quite adequate, but this is not peacetime. This is war, and we have been made painfully aware of that, and I would just suggest that you look at that as one step towards DOD becoming more engaged in the war on terrorism.

Thank you very much, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Cleland.

Senator Inhofe.

Senator WARNER. Senator Inhofe, would you yield just to suggest to our witnesses in reference to the remarks made by our colleague, there is a very good piece written by Paul Stevens, called "U.S. Armed Forces Homeland Defense, the Legal Framework." I would urge that those who have not had a chance to refer to it, it covers some of the points that our distinguished colleague just reviewed.

Thank you, Mr. Chairman.

Senator INHOFE. General Eberhart, quite a few questions have been asked about the length of time it has taken us to respond to certain requests, and I am naturally concerned. We have the 5073 fielding that is involved in all of this out in Oklahoma.

Have you ever just sat down and in a very brief way described what the decisionmaking matrix is for this process of having to make a shutdown?

General EBERHART. Yes, sir. First, we are cued by the FAA. Now that cueing is a lot easier. We are actually up on a hotline, a chat line with the FAA all the time, so as soon as the FAA realizes there is a problem, we realize there is a problem simultaneously. We have taken what we call air battle managers and put them in the FAA sector, so they are present for duty and are there to coordinate and facilitate. You are familiar with air battle managers from the Airborne Warning Control Systems (AWACS). They are at Tinker Air Force Base.

We also have increased FAA presence at our regions and our sectors. The most important thing is cueing, so that we know there

is a problem. Cueing allows us to work the time-distance problem I alluded to earlier.

Second, we have continuous CAPs over Washington, DC, and New York City, which obviously allow us to respond very quickly in those locations of the northeast seaboard.

We also run random CAPs throughout the United States of America over population centers and key infrastructure. Our goal there is to be unpredictable, and to have would-be terrorists know that we might be there, so your chances of success are not very good.

Then finally, we have improved the communication lines between the pilot to the sector, the regional controllers, and to me. We have exercised this almost daily to make sure that once we see this problem, once we get in a position where we can take action, all of that information is relayed up to the National Command Authorities, and we get the authority to take the action that they deem is appropriate. Hopefully, that is the action we have recommended to them.

Senator INHOFE. Thank you, General. That is very specific, and I do appreciate that. Talking about the CAPs program, the role of the Guard, there has been some discussion on the changing of equipment. For example, I understand the F-15 would perhaps perform those duties better than the F-16. A lot of the changes in this program since 11 September are going to cost money. Are these in the QDR, or are you working on that now? First of all, do you think there will be a substantial increase because of the changes in emphasis and equipment?

General EBERHART. Sir, I think there are changes that are appropriate. There are modernization programs that are appropriate. We are reviewing those as we speak. Some of those programs were included in the Department's request for the supplemental. First and foremost I think we need to focus on our command and control systems. As a matter of fact, our command and control systems are 1970s and 1980s technology in NORAD. They really have not kept pace over the years, and so we need to bring them into the 21st century.

There are other things like additional radios for the F-15s, VHF radios, which you are very familiar with, and fighter data links. Right now, we are awaiting the benefit analysis for these missions, and they are part of the supplemental that came in, and will be part of the 2003 request.

Senator INHOFE. You are working on that now?

General EBERHART. Yes, sir, we sure are.

Senator INHOFE. General Pace or anyone else, I came in kind of disagreeing with some of the things Senator Cleland said, but he made a very persuasive argument in terms of the use of our military. Historically, I have always opposed the use for one specific reason we have not talked about here today, and that is that we are currently in a crisis in terms of our deployments, in terms of our force strength, and I know everyone gets tired of hearing us talk about it, but nevertheless it is true that we are about one-half of where we were back in 1991 and we have deployments in places like Bosnia or Kosovo, where many of us do not believe we should have been deployed.

Nonetheless, if you are going to have an expanded role for the military into these areas, I contend that you do not have to change the act to do that. There is recently a study released on October 12, that is this year, by the Center for Strategic Studies here in Washington, DC, and it says neither the Posse Comitatus Act nor, apparently, any other statute purports to deny, limit, or condition the President's use of the Armed Forces in response to a catastrophic terrorist attack on the United States.

I guess what I am saying is I think it is going to happen anyway regardless of what we do with that act. My concern is that it affects readiness. I spent 5 years chairing that subcommittee, and I have been concerned about deterioration because of the force strength, modernization, and our deployments. How is this going to negatively impact it, and what can we do about that?

General PACE. Senator, as we do with all allocations of resources, allocations especially of service members, part of the process that delivers to the Secretary of Defense a recommendation to send troops to Bosnia or to allocate troops to a particular section of this country will include the impact on readiness for the next most likely deployment of those forces, so when it goes forward to him it tells him, we need X number of troops to do this particular mission. If you send them on this mission, then we will need X number of months to get them back, retrained and ready to go for their most likely combat mission, so that kind of readiness equation is part of the process that tees up the decision for the Secretary.

Senator INHOFE. I understand that and appreciate that, but that is on a specific mission or deployment. Right now, we are dealing with unknowns. We are establishing a policy whereby we may be using military in some areas where we had not used them in the past, and I would just caution all of us to keep that in mind, that somehow the cost of that is going to have to be transmitted to us and we will have to act on it.

Unfortunately, it may be too late, and so we need to prepare as much in advance, if anything new is going to be imposed upon our military than they are already in their overloaded commission performing today.

Secretary WHITE. I suppose airport security is a classic example. We have today 6,000 guardsmen that are deployed in 430 airports across the country, augmenting security forces. That is all under State control, but that comes out of the same force pot that we send to Bosnia and we have Federal authority for, and that is the real challenge that we have to deal with here.

Senator INHOFE. Thank you very much.

Chairman LEVIN. Thank you.

Senator CARNAHAN.

Senator CARNAHAN. Secretary White, I would like to follow up on a question the chairman asked earlier and ask you to elaborate on what steps are being made to coordinate your activities with the new Office of Homeland Security headed by Governor Ridge.

Secretary WHITE. Senator, I have met with Governor Ridge and laid out for him in some detail how the Department operates in support of homeland security, both the civil support side and the defense side. We have assigned a senior officer and other staff to his office. The former Commander of the Joint Task Force for Civil

Support from Joint Forces Command, who has extensive experience in homeland security, will be a part of Governor Ridge's office, and I look forward to detailed coordination with him as we go forward.

Senator CARNAHAN. Thank you.

General Kernan, there are currently 27 National Guard Weapons of Mass Destruction Civil Support Teams (WMD-CSTs) in existence. Ten of these teams have been certified to assist in detecting the presence of chemical or biological agents. What are the roles of civil support teams in the event of a chemical or biological attack, and how else could these teams be of assistance as civilian first responders in the event of such attacks?

General KERNAN. Senator, the civil support teams come under State title 32 responsibilities to the Governor. They are the first responders. They possess 14 different specialties. They are commanded by a National Guard Lieutenant Colonel. They have a mobile analytical lab and a mobile communications suite.

What they do is, they arrive at the incident site, they assess, they analyze, they validate, and they facilitate the military support that may be required to a catastrophic incident in a State. They initially work for the State Governor. If additional military support is required for a weapons of mass destruction incident, or high yield explosive event in the United States, they would then facilitate the military support coming to help save lives, prevent suffering, and reestablish critical infrastructure and facilities.

Secretary WHITE. May I add that of the 10 that we have, since 11 September every one of them has been employed for a variety of tasks by the Governors, to include early on the team in New York under the control of Governor Pataki, so we have found them already to be enormously useful, and we are accelerating the training and certification of the additional teams.

Senator CARNAHAN. Thank you.

General Eberhart, you are responsible for overseeing the security of America's skies. Would you describe the new procedures that are in place to respond to hijacking of commercial aircraft, and if there are additional resources you feel are needed in intelligence or command and control to further support this mission?

General EBERHART. Yes, ma'am. In terms of the new procedures in effect, we have increased connectivity with the FAA, so in fact, as I said earlier, we are on a chat line with them 24 hours a day, 365 days a year, so when they see a problem we simultaneously see that problem.

Second, up until this time we were looking out. We were looking external to the United States of America for the foreign threat, and aerospace warning, aerospace control were our missions. It was redefined on 11 September, because now aerospace warning and aerospace control means the unthinkable. It means looking inside the United States for this terrorist threat that developed at that time, and so now we are employing additional radars.

These radars come in the form of Coast Guard airplanes, Navy airplanes, and additional AWACS, to include NATO AWACS. Five NATO AWACS are a part of our team now and are temporarily deployed to Tinker Air Force Base. We are also moving ground radars throughout the United States to fill areas where we did not have good internal coverage in terms of the military. We are also linking

some of the FAA radars into our command and control sectors in our region and NORAD command posts to make sure we are seeing again what the FAA is seeing so we are able to increase our situational awareness and decrease greatly the reaction time to work the time and distance problem.

Senator CARNAHAN. Thank you very much.

Chairman LEVIN. Thank you, Senator Carnahan.

Senator Allard.

Senator ALLARD. Thank you, Mr. Chairman.

General Eberhart, I am very interested in NORAD, and so I am particularly interested in how NORAD might interact with our various agencies, particularly the FAA. I appreciate the question that was asked by Senator Carnahan, but I am going to ask for a little more detail. On September 11, my understanding is we had aircraft at least up in the air when the second plane hit the Twin Towers, is that correct?

General EBERHART. Yes, sir.

Senator ALLARD. So what I am interested in knowing is, what was the process there, and then how was that followed up with the other aircraft that you identified that were coming or heading towards Washington, and how you responded, and how was the FAA interacting with NORAD in that whole situation, starting with that first plane you deployed heading toward New York City?

General EBERHART. Yes, sir. The first flight I think was American Flight 11. The FAA, once they notified us, we issued a scramble order almost simultaneously to the first crash, that flight of two out of Otis Air Force Base, out of Cape Cod—

Senator ALLARD. Let me understand this. So right at the time the first aircraft was hitting the Twin Towers, you are being notified by the FAA that you had another plane headed towards the towers?

General EBERHART. They notified us of the first hijacking just about the time that airplane was hitting the tower, and at that time we issued a scramble order to the two F-15s out of Otis Air Force Base. We continued to send those airplanes toward New York City, because initially, as we worked with the FAA, we were not sure if that was the hijacked airplane.

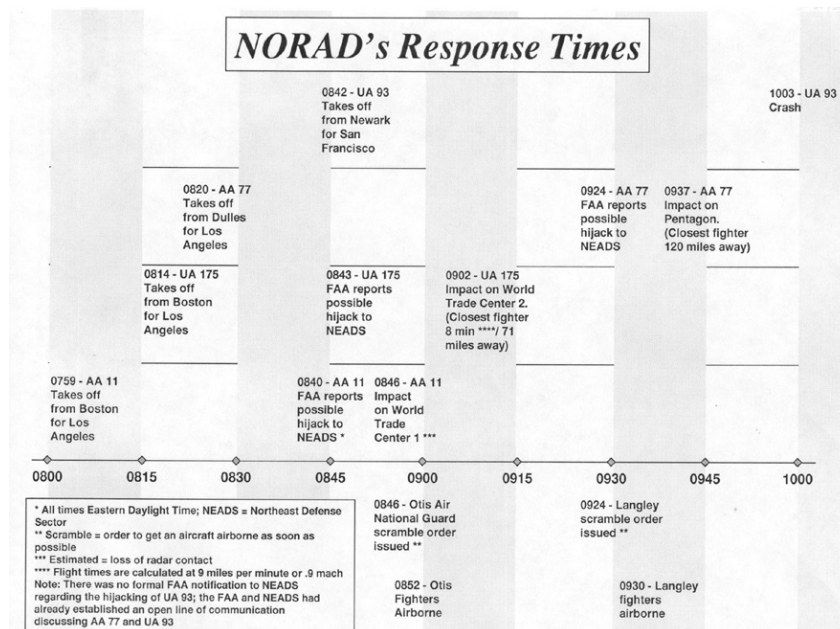
I hate to admit it, but I was sitting there hoping that someone had made a mistake, there had been an accident, that this was not a hijacked airplane, because there was confusion. We were told it was a light commuter airplane. It did not look like that was caused by a light commuter airplane, and so we were still trying to sort it out. We are moving the two F-15s, and we were continuing to move them. They were flying toward New York City. In fact, they were 8 minutes away from New York City when the second crash occurred. We did not turn them around. We did not send them back.

Senator ALLARD. They had not made a sighting of that airplane?

General EBERHART. Again, the issue is time and distance. Once we told them to get airborne, it took them only 6 minutes. Talk about the professionalism and training of these individuals. Tragically, there was just too much distance between Otis and New York City to get there in time.

Senator ALLARD. Now, did the FAA notify you that you had a second hijacked plane somewhere up there?

General EBERHART. Yes, sir. During that time, we were notified. We will provide the exact time line for the record. [The information referred to follows:]



Senator ALLARD. I am not interested in the exact time line as much as I am how the FAA reacted with NORAD during this time period.

Then you had the other two planes, and then the FAA continued to notify NORAD that you had two other potential hijackings, these headed for Washington, is that correct?

General EBERHART. Yes, sir. We were working the initial hijacking of the one, I think it was Flight 77 that crashed into the Pentagon. We launched the airplanes out of Langley Air Force Base as soon as the FAA notified us about a hijacking. At that time it took those airplanes, two F-16s again, 6 minutes to get airborne. They were approximately 13 minutes away from Washington, DC, when the tragic crash occurred.

Now, the last flight was a little bit different. I think it was United Airlines Flight 93 in Pennsylvania. At that time we were trying to decide initially if that flight was going to continue west, and if there was some other target for that flight, was it Chicago, was it St. Louis, and what might we do to launch an aircraft to intercept it.

Senator ALLARD. So the FAA knew before it deviated its flight pattern that it was hijacked?

General EBERHART. What they really knew was, it was headed west, Sir. It dropped off their radar screen, and then they reacquired it. At that time it became obvious to us, we thought it was probably headed for Washington, DC, but maybe New York City.

We elected at that time to keep the airplanes that were doing the Combat Air Patrol over Washington, DC, and New York City right where they were in case there was another airplane coming. Then our intent was to go out and meet that aircraft and destroy it if we needed to, if it entered either Washington, DC, or New York City air space.

Senator ALLARD. My understanding is that NORAD has made some effort to get direct access to FAA radar data in the past. You have not had access to that? What is the status of that?

General EBERHART. Yes, sir. Again, in the past we have had access to what we call the Joint Surveillance System, which is that system which rings the United States. It looks for the foreign threat. It looks for someone coming into our air space that is not authorized.

We have not been charged, we have not been concerned with any aircraft that originate inside of our air space because we believed that, in fact, is an authorized aircraft on a flight plan and is authorized to be in the United States of America, so we have been looking out. We have had access to the Joint Surveillance System, but we have not taken all of the radars internal to the United States and imported those into our command and control centers.

Back in the 1950s, we actually owned and controlled all of those radars in the United States Air Force, and since 1958, when we stood up the FAA, we have been moving those radars to the FAA. We have helped pay for them and purchase them, and we have actually moved manpower on the order of about 200 people over the years to the FAA to operate these radars, but we were looking out, and we used the radars that the FAA uses to look out. We both use those radars.

But now, to answer your question, we have figured out a way to take these internal radars and net them into our command and control centers.

Senator ALLARD. Well, I just want to thank you and your people for a tremendous effort, in light of totally unexpected circumstances, and I, for one, appreciate the readiness that was displayed. I think that when you think about getting that plane and taking off in 6 minutes, there had to be a lot of hustle there, and I recognize that, and we are searching for better ways in which we can even do a better job while recognizing that you did a superb job at the time. So I want to thank you and your people, General, for that.

I see my time has expired.

Chairman LEVIN. Thank you, Senator Allard.

Senator Dayton.

Senator DAYTON. Thank you, Mr. Chairman, and I appreciate your convening this hearing. This has been a day of very impactful and instructive testimony. I want to thank our witnesses here, too.

This morning we had a subcommittee hearing chaired by Senator Landrieu, and with the involvement of the Ranking Member, Senator Roberts. There was mind-blowing testimony about the threats under the category of bioterrorism. I discovered then, others have known it before, about possible threats in the area of agricultural terrorism, chemical terrorism.

Now, this afternoon, we are reviewing the acts of civilian airplane hijacking, turning them into, as you said, manned missiles. In between we had a Top Secret briefing from the Director of the FBI and the Director of the CIA. Since those were Top Secret, all I can say is that there were areas discussed there that, again, to a new Senator are revealing and mind-boggling.

So I guess I want to say, following up on what Senator Allard said, the magnitude and the enormity and the complexity and the multidimensional nature of what we are now calling homeland defense, or homeland security, are staggering.

It is one thing to come in with perfect hindsight, and I am not saying we should not do so to learn the lessons for the future, but we talk about a Dark Winter simulation. We have been in a Dark Fall in reality, and we are still in the midst of one right now with the anthrax situation, which is changing on a daily if not hourly basis, and may have other unfoldings that have already taken effect that we are just not aware of yet.

So I think we have to take all of this both with respect and appreciation for all you are doing. While looking for those areas where we can improve, because we always can improve. But we always say we are preparing for the last war. What constitutes homeland defense we have learned through a \$359 million defense budget, and then we are in the midst of a legitimate debate about how much more, according to the national missile defense development, and lo and behold we have some very astute and very determined, to the point of self-sacrifice, enemies who are looking for exactly what it is we are not focused on or we are not prepared for, and that is where they are going to strike next, at what we are not prepared for.

We do not want to scare the American people. On the other hand, no one is complacent any more. How do we cope with all of this, and how do we do so without spending more money? I guess I go back to that, because we just passed a tax cut. We thought that was the right thing. People thought that was the right thing to do. With all respect, we thought we had a surplus, but now we find we have a diminishing surplus and we have these greater needs.

We are told this morning our public health system is seriously inadequate to address those potential threats and those real threats now. How do we gear ourselves up across the board for all of this, much less coordinate it?

Secretary WHITE. Well, I think, Senator, we are geared up. We have a great deal of work to do. For example, the key to homeland security to me is the competence and capabilities of the first responders. There are 11 million first responders in this country—State police, emergency medical technicians, local hazardous material teams—and the question is, if you look at the threats that you are talking about, what are the gaps in the capabilities, and then how do we fill those gaps on either an interim basis with assets of the Department of Defense, Reserve component or active, and then on a long term basis how do we build the confidence of the first responders to fill in those gaps?

We cannot take all the resources of the Department, because our worldwide challenges are not going to go away, and there is a con-

currency to this effort between what we do in the homeland and what we are doing in CENTCOM or other regions of the world that all address the same set of forces.

I do not think there is any way, with the increased operational tempo that we are currently facing, like the air cap that General Eberhart is directing, that you are going to be able to do this in the same resource ceilings we were talking about before 11 September, because the operational tempo is just significantly escalated, and that is our national challenge, as to how to come to grips with that.

Senator DAYTON. Do any of the others want to add to that?

General KERNAN. Sir, I would just echo what Secretary White said. We have some tremendous capability right now, and we have refocused it, everybody is energized, and we are looking to get the synergy that we need. Fusing efforts in the interagency arena, and a fusion of both domestic and international intelligence and information, and the ability to do the collaborative planning, is going to allow us to better predict what the threat is, and allow us to be much more proactive. We will have to look at reducing those seams and gaps that you talked about.

We are assessing what command relationships make the best sense. I think we need to look at the authorities that Guard, Reserve, and Active components have, and who can work for whom, and under what conditions can you maximize the flexibility within the State.

The key is the responsiveness of the first responders, as Secretary White said. The more prepared we are for them to be employed and engaged to deter, I think the better we are going to be able to protect our citizens.

General PACE. Senator, I would simply add that part of a good defense is a good offense, and we have a tremendous country. It is an open society. We want to keep it an open society. There are many parts of it to defend. A good way to defend it is to keep the other guy off-balance by attacking him where he lives.

Senator DAYTON. Thank you, Mr. Chairman. My time has expired.

Chairman LEVIN. Thank you.

Senator Hutchinson.

Senator HUTCHINSON. Thank you, Mr. Chairman. We have had several members make reference to the very excellent hearing that the Emerging Threats and Capabilities Subcommittee under Chairwoman Landrieu conducted this morning. It was a pretty chilling presentation, at least in my mind, what we heard, and in that presentation Senator Nunn made the comment that smallpox was—he expressed it as being that which was the least likely to be used, but the most catastrophic if used as a threat to our population, then he went on to say that the Health and Human Services was moving very aggressively to find multiple sources of smallpox vaccine.

Later in the hearing, the question was posed to the entire panel, if smallpox is the least likely weapon to be used, what is the most likely, and the answer was anthrax. Perhaps on a wider scale, a more sophisticated scale, but anthrax was the most likely bioterrorist threat that we faced.

Hearing that, the question rose in my mind, and the question that I posed to the panel was, well, if the least likely is smallpox, and we are seeking multiple sources of access, multiple sources for smallpox vaccine, and the greatest threat, at least the greatest in the sense of likelihood of being used is anthrax, what is the logic behind us having one source for anthrax vaccine? What is the logic?

Dr. O'Toole responded immediately by saying, it is not logical, nor is it defensible. I think she is exactly right, and it is a concern that I have had for a long time. My first question is, can the vaccine that is produced at the BioPort facility in Michigan, the anthrax vaccine, presumably, hopefully that it will be approved quickly by the FDA and that we can see production begin again.

How can the civilian population access that? Will it be only for force protection? We are talking about homeland security. What kind of prospects are there that the production of anthrax vaccine could be available for protection of the general population should that be needed?

Secretary WHITE. Well, the anthrax vaccine, Senator, with a single source, was in a single source because the only people we felt necessary to protect with the vaccine were those people in the Department of Defense who would have an immediate concern with anthrax.

Senator HUTCHINSON. Which obviously was a misguided strategy, since we do not have a vaccine for our troops today going into the arena of harm's way.

Secretary WHITE. Yes, given the events since 11 September, but I would say two things. I was in Houston last Friday, and met with the emergency health services people, and the doctor there said, if you are really worried about a biothreat to this country, get your flu shot this year, because 30,000 people a year die of the flu in this country.

The Health and Human Services under Secretary Thompson is going to move anthrax vaccines and the business and production of it to a national program.

Senator HUTCHINSON. If I might interrupt you, Secretary White, my understanding is, it is 36 months before any commercial firm will be able to produce anthrax vaccine, so even if they move very aggressively, for 36 months there is no protection, unless there is some means of accessing the DOD production.

Secretary WHITE. The principal treatment for anthrax today is antibiotics, and that depends upon early detection, but the strain that started here is 100 percent treatable with antibiotics.

Senator HUTCHINSON. I do not mean to be argumentative, but I have been told there are strains of anthrax that are resistant to antibiotics. Is that accurate?

Secretary WHITE. I am not an expert, so I do not think I should offer an opinion. I think the point is, we need something far greater than the BioPort single source. I know that Secretary Thompson, in working with the FDA, is pushing to number 1, certify BioPort's production; and number 2, expand those that are in the business as rapidly as he can.

Senator HUTCHINSON. Mr. Secretary, are there pathogens beyond anthrax and smallpox that our troops, our forces face as potential risk, potential dangers in the future?

Secretary WHITE. I would say yes.

Senator HUTCHINSON. The Surgeon General of the United States has endorsed the idea of a GOCO, a Government-owned, contractor-operated facility because there are pathogens out there that will never be commercially feasible. Will the Department of Defense, working in conjunction with HHS, and working in conjunction with the Surgeon General, move expeditiously toward a GOCO?

Secretary WHITE. Absolutely. If the GOCO is the right way to produce it, with all the experts, then we would obviously support that. We are heavily involved in the research on this, at Frederick, at Fort Dietrich. We have a leading research laboratory there on biological terrorism threats, and we will be an active part of the solution.

Senator HUTCHINSON. One of the suggestions Senator Nunn made was the hiring of Russian scientists, and it was a very constructive idea. My question is, after this amount of time, is it too late for those Russian scientists that worked in biological warfare, created a lot of the weapons that are unfortunately out there, for us to endorse that kind of a policy, where we try to take some of those that may be a potential threat and utilize them and their expertise in trying to fight these biological threats to our country?

Secretary WHITE. Well, that is a good question. We have an enormous research capability in this area already, both in the Army and the Center for Disease Control in Atlanta, and those two facilities work very closely together. I know on the Army side, and I am sure in Atlanta, they are looking to recruit talent in these highly specific areas, but as we sit on the ground today we think we have the finest technical base in the world to deal with these things.

Senator HUTCHINSON. I do not think it is necessarily a reflection on our lack of talent, but trying to get that talent out of the potential of working for our enemies.

Thank you, Mr. Chairman.

Senator REED [presiding]. Thank you, Senator Hutchinson.

Senator AKAKA.

Senator AKAKA. Thank you very much, Mr. Chairman.

General Pace, since September 11, many operations have been increased, and there is no question that there has been a burden on the present Active Forces that we have, and so I am concerned about the structure and training and personnel.

Do you believe, General Pace, that increased operations—for example, increased air patrols over the United States' cities and the use of National Guard personnel at airports, do you think that they are likely to be maintained for a long period of time?

General PACE. Senator, I am not sure what the definition of a long period of time is, but certainly it must be maintained until other forces are available. If it turns out to be a pure police function and a police force can be built to take over that function, then naturally we would turn it over. I do not know who else in the United States could possibly do that, the CAP that General Eberhart's people are doing, but I would like to take the opportunity to tell you how fortunate we all are to have such a robust

capability in our National Guard and in our Reserves, and those folks are critical.

Senator AKAKA. I am glad to hear that, but let me ask you this, then. Do we have adequate force structure, training, and personnel to sustain these operations on the long-term basis?

General PACE. Sir, it depends upon how many other things we embark on. Quite honestly, we may not have enough active force structure. It all depends on the coalition. There have been about 40 countries so far who have offered to assist us in many ways, some of them financial, others up to going into combat with us, so there are opportunities for our country to partner with our friends around the world to be able to share some of this burden, but as we go down this road, which is still very uncertain, we may very well need to change our force structure.

Senator AKAKA. General Pace, what, if any, is the impact of your Department's current activities regarding homeland defense on our readiness for other missions?

General PACE. Sir, short term we have not had a major impact from the allocation of resources to homeland defense. One area, however, is in the area of the Airborne Warning and Control System (AWACS), early warning aircraft. In fact, that aircraft has been in such demand that our NATO friends have sent five of their AWACS type aircraft here to assist General Eberhart in his mission, so there are specific low density, high demand assets, primarily intelligence and air warning type assets that are in short supply and are being used more rapidly now than they were before.

Senator AKAKA. General Kernan, would you have a comment on that?

General KERNAN. Yes, sir. Unquestionably there are some significant training and readiness implications due to the crisis we find ourselves in today. A lot of it has to do with the force protection condition levels, for instance, that we maintain to protect our military installations. Increasing our force protection condition Charlie, will commit tens of thousands of our troops to just protecting our installations.

As General Pace said, right now it has not had any readiness impact. A lot of what we are being asked to do in the way of homeland defense are collateral tasks to our primary warfighting missions, but obviously operations tempo has increased. We still rely heavily on the Guard and Reserve, so the force structure issue is one that needs to be very carefully studied.

Senator AKAKA. General Eberhart, you said in your testimony that NORAD forces are also focused on threats coming from within our own air space. Are these duties in addition to the prior focus on threats originally coming from external forces, and if so, how are you preparing to do both?

General EBERHART. Yes, sir. They are in addition to the aerospace warning, and aerospace control focus we had in looking externally. We are preparing and training to do this through the means we have talked about earlier in terms of additional radars in the interior of the United States, different netting and connectivity between the FAA and other agencies and NORAD, and close cooperation with Pacific Command and with Joint Forces Command.

In fact, on occasion we have had operational control or tactical control of Navy ships or Navy airplanes to work these kinds of problems, so we are looking at any and all ways as we fight this war on terrorism to use the resources available and use them as smartly as we possibly can.

Senator AKAKA. Thank you very much, General.

Senator REED. Thank you, Senator Akaka.

Senator SESSIONS.

Senator SESSIONS. Thank you, Mr. Chairman.

General Eberhart, a question that I would ask, and I think this has been stated before, but by what authority was it that your pilots had the authority to shoot down an aircraft? Where was that given, and what, legally, do you have to have before you can do that?

General EBERHART. Sir, the authority was from the National Command Authorities. We never asked for that authority, and we never gave the pilot that authority because we did not see that situation. We did not see the necessity to do that, but the authority was from the National Command Authorities.

Again, we have thought our way through this in exercises, and worked with our lawyers, and have decided over time that if we were convinced that the people on board that aircraft were going to die regardless, and if we allow that airplane to continue on, others are going to die, too, and we believe that that is persuasive—that is difficult. I cannot imagine a pilot living with that the rest of his life, but we have talked to all of them. They all say they are prepared to do this if they have to, and we know they are all hoping to God they never have to do it.

Senator SESSIONS. But has there been an agreed-upon person or command authority that would approve that, or is it up to the pilot?

General EBERHART. No, sir, it is well above the pilot. The National Command Authorities do not wish us to discuss that in open testimony.

Senator SESSIONS. But you have clarified in your own mind that there is no doubt as to how that should be handled?

General EBERHART. There is no doubt in the minds of our pilots and all of our intermediate commanders, right on up to the National Command Authorities.

Senator SESSIONS. A question about posse comitatus and the involvement of the defense forces in homeland defense is a very troublesome issue. We had hearings several years ago under Nunn-Lugar and the Department of Defense willingly decided that they would want to give up that responsibility of training local police that was given them, and we agreed to that, and the Department of Justice assumed that responsibility.

It seems to me that that is the right thing. Secretary White, we went through that before, that we want our military constantly ready at a moment's notice to do what it is committed and trained to do, and if we put too many domestic civilian training demands on them. But it does undermine your core function, does it not, in addition to the legal and historical reasons for minimizing military involvement in domestic law enforcement?

Secretary WHITE. Yes, Senator, it does, but at the same time, if we in the Quadrennial Defense Review have said that homeland security and homeland defense is the most important thing we do, it becomes a matter of balance.

If we have deficiencies in first responders, and in coordination with Governor Ridge, we have to figure out a way to fill in those gaps between the States and local communities to provide the necessary defense, then we are going to have to make decisions about how to apportion resources and allocate them, because somebody has to do it.

For example, we have biological and chemical units in our structure because we face those threats on the battlefield, not because there might be a biological attack in New York City. As we review this whole business of homeland security, we are going to have to revisit those questions of the appropriateness of the force structure to a balanced capability between what we do in homeland security and our traditional focus internationally on the threats that face us and make some decisions about priorities.

Senator SESSIONS. I think that is exactly right. I guess my concern would be that we do not somehow look on the Department of Defense but on the base force within the community, but it would be a response force called on in an emergency. We need to know, I think, for example, that we have certain chemical and biological teams that do not need to be duplicated elsewhere if yours are available to be called on. Is that what Mr. Ridge is going to be working to do, to decide what the needs are and what the gaps are and what the duplications are, and try to develop a comprehensive program that will best cover our Nation?

Secretary WHITE. I think that is precisely the challenge, and to me the cornerstone is to begin by looking at the 11 million first responders in this country, in State and local organizations. The question is, what are the gaps, and how do we fill in the gaps, and what do we add to them? Until we can add it, what do we do in the interim? That to me is the essence of Governor Ridge's challenge to sort out, and we aim to help him do that.

Senator SESSIONS. I know we have a first responder training center in Alabama for civil domestic preparedness, and surely anybody who saw what happened in New York knows it was the police and fire fighters that are first there. Now, the Guard or the Active Duty Force could be called on to supplement, and would be, but traditionally it is going to be—I mean, every time it will be, in the inferno—the people who are right on the scene to begin with.

General Eberhart, I know General Pace has wrestled with this, and maybe I should ask him about it. In the Southern Command, the drug effort and the law enforcement part of that and the military mission is important. As a United States Attorney on the Gulf Coast for 12 years, I was aware that we were vulnerable to flights from South and Central America coming into the country pretty much undetected. Now, we are trying to protect our major cities. I will ask you, General Eberhart, do you think that we need any increased effort to maintain security over our southern border?

General EBERHART. Sir, we are doing a radar coverage analysis as we speak, to include looking at aerostats. We have used them there for years. We are going to draw them down, but before we

do that, we are going to make sure there is no value added with this new mission of homeland defense and looking to the interior. We are doing that analysis to see what is value added, and that should be available soon.

Senator SESSIONS. I would add, the aerostats have not proven to be spectacularly successful in the drug effort, but maybe they will be in the effort for homeland defense.

Senator REED. Thank you, Senator Sessions.

Senator Landrieu.

Senator LANDRIEU. Thank you, Mr. Chairman. Let me, if I could, submit for the record a fairly lengthy opening statement that would support many of the issues raised by Senator Cleland. I want to associate myself with remarks he made, and this statement goes into a lot more detail about that.

[The prepared statement of Senator Landrieu follows:]

PREPARED STATEMENT BY SENATOR MARY L. LANDRIEU

All government officials in this room, from Chairman Levin to Secretary White, to General Pace, to our professional and personal staffs, take an oath of office. That oath states, "We shall protect and defend the Constitution of the United States from all enemies—foreign and domestic." At this time, our Nation and our constitution require protection from enemies both foreign and domestic. The hijackings on September 11 and the subsequent anthrax attacks were infiltrated from within our borders. For the first time since the War of 1812, our United States have been attacked. Like then, our military should provide defenses to the Nation during this current time of war.

As the Chairwoman of the Subcommittee on Emerging Threats and Capabilities, I appreciate, Mr. Chairman, that you have called this hearing. As one of 100 Senators and as one of millions of citizens, I am grateful we are exploring the role of the Department of Defense in homeland security. This morning, I chaired a subcommittee hearing to investigate our Nation's preparedness in response to a hypothetical smallpox outbreak. Quite frankly, the exercise, known as Dark Winter, which was conducted under the direction of this committee's former chairman, Sam Nunn, and the Center for Strategic and International Studies (CSIS), was quite sobering. Neither our Federal nor local officials, responding to the smallpox outbreak, worked effectively to curb and ameliorate the disaster. Moreover, in this exercise, the government had to resort to martial law to restore any semblance of order.

Politicians, generals, and think tanks have long hypothesized over a possible terrorist threat to the United States of America. As of September 11, the days of hypothesizing are over. The United States faces, and will continue to face, real threats from biological, chemical, radiological, and possibly even nuclear weapons, that could devastate our critical infrastructure, our economy, our public health system, and cause massive casualties.

Because our politicians, generals, and think tanks have been contemplating the possibility of an attack, our level of preparedness for such attacks has improved slightly in recent years. While I know that our emergency responders and public health officials have worked hard in response to the September 11 attacks and the anthrax scares, those events have also shown that we are still under-prepared. Our enemies are well aware that our citizens are scared, and that our government has yet to remedy the public's fear. Our enemies are not going to give us a time out or a reprieve to wait for the U.S. government, local governments, and public health officials to tighten up critical infrastructure, expand our vaccine programs, implement bio-chem detection units, and otherwise improve our capabilities to respond to the next public emergency. They do not play by the rules.

Regrettably, I think our Department of Defense is beholden to an old notion of traditions and rules that hamper the Department's ability to emerge as the leader it needs to be in Homeland Defense. For generations, the Department has thought that wars would be fought on other continents, and not on our soil. Under the doctrine of *Posse Comitatus*, which dates back to the Revolutionary War, the U.S. was not to maintain standing armies for any constabular purposes within the United States. Our soldiers were not to engage in domestic defense or activities generally associated with law enforcement. The F.B.I., local police forces, and the National Guard were created to undertake domestic defense. I recognize the spirit from which

Posse Comitatus grew, and I am a strong proponent of federalism. However, our 50 States have been attacked, and we will only further endanger our citizenry if the Department of Defense is withheld from taking action when American soil is under attack. Posse Comitatus does not forbid the use of troops to quell riots and civil disturbances, and it should not pose a barrier when our Nation is under attack from its enemies. Notions that the Department of Defense cannot actively participate in Homeland Defense are antiquated, and they jeopardize our democracy.

The Department of Defense has long prepared its uniformed men and women for the dangers of a non-conventional attack stemming from the use of weapons of mass destruction (WMD). These men and women best know how to respond to the dangers that presently face the United States at home. Moreover, the Department of Defense has dedicated teams of scientists to create a wide array of counter-measures and defenses to a WMD attack. Furthermore, they have created state-of-the-art WMD detection units for troops in the field that our Federal and local officials certainly need to protect the Nation. Our military has also been better trained to respond to the likelihood of a WMD attack than our civilian officials. We cannot afford to have the best department suited for response, evaluation, containment, civilian security, and defense on the sidelines because of its reluctance or beliefs in old theories of states' rights that should not apply when America is under attack.

Currently, over 40 Federal agencies and countless state and local agencies have responded to the September 11 attacks and the anthrax scares. Again, those brave men and women who have responded are to be lauded. However, there have been dents in the armor, as evidenced by the deaths of the postal workers in Washington, DC. What the American people are looking for is a solidifying force to restore confidence, and I believe that DOD can best provide that stability and confidence. I am hopeful the Department of Defense is willing to undergo a paradigm shift and take an active role, if not a primary role, in homeland defense. We must not forget, after all, that the Pentagon was one of the sites attacked on September 11.

The Quadrennial Defense Review, which was released on September 30, 2001, does not provide the framework it should as to how our military will deal with the asymmetrical type of war that will dominate the beginning of the 21st century. The tragedies of September 11 are mentioned by the QDR as part of DOD's military planning, but DOD merely papers over the problems posed by September 11.

At least the QDR states, "Defending the Nation from attack is the foundation of strategy." The QDR recognizes that the real chance of another domestic attack has increased dramatically since September 11, 2001, and states ". . . the defense strategy restores the emphasis once placed on defending the United States and its land. . ."

Nevertheless, the QDR raises concerns that the Department of Defense will not commit itself to an active role in homeland defense. I recognize the Office of Homeland Security should oversee and coordinate a national strategy to safeguard the United States against terrorist attacks and respond to them. Again, however, DOD should not be so willing to cede over its expertise in crisis management and response, and by doing so, only take merely a supplemental role in Homeland Defense. The QDR makes clear that local police and fire officials should continue to serve as the first responders to future attacks, and that the DOD does not wish to give such a duty to the military. However, it seems evident that the military possesses both the human and the scientific assets to best assess the aftermath of an attack, restore calm, and provide further protection to the area affected in the case of secondary attacks by an enemy.

I am hopeful that, today, we can alleviate much of DOD's misgivings about any active participation in Homeland Defense. Of course, DOD will have to change its force structure and organization to fight the new type of war that so affects our Nation. Frankly, I am encouraged by the possibility of such changes because it will signal an end to planning and organizing based on the obsolete notions of the Cold War. Furthermore, it is not my intention for military to undertake this task without the means to do so.

Congress must and will provide DOD the funds to meet the demands of the war we currently face at home. There is a war to fight on the home front, and Congress will ensure that our military is funded to fight that fight. DOD's role in Homeland Defense will not be an unfunded mandate. We need our Nation's best and brightest at this urgent time, and our men and women in uniform are the best and the brightest.

Once again, Mr. Chairman, I am thankful you scheduled this hearing today, and I hope we all understand that our military is crucial to Homeland Defense.

Senator LANDRIEU. Just a comment, and then I have three questions, if I could. One, it was said here on the record by one of the

panelists, and I thank you all for the excellent work that you are doing, but we talked about being careful about expanding the role of DOD in light of this sort of domestic and homeland security. I know there are resource issues and all sorts of things we have to address, and they are legitimate, but I want to get back, Mr. Secretary, to what you said, and to try to affirm that it is the original role of the Department of Defense, the principal role, the central role, the entire reason of being that the Department of Defense would protect the life and liberty and well-being of the people on the homeland, as well as people who have to temporarily travel off the homeland to go for whatever carries them away, business or commerce or other endeavors.

But the central role of the Department of Defense is protection, and I think we are in a significant historic paradigm shift. I think one of the roles of this hearing is to help us focus on that new paradigm, and I for one am very happy to see in the Quadrennial Defense Review the words reemphasized about the primary role of the Department of Defense in protecting the homeland.

We have had 6,000 innocent people killed. This is not a crime, this is an attack. This is not a crime scene. This is a battleground. 6,000 men, women, and children, innocent people have been murdered and killed by the hands of our enemies, using different weapons.

It is an asymmetrical attack, and I think the faster we get clear about that, the better we will be able as a Government to respond appropriately and quickly to prevent the further loss of life and prevent the further deterioration of individuals' well-being, and prevent the economic downturn for this Nation that would have a dramatic effect not only on us but everybody in the world, and to support what the President says about the urgency of that.

Now, I want to just refer us to something that is not new, because it was written in 350 B.C. by Sun Tzu. He said, "know your enemy, know yourself, and you can fight 100 battles without disaster." I thank the chairman for calling this hearing, because it is not only about knowing our enemy, who he or she is, or where he or she is, or what it is, a State or a terrorist cell, and where they might be and what their motivations are, but a very important thing about what we are doing today is knowing ourselves. Who are we? What have we become? What are our departments, and what are our capabilities, and how are we organized?

So along those lines, I just need to ask you, Secretary White, if I could, one of the ongoing difficulties I believe we face in this new era of symmetrical warfare which we are in, and getting fully engaged, precisely when are we under attack and when are we precisely at war?

We have developed a system for what we call low intensity conflict. These actions are characterized by interventions around the world to defend democracy during the Cold War. They are fairly well-defined. We reached a hazy compromise under the War Powers Act, by no means perfect, but it was the best option that we had to reflect a changed world.

After the Cold War, we switched gears to peacekeeping, and then the Pentagon has developed methodologies for what it calls operations other than war, meaning peacekeeping and humanitarian

interventions. We are all familiar with this. It has worked pretty well, because through the course of the Cold War it was developed. There are expected protocols that have been established, here and through the international community, but I think we find ourselves in this new war without a paradigm similar to the ones that we are familiar with. The Pentagon does not seem to know how to treat non-State actors. It does not seem to know what its proactive role is in defending the continental U.S. That is what we are debating.

My question is, can you describe for me a scenario in which a non-State actor would take actions within the United States and which you would anticipate would put the Pentagon on a war footing? Let me be clear. Could you describe for me a scenario in which a non-State actor would take actions within the United States and which you anticipate would put the Pentagon on a war footing?

Secretary WHITE. Senator, I think we are on a war footing right now. I think we have just observed a war-like act. As the President clearly said, we are at war with international terrorism. If you look at what we are doing inside the Department, we are on a wartime footing right now. We had 174 people killed in our building, and so we thoroughly understand that we are at war, and the gentlemen on my right or left I think understand that, and we are prosecuting that war both domestically and internationally to the full measure of our ability.

Domestically, as we have said earlier in the hearing, the Quadrennial Defense Review cites our traditional role to protect the homeland as the number one responsibility we have in the Department. I absolutely agree with your comments on that. We are at war right now, both domestically and internationally, and I think we have the resolve and will and support of the American people in that activity, and we are going to prosecute it until it has finished.

Senator LANDRIEU. I want to agree with you and say I support that most strongly, and I am also one of the Members of the Senate that will try to provide the resources necessary to do that, because there is a leadership role that must be assumed, and the question about who assumes that leadership role I think is central to being able to wage an effective and appropriate battle for what we are experiencing right now. There are many issues that have to be resolved, but I think the people of the United States would welcome the military's leadership role, respecting the other roles that all the other Government agencies have to play when we are in fact in a new kind of war, an asymmetrical battle. We are attacked in different forms.

I know I am out of time, but just as the planes were turned into missiles, we have now been attacked through the mail. The next attack could come, as Senator Sessions or Senator Roberts said, through the crop-duster. The next attack could come from some other place, and if we are relying on the 11 million first responders who are hard-working, underpaid, not getting paid for overtime, not trained the way the military department is, I think we may be relying on something that was not necessarily intended for the new paradigm we are facing, not to say they have not been fantastic and terrific.

So I will save my other questions. My time is up, but I just think that the role of the military, I think I want to support you in that central mission for the military.

Senator REED. Thank you, Senator Landrieu.

Senator Santorum.

Senator SANTORUM. Thank you, Mr. Chairman.

Mr. Secretary, I just want to maybe shift a little focus to some of the concerns that I have. When I think of Army, I think of Army beginning with R, and that is the word resources, and I have had big questions for a long time about the Army and its resources.

Now you are here in front of us saying we have a new mission, a new responsibility, all these things I have to do now, and I keep coming back to the Army that is underfunded with the plan of 33½ capitalized, modernized units, and I am just wondering how this new mission is going to be a drag on resources. I believe it is absolutely essential for the Army to begin and finish the process of something this committee has advocated for quite sometime, which is the transformation of the Army.

I understand and I support the designation of the Army as the leader of this homeland defense with respect to the military, but I have to tell you, I have some huge concerns, and I would like you to tell me how you are going to take what is already an underfunded Army to do an additional mission and still get to transformation.

Secretary WHITE. I think it is clear, just like the other services, there will be additional resources required for the additional tempo that we find ourselves in.

I was making cases all summer long in the Quadrennial Defense Review that, given the operational tempo of the Army at that point, with deployments to Bosnia and Kosovo and other places around the world, that we were hard-pressed, from a structure and resources point of view.

If you just take the Guard side of it, we now have 6,000 soldiers in airports across the country dealing with that challenge, so I think clearly, depending upon the duration of this activity, as the Vice Chairman has said, there are significant resources and structural implications to this level of operational tempo that we are addressing both in the 2002 budget and the 2003 one that we are putting together as we speak.

We must, however, sustain the transformation that the Chief of Staff laid out 2 years ago, and that you have supported in this committee, the transformation that makes us more agile, more strategically mobile than we have been in the past. In my opinion, it is tailor-made for the security environment we find in post 11 September, and so we have to sustain that transformation effort while we keep up with this increased operational tempo.

Senator SANTORUM. I agree with you. My question, maybe, is more specific, and that is, what challenges do you face not just with the increased operational tempo, but the resources that operational tempo demands, and still have the resources to invest in the transformation, and what is the impact? Well, just give me that. Can you tell me how you believe you can allocate those resources?

Secretary WHITE. Before 11 September, the allocation was very clear. The allocation was to fully fund people, fully fund readiness

of the structure as it existed then, and to support transformation both in the interim brigades and in the objective force due with the legacy force, and bandaging together our infrastructure and our installations, and those were the trades we made to make it work.

Post 11 September, in our budget submits you have seen we have asked for more money for force projection, we have asked for more money for our intelligence resources, and the operational tempo that we are at will require more O&M money. We have made those requests, and we are, of course, in discussion with you right now as you go into conference.

Senator SANTORUM. Thank you, Mr. Chairman.

Senator REED. Thank you, Senator Santorum.

Mr. Secretary, you have testified today about the current plan for reorganization with respect to homeland defense. I understand that plan was developed at the highest echelons, and came down through the Pentagon. Could you give your personal views, based upon your extensive experience as a professional officer, as a business executive, as a thoughtful commentator? Is this reorganizational plan effective? Does it go too far? Does it go far enough?

Secretary WHITE. Do you mean in terms of what we are doing in the Department of Defense?

Senator REED. Or perhaps overall. Just your impressions would be very valuable, Mr. Secretary.

Secretary WHITE. My personal opinion is, number 1, as I said earlier, we need a focus at DOD level, most likely with a dedicated Under Secretary, and we need to collect all the bits and pieces from SOLIC and Policy and Health Affairs that have to do with homeland security, and we need to pull that all in one spot. The Secretary, I have made recommendations to him, and he is considering precisely how he wants to do that. I think that is number 1.

Step number 2 is the operational planning that the joint commands are doing before we get the Unified Command Plan out so we can clearly define what our homeland security requirements are and figure out the apportioning of forces. Details are associated with that, and that is a big task, and ultimately it will mean changes to the Unified Command Plan, as the Vice Chairman has discussed.

The third and perhaps the greatest step is the interagency aspects of this, which Governor Ridge will drive, and that gets down to practice, practice, practice, against the realistic threats we find ourselves fighting post 11 September. There are parts of this that we do very well, because we frequently exercise chemical spills and hazmat things that you find in the normal course, but we have an enormous challenge facing us in these new threats, and we have to train up on the interagency side, and I am confident, having spoken with Governor Ridge, that he will drive that process, and those are the things I think we need to do.

Senator REED. Well, thank you, Mr. Secretary. In fact, you have predicted my next question. The impression I have is that we have lots of good plans at every level, we have units that have been designed to implement some of these plans, but I am not quite sure we know what we have out there, because we have not exercised vigorously. We have not done the kind of command post exercise

and operational exercises that will show, as you have said before, the gaps.

Do you have now a vigorous schedule of exercises? I should also add that this has to extend not just through DOD, through Federal agencies. This has to go down to local police departments, local fire departments, the environmental managers in agencies and States. Are you thinking about those kinds of exercises, and do you have the resources to do them, Mr. Secretary?

Secretary WHITE. We have to, and I think everyone recognizes that, and everyone recognizes the key role the Governors will play in this, and State and local responders. In 23 of our States the Adjutant General of the State is also the emergency services coordinator for the Governor. We will get to that, and we will train to do that, because we do not have any choice. We have to have the operational capability that will be developed by that exercise, and as a former military officer, you understand what I am talking about. If you do not train it and do not exercise it, you do not have the capability.

Senator REED. I could not concur more, and I do not want to belabor this point, but is the money there for these exercises? Are you actively planning? Will the schedule coordinate all the way down to the emergency management office in the State, and to the local fire departments and police departments?

Secretary WHITE. I do not think the planning is laid out in adequate detail at this point. I know that is a focus that Governor Ridge and his appointment brings to the Government, and we will actively support him.

Senator REED. Thank you, Mr. Secretary. One final point before recognizing Senator Warner for a second round.

We recognize we are up against a very adroit adversary. They have struck us through our aviation system. One would assume that they would try to find an open door and knock on it, or just come through, which leads me to the issue I think could potentially be very vulnerable, and that is our maritime security, which the Department of Defense and Department of Transportation must play a key role in.

Could you, Mr. Secretary, and your colleagues, comment on maritime security in terms of your efforts at coordination and organization in general?

General PACE. Senator, if I could go at it in an unclassified way, and then perhaps in another forum address it more specifically, but for example, some ships that were scheduled to deploy overseas have not been deployed, to be able to stay here. Some that were overseas are being brought home. The cooperation between the Navy and the Coast Guard is tremendous, and they are working collectively in our major ports, on our coastlines to provide the best security they can with assets they have, and so from the maritime perspective I think the Navy and the Coast Guard are working very closely, and are reallocating resources to focus more on homeland.

Senator REED. Is this also an issue of the Unified Command, who is in charge with respect to Coast Guard, Navy, and civil authorities?

General PACE. Unified Command Plan has a primary objective. The work that is going on now for changes has as a primary objective identifying a CINC responsible for homeland defense.

Senator REED. Thank you, General Pace, and if I may take this opportunity, there was some discussion earlier about the posse comitatus counterdrug efforts, and General Pace, you have a unique perspective, being a former USSOUTHCOM Commander.

The understanding I have is that our participation in these operations supporting Colombia and other initiatives, that our legislation provides the Secretary of Defense the authority and the direction to ensure that members of the Army and Navy do not participate in law enforcement activities, so that there is not an active regulatory stricture against those law enforcement activities where DOD personnel are doing military things. Is that fair, or could you comment on that?

General PACE. Sir, let me try, and you can tell me if I miss the mark.

The statute does for routine daily activities prohibit your military from acting as a police force. There are also, however, emergency measures that the President can invoke which allows us to do the things we have been doing since 11 September.

Senator REED. But again, and I think my question was slightly tortured, with respect to your operations in Colombia and elsewhere, you are performing a strictly military role. The regulations and the guidance you are giving the troops did not invite them to get involved in criminal justice activities.

General PACE. That is correct, sir.

Senator REED. If there is no objection, at this point I would request to have the prepared statement of Senator Thurmond inserted into the record.

[The prepared statement of Senator Thurmond follows:]

PREPARED STATEMENT BY SENATOR STROM THURMOND

Thank you, Mr. Chairman.

Mr. Chairman, thank you for calling this important hearing on the Department of Defense's role in homeland defense. Although the Nation is focused on the ongoing attacks against the terrorists groups in Afghanistan, we must prepare and posture our forces and government agencies for the defense of the U.S. homeland. This struggle, like the President's declared war against terrorism, will be long in duration and one that will test the perseverance of our people and democracy.

Mr. Chairman, threats against our Nation are not new, however the events of the past month are serious challenges to our citizens and economy. Never before have our people been faced with the threat of chemical, biological, or radiological attacks. Nor has our economy faced the threat of an attack on the critical computer networks that tie together the domestic and international business community. We have to prepare to meet these threats and, more importantly, the potential aftermath of such attacks.

Mr. Chairman, our panel of distinguished witnesses will have a critical role, but not the predominate role, in determining how we prepare the Nation for homeland defense. Governor Ridge has the challenge of effectively bringing together the efforts of all government agencies at the federal, state and local level. We must ensure that he has the authority and support in this vital effort to ensure the Nation is prepared. The Department of Defense's role should be supportive so it can focus on the traditional and non-traditional threats emanating from outside the United States.

Although it is critical that we focus on the homeland defense, I have always advocated that the best defense is a good offense. In that regard, we must ensure that our military forces are in the highest state of readiness, are forward deployed, and have the capability to detect and strike the threat at its point of origin. I hope we

will keep that focus in mind as we consider the role of the Department in homeland security.

Thank you Mr. Chairman.

Senator REED. Senator Warner.

Senator WARNER. Secretary White, you referred to our distinguished acting chairman as a former military officer. He went to West Point, and we are very proud to have him on this committee. He certainly handles things very well. But I am just curious, who was senior at West Point, the Secretary or yourself?

Senator REED. The Secretary was senior, quite senior.

Senator WARNER. Secretary White and General Pace, we have had a lot of discussion here on posse comitatus, but there are some related statutes which I am informed by our staff have directives which inhibit such things as the sharing of intelligence between law enforcement and local military organizations, and maybe we had better take a look at that. I think what we did on the floor today, the Senate terrorism bill has gone part-way in alleviating that. I come back to our President, who has handled this thing with tremendous courage and I think with foresight and brilliance, who said we are all in this together, and we have to look at things that have been in place for so long, like posse comitatus, and maybe there are good reasons for the military to have intelligence that you do not want to share with law enforcement at one time in our history, but I think after this hearing you have heard an expression of a lot of our colleagues that we had better look at it.

I am glad you touched on the maritime security issue, the port security, which of course is with the Coast Guard, but we need to coordinate with the Coast Guard if we are bringing heavy tankers in. Our Nation is so dependent on overseas petroleum, and if one of those tankers were blown up by a terrorist in a port it would have devastating effects. I would hope that would be examined also.

Now, as we all fully understand, Secretary White and General Pace, our overseas combatant commanders—we refer to them as CINCs—establish uniform standards within their geographic areas for force protection and threat warning conditions. Who is responsible for establishing such standards and issuing such appropriate warning information to our bases within the United States, and we have obviously Air Force bases, naval bases, and Army bases, and it seems to me that should have a uniform examination. Now, you can take that for the record, but does anybody have anything for the moment on that?

General PACE. Yes, sir. The Service Chiefs are the ones who set the force protection standards at the bases and the stations in the continental United States.

Senator WARNER. With all due respect, is the Chief of Staff of the Army looking at the same level of force protection for a base that is right next to the Norfolk Naval Base, and the Chief of Naval Operations responsible for that?

General PACE. They are, sir, and in fact that was a discussion item in this week's tank session with all of the Joint Chiefs. We do collectively look at that to make sure we are on the same level, but your question for the record is what should we do in the future.

[The information referred to follows:]

Currently, the Secretaries of Military Departments, through Service Chiefs, set force protection standards at bases and the stations in the continental United States (as set out in DODD 20001.12 and DODI 2000.16). In the future, this responsibility may go to a new "Homeland Security CINC" or fall in line with a national homeland security threat system, if one is developed. Any proposal on changing the current system will need to be properly vetted throughout the Department of Defense before implementation.

Senator WARNER. Lastly, we are all moving out as quickly as we can to solve these problems, and I think we had better take a look, Mr. Secretary, at the procurement regulations which this committee, over the 23 years I have been here, worked on many reforms. We have achieved, I think, some improvement, but right now if there is a small firm out here or a collection of individuals that is making a product and you need that product tomorrow morning, I would hate to see you encumbered with a long procurement process of bidding and the lowest bidding, best and final, and review the bids.

We do not have time for all of that, and I indicated yesterday in our discussion with the President that I think we ought to look at a statute which reposes a wide margin of discretion in the Secretary of Defense and, indeed, the Secretaries of other departments and agencies, and Governor Ridge acknowledged he is going to look at this also, whereby for a period, let us say 2 years, and we would sunset it after 2 years, but if the Department of the Army wants to get out here and buy a product, go to it, and let us get that product and bring it in and utilize it in this war on terrorism.

We have had a good hearing, Mr. Chairman, and I thank you and all members of the committee.

Senator REED. Let me inquire, Senator Akaka, Senator Sessions, do you have additional questions?

Senator SESSIONS. I would just like to make an observation. Having served as a United States Attorney during the early days of the drug wars, I saw the incredible difficulty of getting every agency that has a role to play in drugs working together in a harmonious way. I can understand the difficulties you are facing. The only thing I was concerned about was the suggestion, perhaps—and I do not think it was meant to be that way—that somehow the Department of Defense now might be involved and be responsible for investigating mail, or is going to be responsible for security at airports permanently, or going to have to take over for the Coast Guard and now guard the ports of America.

We have this tremendous investment over the years in all of these agencies which have a good deal of expertise and equipment. They are trained specifically, the FBI is, to investigate cases. I know every local police officer and the things in their community does things that the Department of Defense does not have the ability to do, so what we have to do is figure out how to draw on the resources of the Department of Defense and make sure that they are readily available on call when needed, create an orderly process here in some way, and the problem, the challenge is a tremendous one, and it falls on Mr. Ridge primarily.

I do not favor a major change in the roles we have, frankly. I just do not favor that. Yes, a murderer is a threat to the homeland, drug dealers are threats to the homeland, but I do not think we want to turn all of that over to the Department of Defense now,

at a time when you are trying to transform and be prepared to fight wars around the world, so however we do that, Mr. Chairman, is going to be difficult, but a comprehensive plan is needed, and this committee is doing the right thing in having hearings on it.

I just would say that we ought to recognize every additional duty given to the Department of Defense—the 6,000 National Guardsmen that have been deployed, called up, and have to be trained and paid for that purpose—does drain your budget. It drains your readiness from other missions you are trying to do.

I will submit some more questions for the record.

Senator REED. Thank you very much, Senator Sessions. If there are no further questions, the hearing is adjourned. Thank you, gentlemen.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR CARL LEVIN

WMD-CSTs

1. Senator LEVIN. General Kernan and Secretary White, to date we have authorized 32 Weapons of Mass Destruction-Civil Support Teams (WMD-CSTs), but only 10 have been certified ready to conduct their mission by the Secretary of Defense. At the same time, their capabilities are limited to WMD detection. They do not conduct clean-up. Instead, they reach back to other units who do so. Some proposals have recently surfaced to create new teams. Meanwhile, the Marine Corps and other services are expanding their response capabilities to include more clean-up and management. What is the correct way forward—should we create more teams or should we focus on improving the capabilities of the armed services across the board?

General KERNAN. Managing the consequences of a weapons of mass destruction incident is a complex task that will most likely demand a broad range of capabilities, exceeding those of any one unit. The capabilities of our state and local first responders remain the most important investment we can make. Supporting military capabilities should be unique or complementary in order to provide depth. The detection and assessment capabilities of the WMD-CSTs are critical to determining the scope of the problem and the type of follow on support needed for a particular incident. These teams immediately deploy to the incident site to assess an incident, advise civilian responders regarding appropriate actions and facilitate requests for assistance to expedite the arrival of follow-on personnel and assets to help save lives, prevent human suffering, and mitigate property damage.

When demands exceed local and state capabilities, Federal assets can be employed. Requirements for additional Federal assets are broad in scope, likely exceeding the capabilities of any single organization and therefore will include a variety of military capabilities that are established principally to support warfighting abroad. Organizations with military unique capabilities should be limited in light of the 11 million first responders and the 600 local and state hazardous materials teams in the United States. The WMD-CSTs are one such capability. The various proposals for establishing a WMD-CST in each U.S. state and U.S. territory are worthy of consideration.

Secretary WHITE. Careful analytical analysis during several Department reviews have concluded that the current 32 congressionally authorized WMD-CSTs adequately support our national requirement. The teams are federally funded and equipped to provide state Governors ready access to fully trained military response assets to use in preparing for and responding to WMD incidents as part of their state emergency management response capability. The CSTs are not considered to be part of the first responder community. Rather, they are designed to arrive within 12 hours after being requested by local authorities. The Department's placement of 32 teams ensures that a WMD incident anywhere within the U.S. can be supported within that response standard. Thus, establishing more than 32 teams would require substantial fiscal investment with little benefit, in terms of increased population coverage or expected response time.

As you pointed out, the role of the CSTs is limited. There are many consequence management functions required in responding to a domestic WMD disaster. Most of these are performed by non-DOD entities. Local first responders do the most critical, time-sensitive functions. It is the Department's position that improving the

training, equipping and manning of our first responder community is in the best interest of the American people.

2. Senator LEVIN. General Kernan, about a month ago, the GAO issued a report on combating terrorism that was mandated by last year's National Defense Authorization Act. The report asserted that the WMD-CSTs "continue to experience problems with readiness, doctrine and roles, and deployment that undermine their usefulness in an actual terrorist incident."

What is your command doing to bring all of the teams up to a high, uniform standard of readiness?

General KERNAN. The WMD-CSTs are National Guard assets that are manned by their respective states, and trained and equipped by the National Guard Bureau. Joint Forces Command provides training and readiness oversight of the WMD-CSTs. We assume that responsibility once a WMD-CST receives Secretary of Defense certification. Training and readiness oversight includes guidance to the National Guard, comment on their programs, and coordination and review of readiness and mobilization plans. Therefore, under our training and readiness oversight responsibilities, we are working closely with the National Guard Bureau and the states where those teams reside to standardize their training, tactics, techniques and procedures. Joint Task Force-Civil Support serves as our Command's executive agent in this critical effort. I would add that in recent visits to Fifth U.S. Army in San Antonio, Texas, and Fort Leonard Wood, Missouri, I had the opportunity to review the Army's training program that ensures that all WMD-CSTs receive standardized, high quality training. In fact, collectively both First and Fifth Army headquarters conduct a validation exercise for each WMD-CST prior to Secretary of Defense certification. The high standards and consistency of this program are impressive.

NORAD-FAA

3. Senator LEVIN. General Eberhart, as I mentioned in the hearing, in order to get a complete account from you, I am resubmitting this question and adding some related questions regarding the sequence of events on September 11 relating to the aircraft that crashed into the Pentagon. According to the timeline I have seen:

At 8:55 a.m. on September 11, American Airlines Flight 77 began turning east over Ohio, away from its intended course.

At 9:10 a.m., Flight 77 was detected by FAA radar over West Virginia, heading east. This is *after* the two planes had struck the World Trade Center towers.

At 9:25 a.m., the FAA notified NORAD that Flight 77 was headed toward Washington, DC.

General Eberhart, is this the first notification that NORAD and DOD had that Flight 77 was probably being hijacked?

General EBERHART. At 0924 EDT, NORAD's Northeast Air Defense Sector (NEADS) received the first notification that American Airlines Flight 77 was possibly being hijacked. This was the first documented notification received by the Department of Defense.

4. Senator LEVIN. General Eberhart, given what had happened in New York City, do you know why it took the FAA 15 minutes to notify NORAD that Flight 77 had probably been hijacked and was headed toward Washington, DC?

General EBERHART. My understanding is that the FAA lost radar contact with American Airlines Flight 77 and momentarily regained contact at 0850. The FAA also began to receive calls from outside agencies with reports of a possible downed aircraft. Additionally, the loss of radio contact with the aircraft added to the confusion. In light of this, I believe the FAA was faced with conflicting information which hindered them from making an accurate assessment of the actual location of the aircraft.

5. Senator LEVIN. General Eberhart, at 9:37 a.m., 27 minutes after Flight 77 was detected by FAA radar heading east over West Virginia and while the whole Nation was watching the devastation in New York City, it crashed into the Pentagon. What level of the DOD had the knowledge that Flight 77 was headed toward Washington at the time it crashed into the Pentagon?

General EBERHART. The FAA notified the NEADS that American Airlines Flight 77 was headed towards Washington, DC. NEADS then passed this information to NORAD's Air Warning Center and Command Center in Cheyenne Mountain and to the Continental U.S. NORAD Region's Regional Air Operations Center. At 0925, the

NMCC convened a Significant Event Conference and during that conference, at 0933, NORAD reported one more aircraft en route to Washington, DC.

6. Senator LEVIN. General Eberhart, was there ever any consideration given, between the time the aircraft was detected heading toward Washington and the time of the crash, to evacuating the Pentagon?

General EBERHART. The FAA notified the NEADS of the possible hijacking at 0924 EDT and F-16s from Langley AFB were airborne at 0930 EDT. At 0925 EDT, the FAA notified NEADS that Flight 77 was headed toward Washington, DC. At that time, there was no way for the FAA or NORAD to determine what target within the Washington, DC area the terrorists on Flight 77 intended to strike. Because of this, NORAD did not consider issuing an evacuation notice to the Pentagon.

7. Senator LEVIN. General Eberhart, to your knowledge who else did the FAA notify aside from NORAD?

General EBERHART. After the FAA determined that American Airlines Flight 77 had been hijacked, they convened a hijack conference, which included representatives from the FBI, DEA, and CIA.

8. Senator LEVIN. General Eberhart, what, if any, existing interagency plans were activated?

General EBERHART. Prior to the attacks on 11 September, the FAA and NORAD established a Memorandum of Understanding to ensure accomplishment of the air defense mission. The assigned responsibilities and working relationships were fully executed during the timeframe mentioned above.

9. Senator LEVIN. General Eberhart, who within DOD should NORAD notify in the event of a future attack of this nature?

General EBERHART. Since the attacks on 11 September, NORAD has made major changes regarding how we respond to an air threat. We have established a new conference called the Domestic Threat Conference which is used to alert and inform command centers, senior authorities, and other agencies of a domestic event having the potential to threaten the United States, U.S. Forces, or national security and critical infrastructure protection interests. [DELETED] The Domestic Threat Conference provides the ability to quickly pass time critical information needed to react to a threat against North America.

10. Senator LEVIN. General Eberhart, during the hearing you testified to the timeline of notifications from FAA to NORAD, and at one point stated "we were told that it was a light commuter plane" that hit the first World Trade Center tower. Who told NORAD that it was a light commuter plane?

General EBERHART. On the morning of 11 September, NORAD rapidly received a vast amount of information concerning the attacks on New York City and the Pentagon. During this timeframe, we received conflicting reports on which aircraft were involved in the attacks and which aircraft were hijacked. As we were responding to the first hijacking, CNN reported that a commuter plane had hit the World Trade Center. NORAD soon learned that the aircraft that crashed into the World Trade Center was in fact the hijacked commercial airliner.

11. Senator LEVIN. General Eberhart, relating to Flight 77 and Flight 93, what buildings or offices did NORAD consider notifying once you learned that Flights 77 and 93 had been hijacked?

General EBERHART. The FAA informed NORAD that American Airlines Flight 77 was headed toward Washington, DC, but neither NORAD nor the FAA had any information on the terrorists' intended target. Concerning United Airlines Flight 93, NORAD did receive word that aircraft had a possible bomb on board; however, our records did not indicate the direction the flight was headed. Therefore, we did not consider notifying any offices or buildings.

12. Senator LEVIN. General Eberhart, to your knowledge did the FAA notify the Pentagon that Flight 93 was hijacked?

General EBERHART. The data/log entries received by NORAD from the FAA do not show a time or entry indicating the FAA specifically notified the Pentagon that United Airlines Flight 93 was hijacked.

13. Senator LEVIN. General Eberhart, did NORAD notify the National Military Command Center that Flight 93 was hijacked?

General EBERHART. NORAD did not notify the National Military Command Center (NMCC) that United Airlines Flight 93 was hijacked. In the event of a hijack, it is the FAA's responsibility to convene a "hijack conference," which includes the FBI, DEA, CIA, and the NMCC. Due to the rapidly evolving situation on 11 September, the FAA also made direct contact with NORAD's NEADS.

14. Senator LEVIN. Secretary White (reassigned to General Eberhart), what improvements have been made since September 11 to communications among NORAD, the FAA and the National Military Command Center?

General EBERHART. Since the attacks on 11 September, NORAD has created three new conferences to improve communications between NORAD, the Federal Aviation Administration, and the National Military Command Center (NMCC).

The first new conference is the Noble Eagle Conference. This is a NORAD/FAA conference that allows for rapid investigation of air events which do not require the National Command Authority's (NCA) notification. This conference is convened to gather information on emergent air events that are unusual in nature, but do not present a threat to North America. [DELETED]

The second conference now used by [DELETED] is the Domestic Event Conference. CINCNOAD uses the Domestic Event Conference to characterize and assess domestic warning indications for potential threat to North America and to inform agencies within the Department of Defense as well as other Federal agencies. Based upon the situation, the NMCC Deputy Director of Operations or CINCNOAD may recommend upgrading the conference to a Domestic Threat Conference.

The Domestic Threat Conference is the third new conference used in the event of an air threat to North America. This conference also links [DELETED], and it is used to alert and inform command centers, senior authorities, and other agencies of a domestic event having the potential to threaten the United States, U.S. forces, or national security and critical infrastructure protection interests. The Domestic Threat Conference provides the ability to quickly pass time critical information needed to react to a threat to North America.

Along with the newly established conferences, NORAD has sent military representatives to the FAA's Air Route Traffic Control Centers and the FAA has sent additional representatives to HQ NORAD and to CONR.

UNIFIED COMMAND PLAN

15. Senator LEVIN. General Kernan, in the aftermath of September 11 you have augmented the staff you have dedicated to homeland security, I understand as a stop-gap measure until the Secretary of Defense decides where he wants this mission to be permanently housed. In addition, the Joint Task Force-Civil Support, also under your command, has doubled its size to 160 people who are enhancing planning and sustaining the current 24-hour homeland security operations. Could this constitute the nucleus of a homeland security staff, if JFCOM inherited the mission?

General KERNAN. Our new 90-person homeland security directorate could serve as the nucleus of a homeland security staff. It was structured to be an interim Standing Joint Task Force Headquarters. Led by a two-star Army general, this directorate is charged with planning, organization and execution of U.S. Joint Forces Command's responsibilities for land and maritime homeland defense and military support to civil authorities. JTF-CS continues to fulfill its charter as a deployable command and control headquarters ready to respond today to support the lead Federal agency for consequence management in the event of an attack by weapons of mass destruction. The increase in manning to 164 personnel was initiated prior to 11 September and we are accelerating it. Achieved through assignment and augmentation, this increased manning ensures that JTF-CS can maintain a continuous 24-hour response. Furthermore, to enhance unity of effort, I have recently placed JTF-CS and JTF-6, our counterdrug task force, under the control of my Homeland Security Director.

16. Senator LEVIN. General Kernan, do you think Joint Forces Command should take on the homeland security mission?

General KERNAN. U.S. Joint Forces Command is fulfilling its recently assigned responsibilities for land and maritime defense and military assistance to civil authorities. The Unified Command Plan establishes the missions and responsibilities of the individual combatant commanders. In light of the 11 September attacks, the Service Chiefs and combatant commanders are proposing changes to the Unified Command Plan and the Chairman, under his Title 10 responsibilities, will recommend changes

to those authorities to the Secretary of Defense. Joint Forces Command is ready now to assume this mission if assigned by the Secretary of Defense.

INTERAGENCY COORDINATION

17. Senator LEVIN. Secretary White, President Bush has appointed several individuals to oversee or coordinate some aspect of homeland security. This list of individuals includes: Governor Ridge, as head of the Office of Homeland Security; an NSC counterterrorism coordinator, General Wayne Downing; an NSC Cyberterrorism coordinator, Mr. Dick Clarke.

As DOD's interim executive agent, how are you working with these various individuals?

Secretary WHITE. I have close and daily personal contact with Governor Ridge, General Downing, and Mr. Clarke on homeland security matters. There is a strong relationship developing between my staff and the staffs of the Office of Homeland Security and the National Security Council. The daily meetings and communications will continue to forge solid relationships so that we may work together to effectively address the many homeland security issues the country is facing.

18. Senator LEVIN. Secretary White, how are you ensuring that the Homeland Security Office, the interagency and agency coordinators, and the Department are not working at cross-purposes?

Secretary WHITE. The Department of Defense fully participates in Governor Ridge's daily Homeland Security Council principal, deputy, or policy coordination committee meetings. Representatives from other agencies also attend these meetings. This ensures that the agencies are not at cross-purposes with each other or with Governor Ridge's office, but are working together towards a focused, common purpose.

19. Senator LEVIN. Secretary White, in addition, how are those of you charged with defending U.S. territory against terrorist attacks coordinating with the officials in the NSC and State Department who are focused on global terrorist threats to the U.S.?

Secretary WHITE. Homeland defense is an integral part of Homeland Security. DOD's homeland defense activities and operations are coordinated with both the Office of Homeland Security and the National Security Council, and are often a topic of discussion in meetings chaired by these organizations. The State Department is represented at these meetings to provide a linkage to the global threat from terrorism.

JFCOM HOMELAND SECURITY CAMPAIGN PLAN

20. Senator LEVIN. General Kernan, in your testimony you mention that your command is developing a Homeland Security campaign plan using "innovative organizational and operational approaches" and that you are coordinating with other military, defense and Federal agencies. What innovative approaches are you using?

General KERNAN. In organizing our 90-person Homeland Security Directorate from within the command, we leveraged insights and concepts gained from our joint training and experimentation work. Specifically, our standing joint task force headquarters initiative, associated collaborative tools, and training initiatives provided the framework for developing this organization into a highly functional command and control headquarters to conduct Homeland Security. Our campaign development and coordination with other agencies is guided by both sound operational experience and joint experimentation insights derived from work on the Operational Net Assessment and Effects-Based Operations concepts.

21. Senator LEVIN. General Kernan, how will your campaign plan relate to the existing DOD plans—the Chairman of the Joint Chiefs of Staff's CONPLAN 0300-00 and the DOD Directives on Military Support to Civil Authorities—as well as interagency plans, given the fact that homeland security involves all agencies, as well as local, state, and Federal governments?

General KERNAN. Our campaign planning effort is nested within or informed by all of these existing plans and directives. We are working in concert with the appropriate agencies through the Joint Staff. Ultimately, the Joint Forces Command plan will complement a National Homeland Security strategy and plan.

NATIONAL GUARD

22. Senator LEVIN. General Pace, the National Guard is presently functioning in a variety of ways with regard to homeland security in both its State and Federal status. Are you satisfied that procedures are in place to ensure that the use of the National Guard for homeland security does not interfere with their potential use as envisioned in the CINCs' warfighting plans?

General PACE. The Joint Staff and the National Guard Bureau have been and will continue to track this issue. Currently, there are 555,000 National Guard and Reserves in the force with 30,000 volunteers supporting Operation NOBLE EAGLE. This commitment does not have a major effect on our ability to execute current war plans. If further National Guard and Reserve Forces were called up for Homeland Security missions, or multiple warfighting plans were activated, we would certainly reassess the impact of assigning those forces to our war plans.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

HOMELAND SECURITY AND THE NATIONAL GUARD

23. Senator BYRD. Secretary White, the Hart-Rudman Report, page XIV, states: "We urge in particular that the National Guard be given homeland security as a primary mission, as the U.S. Constitution itself ordains."

Major General Allen Tackett, the National Guard Adjutant General for West Virginia, and other Adjutants General believe that homeland security should be one of the missions of the National Guard, but not the only mission. The Guard should still maintain its warfighting missions. Do you agree with the Hart-Rudman recommendation that homeland security should be a primary mission of the National Guard?

Secretary WHITE. Historically, the National Guard has been dual missioned for both its Federal warfighting role and its domestic response, state role. Many of the Guard's capabilities, including medical, command and control, and communications, are a direct result of preparations to perform their warfighting mission. Given the recent heightened interest in having the military execute domestic security missions, the National Guard is being relied upon to perform its domestic response role.

The National Guard does play a primary role as a military force provider for disaster response within the United States. However, there are several reasons why homeland security is not considered to be their primary mission. First, as reservists, National Guardsmen are not available to perform domestic missions for extended periods of time. They are optimized to be recalled in the event of a major war or to perform short duration consequence management missions following a domestic disaster. Overall, most homeland security missions are likely to involve many long-term tasks that are unsuited to be performed by the National Guard.

Likewise, many homeland security missions within the United States can be best performed by other Federal, state, and local elements.

24. Senator BYRD. Secretary White, what changes in force structure and additional resources would the National Guard Bureau require in order to fulfill the broader mission of homeland security?

Secretary WHITE. There are still a lot of issues to be worked out in defining the missions that make up homeland security, assessing current capabilities, and assigning responsibilities. It is not yet clear how much of the overall national mission will fall under the purview of DOD, let alone the National Guard. Some temporary tasks currently being performed by DOD, such as airport security by the National Guard, will revert to another Federal agency for the long term.

We anticipate that more changes will be required in resources than in force structure. The Department is still developing what those exact changes will be. The extent of changes required will depend on the exact number and types of missions assigned to the National Guard. Assuming that the Guard's role will be focused on crisis management response, few force structure changes will be required, as forces can be tailored to meet special missions and circumstances.

25. Senator BYRD. Secretary White, what statutory changes might be required for the National Guard to conduct ongoing homeland security operations and also take on broader support to law enforcement and first responders?

Secretary WHITE. The National Guard may undertake homeland security missions in a State active duty status. In such a status, the National Guard is under the control of the State governor and is funded with State funds. All missions undertaken by the State National Guard in this status must comply with State law. Our coun-

try's traditional reliance on the National Guard is valued and the Federal strictures of our Constitution prescribe a combination of national and State structures to address national and State needs. Under our Federalist form of government there are many missions in the Homeland Security area that can and should be done by the States.

The National Guard may undertake homeland security missions in a State active duty status. However, for those missions that are national in scope, such a State active duty status has a number of disadvantages: each State will perform the mission in a different way depending on State law; the funding levels for each State National Guard will be different; and the Federal Government has little say over how the mission is accomplished.

A second status that is often considered for performing such homeland security missions is duty pursuant to Title 32, United States Code. Title 32 sets forth the authority under which National Guard personnel are trained to perform their warfighting mission and provides that such personnel remain under the control of the State governor but are supported with Federal appropriations. Although title 32 also authorizes the National Guard to undertake some specific missions that do not constitute training (such as counterdrug support or support to disadvantaged children), such missions are specifically authorized by statute. We believe that the use of National Guard personnel under 32 U.S.C. § 502(f) to undertake homeland security missions such as critical infrastructure protection and national border security, which constitute neither training nor a defense mission, is extremely problematic legally.

It should be noted that National Guard members performing airport security duties are now serving under title 32 under a unique set of facts: airport security prior to September 11 was the responsibility of State and local governments; the President requested State assistance; the National Guard personnel performing the airport security mission obtain valuable training (preparation for peacekeeping); and Congress provided emergency funds to support State and local preparedness for mitigating and responding to the September 11 attacks and for increasing transportation security. These factors are not readily apparent for most routine homeland security missions and the use of the National Guard in a title 32 duty status to perform such homeland security duties is not appropriate.

If it makes sense to perform homeland security duties with the National Guard in a title 32 status, it is possible to amend title 32 to permit the use of the National Guard similar to the way the National Guard is now employed to undertake counterdrug duties under 32 U.S.C. § 112. Such an amendment could provide for members of the National Guard in a full-time National Guard duty status to undertake specified homeland security missions as delineated by statute. National Guard personnel performing such duties would be under the control of the State governor but the costs of the National Guard program would be borne by the Federal Government.

26. Senator BYRD. Secretary White, it is clear that the Guard has, and will continue to have, an important role in responding to a wide range of civil disturbances, from natural disasters to terrorist acts. These missions can be essential to our national security. The National Guard counterdrug program is a useful model for Federal support of the state missions of the National Guard.

Will you support using defense dollars to increase the readiness of the National Guard for homeland security training and exercises?

Secretary WHITE. Yes. This is not different from current practices, since we keep our National Guard forces trained and ready for various types of employment; to include many missions that can be considered to be homeland security-like missions. National Guard WMD-CSTs have participated in inter-agency response exercises, such as TOPOFF. Since DOD is not normally the lead Federal agency in responding to domestic disasters, it does not take the lead in conducting domestic exercises. The Department will continue to support other lead Federal agencies in the conduct of such domestic exercises.

27. Senator BYRD. Secretary White, do you believe that the type of homeland security threats we will face in the future require the use of the specialized skills that National Guard Special Forces units can provide, including knowledge of unconventional warfare, specialized skills in urban and rural environments, and medical knowledge to support first responders?

Secretary WHITE. The National Guard does have impressive Special Forces units, which will continue to prove valuable in the future. However, legal restrictions on the use of military forces within the United States apply to almost all of the tasks

applicable to these types of forces. Rest assured, that where they can be used most effectively, National Guard Special Forces units will be used.

28. Senator BYRD. Secretary White, do you concur with the recommendation to the Senate Armed Services Committee from General Peter Pace, Commander of the U.S. Southern Command, that the illicit drugs flooding America should be considered a weapon of mass destruction? Should counterdrug efforts be included as a part of homeland security?

Secretary WHITE. The Department of Defense's role in counterdrug efforts is one of civil support. Additionally, we support U.S. and foreign law enforcement agencies' interdiction of illicit drugs before they reach the shores of the United States. Within that construct, the Department of Defense is the lead U.S. agency for detecting and monitoring aerial and maritime transit of illegal drugs. The new Office of Homeland Security focuses on the terrorist threat to our National security. The structure of DOD's Homeland Security program is under review, and it remains unclear whether the counterdrug mission will be included in that program.

29. Senator BYRD. Secretary White, I have long supported the creation of an integrated homeland security training site at Camp Dawson, West Virginia, which includes the recently constructed Regional Training Center, and would include a planned Virtual Medical Campus located at West Virginia University. Combined, these institutions would provide the necessary education, training, and certification capabilities to prepare America's emergency first responders, including the medical community, for an incident involving a weapon of mass destruction or similar event. Camp Dawson incorporates the Integrated Special Operations Training Facility (ISOTF), a world-class training facility that would make Camp Dawson America's premiere training facility for emergency first responders. According to a National Guard Bureau feasibility study, dated March 2001, the ISOTF is a unique facility that will encompass special training complexes unlike any other in the world today. Some of the specific areas that will be able to be taught at the ISOTF include:

- Asymmetrical Warfare;
- Counterterrorism (CT);
- Weapons of Mass Destruction (WMD);
- Law Enforcement Special Operations (SWAT);
- Civil Disturbance Operations;
- Military Operations on Urban Terrain (Basic and Specialized MOUT);
- Special Forces and Advanced Urban Combat (SFAUC);
- Hazardous Material (HAZ-MAT) Response and Handling;
- Fire Fighting;
- Emergency Medical Services (EMS) Response;
- High and Low Level Rescue;
- Disaster Preparedness;
- Aerial Delivery Operations (Personnel and Equipment);
- Cyber Terrorism;
- Information Warfare;
- Electronic Warfare;
- Maritime Terrorist Training;
- Emergency Services for Federal, State, and Local agencies; and
- Live fire capability.

Please review the National Guard Bureau feasibility study on Camp Dawson and provide comments on how you believe the capabilities at Camp Dawson can be better integrated into our Nation's homeland security efforts.

Secretary WHITE. The feasibility study summarizes both the current and planned training facilities at Camp Dawson, and notes that it provides "an excellent opportunity for military and non-military institutional training." The number and variety of facilities at Camp Dawson position it well for use in homeland security training, which involves a wide variety of situations.

Camp Dawson will be considered along with other military, Federal, and local training sites in a coordinated strategy incorporating national requirements and capabilities.

30. Senator BYRD. Secretary White, I understand that certain military technologies such as those that identify chemical and biological agents are much more accurate than their commercial off-the-shelf identification counterparts used by civilian HAZ-MAT organizations. An integrated National Guard and first responder training facility would allow for the education, training, and certification of emergency and first responders using the latest dual use military and civilian tech-

nologies to fight terrorism and counterdrug operations. Camp Dawson has the potential to be such an integrated facility.

Please comment on the value of disseminating dual use military technologies and training to civilian emergency and first responders through facilities such as Camp Dawson.

Secretary WHITE. Senator Byrd, we agree with you that some military technologies could be very beneficial to civilian emergency and first responders. Demonstration of these technologies in integrated military-civilian training and other venues is both a wise and valuable approach. As such, we can assure that as we, in conjunction with Governor Ridge's Office of Homeland Security and other Federal and State agencies, develop and implement training strategies and facilities, we will endeavor to capitalize on efficiencies and synergies that may be gained by using facilities such as Camp Dawson.

HOMELAND SECURITY AND BIOMETRICS

31. Senator BYRD. Secretary White, in your new role as the Interim Department of Defense Executive Agent for Homeland Security, you have assumed the responsibility for bringing together the resources of the Department of Defense to coordinate with and assist the Director of the President's Office of Homeland Security, former Governor Tom Ridge, and other Federal, state, and local agencies. You are also the Department of Defense Executive Agent for Biometrics, a responsibility assumed by the Secretary of the Army last year.

The Quadrennial Defense Review Report of September 30, 2001, lists biometrics as one of five priority "emerging technologies" of which the Department of Defense "will vigorously pursue the development and exploitation."

What role in homeland security do you see for the Department of Defense Biometrics Program, especially the Interim Biometrics Fusion Center located in Bridgeport, West Virginia, within the Department of Defense and within the Executive Branch? What responsibilities will you be assigning the Biometrics Program in this new mission?

Secretary WHITE. In light of the events of September 11, the Biometrics Management Office refocused its singular direction from information assurance biometrics efforts to an expanded role including the use of biometrics applications for physical security.

- This expanded approach will support greater knowledge to the services for force protection and anti-terrorism efforts.
- The Biometrics Management Office and the interim DOD Biometrics Fusion Center will further support homeland security by maintaining a web site to assist DOD on biometrics issues. The restricted access section of the DOD web site will contain test and evaluation reports, biometrics product data, and lessons learned.

Considering heightened interest in biometrics devices and applications since September 11, we plan to use the Biometrics Fusion Center to analyze more commercial off-the-shelf (COTS) biometrics products. It is our intent for the Biometric Fusion Center located in Bridgeport, West Virginia, to become a Center of Excellence that can be utilized not just by DOD assets but can provide leadership, technical expertise, and capability to National Homeland Defense efforts at large.

I have tasked the Army CIO to supervise the biometrics initiative. The DOD Biometrics Office will assist the CIO to carry out this responsibility. I further directed the DOD Biometrics Office to expand its singular direction from information assurance biometrics efforts to the use of biometrics for physical security. Additionally, I have tasked the DOD Biometrics Office to accelerate the full integration of biometrics into the DOD Common Access Card, which is used across DOD for network access, facilities access, and personal identification.

32. Senator BYRD. Secretary White, what relationships exist or are being developed by the Department of Defense Biometrics Program to assist the Federal Aviation Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the U.S. Customs Service, and other Federal, state, and local agencies to improve security at airports and national points of entry, and to assist in their law enforcement efforts?

Secretary WHITE. I have tasked the Director, DOD Biometrics to meet regularly with senior officials at the Federal Aviation Administration, Federal Bureau of Investigation, Department of State, and Department of Justice to discuss common interests. Most recently, on October 18, he visited the FBI facility in Clarksburg, West Virginia and recently met with security officials in the Federal Aviation Administra-

tion. These events focused on identifying opportunities to incorporate biometrics technologies to enhance security at airports, national points of entry, and other key points of interest for Homeland Security. The DOD Biometrics Management Office continues to foster these relationships to leverage lessons learned and exchange technical information.

33. Senator BYRD. Secretary White, biometrics offers the promise of increased physical security, computer and communications systems security, and information and identity assurance for military and key civilian facilities, such as airports and national points of entry. The largest biometrics repository in the world is the Federal Bureau of Investigation (FBI) fingerprint center in Clarksburg, West Virginia, and nearby is the Department of Defense Interim Biometrics Fusion Center. The FBI uses its computerized fingerprint repository to provide identity assurance for law enforcement personnel across the Nation and overseas. What plans do you have to establish a centralized repository for Department of Defense biometrics data?

Secretary WHITE. We have developed conceptual models for three databases including: Knowledgebase, Test and Evaluation, and Operations.

- The Biometrics Knowledgebase will serve as the DOD's source of information about biometric security, technology, products, test and evaluation results, and lessons learned.
- The Biometrics Test and Evaluation Database will serve as a stand-alone database for use by the DOD Biometrics Fusion Center for test and evaluation activities such as validating COTS and government off-the-shelf (GOTS) biometrics technologies, products, and applications.
- The Biometrics Operations Database (Gold Standard). A study is awaiting contract award to define the capabilities and functions of the database.

The current plan is for the centralized repository to be located at the Biometrics Fusion Center in Bridgeport, WV, and to have the Knowledgebase and Test and Evaluation databases initial operation capable by March 2002. The study for the concept of the Operations database is targeted to begin in March 2002. Following review of the study, we will construct milestones for implementation.

Bottom Line.

- We are working closely with the FBI Criminal Justice Information Systems Division. The Biometrics Fusion Center is located in Bridgeport, WV. The FBI activity is located in the adjacent city, Clarksburg, WV.
- We are working with the West Virginia National Guard Home Land Security Facility, located at Camp Dawson, West Virginia.
- West Virginia University, College of Engineering and Mineral Resources, Department of Computer Science and Electrical Engineering is collaborating with DOD Biometrics Office to develop the Information Assurance and Biometrics Graduate Certificate Program, and Concepts in Biometric Systems and Information Assurance Program.

QUESTIONS SUBMITTED BY SENATOR JOHN WARNER

ACQUISITION REFORM

34. Senator WARNER. Secretary White, a central goal of acquisition reform has been to leverage the commercial marketplace and attract "non-traditional" commercial contractors to meet an increasing proportion of DOD's needs. By overcoming the barriers to these companies' participation in Federal contracts, DOD can tap into their expertise and gain innovative new solutions to address the challenges that confront our Nation. Despite the efforts of both the legislative and executive branches over the last decade, many commercial contractors still express frustration with the constraints of governmental contracting rules and regulations.

In this time of crisis, and particularly with respect to how the biotechnology and the information technology industries can help our government wage its current battle against terrorism, do you see a need for additional acquisition reform legislation? If so, what specific legislative measures do you believe are needed?

Secretary WHITE. Section 836 of the Fiscal Year 2002 National Defense Authorization Act provides legislative authority that will help in the current battle against terrorism. Specifically, it provides that any procurement of biotechnology property or services needed to defend against terrorism or biological attack will be considered a commercial item, which facilitates its purchase under our regulations. It also increases the micropurchase threshold and simplified acquisition threshold for procurements needed to combat terrorism. Finally, paragraph (b) of section 836 re-

quires the Department to submit a report to the Committees on Armed Services of the Senate and the House of Representatives containing the Secretary's recommendations for additional emergency procurement authority necessary to support operations to combat terrorism. The Department is in the process of identifying such additional legislative authority and will include them in the report.

35-38. Senator WARNER. [DELETED].
Secretary WHITE. [DELETED].

QUESTIONS SUBMITTED BY SENATOR STROM THURMOND

COMMANDER IN CHIEF FOR HOMELAND DEFENSE

39. Senator THURMOND. Secretary White, last year Secretary Cohen said that when he first proposed the formation of a "commander in chief for homeland defense" the idea was controversial. "Immediately there were questions being raised as to whether or not this would intrude upon constitutional prohibitions of getting our military involved in domestic affairs." I understand the Department is again considering establishing a CINC for Homeland Defense. How do you address the constitutional question on getting our military involved in domestic affairs?

Secretary WHITE. The Posse Comitatus Act (PCA/18 U.S.C. § 1385) and DOD Directive 5525.5, which as a matter of Department of Defense policy extends the restrictions of the PCA to the Navy and the Marine Corps, have for many years ensured that the Armed Forces of the United States only engage in the direct enforcement of domestic criminal laws under circumstances that are clearly authorized by laws of the United States or the Constitution. The Department of Defense historically has been reluctant to accept law enforcement missions. There are a number of reasons for this reluctance:

- (1) a longstanding distaste on the part of the citizenry for the use of the military as a police force;
- (2) a lack of formal training on the part of most servicemembers to engage in domestic police activities involving functions such as arrest, execution of warrants, searches and seizures, and the protection and preservation of evidence;
- (3) an unwillingness within the military to permit servicemembers to undertake extensive law enforcement training because such training may well interfere with a servicemember's ability to train for our warfighting mission; and
- (4) a significant concern that the addition of a law enforcement mission to the many high demands already shouldered by the Armed Forces in defending the country will degenerate or destroy their ability to accomplish their primary mission.

Over the years, section 1385 has been interpreted to preclude the use of the Army or the Air Force to execute the criminal laws of the Nation regardless of whether the military was employed as a posse comitatus or simply undertook law enforcement missions as part of its military duties. Notwithstanding the Department's reluctance to use the Armed Forces to engage in domestic law enforcement missions, the Department has on rare occasions provided such support to civil law enforcement agencies in emergency situations (e.g., support during riots and insurrections). The President has inherent constitutional authority, and longstanding statutory authorities (e.g., chapter 15 of title 10), to direct the use of the Armed Forces domestically in support of the national security interests of the Nation. In addition, following the September 11, 2001 terrorist attacks on the United States, Congress provided express statutory authority to the President under Senate Joint Resolution 23 (S.J. Res. 23, 107th Cong. (2001) (enacted)) to use military force to prevent further such attacks. Accordingly, although I understand that a review of the PCA is ongoing within DOD, I do not believe that the PCA and the Department's implementing directives pose an obstacle to the Department when the President determines that the Armed Forces must be employed to protect the national security interests of the United States.

ASD HOMELAND DEFENSE

40. Senator THURMOND. Secretary White, a recommendation of the United States Commission on National Security for the 21st century was that a new office of assistant secretary of defense for homeland security be created to oversee the various Department of Defense activities. Does the Department agree and plan to create this new position?

Secretary WHITE. The Secretary of Defense requested that Congress consider a new Under Secretary of Defense position for homeland security. In that context, the

Secretary asked that I carefully consider how we might reorganize within the Department of Defense to oversee homeland security activities; this review is ongoing.

IMPACT ON MILITARY RESPONSIBILITIES

41. Senator THURMOND. Secretary White, critics of DOD's involvement in responding to incidents of domestic terrorism argue that extensive military involvement in domestic matters will distract the DOD from its core missions and may make the DOD more like domestic civilian institutions. Consequently, the critics argue that this domestic involvement will degrade military professionalism. What are your views on this issue?

Secretary WHITE. The Department of Defense carefully analyzes all requests for support to civil authorities and other Federal agencies prior to the commitment of resources. These requests are analyzed based on four criteria: scope, duration, appropriateness (i.e., mission profile), and exit strategy. Those requests that satisfy this analysis are then weighed against other obligations and should not detract from DOD's ability to execute its core missions.

With regard to military professionalism, our soldiers, sailors, airmen, and marines pride themselves in their professionalism and their commitment to service. Performance expectations for domestic support missions are no different than they are for any other mission and servicemen and women will execute their duties with pride and professionalism.

USE OF MILITARY PERSONNEL

42. Senator THURMOND. Secretary White, Title 10 U.S.C. Section 382, Emergency Situations Involving Chemical or Biological Weapons of Mass Destruction and 18 U.S.C. Section 831, Prohibited Transactions Involving Nuclear Materials, authorize the Secretary of Defense to use of military personnel, equipment, and technical assistance in non-hostile emergency situations that pose a serious threat to the United States and its interest. Are you aware of any discussions between the Secretary of Defense and the Attorney General that would create a foundation for the rapid enactment of these statutes?

Secretary WHITE. The Department of Defense and the Department of Justice have already established detailed protocols and procedures for these cases and have exercised them extensively.

WMD PROLIFERATION

43. Senator THURMOND. Secretary White, current United States Anti-Terrorism Policy states that the highest priority shall be given to preventing the acquisition of a WMD capability by terrorist groups. Do you believe the Comprehensive Threat Reduction programs and related DOE non-proliferation programs are effective tools for preventing the acquisition of WMD materials from the former Soviet Union?

Secretary WHITE. The CTR program is one element of a more extensive program designed to keep WMD from being acquired by rogue states and terrorist groups. Our efforts to prevent rogue states and terrorist groups from acquiring WMD must include:

- Enhancing our ability and willingness to interdict shipments of nuclear weapons related material to countries supporting terrorists;
- Assisting foreign government in their efforts to control exports or transshipments of material from or through their territory, and efforts to interdict WMD-related shipments;
- Increasing efforts through diplomatic and military channels to enhance U.S. nonproliferation objectives; and
- Focusing the efforts of assistance programs such as the CTR program on those areas where we can obtain the highest return.

We continue to work to make the Department of Defense CTR program and DOE nonproliferation programs as effective as possible in assisting the FSU to prevent the proliferation of WMD materials in the face of efforts by terrorists, organized crime and rogue states to acquire these materials. The two departments are working with the states of the FSU to consolidate and secure or destroy nuclear, biological, and chemical agents.

HOMELAND DEFENSE MISSION

44. Senator THURMOND. General Pace, last month's report on the QDR states: "It is clear the U.S. forces, including the United States Coast Guard, require more effective means, methods, and organizations for performing these missions (homeland)." How is the Department addressing these issues?

General PACE. There will be a number of future changes that will have a direct effect on how our forces prepare, train and execute Homeland Security missions. In the near term, the Secretary of Defense has designated JFCOM and NORAD as the two primary CINCs responsible for Homeland Security. Long-term solutions will be incorporated into ongoing revisions to the UCP. All UCP revisions are approved by the President.

MILITARY HEALTH CARE SUPPORT

45. Senator THURMOND. General Pace, in February of this year the head of the Joint Task Force for Civil Support, Major General Bruce M. Lawlor, agreed with the views being expressed that the National Guard and the Reserves could provide medical support in case of an attack, but he had some reservations. Specifically, he pointed out that the Army medical community "has been downsized by as much as 40 percent," and "what remains is not organized for domestic support. It is designed for combat operations." What is the state of military healthcare concerning a large-scale response to terrorist attacks?

General PACE. The DOD brings to the table significant assets that can be called upon in a national crisis. These assets include specialized medical platforms that can be used to provide surveillance, detection, and field laboratory capabilities in support of operations in a WMD environment. However, the DOD lacks the capability to provide direct medical treatment and healthcare support for large-scale populations requiring a response to terrorist attacks employing chemical, biological, radiological, nuclear, or high-explosive (CBRNE) agents.

The military healthcare system is neither equipped, task-organized, nor staffed to function in a role of primacy for these types of events either in the homeland defense scenario, or to support geographic Combatant Commanders in operations overseas. Successful mitigation of a WMD event will be predicated on interagency coordination and cooperation. The DOD healthcare system will only be part of the wider "system" of assets that must be brought to bear in support of our national consequence management efforts.

ROLE IN MONITORING

46. Senator THURMOND. General Pace, recently the *Los Angeles Times* ran a story that detailed some difficulties the Department faces regarding intelligence sharing. Specifically, the article noted that if the National Security Agency were monitoring the cell phone calls of a terrorist suspect, surveillance would be required to be stopped the moment the suspect reached U.S. soil. The Senate passed the Uniting and Strengthening America Act by a vote 96-1 that gives new tools to law enforcement to combat terrorism. Will the DOD benefit or, more specifically, be able to utilize the provisions articulated in this bill to provide asset and intelligence sharing with Federal law enforcement?

General PACE. Yes, the Uniting and Strengthening America Act allows the DOD to receive more and better information on terrorism from U.S. law enforcement. For example, the provision to allow grand jury information to be shared among Federal officials, to include intelligence officers, is a strength that will improve DOD's ability to fight the global war on terrorism.

NATIONAL GUARD SUPPORT

47. Senator THURMOND. General Kernan, according to the U.S. Commission on National Security for the 21st century, the National Guard and associated Guard Response Teams are "vital to creating an effective national response ability" for Homeland Defense. As such, the report recommends that the National Guard "plan for rapid interstate support and reinforcement," and "develop an overseas capability for international humanitarian assistance and disaster relief." Unfortunately, I have been informed by National Guard officials that there is no current mobilization plan to bring regional teams from other states to the site of multiple attacks. There is no plan to respond to multiple attacks within a large single urban area and due

to the high operational tempo of the Air Force, "there is no military airlift support available for domestic mission training scenarios." Is this accurate?

General KERNAN. U.S. Joint Forces Command and our Army and Air Force components are working with our assigned units, the Services, the Joint Staff, and the National Guard Bureau to improve responsiveness and coordination and formalize the process. In this regard, I have met with Lt. Gen. Russ Davis, Chief of the National Guard Bureau, on a number of occasions and with several state Adjutant Generals. One result of these meetings is a combined Joint Forces Command-National Guard Bureau initiated general officer steering committee, comprising all involved active, National Guard, and Reserve organizations, to further develop the collective way ahead.

Airlift issues are the responsibility of U.S. Transportation Command. I would note that U.S. Transportation Command's support of our Homeland Security Ready Reaction Force exercises has been superb. In coordination with U.S. Transportation Command, C-130 aircraft have been allocated on a regional basis and placed on high alert to rapidly transport those Ready Reaction Forces throughout the United States.

MORTUARY SUPPORT

48. Senator THURMOND. General Kernan, the head of the Joint Task Force for Civil Support, Major General Bruce M. Lawlor, addressed a major problem that he feels is a significant gap in the current organizational make-up of the national response plan—dealing with the grim problem of the victims. He stated that the Civil Support Teams "could not cope with collecting and burying possibly hundreds, if not thousands of dead bodies," not to mention the "host of legal and religious issues" involved in dealing with these victims and he warns that "there is currently only one mortuary affairs company on active duty and one in Reserve." What steps is the Department taking to address this shortfall?

General KERNAN. The Weapons of Mass Destruction-Civil Support Teams are National Guard assets that are manned by their respective states, and trained and equipped by the National Guard Bureau. These teams immediately deploy to the incident site to assess an incident, advise civilian responders regarding appropriate actions, and facilitate requests for assistance to expedite the arrival of follow-on personnel and assets to help save lives, prevent human suffering, and mitigate property damage.

The primary responsibility for collecting and disposition of bodies rests with the state and local coroner. If requested, military assistance to civil authorities could include mortuary affairs. Joint Forces Command has combatant command over three mortuary affairs units, the 54th Mortuary Affairs Company in the Active component and the 311th and 246th companies in the Reserve component. Both the 54th and 311th have supported post 11 September recovery operations at the Pentagon. Assets from the 246th augmented the 311th and the 246th is in the process of being re-manned. These units exist to support combat operations, but may be employed when a request for assistance is received from the lead Federal agency and approved by the Department of Defense. For example, in the aftermath of the Oklahoma City bombing, the 54th effectively assisted the medical examiner, the responsible local agency, in processing remains. In wartime, a fully manned mortuary affairs company can process up to 400 remains per day, though actual capacity will vary based on the situation. It is important to remember that there are many private, local, and state first responders who will do the bulk of this difficult but necessary work. We have certainly seen that in New York City since 11 September.

QUESTIONS SUBMITTED BY SENATOR JEFF SESSIONS

DONOVAN TRANSPORTABLE DETONATION CHAMBER

49. Senator SESSIONS. Secretary White, in your positions as Secretary of the Army and Interim Department of Defense Executive Agent for Homeland Security, have you considered the need for technology such as the Donovan Transportable Detonation Chamber (DTDC)?

Secretary WHITE. As the Interim Department of Defense Executive Agent for Homeland Security, I am continually looking for tools to respond to situations involving threats to homeland security. I am especially interested in technology developed in the private sector for it portends a great benefit to the U.S. taxpayer. Over the past several months, I have received a considerable amount of information on

the Donovan Transportable Detonation Chamber and share your interest in pursuing its potential here in the United States.

50. Senator SESSIONS. Secretary White, I have been told the DTDC is a promising tool to meet the need for explosive and chemical bomb destruction devices. I understand that this technology is awaiting Army validation. I request that you have the DTDC reviewed and its validation decision be made as soon as is possible. Once the review has been made have your staff report its findings to my office.

Secretary WHITE. The DTDC has been approved for the destruction of conventional munitions and other high-explosive devices. Additionally, the U.S. Army is providing technical assistance to the Royal Military Academy of Belgium in support of their efforts to evaluate the potential of the Donovan Chamber for destroying recovered chemical munitions. We are awaiting the results of the Phase I and Phase II tests in Belgium to determine if we should move forward here in the United States. Once our review has been completed, I will have my staff report their findings to your office.

[Whereupon, at 4:42 p.m., the committee adjourned.]

