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PROTECTING THE MASS TRANSIT CRITICAL INFRASTRUCTURE IN NEW YORK CITY AND IN THE NATION

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION SECURITY AND INFRASTRUCTURE PROTECTION

OF THE

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PROTECTING THE MASS TRANSIT CRITICAL INFRASTRUCTURE IN NEW YORK CITY AND IN THE NATION

Friday, April 25, 2008

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON TRANSPORTATION SECURITY AND
INFRASTRUCTURE PROTECTION,
Brooklyn, NY.

The subcommittee met, pursuant to call, at 9:30 a.m., at the Brooklyn Public Library, Grand Army Plaza, Brooklyn, New York, Hon. Sheila Jackson Lee [Chairwoman of the Subcommittee] presiding.

Present: Representatives Jackson Lee and Clarke.

Also present: Representative Nadler.

Mr. REYES-GAVILAN. Good morning. My name is Richard Reyes-Gavilan, Director of Central Library. On behalf of our Executive Director, Dionne Mack-Harvin, I would like to welcome you to Brooklyn Public Library, and our Doctor S. Stevan Dweck Center for Contemporary Culture, where we are honored to have Congresswoman Yvette Clarke hold this crucially important Homeland Security field hearing.

As is well known, New York lives underground. Ridership on several Brooklyn subway lines has increased by staggering percentages over the past 10 years.

New Yorkers want to know what is being done to ensure their safety. Brooklyn Public Library is an ideal location for this knowledge to be shared.

I would now like to recognize our distinguished guests, beginning with Congresswoman Sheila Jackson Lee, Chairwoman of the Subcommittee on Transportation Security and Infrastructure Protection; Congresswoman Yvette Clarke; Congressman Jerrold Nadler; and our witnesses, Michael Balboni, Deputy Secretary for Public Safety, State of New York; James Little, International President, Transport Workers Union; Thomas C. Lambert, Senior Vice President and Chief of Police, Department of Public Safety, Houston METRO; and, of course, Raymond Kelly, Commissioner of the New York City Police Department.

Thank you, and I will turn it over now to Ms. Jackson Lee. Thank you.

Ms. JACKSON LEE. This meeting is now called to order.

I wish to quickly thank Richard Gavilan, Director of the Library, for his very kind and generous remarks and welcome. We are delighted to be here.

He's absolutely right. We are delighted to be here at the invitation of Congresswoman Yvette Clarke, who is a member—a very diligent and vital member of this subcommittee, joined by a very distinguished colleague, Jerry Nadler, who is the Chair of the Constitution Subcommittee of the House Judiciary Committee. These very fine and distinguished members of Congress from New York have collectively been champions for security and civil liberties here in this very fine city. They have been champions for the concept of ensuring the depth of security and the formula being used by the Department of Homeland Security that is a, if you will, common sense approach—a practical approach to assessing the at-risk cities and providing the funding.

Before I begin my formal remarks, let me make note of the fact that Mr. Nadler was an enormous advocate, after 9/11, for the compensation and the orderly response, if you will, to an enormous tragedy on behalf of New Yorkers. His leadership, along with the delegation, was superb.

Congresswoman Clarke has come in and been, I believe, a shining star on the Homeland Security Committee. She has championed not only the important rights of New York and her District, but she has brought a broad view to how we can balance this very important question of workers' security and ensuring the civil liberties of New Yorkers and all Americans.

So, I want to thank both of them for their presence here today as this meeting comes to order.

As indicated, the subcommittee will come to order. The subcommittee is meeting today to receive testimony on protecting the mass transit critical infrastructure in New York City and in the Nation. Importantly, this testimony will discuss mass transit security in the New York City area, and how this applies to securing service transportation infrastructure nationwide.

I would like to thank everyone for their participation in this morning's field hearing entitled "Protecting the Mass Transit Critical Infrastructure in New York City and in the Nation."

As we all know, securing mass transit in this country is critical to ensuring that we protect the American public from terrorists. Each weekday, 11.3 million passengers in 35 metropolitan areas and 22 States use commuter heavy or light rail. It is imperative that we in Congress continue to give those on the front lines the tools they need to continue to protect the traveling public.

Until recently, the Department of Homeland Security has focused almost exclusively on aviation security. But we in Congress changed that focus with the enactment of the 9/11 legislation last August, with the beginning of the leadership of the new Congress led by our Democratic Speaker and Majority Leader. The law now mandates that TSA put more focus on surface transportation security.

To New Yorkers, we are awake and alert. We hear you. We understand the vastness of the mass transit system in America, and we are ready to protect it.

Included in the requirements of the 9/11 legislation is expanded transportation grant criteria, protocols for frontline employee training, authorization for visible intermodal prevention and response teams, increases in surface transportation security inspectors, and many other improvements that will help to make our Nation's mass transit systems.

Let me offer my greetings on behalf of our Chairman, Bennie Thompson, of Mississippi, who started in his efforts of reorganizing the committee, established this separate committee to make the statement to the Nation and around the world: Terrorists, stand back. We are concerned about mass transit. We are going to review mass transit. We are going to fund the mass transit systems to ensure the security of all America.

Today in New York City, home to the largest mass transit system in America, we are here to discuss how we can continue to make mass transit safe for Americans. New York has been on the forefront of securing mass transit for many years. As the site of Ground Zero, the State of New York, the NYPD, Amtrak, Metropolitan Transit Authority, the Port Authority, and all of the frontline workers who work the subways, the trains, the buses, bridges, and tunnels are all keenly aware of how important their jobs are and what must continue to be done to secure this city and, of course, the Nation.

Let me emphasize this again. We consider transit workers frontline workers. They are in the eye of the storm. They are our eyes and ears. They are our protectors. We want to ensure the right kind of working environment, the right kind of training, the right kind of security dollars. We want them to work in the best conditions, so they can do the best work for us.

We in Congress are your partners in ensuring that you have the tools needed to secure surface modes of transportation. We have already accomplished much in the passage of the 9/11 bill. But surely, our work continues.

The dialogue we have today gives those of us in Congress the opportunity to hear directly from those who work these issues on the ground, so that we can continue to be a resource for you.

I would like to thank Commissioner Kelly and Deputy Secretary Balboni for sharing their perspectives with us today, as well as Mr. Little and Chief Lambert, for your presence and insight here today. The lessons we learn during this process can help secure transportation across the Nation.

In my District, in Houston, we have the METRO System that transports thousands of people around the downtown area every day. We are growing in leaps and bounds. We expect great growth. We want to be secure, as well.

While that system is different in many ways from what exists here in New York, there are common threads that we can share to make sure all mass transit systems have access to the most effective, cutting edge methods of security. I am pleased that Chief Lambert, as I indicated, is here today to share his perspective.

Again, we are concerned about our workers, and so we look forward to hearing the important insight of the President of the International TWU, who is here to give his insight, as well, Mr. James Little.

History has shown us that terrorists view rail and public transportation systems as potential targets. London, Madrid, Mumbai have fallen victim to attacks on rail and mass transit. Even the underground pipeline explosion, if you will, that occurred here in New York probably gave a number of individuals fear more than they might have imagined.

So, we have to be on the alert on all kinds of issues. Even more devastation could be caused by a successful attack on our mass transit here in the United States.

Further, this threat is always present. In January of this year, a plot was thwarted to attack the Barcelona public transit system. This attempted attack is yet another reminder that we must remain vigilant.

I'd like to thank my esteemed colleague—colleagues, plural. Congresswoman Yvette Clarke, first, for hosting this important hearing in your District. She is a valuable member of the Homeland Security Committee. She has done excellent work in bringing issues of transportation security to the committee on behalf of this great city.

Again, thank you, all.

Ms. JACKSON LEE. I'd like to yield 2 minutes to the distinguished member of the committee at this time, and I'd be happy to yield 2 minutes to Mr. Nadler at this time, as well.

Congresswoman Clarke, now recognized.

Ms. CLARKE. I want to thank everyone for coming to this hearing. In particular, I would like to thank our Chairwoman, Sheila Jackson Lee, for bringing her committee to Brooklyn, and for her hard work in making this all come together. Although she now hails from Houston, she is a native New Yorker, and we welcome her back home with open arms.

I also want to thank Commissioner Kelly, Deputy Secretary Balboni, Mr. Little, and Chief Lambert for taking their time to come and discuss this very important issue of mass transit security. I'd like to also thank my colleague, Jerrold Nadler, for being here and for being such a strong mentor to me, as a new member on the Hill.

It is very important that the House of Representatives Subcommittee on Transportation Security and Infrastructure Protection is holding a hearing in New York City, and particularly here in Brooklyn, home to millions of people who depend on the subway and other mass transit to get them to work, to school, to the store, to friends' houses, and anywhere else you could imagine. Here in Brooklyn, riding the subway isn't just for commuting. It's a way of life.

With millions of riders each day, the New York subway system is far and away the busiest in the country, and it sits in a city that is a well known favorite target of potential terrorists.

The only way to keep our citizens safe in this situation is to have outstanding coordination between everyone. This includes the transit workers who are on the front line every day; the first responders, like the NYPD, FDNY, and others; State level agencies like MTA and the Port Authority; the Federal Government; and the people at managerial levels that run these organizations.

For a city the size of ours, this is a near monolith task. However, the individuals involved in securing New York have done an outstanding job, accomplishing far more than any other city in America, setting a nationwide standard, and often implementing practices and programs that surpass what the Federal Government has done. There have been more than a few occasions where DHS and other Washington agencies have looked to what has been done in New York to determine the direction of their own work.

As a Councilwoman during the 5 years following the attacks on September 11, I was proud to play a role in helping New York City to implement many of the new security practices. Now that I am in Congress, I feel it is my duty to do everything in my power to ensure that New York gets all the support it requires from the Federal Government in order to keep our constituents and visitors safe. That is why I'm the sole Representative from New York City sitting on the Homeland Security Committee, and why I'm very glad that the Chairwoman has brought our subcommittee here today.

Thank you, very much.

Ms. JACKSON LEE. The gentlelady's time has expired.

Mr. Nadler is recognized.

Mr. NADLER. Well, thank you, very much. Let me begin by thanking the distinguished Chairwoman, Ms. Jackson Lee, for bringing this hearing here today, and for giving me permission, as a non-member of the committee, to sit at this hearing this morning.

Let me also thank Congresswoman Clarke for bringing this hearing here, and for the diligent work she has done as a member of the Homeland Security Committee.

We all know that New York is, perhaps, the major terrorist target in the United States, along with Washington. We have already suffered attacks. We know the daunting tasks of protecting all our people and all our infrastructure.

We know that the city administration and the State administration have done heroic work in this regard, and I want to compliment Commissioner Kelly and Deputy Secretary Balboni, in particular, for that.

We know that the Department of Homeland Security and that the congressional formulas for distribution of aid under the Homeland Security grant allocations have been skewed not entirely in favor of where the risks are, to put it mildly. We have had to struggle. The New York delegation, among others, has struggled to correct that. Over the years, we have made some considerable progress.

In the 9/11 bill that Congresswoman Jackson Lee referred to last year, that bill also contained a number of provisions with a direct relevance to mass transit. We are gratified that the Department is finally recognizing that we have to devote real effort to mass transit.

I know that when I travel on an airplane, and many of us travel on airplanes, there is plenty of security. When I travel on the New York City subway system or, for that matter, on Amtrak, there may be security, but there is certainly very little in terms of comparing to what one goes through when one goes in the air.

Obviously, it's human nature to react immediately where the attack occurred, but it is also obvious that we have to protect ourselves not only where the first attack occurred, but where the next may, God forbid, occur. So, I'm very gratified at the efforts that are being made, and I'm particularly gratified at this hearing to look into these matters.

Again, I thank the chairperson for her diligent work in bringing this hearing and in looking over these questions.

Ms. JACKSON LEE. I thank you, very much.

For the formal record, I ask unanimous consent for Mr. Nadler to join the hearing.

Hearing no objection, so ordered.

Let me welcome the panel of witnesses.

Our first witness is Commissioner Ray Kelly. Raymond W. Kelly was appointed Police Commissioner of the city of New York City by Mayor Michael Bloomberg, making Commissioner Kelly the first person to hold the post for a second separate tenure.

Commissioner Kelly was formerly Senior Managing Director of Global Corporate Security at Bear Stearns and Company. Before that, he served as Commissioner of the U.S. Customs Service, where he managed the agency's 20,000 employees and $20 billion in annual revenue. For the record, that is where I enjoyed Commissioner Kelly's service, as he visited with us before the House Judiciary Committee.

Our second witness is Deputy Secretary for Public Safety, Michael Balboni. Mr. Balboni has a day-to-day responsibility for managing Homeland Security affairs, emergency preparedness and response of law enforcement, an 18-year veteran of both houses of the State Legislature. He has extensive experience in security and law enforcement matters.

He was the author of New York's Antiterrorism Law of 2001, that mandates severe penalties for those who commit terror acts, make terror threats, or render assistance to terrorists. He also authored a 2002 law that helps protect the State's water supply from terror attacks. In 2005, he authored the Chemical Plant Security Act, the first of its kind in the Nation.

I have indicated that I look forward to having Mr. Balboni come to our committee in Washington, as we move forward on issues dealing with water security and chemical security.

Our third witness is James Little, International President of Transportation Workers Union. Mr. James Little assumed the office of International President in 2006.

Mr. Little has been serving TWU in numerous capacities for three decades, including: TWU Local 540, Section Chairman for 3 years; President of TWU Local 542—Aircraft Dispatchers and Meteorologists—for 12 years; TWU International Representative for 7 years; and Air Transport Division and TWU International Administrative Vice President since 2001.

He became a member of TWU in 1971 after hiring on in the Fleet Service for American Airlines, after service to the Nation as an AMT and Crew Chief for the U.S. Air Force Strategic Air Command.

Mr. Little has been a vital asset to the House of Representatives as it relates to the rights of workers. His insight on the idea of

transit workers as frontline workers is vital. We look forward to seeing him, as well, in Washington, on these issues, and continuing this discussion.

Let me also acknowledge and recognize the leadership he has in Washington, representing TWU, and we thank all of you for your leadership.

Our fourth and final witness is Chief Thomas Lambert, Senior Vice President of Public Safety, Chief of Police of Houston METRO—proudly, Houston METRO. Thomas Lambert joined METRO in October, 1979.

He is currently the Senior Vice President and Chief of Police of the Department of Police and Traffic Management for the Metropolitan Transit Authority in Houston, Texas. He also is the President of the Transit Chiefs of Police, and I would like to say International—that might be the term for this Nation—and by that, he leads the Chiefs of Police around the Nation who are in charge of mass transit systems.

He has been a vital asset to our committee. We will be working with him on a number of forward-thinking concepts as we go forward on this question of transit security.

Without objection, the witnesses' full statements will be inserted in the record. I know ask each witness to summarize his statement for 5 minutes, beginning with Commissioner Ray Kelly.

Mr. Kelly, welcome.

STATEMENT OF RAYMOND W. KELLY, COMMISSIONER, NEW YORK CITY POLICE DEPARTMENT

Mr. KELLY. Chairwoman Jackson Lee, Congresswoman Clarke, and Congressman Nadler, thank you for the opportunity to testify.

With 36,000 uniformed police officers, and 15,000 civilian employees, the New York City Police Department is the largest municipal police department in the country. Our duties include primary responsibility for the security of our mass transit system. We have nearly 2,600 police officers assigned to our Transit Bureau, which is dedicated exclusively to the safety of our subways. If this Bureau were its own police department, it would rank as the fourteenth largest in the country.

In the post-September 11 era, protecting mass transit from acts of terror is one of our highest priorities. We go to extraordinary lengths to defend the system every day. Nowhere is that more evident than in the subways.

Yesterday, we launched another major initiative to protect the subway system. The new plan, Operation Torch, takes teams of highly specialized officers from our Emergency Services Unit and deploys them underground, where they conduct daily searches of trains with the help of bomb-sniffing dogs. These officers, who carry automatic weapons and wear heavy, bullet-resistant Kevlar vests and helmets, serve as a highly visible deterrent.

Operation Torch is an important complement to an extensive program of transit security already in place, whose other features I will discuss in a moment. But first, I want to talk about why we devote so much time and so many resources to this activity.

As you know, New York's mass transit system is indispensable to the city's economy and the livelihoods of millions of residents.

Over 4½ million people ride the subways each day, making this system one of the busiest in the world. About half a million more commuters and tourists rely on ferries and buses.

Adding to this challenge is the vast size and complexity of the subway system, the second largest in the world after Moscow. It covers 468 stations and more than 800 miles of track which, if laid end to end, would stretch from here to Chicago. Simply put, we have a lot of ground to cover.

Most importantly, we know that subways are a frequent target for al Qaeda and its sympathizers. We have seen that in successful attacks in Madrid and London that killed hundreds of people and caused massive economic damage. Because subways, by their very nature, are open and accessible systems, they can be very vulnerable and present a unique threat environment for law enforcement to defend.

Given that fact, the NYPD has taken comprehensive measures to protect the subways as part of a wide-ranging counterterrorism reform put in place over the last 6½ years. We have been helped in this endeavor by the Federal Government, thanks largely to the excellent support and cooperation we have received from the Transportation Security Administration.

With the TSA's assistance, the Police Department has gone from being ineligible for direct participation in the Transit Security Grant program prior to 2007, to having a prominent seat at the table. It is only fitting, given our size and lead role in this crucial aspect of public safety.

I also want to commend TSA's emphasis on cooperative agreements, which allow agencies like the NYPD and our regional partners much needed flexibility in deciding the best mix of equipment and operational strategies to use.

Operation Torch, which is funded by a Transit Security Grant, is a primary example.

Our heightened visibility in the subway system has paid dividends for conventional crime fighting, as well. Daily subway ridership today is the highest it has been in 55 years, in large measure because the system is so safe.

In 1990, there was an average of 48 crimes per day in the subways. Last year, there was an average of six crimes per day. This decline is part of an overall trend in which citywide crime rates have fallen to their lowest level in decades, including a further 26 percent drop in the 6 years after September 11.

Whether above ground or below, we are making our presence seen and felt in different ways, giving would-be terrorists and common criminals cause to think twice. Still, we face many challenges.

During a typical morning rush hour, there are 580 trains in service throughout the subway system. On average, these trains are filled with anywhere from 1,100 to 1,450 people. Obviously, we can't be on every train or in every car at once, so we devised strategies to keep terrorists off balance and increase the risk of detection.

These strategies are informed by the expertise of our Counterterrorism Bureau, which we created in 2002. It has overall responsibility for defending the city from the terrorist threat, and contributes additional personnel and resources to the transit system.

We also draw heavily upon the work of our Intelligence Division, which provides critical analysis of threat information gathered from around the world. We do this with the help of NYPD liaisons stationed in 10 global cities and a team of civilian analysts.

In addition to Operation Torch, the Police Department carries out daily Train Order Maintenance Sweeps, otherwise known as "TOMS." These are conducted through the system every day by two separate teams, each consisting of a sergeant and eight police officers.

They dedicate their entire tour to these sweeps. They board trains that have pulled into a station, ask the conductor to hold it there for approximately 2 to 3 minutes, and conduct a quick security check of every car. On weekends, when ridership is normally lower, we have one team carrying out these TOMS.

Subway stations are also the subject of periodic visits by our heavily armed Hercules teams, working under Operation Atlas. This is our umbrella program for protecting critical infrastructure of all kinds. Similar to Operation Torch, Hercules is manned by officers from the Emergency Services Unit who carry tactical weapons and pay unannounced visits to sensitive sites. Their deployments are determined by our Intelligence Division and based on real threat assessments.

We have created specialized tunnel inspection teams within the Transit Bureau. It is the job of the members of this team to ride the trains, check the rails, and visually inspect the 14 underwater tunnels connecting Manhattan to New Jersey and the outer boroughs for anything unusual.

In July 2005, in response to the bombings of the London underground, the NYPD launched a random search program to check the bags of subway passengers before the enter the system. We establish checkpoints at dozens of different stations each day, and select members of the public for bag inspections based on a pre-determined, non-random formula that removes any possibility of bias. Over the past 3 years, we have conducted approximately 48,000 of these checkpoints.

We also employ non-intrusive detection equipment at many checkpoints, to determine whether or not baggage has come into contact with explosive materials. This procedure, which takes about 12 seconds, involves a chemical swab of a backpack or bag that is immediately tested for explosive residue with a handheld device.

The effectiveness of our bag searches have been supported by prominent national security experts, such as former senior White House Advisor and Coordinator for Counterterrorism, Richard Clarke, who cited them as an important safeguard.

Regarding other modes of mass transit, we assign a minimum of two police officers to every Staten Island ferry at rush hour and additional officers to ferry terminals, which are also visited by our Hercules teams. In addition, we deploy harbor launches to escort ferries and keep watch over the waterways, and we employ scuba divers and specialized equipment to check the hulls of ships. We also assign officers to city buses to deter crime and terrorism. We have placed hundreds of radiation pagers in patrol cars, and we

routinely set up radiation checkpoints at major access points into Manhattan to detect the movement of a nuclear or dirty bomb.

This week, we heard again from al Qaeda's No. 2 leader, Ayman El-Zawahiri. Zawahiri promised new attacks against the West in an audiotape in which he answered hundreds of questions posed by jihadist sympathizers. We have no choice but to take him at his word.

We know al Qaeda has reconstituted itself in the northwest tribal areas of Pakistan. We have every reason to believe they are gathering strength and preparing for such a mission. The only thing we know with certainty is that we can never let down our guard.

Suffice it to say, we welcome and need all of Washington's help to protect mass transit. As I said earlier, we have seen great improvement in this area.

I also want to thank the members of the subcommittee present here today, along with Chairman Thompson and Congressman King, for your vital support in defending this essential component of our infrastructure.

Thank you, very much, for inviting me today.

Ms. JACKSON LEE. I thank the gentleman.

[The statement of Mr. Kelly follows:]

PREPARED STATEMENT OF RAYMOND W. KELLY

APRIL 25, 2008

Chairwoman Jackson Lee. Congresswoman Clark. Thank you for this opportunity to testify. With 36,000 uniformed officers, the New York City Police Department is the largest municipal police department in the country. Our duties include primary responsibility for the security of the mass transit system. We have nearly 2,600 police officers assigned to our Transit Bureau, which is dedicated exclusively to the safety of the subways. If this Bureau were its own police department, it would rank as the fourteenth largest in the country.

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We also draw heavily upon the work of our Intelligence Division, which provides critical analysis of threat information gathered from around the world. We do this with the help of NYPD liaisons stationed in 10 global cities and a team of civilian analysts.

In addition to Operation Torch, the Police Department carries out daily Train Order Maintenance Sweeps, otherwise known as "TOMS". These are conducted throughout the system every weekday by 2 separate teams, each consisting of one sergeant and eight police officers. They dedicate their entire tour to these sweeps. They board trains that have pulled into a station, ask the conductor to hold it there for approximately 2 to 3 minutes, and conduct a quick security check of every car. On weekends, when ridership is normally lower, we have one team carrying out these TOMS.

Subway stations are also the subject of periodic visits by our heavily armed Hercules teams, working under Operation Atlas. This is our umbrella program for protecting critical infrastructure of all kinds. Similar to Operation Torch, Hercules is manned by officers from the Emergency Service Unit who carry tactical weapons and pay unannounced visits to sensitive sites. Their deployments are determined by our Intelligence Division and based on real-time threat assessments.

We've created specialized tunnel inspection teams within the Transit Bureau. It is the job of the members of this team to ride the trains, check the rails, and visually inspect 14 underwater tunnels connecting Manhattan to New Jersey and the outer boroughs for anything unusual.

In July 2005, in response to the bombings of the London underground, the NYPD launched a random search program to check the bags of subway passengers before they enter the system. We establish checkpoints at dozens of different stations each day, and select members of the public for bag inspections based on a pre-determined, non-random formula that removes any possibility of bias. Over the past 3 years, we've conducted approximately 48,000 of these checkpoints.

We also employ non-intrusive detection equipment at many checkpoints to determine whether or not baggage has come into contact with explosive materials. This procedure, which takes about 12 seconds, involves a chemical swab of a backpack or bag that is immediately tested for explosive residue with a handheld device.

The effectiveness of our bag searches has been supported by prominent national security experts such as former senior White House Advisor and Coordinator for Counterterrorism Richard Clarke, who cited them as an important safeguard.

Regarding other modes of mass transit, we assign a minimum of 2 police officers to every Staten Island Ferry at rush hour and additional officers to ferry terminals, which are also visited by our Hercules Teams. In addition, we deploy harbor launches to escort ferries and keep watch over the waterways. And we employ scuba

divers and specialized equipment to check the hulls of ships. We also assign officers to city buses to deter crime and terrorism. We've placed hundreds of radiation pagers in patrol cars and we routinely set up radiation checkpoints at major access points into Manhattan to detect the movement of a nuclear or dirty bomb.

This week, we heard again from al Qaeda's No. 2 leader, Ayman Al-Zawhiri. Zawahiri promised new attacks against the West in an audiotape in which he answered hundreds of questions posed by jihadist sympathizers. We have no choice but to take him at his word.

We know al Qaeda has reconstituted itself in the northwest tribal areas of Pakistan. We have every reason to believe they are gathering strength and preparing for such a mission. The only thing we know with certainty is that we can never let down our guard.

Suffice it to say, we welcome and need all of Washington's help to protect mass transit. As I said earlier, we have seen great improvement in this area. I also want to thank the members of the subcommittee present here today, along with Chairman Thompson and Congressman King, for your vital support in defending this essential component of our infrastructure.

Ms. JACKSON LEE. Let me ask the witnesses if they would indulge the questioning of Commissioner Kelly at this time, as his duties, I understand it, have called him to another meeting.

So, I ask each directly, and I thank you very much for you indulgence.

With that, I yield myself 5 minutes. I would ask all of us to adhere to the time limit on the questioning.

Commissioner Kelly, tell me what would be the fate of this Nation if we failed to emphasize the vulnerabilities and the risks that occur in a mass transit system?

Mr. KELLY. Well, clearly, you know, I can speak specifically about New York City. The transit system here is the lifeblood of New York. Four-and-a-half million people a day travel on it.

If there were an attack on the transit system, I think it's fair to say that the city would ground to a halt. The question is how long. This is, as we have seen occurrences in Israel and other societies, we don't have that experience, and I think it would take quite a while for us to recover.

So, it is vital that we do everything we reasonably can to protect the transit systems, of course not only here in New York, but throughout the Nation.

We are particularly focused on protecting the system. Here, as you see, we devote 2,600 police officers every day to protecting the system.

Ms. JACKSON LEE. So, that——

Mr. KELLY. So, it—it would have a catastrophic effect.

Ms. JACKSON LEE. Because of the continuing seam of the network, then, is it fair to say that there could be massive loss of life?

Mr. KELLY. Well, certainly there would be a massive loss of life, and it would have a catastrophic economic effect, as well.

Ms. JACKSON LEE. Let me pursue. You mentioned a lot of areas where TSA has been effective in the Transportation Security Grants. So, you obviously welcome the idea of particular transit entities being direct recipients of Federal funds through the Transportation Security Grants.

Mr. KELLY. I do. I would welcome even more the enforcement agencies being the direct recipients, but that has changed. We now receive our grants through the State, and I think that is working well.

In 2007, we were able to receive a grant directly, and ideally, that would be my choice.

Ms. JACKSON LEE. In my questioning of Chief Lambert, I will pursue that.

Let's go quickly on to Operation Torch. Could you—the time is short. Could you quickly tell me how you developed the program, what are the protocols for the use of firearms, and was there any coordination with TSA as you developed the program?

As I understand it, it is heavily armed individuals. Of course, I will express my concern as to your perception of the effectiveness of that.

I'd also ask you to respond to the idea of funding to improve your intelligence. Would that not be a better approach?

So, if you'd start with how the program was developed, what are the protocols, and whether TSA was involved, and are you using any of your dollars for intelligence gathering, in essence, to be preventative, as opposed to this approach?

Mr. KELLY. Well, starting in 2003, we put in place our Hercules program, which is a program on the streets of the city, that involves deployment of uniformed officers, heavily armed uniformed officers.

We see this in Europe, but it was really the first of its kind in the United States. It has been very well received by the public.

The Torch program is simply an extension of that concept into the subway system. Certainly, as we discussed this with TSA, it enables us to use some of the money for the personnel costs, the overtime costs, attendant with this program.

Now, Emergency Services officers are, I would say, arguably, the best trained officers that we have in this Department, and perhaps anywhere in municipal policing in the country. Their training consisted—their initial training consists of 6 months of additional training, very specialized training in the use of weapons.

They are emergency psychological technicians. They are all Emergency Medical Technicians. We send them to Federal schools throughout the country. They man our radiation detectors. We are very proud of our Emergency Services officers.

Ms. JACKSON LEE. These are the ones that you use?

Mr. KELLY. These are the ones that staff the Torch program.

Ms. JACKSON LEE. So, their gun training or the gun protocols are what? When are they triggered to use——

Mr. KELLY. Well, they are——

Ms. JACKSON LEE. Because they are traveling among the public.

Mr. KELLY [continuing]. Guided, of course, by all of the restrictions of the New York State penal law and our own internal restrictions, which are the most restrictive firearms policies of any major police department in the country.

As a matter of fact, the number of shooting incidents per contact in New York City is the lowest of any major police department in the country. We are proud of that. I mean, with——

Ms. JACKSON LEE. I——

Mr. KELLY [continuing]. Twenty-two million citizen contacts a year, we can't guarantee that every one of them is going to go——

Ms. JACKSON LEE. My time has expired. If you'd just answer quickly the intelligence question. Are you focusing——

Mr. KELLY. We use——

Ms. JACKSON LEE [continuing]. On intelligence gathering?

Mr. KELLY [continuing]. Parts of this funding for intelligence analysts. We have brought together a group of intelligence analysts—25 of them—that are arguably, again, the best in the country. They are from the top flight educational institutions—Harvard, Harvard Law School, Stanford, military academies. We have brought them together, and I would submit that they are equal, if not surpassing, any intelligence analyst cadre that exists anywhere.

So, we have our own intelligence analysts, but in this program, there is funding that allows for two intelligence analysts, and we are certainly in the process of bringing them on board.

Ms. JACKSON LEE. My time is expired. I yield to the distinguished gentlelady from New York, 5 minutes.

Ms. CLARKE. Thank you, very much, Madame Chair.

To Commissioner Kelly, I just want to pursue the whole issue of Operation Torch. I woke up early this morning to see that it was in effect, and I thought that that was extraordinary.

But, can you elaborate on how the program works, and where the idea came from?

Mr. KELLY. Well, as I say, we have been doing a similar program on the streets of the city.

We—every day, we bring together about 150 police cars, with two officers, on three tours. They rally and they focus primarily in Manhattan. Some of these officers have heavy weapons and are—that component is called the Hercules Teams. So, we have done that. It's met with very positive public response.

This program through Federal funding, Torch, is an extension of the Hercules program that we have on our streets. As I said, it's been very well received. These are the best trained officers that we have in the Department.

Ms. CLARKE. In just listening to your testimony, you spoke about cooperative agreements with TSA, as well as a number of operations. You have Operation Torch. You have Operation Hercules, Operation Atlas. These are grant dependent. Let me——

Mr. KELLY. Some are and some aren't.

Ms. CLARKE. Some are and some aren't.

Mr. KELLY. Right.

Ms. CLARKE. Which of those would you say are grant-dependent?

Mr. KELLY. Torch, right now. But, the Hercules and the critical response vehicles are not. We are doing that mostly on our own dime.

Ms. CLARKE. Okay. So, you know, were we to look at how we strengthen that and make that, I guess, a mainline area of defense for our city, would you say that it is important that the Nation look at that as a protocol for other similarly-situated cities around the Nation?

Mr. KELLY. Yeah. You know, there is a historical reluctance on the part of the Federal Government to pay for personnel costs, to pay for overtime costs. That's the major part of our expense in the New York City Police Department, at least. We put boots on the ground, and we need additional people to go to sensitive locations.

We're a city that's been attacked twice successfully by terrorists. We had six other plots that have been thwarted since September

11. So, we need, in our judgment, the presence of uniformed police officers, and it's a strain on our budget to do it. But we, unfortunately, see no other way to protect the city.

Ms. CLARKE. You know, I guess, one of the things that we are looking at, as we build out the Department, I have had a number of observations where the one-size-fits-all, you know, criteria is a challenge. Every environment across this Nation is a bit different. There are certain things that, you know, certainly can be applied across the board.

But, in looking at building out the Department, do you think it would make sense that we either look at regional approaches to counterterrorism activities, or, you know, enable various jurisdictions to submit to the Department of Homeland Security plans for what they believe is the best way to secure their citizenry and have the Federal Government be a participant in that?

Mr. KELLY. Well, I agree that one size does not fit all. We see ourselves as being unique here, No. 1, because of our size; and second, because of our history here. We are, as Congressman Nadler said, at the top of the terrorist target list.

So, you just can't take a template and move it around the country.

Ms. CLARKE. Well, having said that, when you look at your Department from a purely strategic perspective, how does the NYPD handle counterterrorism differently from other big city departments?

Is it just the amount of funding that you received? Is it in the organizational aspects of the department?

What sets the NYPD apart, and what should other cities and the Federal Government take from that?

Mr. KELLY. Well, I think it's up to other cities and the Federal Government to take a look at New York and see what they think is applicable. Because, I'm not really in a position to say what other cities should do.

Ms. CLARKE. Um-hmm.

Mr. KELLY. But, I can tell you what I believe sets us apart. We have created a Counterterrorism Bureau, the first big city department to do that, in 2002. We brought in top flight professionals with Federal Government experience. David Cohen is our Director of Intelligence, a 35-year veteran of the CIA, former Director of Operations in the Central Intelligence Agency. Our Counterterrorism Deputy Commissioners have been retired Marine Corps Lieutenant General Frank Libutti; Mike Sheehan, a former Assistant Secretary in Counterterrorism at the State Department; Richard Falkenrath now, a former Deputy Homeland Security Advisor to President Bush.

We devote 1,000 police officers a day to our counterterrorism duties. We understand very few police departments can do that.

As I say, we have created a cadre of analysts that, I believe, are second to none. We have officers assigned in ten foreign countries, embedded with police agencies, to ask the New York question. We have them in London, in Paris, in Amman, Jordan, in Singapore, in Canada.

So, we are different. Why are we different? We are bigger, and we see ourselves at the top of the terrorist target list. Now, if

you're in other cities, you may very well have other priorities, and we understand that.

Again, we are just not able to devote the resources that we feel are necessary to be devoted here in New York. So, that is why I just have to caution against saying, hey, we are doing this and other cities should do it.

We see ourselves very much at risk here, and we are going to have to, in my judgment, continue to devote substantial resources, even though our headcount has gone down. We have problems hiring police officers.

Ms. CLARKE. Um-hmm, um-hmm.

Mr. KELLY. We are 12 percent—I mean, we have experienced a 12 percent reduction in the size of the Department from fiscal year 2001 to where we are now. Yet, we are still devoting 1,000 officers to counterterrorism. Why? We believe we have to.

Ms. CLARKE. My time has expired. I thank you, Commissioner Kelly.

Ms. JACKSON LEE. I thank the gentlelady, and yield to the distinguished gentleman, Mr. Nadler, 5 minutes.

Mr. NADLER. I thank the distinguished Chairlady.

Commissioner, you just said that there has been a 12 percent reduction in headcount since 2002. Is that budget authorized, or is that how many people are there, and you haven't kept a full force?

Mr. KELLY. Both.

Mr. NADLER. Both.

Mr. KELLY. Both.

Mr. NADLER. Well, how much is each?

Mr. KELLY. Well, that's—we had 40,800 officers in fiscal year 2001. Right now, as we speak, we are at 35,800.

Mr. NADLER. Authorized.

Mr. KELLY. No. Authorized is—this is complicated. Authorized is 37,800 officers.

What we have done for this fiscal year coming up, for the next fiscal year, is we have taken a temporary 1,000 person reduction in that authorized headcount, because we can't hire them. So, this is helping out the—you know, the budget crunch.

Mr. NADLER. You can't hire because there isn't enough money, or you just can't process them, or——

Mr. KELLY. We can't hire them because an arbitrator lowered our starting salary to $25,100——

Mr. NADLER. You're not going to——

Mr. KELLY [continuing]. A 40 percent reduction in starting salary—so, $25,100 is——

Mr. NADLER. So, there aren't enough people to—there aren't enough recruits.

Mr. KELLY. If you know, you can see the gap that we have, but we're hiring classes of about 1,000.

Mr. NADLER. Okay. Let me switch subjects for a moment.

You said the Federal Government has a bias—I don't know if that's the right word—but a preference against personnel costs.

Mr. KELLY. Right.

Mr. NADLER. What percentage of the antiterrorism budget, if you will, of the Police Department, is personnel costs?

Mr. KELLY. Ninety percent.

Mr. NADLER. Ninety percent. The Federal Government, basically, doesn't fund that.

Mr. KELLY. Basically. You know, there's been some exceptions in the past, depending—it even started 2 years ago, when you had the code levels, and depending on——

Mr. NADLER. Is there——

Mr. KELLY [continuing]. The different codes and what is——

Mr. NADLER [continuing]. In your opinion, any logical reason why personnel costs are disfavored, or should be disfavored, in terms of reimbursement policy, by the Federal Government?

Mr. KELLY. None that I can see. If it's, you know, spent responsibly, with adequate oversight, I see no reason to limit it.

Mr. NADLER. Does this preference—would you say that the 90 percent figure for personnel costs is unique to New York City, or is pretty usual, or——

Mr. KELLY. I would say it's probably across the board. We—our personnel costs, generally speaking, are about 94 percent of our total budget.

Mr. NADLER. No, no, no, but I mean is 90 percent cost of the counterterrorism program in New York typical of what other cities spend on counterterrorism?

Mr. KELLY. Yeah, I'm assuming it is, yes.

Mr. NADLER. So, the Federal disfavor of personnel simply gets the Federal budget contributions to counterterrorism down. There's no particular reason. In other words, we only consider 10 percent of the costs.

Mr. KELLY. Correct. You can only buy so much equipment, you know?

Mr. NADLER. Right.

Mr. KELLY. Our ongoing costs are personnel costs.

Mr. NADLER. So, the only real function of—from the Federal point of view, of making that distinction, is to reduce the perceived necessity of Federal grants.

Mr. KELLY. Perhaps, yes.

Mr. NADLER. Can you think of any other legitimate function?

Mr. KELLY. No.

Mr. NADLER. Okay. Now, you said that the Operation Torch would be made less grant dependent as Hercules is, and that's because——

Mr. KELLY. I'm sorry. Less grant dependent. Torch——

Mr. NADLER. Than——

Mr. KELLY. Torch is a grant.

Mr. NADLER. It is.

Mr. KELLY. It is funded by a grant. But, the other programs are not.

Mr. NADLER. They're not. As you say—and, in other words, you said Hercules is not funded by a grant.

Mr. KELLY. That's right.

Mr. NADLER. Torch is. You anticipate that Torch will be made less grant-dependent. Is that because you anticipate that after a specific time period, the Federal Government will not continue to provide funding for—of personnel, in effect?

Mr. KELLY. Well, this particular program only goes through 2010.

Mr. NADLER. The program or the grant?

Mr. KELLY. The grant.

Ms. CLARKE. The grant.

Mr. NADLER. But the grant might be renewed.

Mr. KELLY. Possibly——

Mr. NADLER. There's a possibility.

Mr. KELLY [continuing]. Yes.

Mr. NADLER. Okay. In general, what is—well, let me just ask one other question.

You have a—there are various means of protection of radiation and so forth, to protect against nuclear materials hopefully coming in—hopefully not coming into the subway system and so forth?

Mr. KELLY. Yes.

Mr. NADLER. Now, there was an article in the recent issue of Scientific American that says that our means of detecting nuclear materials basically don't work. Are you familiar with this article?

Mr. KELLY. I'm familiar with the concept. We have talked about it. I didn't read the article, but——

Mr. NADLER. Could you comment on that?

Mr. KELLY. Well, we believe that there are new, state-of-the-art radiation detection means or equipment coming down the pike and we——

Mr. NADLER. Yeah, we're aware of that.

Mr. KELLY [continuing]. We hope to receive that through the Securing the Cities program, which I believe you're familiar with.

Mr. NADLER. So, these new technologies you think will work much more effectively than the ones we have now.

Mr. KELLY. Yes, we believe, yes.

Mr. NADLER. Do you have a time period or—that you can say publicly as to when we might have them?

Mr. KELLY. We hope to have this program, the Securing the Cities program, which is basically concentric rings around the city, 50 miles out, and coming into the city. Some of the equipment, we have radiation detectors, which are improved versions of what we had a few years ago. We have that, and we are deploying that to other jurisdictions.

But the—kind of the heavy duty radiation equipment will probably be coming in within the next 18 months.

Mr. NADLER. Thank you. My final question is do you regard the Federal grant structure as we have changed it—we've been arguing for years that—I say "we"—the New York delegation, basically, has been arguing for years that the criteria by which Federal antiterrorism grants were distributed were unfair, not based on a real assessment of risks, based on politics, and so forth. We have managed to change that somewhat.

Do you regard the current structure as rational, and reasonable, and sufficient?

Mr. KELLY. It is better than it was——

Mr. NADLER. Right.

Mr. KELLY [continuing]. But it needs to improve, and I certainly give credit to the New York delegation. Because, we have seen improvements, and it hasn't been an easy road. No question about it. But, I think——

Mr. NADLER. So, do you think it needs further——

Mr. KELLY [continuing]. Some people are being dragged, kicking and screaming, to what's a better position.

Mr. NADLER. Okay. I thank you, and I yield back the balance of my time.

Ms. JACKSON LEE. I thank the distinguished gentleman.

As you leave, let me quickly indicate that we will submit additional questions and maybe the same questions, for answers in writing, and we would appreciate, Commissioner Kelly, if your office could work with us on some of the questions.

But quickly, as you leave, I wanted to just determine the mass transit police force is under the NYPD?

Mr. KELLY. That's correct.

Ms. JACKSON LEE. Integrated into it?

Mr. KELLY. For the New York City subway system, yes.

Ms. JACKSON LEE. Is there a number for those individuals? What is the breakout? You gave us 37,000, I believe——

Mr. KELLY. Twenty-six hundred.

Ms. JACKSON LEE. Twenty-six hundred. Do you think that's enough?

Mr. KELLY. Well, I think the department, as a whole, should increase in size. As I said, we are not able to hire up to our authorized headcount.

Ms. JACKSON LEE. You had said——

Mr. KELLY. If we were able to do that, we'd deploy more officers in the transit system, yes.

Ms. JACKSON LEE. My other question is, as you well know, one of our colleagues, Congresswoman Lowey, has been working with all of us on this interoperability.

Do you think you're at the level that you need to be for interoperability, in terms of communication, with the backdrop—the sad backdrop being 2001, and that was certainly one of the issues that was discussed.

Mr. KELLY. I think we are in very good shape, as far as interoperability and the ability to communicate among city agencies, and we are getting there regionally.

But, in terms of operating in the city, under the Mayor's CIMS system—the Citywide Incident Management System—I think we are in very good shape. I think there is some misinformation about what happened in 2001.

I was not in this job on September 11, 2001, but still there's some misinformation. It really wasn't an interoperability issue. Don't get me wrong. The interoperability is a good thing——

Ms. JACKSON LEE. Um-hmm.

Mr. KELLY [continuing]. But there's just—and, we can talk about it at another time.

Ms. JACKSON LEE. We would be delighted to have you talk about it. Obviously, I think, Congress needs to be as informed as it can be, and certainly we viewed it as a crisis, and it was publicly represented, I imagine, that that was a crucial issue.

Your interoperability is funded by the city or Federal dollars? Your improved interoperability.

Mr. KELLY. It's mostly city funds, but a lot of our interoperability is just taking place through the CIMS system, which requires face-

to-face interaction between the leadership elements of various city agencies.

Ms. JACKSON LEE. Let me thank the witness for his testimony, and his presence here today, and his time, and, as well, you have indicated your statement is in the record.

We hope to submit additional questions to your office, and would appreciate your due cooperation as you have already done, in responding to them.

Thank you for your service, and we appreciate the fact of your other responsibilities today.

Mr. KELLY. Thank you.

Ms. JACKSON LEE. Again, thank you.

Mr. KELLY. Thank you very much.

Ms. JACKSON LEE. All right.

To the other witnesses, let me thank you very much. You won't get away as easy. We appreciate the time that you're giving.

So, Secretary Balboni, you are able to present your testimony. If you would, summarize your statement in 5 minutes.

STATEMENT OF MICHAEL BALBONI, DEPUTY SECRETARY FOR PUBLIC SAFETY, STATE OF NEW YORK

Mr. BALBONI. Thank you, very much, Madame Chairwoman. Congresswoman Clarke, and Congressman Nadler, thank you very much for not only your attendance and your dedication, but your focus on this crucial issue as it relates to so many millions of people on a daily basis.

When I first took this job, I looked at the protection of the system regionally, which is exactly what the Department of Homeland Security said we ought to be doing. Essentially, there were four elements that I looked at: One was the identification of vulnerabilities; the second was the means and methods that might be used by the attackers; the third was the training of personnel; and the fourth was the threat and information that could come across.

So, one of the first meetings I had, which was with this gentleman who just left, Commissioner Kelly, I sat in his office, and we talked about some of the vulnerabilities of the system.

Again, three States, seven different counties. When you consider the number of transit systems that run independently, it's about eight, one of the most complex transit systems, as my good former colleague from the Assembly, Congressman Nadler, understands probably as well as anybody in the Nation. So, securing a system that is open, by definition, and as complex and as vulnerable, is a huge challenge.

So, what did we do? Well, the first thing we did, we chose the No. 1 vulnerability. Unfortunately, in a 2006 open source, there was a reference to the New York City PATH System. So, I met with the leadership of PATH, and one of the assets that I have in this directorate is the National Guard. So, what we established for the first time was a bi-State cooperation between New Jersey and New York to utilize National Guard members to do what they call "pop-ups," where they work with police officers to show force and presence on the platforms and, while working with the police, ride the trains.

The second thing we did was a follow-on for the Metropolitan Transportation Authority, that did directed patrols. Essentially, the key in utilization of personnel is force multiplication.

You cannot be everywhere you want to be. Ray Kelly has a huge force, does a terrific job, and 2,600 officers sounds like a lot. Given the length and breadth of the system, it is not enough. He has to rely on outside forces, from the States, from the cities, from the counties.

So, what we did was, we said, basically, if you have a train that is in Croton-Harmon, or is out in Suffolk County, and you are doing a patrol—Nassau County or Westchester—come and actually do the patrol at the train station. Do the step-on/step-off, again showing force. It has been demonstrated time and time again that, in pre-operational surveillance of our attackers, what they can't stand and can't judge is chaos, unpredictability, and that is the use of force effectively.

Another thing we did was we developed a rail freight safety system, where essentially we have taken a look at how freight goes through New York. We have worked with all the freight companies to make sure that there is intelligence—CSX in particular. So, what we have right now is a real-time operational capability of seeing what's on the trains and where they are. So this is, obviously, crucial from a terrorism perspective.

It's also crucial from an industrial disaster perspective. You know, if you have a rail car that goes up in Selkirk, New York, one of the responsibilities I'm going to be charged with is overseeing the evacuation. Well, they key fact that I need to know is what's in that rail car as fast as possible. So, New York State was one of the first States in the Nation to have this CSX program.

The other thing that we did was we took a look at how the National Guard is being used in a form of deployment called "Empire Shield." We were one of the first in the Nation to establish this force. Essentially what it is, is that airports, nuclear power plants, and train stations, you have National Guard members standing watch.

But, what we realized, through the help of TSA, is that after 6, 7 years after the event, they tend to get stale. They do what people do all the time. They talk to one another. They do not patrol.

So, what we are establishing as of May 1, is a brand new capability. We believe this is, again, the first of its kind in the Nation. It's going to be at Fort Hamilton, right here in Brooklyn.

What we are going to do is we are going to pull the National Guard out of the rail stations and the airports, and we are going to use them in a surge capability. We are going to create 24/7 hot start company-sized deployment capability. We are going to use them to go surging in with the police, with Ray Kelly's troops, and with the MTA troops to, again, bring that unpredictability.

But, what we are also going to have is the ability to respond rapidly, leveraging other assets. New York has the Air National Guard, a very unique capability. We have an airlift capability we are going to be utilizing. We have a navy. We have eleven swift attack boats, essentially, that has the ability to offset any of the surge requirements for the New York City Harbor Patrol. Then, we are going to have a chemical company there.

Hopefully, with your support, a second CST—civil support team. We in New York use our CST all the time. I cannot make enough of a pitch to support us in getting that second team.

This capability will be provided regionally. It will help New Jersey. It will help Connecticut. It will help Long Island. It will help Westchester. Help, obviously, the city of New York.

But, the key factor—if I had—if I have had any impact or any influence in the process since obtaining this position, it was in the Regional Transportation Security Working Group. This, as you have mandated, is the group that is supposed to put the funding together across various systems.

Well, when I first got here, frankly, it went like this. The largest of the systems threw up a project, and if it stuck, that's what got funded. The smaller systems almost never got any of the funding. There was not really a sharing of information because it is almost like market share. You don't want to tell your competitors what your vulnerabilities are.

But, what we were able to do was, in secret, classified briefings conducted by the TSA, we essentially looked at all the vulnerabilities and the gaps across the entire system. Kip Hawley, the Chairman of TSA, tells me that we are the first regional transportation work group to do that in the Nation.

What came out of that was the ability to recognize system-wide enhancements—bomb dog teams, behavioral assessment screening teams, counter-surveillance teams. These are the pieces that we must focus on if we are going to use the funding effectively.

When Ray Kelly talks about the personnel issue, what he means is that when you have a bomb dog team—the bomb dog team, the dog is considered capital, the officers who use the dogs are not. That's kind of ridiculous. But luckily, we have been able to change that.

There is more work to be done. I look forward to discussing that in your questioning.

Ms. JACKSON LEE. Thank you.

[The statement of Mr. Balboni follows:]

PREPARED STATEMENT OF MICHAEL BALBONI

APRIL 25, 2008

PUBLIC SAFETY—OUR MOST BASIC DUTY

Thank you, Chairwoman Jackson Lee, Ranking Member Lungren, and Congresswoman Clarke for inviting me to appear before the House Homeland Security Subcommittee on Transportation Security and Infrastructure Protection to discuss securing New York's mass transit systems. My name is Michael Balboni and I am Governor David Paterson's Deputy Secretary for Public Safety. I have day-to-day responsibility for managing the State's homeland security affairs, emergency preparedness and response, and law enforcement activities. In 2006, I was appointed to the United States Homeland Security Advisory Council. In that role, I help leverage the ingenuity and expertise of State, local and tribal leaders to provide Federal Advisory Council members with the best possible advice on a range of homeland security issues.

I am pleased to share with the committee the steps the State of New York has taken with its regional partners to better protect and secure New York City's mass transit systems. Securing a deliberately open system that must move millions of people quickly and easily each day is challenging, but through effective multi-agency collaboration we have made tremendous progress to enhance transit security.

It is well-established that New York remains a top terrorist target. In addition to terrorism, hurricanes, natural disasters and health-related emergencies prove our

need to be ready to care for and protect our citizens. Although nearly 6½ years have passed since the attacks of September 11, 2001, New York State demands sustained excellence in our emergency preparedness plans and homeland security initiatives.

Last year's thwarted plot to ignite jet fuel tanks at JFK International Airport in Queens reminds us that people with very bad intent, if not the immediate means of doing harm, have New York squarely in their gunsights. It was only through meticulous investigation—"boots on the ground" police work—and, most importantly, the ongoing cooperation among law enforcement agencies led by the FBI and New York City Police Department that this plot was uncovered.

This event proves that we must continue to be ever vigilant—from our first responders who are our front line of defense to every citizen in this State. And it is yet another reminder to the public that if you see something suspicious, contact local law enforcement or call the New York State Terrorism Tips hotline at 1–866–SAFE NYS. In New York City, call 1–888–NYC SAFE.

Because threats evolve and maintaining readiness for disaster is a dynamic business, I would like to outline the major initiatives launched by New York State.

We know that terrorists around the world continue to focus on mass transportation targets. New York State has joined with its Federal and local partners to enhance transit security, and we are continuing to make regional rail security more robust by enacting these steps:

- Joint National Guard/Port Authority Police "pop-up" patrols have been implemented on the PATH system. New York State led this effort and worked cooperatively with our security partners at the Port Authority and the State of New Jersey.
- The Metropolitan Transportation Authority has launched a "Directed Patrol" strategy for the region's commuter rail systems (Metro North and Long Island Railroad). Working with local law enforcement agencies in the communities these trains travel through, police officers now regularly visit outlying stations, platforms and parking lots to provide high visibility deterrent patrols.
- New York State Police, the Transportation Security Administration and local police departments in the upstate cities of Syracuse, Utica and Rome are conducting rail passenger screenings at Amtrak stations.
- Rail Freight safety has been improved by working with the private sector. CSX Transportation has provided secure access to State law enforcement and Homeland Security officials regarding near real-time information on its hazardous materials rail movements.
- We are also in the process of establishing a standing New York National Guard "surge" force headquartered at Fort Hamilton in Brooklyn. This new unit will respond quickly to threats in the New York metropolitan area, mobilizing key equipment and manpower to protect critical infrastructure and respond to incidents should they arise.

Additionally, we are enhancing the training for our valiant first responders, who are our State's front line of defense. We are providing threat-based training to hundreds of first responders from across New York State at the State's Preparedness Training Center in Oneida County.

We also have implemented a renewed focus on cyber security. New York State has long been a leader in this field, serving as the lead information sharing and analysis center for all 50 States. Most recently, New York has focused on helping local governments achieve the cyber security necessary to protect the computer control mechanisms of critical infrastructure owned and operated by municipal governments such as dams, water and traffic systems. The New York State Office of Cybersecurity and Critical Infrastructure Coordination also works closely with the MTA on cyber security issues, providing insight on data encryption and other key security measures.

TRANSIT SECURITY FUNDING

The State's efforts culminated in Secretary Chertoff announcing a substantial increase in transit security funding for the New York City metropolitan region in February.

The Secretary announced a fiscal year 2008 award of $153 million, a substantial increase from the fiscal year 2007 grant award of $98 million.

The grant award recognizes that the threat to New York remains of paramount concern and that New York's ridership of mass transit and the economic importance of the system requires increased investment. I would like to thank Congresswoman Clarke, Congressman King, and the entire New York Congressional Delegation for their help in passing a robust fiscal year 2008 homeland security appropriations bill that increased funding for transportation security programs.

The grant also recognizes the incredible partnership of the Regional Transit Security Working Group (RTSWG). This effort—long encouraged by the Federal and State government—views mass transit as a regional issue involving such partners as the MTA, the Port Authority of NY & NJ, New Jersey Transit, the NYPD, Amtrak, TSA, NYC DOT, the States of NJ and Connecticut, the ferry system and Westchester County DOT.

Representatives of these great partners came together to reach consensus on priorities for the 2007 round of funding and worked hard to develop a comprehensive program aimed at addressing transit needs. The NYPD and TSA were added to this partnership effort for 2007. We are extremely proud of the work of the group, which put aside parochial interests and focused on a regionalized approach to mass transit safety.

Investments recommended by the group in 2007 included security cameras, an increase in the number of explosive detection canine teams, specialized training for law enforcement personnel and new explosive detection technologies.

We have always recognized that risk should drive funding decisions and are happy to see that 45 percent of the national share of 2008 transit funds are coming to the New York metropolitan region. This is an important statement of support for the case that we have made to the Nation.

In applauding the Federal Government for that recognition in the context of transit security, I continue to hope that such appreciation and understanding will be applied to all of the Federal homeland security grant programs.

It would also be remiss not to mention another equally important aspect of this transit award that satisfies another suggestion New York and its regional partners have long expressed to the Federal Government, which is that the transit grant programs be permissive in allowing the dollars to be used for personnel costs. We strongly support the committee's efforts to ensure that State and local governments have the flexibility to use grant funds for personnel related expenditures.

Federal dollars should be applied where they are most effective and time and time again we have learned that investing in operational packages related to transit security (VIPER teams, the K–9 teams) are one of our most effective public safety tools.

I am pleased that this grant will allow such investment at a local operational match share of 33 percent, which is less than the 50 percent match required in the 2007 program.

I am proud that Federal DHS has recognized our efforts at the State and city level, but I am most pleased that this grant really recognizes the efforts of the Regional Transit Security Working Group (RTSWG) participants.

It is never easy to bring the various entities of government together but because security is so important, we have succeeded in doing that within the RTSWG concept.

We have built on our success in 2007 with recognition from our Federal partners and a vibrant cooperative effort that will demonstrate a coordinated and robust public security strategy across the three-State metro region.

The Federal Government continues to indicate that as available homeland security resources decline, it is important to develop regional approaches and regionalized security strategies.

The February 1, 2008, announcement was proof positive that New York made its case and is effectively leveraging an important regional partnership. TSA has recognized the value of the RTSWG and rewrote their fiscal year 2008 grant guidance to encourage more grantees to follow the collaborative model New York developed.

I want to commend the partners of the RTSWG for participating in that effort and making New York's mass transit systems safer. I also want to thank Secretary Chertoff and our Congressional Delegation for their continued support to our efforts.

Chairman Jackson Lee, Congresswoman Clarke, and Members of the committee, thank you for giving me the opportunity to discuss New York State's transit security activities. With your support, we will continue to build on the progress we have made to date. I would be happy to answer any questions you might have.

Ms. JACKSON LEE. The gentleman's time has expired. Let me also acknowledge our appreciation to Governor David Patterson. Please give him our regards.

Mr. BALBONI. I will.

Ms. JACKSON LEE. Certainly, in the absence of Commissioner Kelly—we appreciate both of them, Governor Patterson, looking at

his schedule and attempting to be present. But, we also appreciate that he designated such an important witness.

We want to, in his absence, acknowledge that Mayor Bloomberg was trying to change his schedule, as well, but we acknowledge the presence of Commissioner Kelly.

President Little, we are delighted to have you here, and we also want to thank Roger Toussaint for his great leadership in Washington. Again, your presence is very important.

You are now recognized for 5 minutes.

STATEMENT OF JAMES C. LITTLE, INTERNATIONAL PRESIDENT, TRANSPORTATION WORKERS UNION

Mr. LITTLE. Thank you. First of all, I would like to commend the committee, certainly Bennie Thompson and yourself, for your leadership in moving this 9/11 bill, I mean, not only for the shepherding of it, but bringing it to fruition. I think it's so important that we continue to exercise oversight over it.

I think it's one of the strongest security measures ever passed for the protection of surface public transportation and, in addition to that, providing mandatory security training for all rail and transport workers. I thought what I would do is just cover a couple of the salient points that I actually submitted in written testimony.

But, one of the things that I think is very important is the continued oversight. The implementation of the 9/11 Security Bill has made certain that the grant programs are conditioned on the application of 13(c) and also the labor protections of the Davis-Bacon. Despite that, the executive branch has actually done everything possible, especially in the rail and transit programs and guidance it covers, to require its in entirety. So, they have actually taken steps to avoid that inclusion.

I think it's also important that we ensure that the training mandates included in the 9/11 bill are implemented in a timely manner, and that frontline workers are directly involved in the process. We have already missed two steps by the Department of Homeland Security, which failed to reach the deadlines both in Section 1408, which is the Public Transportation Security Training Program, and also Section 1517, which is the Railroad Security Training Program.

We have also seen that in the funding coming up by the President for 2009, the executive branch has taken the position that they are going to reduce the funding for those two types by 85 percent, which they promised on the signing of the bill we would have $1.2 billion for transit and rail, and now that's been reduced to $175 million. Now, that goes to what Commissioner Kelly was saying, the need for proper funding.

Now, the security and emergency preparedness duties, the positions of people on board, such as we represented Amtrak, where we have the cashiers on board for service, these are also people that are obviously trained. They are trained in all different measures of security, including CPR. They handle everything from a nose bleed to being the first-time responders. As soon as there is a budget crisis, the first ones we want to cut is those people, and we want to end up putting in vending machines.

If you looked at the same similarities, we would actually be looking to do the same thing in the aviation, where we see the need to remove flight attendants and put on some kind of a vending machine, which everyone knows that the purpose of having these people on board are not only for to service the passengers, but also there in an emergency situation. I would like to encourage the committee to take a look into that.

We have also learned a lot from what we have experienced in other countries. Certainly what we saw in Spain assured us that, in no uncertain terms, that aviation is not the only vulnerable area. We have seen what happened in the rail.

We have also seen what has happened in London. We have had the opportunity visit London and talk to some of the counterparts in the labor side. We also met with Labor for London Transportation Authority under the Mayor, and one of the things I felt was very impressive is that they haven't looked to reduce manning, but actually increased manning, and they have actually put manning in the turnstiles.

A lot of people we talk about having frontline workers as frontline responders, I think that, to coin a phrase, they are also "preresponders." No matter how many cameras you put and technology into these stations, and they are doing the same thing on the buses over in London, it doesn't take away from the human element. These cameras can decipher and tell where the problem is, but it takes a human to actually do that.

As Ms. Clarke said earlier, I think that there is not one-size-fits-all. You know, the Transport Workers Union, we represent a lot of—130,000 members in a lot of the major transportation areas, both in Philadelphia—in New York City, we have about 38,000 workers within the MTA. We represent the METRO in Houston, also in San Francisco, in Miami. We have frontline workers in the airline side. We are also in the rail.

As Mr. Nadler had mentioned, he talked about Amtrak, and that's the area that I was focusing on, because the first thing Amtrak wants to do, and we fought it once before, was to remove the on-board service people. I included in my testimony some examples of exactly where they have played a vital role for the passengers. Also, as you know, trains move across the country. A lot of times, you are in rural areas and you can't have people that are just serving food and not expect in an emergency to have someone there to help service them.

We ran, again, into the same problem in New York City where, due to budget cuts, the MTA wanted to reduce the conductor. The conductor on a subway train is about mid-ship on the train. They are there to make sure that passengers on board, no one gets caught, and actually for some security measures, and also for eyes and ears for the driver. Yet, that was an area that they wanted to eliminate.

I thought it was very intriguing that when I was in London, even the automated trains, the London for Transport, decided to man them. I talked to one of the personnel on board and I asked him specifically—I says, "Why are you manning an automated train?" He says, "Well, because we believe security is an important piece," he says, "and a lot of time," he says, "I can override the train in

an emergency." He said, "Also, the fact that I'm walking around," he said, "it's eyes and ears and people—it's a deterrent." I think we have to not lose sight of that. We happen to lose sight of having first responders.

The police department can do a lot of things, certainly the task force that the Commissioner talked about. But, having people on board, and just having people that—New York City alone, highly tourist popular. People are in and out of the subway system. It's a viable source of getting around the city. They rely on help.

Yet, by reducing people in those stations, you have actually taken that away. You can't get it from an automated machine. So, I think it's very important that we continue to find ways to improve.

I'm a little disappointed that the—in part of the regulations that are put together, we have Federal regulations for airlines, and we certainly have the ability to put Federal regulations for administration in rail, and yet we fell short of including certain security measures in that. I think that's something that really has to be taken a look at.

I'd also welcome any questions and answers that you may have, and I'm trying to stay within the—the 5-minute rule.

Thank you, very much. I appreciate it.

[The statement of Mr. Little follows:]

PREPARED STATEMENT OF JAMES C. LITTLE

APRIL 25, 2008

The Transport Workers Union of America, AFL–CIO (TWU) on behalf of its 130,000 members in the transportation industry, including airline workers, railroad workers on Amtrak, rail freight lines and Metro North and transit workers in numerous American cities including Philadelphia, Miami, Houston, and San Francisco as well as the MTA workers in New York City, appreciates the opportunity to appear before this committee.

Before I speak to the security threats still facing the industry I would like to commend the committee and its Chairman Bennie Thompson and Subcommittee Chairwoman, Sheila Jackson Lee for the exceptional steps you have already taken to improve transportation security in drafting and shepherding through to passage the 9/11 Security Bill. I think we can say without hyperbole that this bill comprises the strongest security measures ever passed into law for the protection of surface public transportation.

The 9/11 bill's mandatory security training for rail and transit workers; the security funding and the grants to implement this training reverses decades in which this critical component in transportation security has been ignored in favor of well-lobbied, expensive technology that never makes it out of beta testing.

The 9/11 bill further integrates frontline workers into the transportation security umbrella by providing strong whistleblower protection; a requirement that 13(c) transit labor protections be attached as a condition on all grant programs; and requiring an unprecedented degree of consultation and input from labor organizations representing these workers.

IMPLEMENTATION OF THE 9/11 SECURITY BILL

At the same time as we praise the bill, and before I go on to a broader discussion of security needs in the industry, I would be remiss if I did not call attention to the woeful lack of implementation of the 9/11 security bill by the executive branch, especially those parts dealing with rail and transit security.

To date there has been no rulemaking on the implementation of the mandatory security training of frontline workers. And, while there has been program guidance issued on the grant program, this guidance blatantly disregards the explicit language of the law requiring 13(c) transit labor protection and Davis-Bacon prevailing wage protection as a condition of all grant programs. The program guidance we have seen so far omits this requirement entirely.

GRANT PROGRAM COMPLIANCE WITH 13(C)

The requirement for continued 13(c) labor protections was designed by this committee to make certain the grants were designed to implement genuine security improvements, not as a devious way to get around decades-old labor protections. This committee, which was adamant about its inclusion in the legislation, understood that one does not get the wholehearted cooperation of frontline workers needed to make this program work, if one is undermining other protections they enjoy under their labor agreements.

Law and Order does not mean the "law" is whatever the executive branch "orders" it to be. We strongly solicit the committee's assistance in preventing the executive branch from ignoring legislated requirements they don't happen to like—13(c) transit protections and Davis-Bacon in particular.

We are also deeply concerned that the grant program, which we support, is proceeding while the security training program stalls. It would be a great disservice to mass transportation if grants were awarded and spent on other matters before the vital security training of frontline workers even gets underway.

9/11 SECURITY BILL FUNDING

And, before I leave the subject of the 9/11 Security Bill, let me make one more observation. Some people say that no legislative issue in Washington ever goes away. But, with the strong bipartisan agreement around the need to protect our transportation system from terrorism, one might have expected the 9/11 Security Bill to be the exception.

Unfortunately we see in the fiscal year 2009 budget submitted by the President that is not the case. The President appears quite willing to talk about improving security. However, his request for $175 million for public transportation and rail security is 85 percent less than the $1.2 billion promised when he signed the 9/11 bill. It appears that the fight to implement this ground breaking legislation will have to be taken into the budget battle. I want to underscore our willingness to work with the committee to assure full funding for this important measure.

TRANSIT AND RAIL SECURITY

It will come as no surprise to anyone, least of all this committee, that aviation security has received the lion's share of attention and funding. Nor can the explanation lie solely with the horrific attack of 9/11. Even after the terrible attack on the Spanish railroad demonstrated the vulnerability of other forms of public transportation, transit and rail remain far more open to such attacks than does air travel.

Part of the explanation is undoubtedly that airplanes are easier to secure. Unlike transit, for example, passengers do not get on and off airplanes in mid-trip. Hopefully. Air travel lends itself to secure and sterile perimeters.

But the fact that transit and rail travel is difficult to secure, and that it may never be as secure as air travel, does not explain the minimal, and in some cases nonexistent, efforts to improve security for transit and rail passengers.

I believe part of the explanation lies in the culture of Washington. We take more seriously those matters that receive the most attention. Much of that attention is lobbyist-driven. And the degree to which lobbyists call attention to an issue is largely driven by the degree to which it offers U.S. corporations opportunities to profit.

Securing airline perimeters lends itself to expensive hi-tech solutions—various screening and detection devices, biometric identification, etc. It's a small wonder that a Beltway cottage industry has grown up pushing for adoption and purchase of these technologies.

Mass transit security, however, by its nature is more likely to be low-tech, as the committee recognized when it mandated security training for frontline workers. More needs to be done in this area, as I will discuss below.

FRONTLINE WORKERS: THE KEY TO RAIL AND TRANSIT SECURITY

One country that has struggled for years with domestic terrorism is Israel. While their domestic air transportation system consists of only a few flights a day and cannot be compared to ours, they do have an extensive bus system.

In seeing what we could learn from their experience, the TWU was struck by the observation of an Israeli security expert that they relied most heavily on the eyes and ears of the workers on the scene. Israel has apparently developed a highly sophisticated training program to educate bus drivers and other employees on what to look for and how to deal with it as well as a rapid alert system that gets immediate response. In addition, I had the opportunity to lead a transportation delega-

tion to London to visit their transit systems where again we observed, and discussed the benefits of having well-manned facilities at the ticket booths and turnstiles. They have also added frontline workers to their automated light rail system. Like Israel the London for Transport (LFT) has taken advantage of adding more frontline workers for security, and passenger safety. Perhaps these are areas our Homeland Security Department might benefit from studying.

A great deal of attention has been given to the First Responders, those brave souls who are first on the scene of any attack. We need to pay as much attention to the "Pre-Responders," if I can coin a word—those people who are on the scene before an attack occurs and may be able to prevent it from even occurring.

I know I am preaching to the choir here—this committee was first and foremost to recognize the importance of these frontline workers and to mandate their training in the 9/11 bill.

But training is not the only issue here. There is the further issue of having sufficient workers on the spot to observe and react. This is obviously not an issue with a bus where "one bus, one driver" assures there will be someone there. This is not always the case in other areas.

High-speed rail systems like those in New York, Philadelphia, Miami and other mass transit systems represented by the TWU are often the scenes of criminal attacks. Underground subway stations, in particular, seem to lend themselves to this as recent high-profile crimes in Philadelphia's SEPTA system and New York's MTA can attest. And wherever a criminal can strike, there is an opening for terrorism as well.

Cameras in stations are all very well. But a camera cannot evaluate what it sees. There is no substitute for station cashiers who can observe suspicious or hostile activity and report it. Furthermore, nothing so reassures passengers than the presence of a station employee keeping them from being the only living, breathing human being in the station. Passengers themselves are more likely to report suspicious activity to a human presence than through some communication device that may or may not work.

What works against violent crime in these situations, generally works against terrorism—the presence of eyes and ears, training to recognize situations and the ability of workers to react in a positive manner.

Yet many transit systems, driven by the same cost center/profit center mentality prevalent in the private sector, seem intent on replacing as many cashiers as possible with automatic, mechanical fare collection. "Collecting fares?" the argument goes—"a machine can do it."

But this reductionism can prove lethal in a mass transportation setting. Ignoring or defining out of existence the security-related functions of rail and transit workers takes out of play our single best deterrent.

RAIL: ON-BOARD SERVICE WORKERS

The single best example of this is the attempt to replace Amtrak's On-Board Service Workers with privately contracted workers to dispense food and drink. Again the argument is made: "anyone can dispense food. They're just glorified McDonald's workers." Hardly.

On-Board Service Workers are currently required by Amtrak and by law to undergo extensive emergency preparedness training and to be prepared to assist in everything from emergency train evacuations to first aid, CPR and the use of the public address system during train emergencies.

Passenger trains, unlike McDonald's, travel throughout the country—many times in locations where access to Emergency Medical Service personnel may be nearly impossible. On-Board Service Workers are trained as first responders to deal with everything from chemical, biologic or radiological attack to a simple nosebleed.

Over the years, in response to a variety of crises, the National Transportation Safety Board has suggested additional responsibilities to their assignment and recommended Amtrak's implementation, and training.

The record is replete with examples of On-Board Service Workers, members of TWU Local 1460, dealing with emergencies as varied as putting out fires, evacuating trains under bomb threats or after derailments, and providing first aid medical assistance to passengers until help arrived.

We have attached an appendix (Appendix A) outlining this record.

Nonetheless, Amtrak management is sorely tempted by its recurrent financial crisis to cut safety and security corners by replacing On-Board Service Workers with food dispensers. Again, I want to emphasize how short-sighted this would be and how much rail security depends on the presence of these workers who not only see

to passenger comfort in normal times but provide essential emergency assistance when things go wrong.

And unlike airlines where Federal Airline Regulations (FAR's) and Transportation Security Regulations (TSR's) have updated specific rules that apply to aircraft security, Federal Railroad Administration Regulations (FRAR's) and TSR's are behind the times in updating railroad security requirements. This should be addressed.

SECURING VEHICLES WHILE NOT-IN-SERVICE

The other great vulnerability of public transportation systems is through the vehicles themselves. We are familiar with the threat to airplanes while being repaired or stored and protect them with a layered series of perimeters, employee checks and screening systems, both human and biometric. In the aviation industry we recognize that, given sufficient time, a terrorist with access to an aircraft can find any number of places to securely hide explosives or other lethal devices.

Rail and transit vehicles offer no less of an opportunity for terrorism. The difference is that almost no effort is done to secure them from even casual attempts at access.

The Yards

Rail yards are where trains, subways and elevateds are stored when not in service. Whether Amtrak or mass transit, the security is generally the same—a wall, a fence, maybe a little barbed wire for appearances. But workers have to get in or out. There are gates and doors, but rarely with the kind of security protections common where aircraft are stored. Rare is the rail yard where access is limited to those with an electronic swipe card much less anything more sophisticated. Nor are there sufficient guards, cameras, etc. to prevent anyone from leaping a fence to gain access.

Maintenance Shops and Bus Garages

Maintenance shops are better secured than the yards. But not so secure that strangers can't wander in off the streets and walk off with expensive tools, a frequent complaint. There are often locked doors. But that is irrelevant when the openings for buses and trains to enter and leave the shops are generally kept wide open.

In the case of bus garages where buses are constantly coming and going, it may be impractical to keep opening and closing the doors for each vehicle. Especially during load lines vehicle entrances and exits from bus garages must probably be secured by a guard checking IDs to allow access. But rail and transit maintenance shops and storage yards are susceptible to the same kinds of perimeter protections we apply to aircraft.

I strongly urge the committee to look into implementing many of the procedures we use to secure aircraft with regard to rail and transit locations.

SUBCONTRACTING AND SECURITY BREACHES

Further holes are blown in the security perimeter, such as it is, when Amtrak and transit agencies subcontract vehicle maintenance work.

At the MTA, for example, all employees undergo criminal background checks. There is no such requirement of contractors and subcontractors whose employees access thousands of security-sensitive areas of the system.

Then there is the problem of unidentified personnel wandering through the shop, moving vehicles, etc. Allow me to use the Beech Grove, Indiana, shop as an example (See attached letter of April 16, 2008—Appendix B).

Amtrak, like many agencies, has an Employee Security Handbook that seems convincing on paper. The company's handbook requires, for example, that "Vendors and contractors must display their company identification and/or an Amtrak issued temporary identification while on company property" and that "Vendors must be escorted while entering restricted areas."

In the instance described in the attached letter, on April 16, 2008 two unidentified men walked into the shop and attempted to power up a railway car. They displayed no identification and at first refused to identify themselves. They were without the required escort. Then, after saying they worked for subcontractor Image Mark, but without producing any identification and without engaging in any of the basic safety procedures, they powered up the car.

Their ability to wander around the shop unescorted and actually access vehicles displays a gaping hole in security. This time they were subcontractors. Next time, who knows?

The letter indicates this is far from the first time there have been problems with unidentified people wandering around the shop unescorted. Worse yet, these cars are often removed from the property for painting and other similar work. From the

point these cars leave Beech Grove until they return they are entirely open to anyone who wishes to access them for whatever purpose. At times they have sat outside the building at Indiana Rail for days at a time, not locked and with no security whatsoever at the facility (See attached letter of April 9, 2008—Appendix C).

THE CONTRADICTION BETWEEN COMPANY POLICES AND ACTUAL PRACTICE

The Beech Grove, IN example is repeated endlessly across transit and rail properties. It illustrates one of the greatest difficulties in the Department of Homeland Security policing transportation security: there is often a world of difference between what companies say they are doing and what they actually do.

Rail and transit agencies have scores of lawyers who advise them on the publication of safety and security manuals. They may issue numerous memoranda detailing the policies to be observed.

But managers on the ground are driven by a different metric—get the work out! They are evaluated on how well they "make the line" (i.e. provide the requisite number of vehicles to fill the scheduled requirements on time). They are evaluated on the condition of the vehicles and the quality of the work.

They are not evaluated on adherence to security procedures until there is a breach with consequences. Workers and their elected union representatives have hands-on knowledge of the actual security practices on the ground. They, unlike middle level managers who are responsible for implementing these procedures, have no self-interest in covering up failures to comply.

Yet the Transportation Security Administration evaluates rail and transit security on the basis of reports from top level management. This committee wisely required worker input in the 9/11 bill. We need to go further and require that any determination of actual security procedures in the industry include a survey of workers as well as management. And, further, that any discrepancies between the two accounts be addressed in face-to-face meetings as well as onsite evaluations.

MAJOR RECOMMENDATIONS

(1) We encourage the committee to exercise oversight of the implementation of the 9/11 security bill and make certain that all grant programs are conditioned on the application of 13(c) transit labor protections and Davis-Bacon prevailing wage protection.

(2) Ensure that the training mandates included in the 9/11 bill are implemented in a timely manner and that front-line workers are directly involved in this process.

(3) Work to secure full funding for the 9/11 security bill.

(4) The security and emergency preparedness duties of positions like cashier and on-board service workers should be enhanced not eliminated. We should attempt to increase, not reduce, the human presence in stations and on service vehicles. The committee should encourage the requisite (Transport Security Regulations) TSR's to be written and implemented.

(5) As much as is practical, we should apply the lessons and practices of securing aircraft to securing not-in-service passenger rail and transit vehicles.

(6) Any contracting out of passenger rail and transit maintenance work or service must include a requirement of full adherence to all the agencies' in-house security requirements.

(7) Any TSA (Transport Security Administration) determination of actual security practices in mass transportation must include surveys and other input from frontline workers and their union representatives. Discrepancies between their reports and management's should be carefully investigated.

APPENDIX A.—SAFETY, SECURITY, AND SERVICE: JOB FUNCTIONS OF AMTRAK ON-BOARD SERVICE WORKERS

Prepared by Gary Maslanka, Vice Chair of Amtrak Service Workers Council (ASWC)

Part I.—Applicable Federal Regulations

Part 1 provides a listing of various Federal regulations, including FDA Standards that are applicable to Amtrak On-Board Service Workers. Some of these regulations mandate specific training, while others require that On-Board Service Workers both familiarize themselves, and comply with the regulation.

Part II.—Applicable Amtrak Rules & Policies

Part 2 provides a listing of numerous Amtrak Rules and Policies that are applicable to and govern work performed by On-Board Service Workers. Several of these Rules and Policies require specific training, while others require that On-Board Service Workers both familiarize themselves, and comply with the Rule or Policy.

Part III.—Safety, Security & Service

Part 3 provides examples of Amtrak's mandate that the Safety and Security of passengers, employees, and the public are On-Board Service Workers First Priority.

III–A

Part 3–A provides a listing of various Safety & Security training programs that On-Board Service Workers are required to take.

Part IV.—Passenger Service Environment, Not a Fixed Location, Unique in Several Aspects, and Involves Numerous Challenges

Part 4 provides examples of Passenger Train Service challenges which separate Amtrak On-Board Service Worker responsibilities from so-called food service workers outside the passenger rail sector.

IV–A

Part 4–A provides examples of actual emergency situations involving Amtrak On-Board Service Workers.

Part V.—Additional Responsibilities of Amtrak On-Board Service Workers, and Work Environment Issues That Separate On-Board Service Workers From Food Service Workers Outside the Passenger Rail Sector

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PART I.—FEDERAL REGULATIONS

Amtrak On-Board Service Workers, unlike "Food Service" workers outside of the Passenger Rail sector are governed by several Federal Regulations.

1.1

49 CFR 239 Passenger Train Emergency Preparedness

1.6

FDA Regulations

Reference Chapter 15 Amtrak Service Standards

Note 1.—This is not a complete listing of Federal regulations that govern On-Board Service Workers.

Note 2.—Regulation applicability and training requirements, based on On-Board Service Workers specific assignment may apply differently.

PART II.—APPLICABLE AMTRAK RULES & POLICIES

Amtrak On-Board Service Workers, unlike "Food Service" workers outside of the Passenger Rail sector are governed by numerous Amtrak Rules, Policies & Procedures, and On-Going Bulletin Notices providing updated instructions.

2.1

Amtrak Service Standards Manual for Train Service & On-Board Service Employees

Chapter 1 [1]	*Standards of Excellence*
Chapter 2 [1]	*Business Diversity and Strategic Initiatives*
Chapter 3 [1]	*Safety*
Chapter 3A [1]	*Safety Rules for On-Board Service Employees*
Chapter 3B	*Safety Rules for Train Service Employees*
Chapter 4 [1]	*First Aid and Related Emergencies*
Chapter 5 [1]	*Injury / Illness Reporting Procedures*
Chapter 6 [1]	*Emergency Procedure Guidelines*
Chapter 7 [1]	*Public Health Issues*
Chapter 8 [1]	*Employee Support and Awareness Programs*
Chapter 9 [1]	*Customer Service Responsibilities and Standards*
Chapter 10 [1]	*General Rules for On-Train Employees*
Chapter 11 [1]	*National Attendance Policy*

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[1] Policy, Procedures, and Rules directly applicable to On-Board Service Workers.

Chapter 12 [1] *Uniform and Grooming Standards*
Chapter 13 [1] *On-Board Services Crew Functions*
Chapter 14 [1] *Revised Accounting Procedures for On-Board Service Employees*
Chapter 15 [1] *FDA Rules and Inspection Standards*
Chapter 16 *Train Service Crew Functions & Accountabilities*
Chapter 17 *Train Service Accounting Responsibilities*
Chapter 18 *On Train Fare Rules*
Chapter 19 [1] *Communication Systems*
Chapter 20 [1] *Assisting Customers with Disabilities*
Chapter 21 [1] *Unusual Occurrences*
Chapter 22 [1] *Equipment*
Chapter 23 [1] *Service Recovery*
Chapter 24 *Operations Standards Updates Still in Effect*
Chapter 25 *Customer Service Notices Still in Effect*
Appendices
A. Phone Numbers
B. Personal Phone Book
C. Forms
D. Equipment Designs
E. Pass Policy
F. 3-Year Calendar

Note 1.—Employees are required to have the Service Standards in their possession at all times while on duty.

Note 2.—Several chapters of these standards require specific/specialized training. Others, not requiring training require an employee's familiarization and compliance.

Note 3.—Employees are subject to review and audit to ensure they are in compliance with these standards.

2.2

Amtrak Employee Security Handbook

2.3

Amtrak Standards of Excellence

Note 1.—Amtrak frequently cites these Standards when employees are not compliant with rules as a basis for assessing discipline.

2.4

Numerous, Continuously Changing Amtrak Policies

Reference Employee Advisory, 2/14/05, Revising Alcohol and Drug Policy

2.5

Continuous Customer Service Notices

Reference NEC Customer Services Notice 2001–41

2.6

Continuous Service Standards Updates

Reference Service Standards Update 05–03

2.7

Continuous General Bulletin Notices

Reference 3/01/05 Memo to OBS Employees on Sanitation Standards Training

PART III.—SAFETY, SECURITY, & SERVICE

Amtrak On-Board Service Workers are governed by an Amtrak mandate that places the Safety & Security of Passengers and Employees as their first priority.

Safety & Security Are Priority No. 1

3.1

Testimony of Amtrak President & CEO David Gunn before Senate Commerce Subcommittee on Surface Transportation July 10, 2002.

At Page 1, "To begin with, I want to emphasize that the safety of all passengers, employees, trains and facilities is our No. 1 priority."

3.2

Testimony of Amtrak Vice President & Chief Transportation Officer R. Stephen Strachan before House Transportation and Infrastructure Subcommittee on Railroads June 6, 2002.

At Page 1, "To begin with, I want to emphasize that the safety of all passengers, employees, trains and facilities is our No. 1 priority."

3.3

Amtrak's Standards of Excellence—Safety

At Page 1–4, "Amtrak's highest priority is the safety and well-being of our employees and passengers. You are essential in achieving that goal. As an Amtrak employee you can begin by being sure you understand and comply with all safety requirements related to you position."

Note 1.—Both the testimony of Amtrak's Senior Level management and written Amtrak Policy make clear that the First Priority of On-Board Service Workers is the Safety and Security of passengers and employees alike.

Note 2.—Amtrak enforces these standards vigorously and subjects On-Board Service Workers to stringent discipline, including lengthy suspensions and dismissal when these standards are not complied with.

3.4

Amtrak's Employee Security Handbook

At Page 1, "The Amtrak Employee Security Handbook summarizes the basic security policies, procedures and protocols that all employees must either comply with or be aware of."

Note 1.—This Employee Handbook covers a wide range of security issues from parking facilities to bomb threats and chemical biological and radiological threats, and instructs employees on their responsibilities in each of these areas.

3.5

Amtrak Security & Safety Updates

Examples:

- 10/26/01—Addressing handling of USPS mail due to anthrax poisonings,
- 2/14/03—Taking precautions during trying times,
- 3/18/03—National Terrorist Threat level raised.

Note 1.—Information and instructions concerning security and safety issues is continuously updated at which time On-Board service Workers are provided notification and instructed to react accordingly, following numerous and varying instructions and protocols.

3.6

Amtrak Safety Instructions

Examples:

- 10/03/01—Personal Safety/Security Alert,
- 10/26/01—Handling encounters with suspect packages and substances,
- 10/30/01—Procedures for use, removal, and disposal of protective gloves.

Note 1.—Amtrak safety instructions are issued on an on-going basis to On-Board Service Workers who must familiarize themselves with, and comply with such instructions.

3.7

Operations Standards Advisories

Examples: 10/23/02—Security and Safety Awareness On-Board Trains.

Note 1.—Amtrak Operations Standards Advisories are issued on an on-going basis to On-Board Service Workers who must familiarize themselves with, and comply with such advisories.

3.8

INS–9 Forms (Employment Eligibility Verification Form)

Employees are required to complete, and keep updated INS–9 forms providing specific forms of identification.

Note 1.—An employee's failure to complete these forms and provide the required identification may result in the employee being withheld from service.

PART III–A.—EXAMPLES OF TRAINING REQUIREMENTS ON SAFETY & SECURITY

Amtrak On-Board Service Workers are subjected to take various types of training concerning Safety and Security on an on-going basis. Outlined below is a list of examples that is not intended to provide every training program On-Board Service Workers are required to take.

Emergency Preparedness Training (PREPARE)

Reference—Amtrak's Passenger Train Emergency Preparedness Plan and PREPARE 2000 Emergency Training documents, and Service Standards Manual.

Reference—NTSB Report on April 18, 2002 Amtrak derailment in Crescent City, Florida. Page 34—PREPARE Training requirements.

Employee Security Training

Reference—Amtrak's February 10, 2005 Security & Safety update announcing newly developed system security training.

Chemical, Biological, & Radiological Training

Reference—Amtrak Chemical, Biological, and Radiological Emergency Response document (February 2003).

First Aid/CPR Training

Reference—NTSB Letter to FRA (9/16/98) outlining R–93–23, resulting in training for all On-Board service Workers in the areas of emergency operating rules, First-Aid and CPR, and the use of Public Address Systems, and Service Standards Manual.

General Safety Training

Reference—Amtrak Service Standards Manual.

Customer Service Training That Includes Numerous Passenger and Employee Safety & Security Issues

Reference—Amtrak Service Standards Manual.

Public Health Issues Training (Food-Borne Illnesses, Communicable Disease Procedures, and Blood-Borne Pathogens Exposure Plan)

Reference—Amtrak Service Standards Manual.

On-Going Instructions and Training With Respect to Safety

Reference—NTSB Letter to FRA (9/16/98) outlining R–91–71, resulting in instructions to On-Board Service Workers to periodically inspect passenger seats.

PART IV.—PASSENGER SERVICE ENVIRONMENT, NOT A FIXED LOCATION, UNIQUE IN SEVERAL RESPECTS, AND INVOLVES NUMEROUS CHALLENGES

The operation of Passenger Train Service involves conditions that are both unique and challenging, thus subjecting On-Board Service Workers to elements that are not present in other so-called food service functions outside of the Passenger Rail sector. Outlined below are only a few examples.

4.1

There have been 181 documented terrorist attacks worldwide from 1998–2003 resulting in 431 deaths and thousands of injuries. The continuing threat of terrorism (Madrid Spain Bombing/Japan Chemical Attack) require extraordinary prevention measures that On-Board Service Workers are required to receive training for and exercise on a daily basis.

Reference—Homeland Security Update No. 02–13 (10/24/02). Outlines reporting that al Queda is targeting the U.S. Railway sector.

4.2

Terrorism and Rail Security—Jack Riley

Reference—Testimony presented to the Senate Commerce, Science and Transportation Committee on March 23, 2004. Rand Corporation, CT–224.

4.3

Unfortunately Train Accidents do occur, and involve serious injuries and fatalities, which subject Passengers and On-Board Service Workers to considerable risks, and further demonstrates the responsibilities of, and need for On-Board Service Workers.

Reference—Amtrak Accidents 1980–2003, as reported by the National Transportation Safety Board.

Reference—Amtrak Train Accidents 1980–2003, as reported by the Federal Railroad Administration.

4.4

Passenger trains, unlike a restaurant, or other fixed locations, travel throughout the country, in many locations where access for EMS personnel may be extremely difficult making it essential for On-Board Service Workers to be highly trained to assist until EMS crews arrive at the scene.

Reference—NTSB Report—Derailment of Amtrak Train No. 12 on Portal Bridge (11/23/96). Page 6—The first ambulance arrived at the scene 47 minutes after the initial notification.

Reference—FEMA Report USFA–TR–143 (9/02) on derailment of Amtrak's California Zephyr train on March 17, 2001. Page 4—Key Issues—Access was extremely limited due to the remoteness of the accident site.

Reference—Emergency Net News "DEADLIEST TRAIN CRASH IN AMTRAK HISTORY KILLS 44" Article on the derailment of Amtrak's Sunset Limited.

"According to survivors, it may have been as much as forty-five to fifty (45–50) minutes before anyone arrived at the scene to begin the rescue efforts."

PART IV–A.—EXAMPLES OF ACTUAL EMERGENCY SITUATIONS INVOLVING AMTRAK ON-BOARD SERVICE WORKERS

Amtrak On-Board Service Workers are, on an ongoing basis confronted with the potential for emergency situations that require their taking appropriate action to protect the safety and security of passengers and employees on-board during a trains operation. Outlined below are just a few examples of instances where On-Board Service Workers have been involved in emergency situations.

December 1989 Bomb Scare Threat Aboard Train No. 19

Reference—February 21, 1990 letter to Ms. J.C. Frederick Thompson recognizing this On-Board service Worker for the safe evacuation of passengers during the bomb scare threat.

October 18, 2004 Fire Aboard Amtrak's Lake Shore Limited Train Near Toledo, Ohio

Reference—Nomination of On-Board Service Worker Raymond Farris for his actions in protecting the interests of On-Board crew members and passenger during a fire on-board the train.

April 18, 2002 Auto-Train Derailment—Crescent City, Florida

Reference—Daytona Beach News Journal: Special Reports, April 19, 2005

"Reggie Jackson Jr. was working as an onboard attendant in one of the sleeping cars when the train derailed.

"The tracks had come loose, like thread. They were turned all different ways, and the wood was shattered," said Jackson.

"He climbed on top of a car where he had heard screaming and popped open windows to help passengers to safety.

"James Pierce, also an onboard attendant, was working in another sleeping car when the accident took place.

"It felt like it was sliding to the left and suddenly it just toppled," said the onboard attendant.

"Pierce, 39 of Huntington, MD, said he grabbed hold of the curtains and within seconds found himself hanging from a perch.

"After the train came to a stop, Pierce said he pulled out the emergency window and began pulling people out of the cabin. He handed out bandages to people with cuts and bruises."

May 2001 California Zephyr Derailment—Iowa

Reference—Presidents Safety & Service Awards—Jimmie W. Coleman Award for Excellence.

"A particular noteworthy example of Jimmie's extraordinary commitment to customer service is his effort after the derailment of the California Zephyr as train No. 5, in Iowa in May of 2001. Jimmie was working two coaches, both of which went on their side. There were numerous injuries in his car, and in spite of the difficulties, he assisted more than 80 passengers to evacuate and then provided them with comfort and assistance until medical personnel were at the scene. Many passengers at the hospital singled him out for his calm and gracious manner, even under the harrowing conditions. What was perhaps most amazing was, in spite of his own bruises and cuts, Jimmie made his next trip without missing 1 day of work".

November 26, 2003 Texas Eagle Grade Crossing Accident, Poplar Bluff, MO

Reference—Presidents Safety & Service Awards—James C. Adams Award for Valor.

"On November 26, 2003, James was working aboard the Texas Eagle, train No. 22, when it was involved in a grade-crossing accident near Poplar Bluff, MO. As a result of the accident, a truck was hit and landed on its side. After first assessing and ensuring the safety and well-being of his sleeping car passengers, James rushed to the side of the unsteady vehicle. Ignoring the strong smell of diesel fumes and a risk of explosion, he carefully but quickly climbed over the truck's large tires, up the vehicle's side and kicked out the windshield. Reaching through the shattered glass, he grabbed the driver and pulled him through the window. He maneuvered him through the opening, away from the metal and glass debris, and carried the driver to a safe area."

On-Board Fire/Emergency Medical Situation

Reference—Presidents Safety & Service Awards—Lisa A. Castillo (Service Attendant), & Doug G. Wheeler (Service Attendant)

"Several years ago, when a small fire was discovered onboard, Lisa extinguished it calmly and immediately. Another time, a guest needed the Heimlich maneuver, but he was too big for Lisa to apply it effectively. She called out for Doug, who ran from the other end of the car and resolved the situation."

PART V.—ADDITIONAL RESPONSIBILITIES THAT AMTRAK ON-BOARD SERVICE WORKERS ROUTINELY CARRY OUT THAT SIGNIFICANTLY SEPARATES THESE WORKERS FROM FOOD SERVICE WORKERS OUTSIDE OF THE PASSENGER RAIL SECTOR

5.1

Work Schedules—Long Hours, Away From Home, Unpaid On-Duty Time
Reference Position Bulletins
Reference Trip Report 6/06/99

5.2

Service Animals
Reference Standards Update 05–07

5.3

Passenger Car Watering/Point of Water Sanitation
Reference May 27, 2003 Memo

5.4

On-Board Service Standards—Uniforms, Grooming, Badges
Reference May 23, 2003 Memo

5.5

Americans With Disabilities Provisions
Reference Bulletin outlining Rule #0003

5.6

Meal Check Procedures
Reference NY Crew Base Meal Check Procedures

5.7

Uniform Standards & Requirements
Reference July 20, 2004 Service Advisory

5.8

On-Going Customer Service Training
Reference September 30, 2003 Memo to On-Board Service Employees

5.9

Environmental Training
Reference Environmental Training Course Form

5.10

Crew Luggage Identification Tag Requirements
Reference Service Advisory 04–23

5.11

Transportation Department Review System
Reference 5/31/05 OBS Review Form

5.12

Annual Safety Plans
Reference 2004 Mid-Atlantic Division Plan Document

5.13

Food Temperature Monitoring Requirements
Reference Draft LSA Temperature Monitoring Report

5.14

Employee Training Delivery
Reference December 7, 1992 Letter—David C. Irish, HDR Training
Note.—In addition to being required to take on-going training, Amtrak On-Board Service Workers deliver various training programs.

APPENDIX B.—LETTER FROM GARY MASLANKA TO VINCE NESCI

April 9, 2008.

Mr. VINCE NESCI,
Chief Mechanical Officer, National Railroad Passenger Corporation, 4001 Vandever Avenue, Wilmington, DE.

SUBJECT: Beech Grove

DEAR MR. NESCI: This is in reference to Amtrak's outsourcing practices at the Beech Grove Shops and a follow-up to previous correspondence concerning High Level Sante Fe (Parlor) cars.

As stated in my letter dated April 1, 2008 members of the Beech Grove committee worked diligently to demonstrate that they could complete the paint work on this series of cars well below the initial quote of 400 hours. Beech Grove management's response, with no reasonable explanation was that the work would not be performed at the Beech Grove facility. I also pointed out that consistent with management's decision to outsource this work car 39975 was shipped to Indiana Rail to be painted by vendor Image Mark.

Since car 39975 was shipped to the vendor we have monitored its handling. Our information indicates that this car also incurred unnecessary delay, for the same reasons outlined in my April 4, 2008 letter concerning Superliner 1 coach 31014. Much the same as coach 31014, it is our understanding that car 39975 was shipped on March 28, 2008, was initially delayed due to the vendor not having space in a shop to paint it. Then the vendor made a decision to paint it outdoors resulting in the need to remove the first paint application and repaint the car.

For the same reasons outlined in my April 4 letter it is quite obvious that management's outsourcing practices are resulting in avoidable delays to equipment currently being overhauled at the Beech Grove Shops. In this particular situation it is further worthy to note that Beech Grove management has asserted, as an excuse for outsourcing that there is a very tight time schedule for the work on this series of cars being completed.

In addition to delays that could have been avoided by this work being performed at the Beech Grove Shops, the handling of both these cars, the Superliner I (31014) and High Level Sante Fe (Parlor) 39975 raise another concern with respect to security. As pointed out, both of these cars required a second paint job, both requiring that the initial application of paint to be removed and paint preparation work for the second application.

During this process observations were made that indicated the crew employed to remove the initial paint application was not just the normal crew, but also a much larger crew of workers. Although we are unable to confirm at this point, the possibility that there were numerous temporary workers employed by the vendor to perform the work of removing the initial paint application appears likely. In this regard, and as you are well aware, the issues of safety and security are of the utmost importance.

Inasmuch, and as it should, the possible employment of temporary workers not only raises questions with respect to qualifications to perform certain work, it raises serious questions concerning security, including but certainly not limited to the following:

(1) Do vendors that have access to Amtrak equipment require any type of security clearance?

(2) Do temporary workers hired by a vendor require any type of security clearance?

(3) What measures, if any, are employed by Amtrak to ensure the security of equipment from the point it is shipped from the shop to a vendor until its return?

(4) Does Amtrak's current security program govern any of these concerns?

Your attention in these matters, and assistance in providing answers to these questions would be appreciated.

Sincerely,

GARY MASLANKA,
International Vice President, Director, Railroad Division.

APPENDIX C.—LETTER FROM GARY MANSLAKA TO VINCE NESCI

April 16, 2008.

Mr. VINCE NESCI,
Chief Mechanical Officer, National Railroad Passenger Corporation, 4001 Vandever Avenue, Wilmington, DE.

SUBJECT: Beech Grove—Security Concerns With Contractor Employees

DEAR MR. NESCI: I am once again writing with regard to security issues at the Beech Grove Shops. As you may recall, I sent you a letter on April 9, 2008 concerning this matter which, to date you have not responded to. Subsequently, on April 16, 2008 an incident occurred in the Trim Shop at Beech Grove that highlights Amtrak management's failure to properly adhere to company policies governing security.

BEECH GROVE INCIDENT (Trim-Shop)—APRIL 16, 2008

At approximately 12:30 a.m. on Wednesday April 16, 2008 TWU member Mike Unger who was working in the Trim Shop observed two strangers walking through the shop. In that he had never seen these individuals in the past he approached them as they were attempting to power-up car 34058. Upon approaching them he took note that they were not displaying any type identification or wearing required safety glasses and hearing protection. When he asked who they were with, and what they were there for, initially these individuals just ignored him. Upon questioning them again they responded in a rude manner asserting that they did not have to tell Mr. Unger who they were or anything at all. Then they stated they were from Image Mark, further making unnecessary comments to the effect, the guys you hate. Before even entering the car to check to see if any Amtrak worker was in the car or to properly check circuits these individuals hooked the power to the car.

The above referenced incident not only raises issues with respect to security and safety, it also raises a concern about the behavior of contractor employees creating a hostile work environment.

Security

With respect to security, as we have brought to management's attention in the past, contractor employees are permitted to roam around the shops with no identification. Inasmuch, Amtrak workers in the shops at times have no idea who these contractor employees may be, or if they pose any type danger to their well being. Simply put, this is unacceptable.

Likewise, this incident points directly to Amtrak management's failure to ensure the security of its workforce by establishing, providing guidance on, and enforcing a clear and understandable security policy. To make this point clear outlined below are references to Amtrak's Employee Security Handbook and Policy governing Employee Identification Cards dated December 12, 2006—P/I Number 3.15.0.

Amtrak Employee Security Handbook.—Amtrak's Employee Security Handbook sets forth certain requirements for vendors and contractors entering onto Amtrak controlled property, as follows (Excerpt from Amtrak Employee Security Handbook):

"VENDOR AND CONTRACTOR SECURITY—PAGE 16 Security Handbook

"Vendors and contractors entering onto Amtrak controlled property must have a valid form of photo employee identification with specific employee information.

- "Vendors and contractors must display their company identification and/or an Amtrak issued temporary identification while on company property.
- "Vendors must be escorted while entering restricted areas.
- "All vendors and contractors must sign in with Amtrak Police and/or security officer prior to entering any Amtrak facility, when applicable.
- "Vendors working on or near the right of way must receive Right of Way Protection Training,
- "Vendors and contractors are not permitted to park in restricted areas without permission from the facility manager or Amtrak Police.
- "Vendor and contractor vehicles are subject to search by Amtrak Police."

As outlined above, Amtrak's policy requires that vendors and contractors must display valid employee identification when on Amtrak property. These contractor employees had no such identification and were roaming the shops unaccompanied by any Amtrak personnel, indicating that requirements in the Security Handbook are being treated as more of a paper exercise, not a policy that is being enforced by Amtrak management.

(Excerpt from Amtrak's Employee Identification Card Policy:)

"EMPLOYEE IDENTIFICATION CARD POLICY—December 12, 2006 3.15.0
"6.0 EMPLOYEE INQUIRY PROGRAM
"6.1 *Non-display of Identification*.—Employees are to approach any individual not displaying authorized identification and request to review their identification in a business-like and professional manner. If authorized identification is produced, remind the individual that corporate policy requires that an individual must display their identification above the waist level and must be visible at all times.
"6.2 *Individuals Without Identification*.—If an employee approaches an individual who does not possess an authorized form of identification, or their authorized form of identification is not valid (ex. expired), inquire as to their purpose in the area. Accompany the individual to an exit and notify a supervisor who will assure proper processing through an escort, if warranted.

The above referenced excerpts from Amtrak's Policy (3.15.0) again point to a requirement that contractor employee's display authorized identification. In addition, this policy sets forth an Employee Inquiry Program directing Amtrak employees to approach any individual not displaying authorized identification. In this case employee Unger did just that, and was confronted with a rude response. This incident, the likes of which could easily lead to a hostile work environment could have, and would have been avoided if Amtrak's management properly complied with and enforced its own policy.

Amtrak Standards of Excellence

The incident referred to herein also raises a concern with respect to the applicability of Amtrak's unilaterally imposed "Standards of Excellence". In particular—Professional and Personal Conduct.

(Excerpt from Amtrak's Standards of Excellence:)

"PROFESSIONAL AND PERSONAL CONDUCT—PAGE 8
"Projecting a professional image is important in a customer-service business like ours. We make an impression by the way we look, the way we act and the way we treat our customers and each other.
"Conduct
"On the Amtrak team, there is no place for activities or behaviors that compromise the safety, satisfaction and well being of our customers, the public or our fellow employees. Therefore, boisterous conduct such as fighting, rudeness, assault, intimidation, horseplay and using profane or vulgar language is unacceptable. It is important to remain calm and be courteous to all customers, even those that may be difficult at times."

The fact that these contractor employees were rude to Mr. Unger when he approached them points to contractor employees on Amtrak property not being held to the same standard as Amtrak workers. Amtrak management's permitting contractor employees to act outside the requirements of standards Amtrak workers are governed by is completely unacceptable. Moreover, contractor employees being permitted to act outside these standards places Amtrak workers at a disadvantage and presents the potential for the safety and well being of Amtrak workers being compromised. Inasmuch, I am requesting that Amtrak promptly pursue measures that will in the future prevent situations such as this which subject Amtrak workers to inappropriate behavior from contractor employees.

Safety

The incident referred to herein also raises serious concerns with respect to safety. As just one example, contractor employees arriving in the shops and powering-up equipment without even knowing if Amtrak workers may be in, on or about the equipment presents a serious safety risk to Amtrak workers. Likewise, and as I stated in my April 10, 2008 letter, management's permitting these contractor employees to enter the shops and remain in the shops without the required safety apparatus points to a different set of standards for contractor employees that is unacceptable. Moreover, Amtrak management's condoning this type of behavior from contractor employees is certainly not consistent with Amtrak's Standards of Excellence.

(Excerpt from Amtrak's Standards of Excellence:)

"SAFETY—PAGE 5

"Amtrak's highest priority is the safety and well being of our employees and customers. Your help is essential in achieving that goal. You can begin by being sure that you understand and comply with all safety requirements related to your position. In many instances, it may be a matter of using plain common sense.

- "Familiarize yourself with and obey safety guidelines pertinent to your department or craft. They contain wisdom gained from the experience of others who have come before you.
- "Use only company-approved or company furnished tools and equipment. Safety glasses, aprons, gloves, hardhats, etc. are provided for your protection; use them when required.

"Working safely is required of all employees, regardless of position."

As outlined in the above referenced excerpts from Amtrak's Standards of Excellence, Safety is stated to be the highest priority. However, permitting contractor employees to perform work at Amtrak facilities not in compliance with these standards is not only inconsistent with these standards but presents and undue risk to Amtrak workers. As you are aware, my letter to you on April 10, 2008, yet to be answered, outlined several issues relating to Amtrak's application of policies to contractor employees. The incident outlined herein verifies that my requests for Amtrak to either apply Amtrak's standards to contractor employees, or enforce these standards with respect to contractor employees has fallen on deaf ears.

As asserted in Amtrak's Standards Safety should be the highest priority. Unfortunately however, the incident on April 16, 2008, especially when considering these problems were just brought to your attention less than a week ago tells a different story. Inasmuch and in interest of safety, please consider this an urgent request from this organization for Amtrak to promptly require contractor employee compliance with Amtrak's security and safety policies when in Amtrak facilities.

Also, with respect to security, as outlined below I am restating the same questions I presented in my April 9, 2008 letter which has not received a response.

(1) Do vendors that have access to Amtrak equipment require any type of security clearance?

(2) Do temporary workers hired by a vendor require any type of security clearance?

(3) What measures, if any, are employed by Amtrak to ensure the security of equipment from the point it is shipped from the shop to a vendor until its return?

(4) Does Amtrak's current security program govern any of these concerns?

Your prompt attention in these matters would be appreciated.

Sincerely,

GARY MASLANKA,
International Vice President, Director, Railroad Division.

Ms. JACKSON LEE. The gentleman's time has expired.

Let me acknowledge Mr. Nadler, Congressman Nadler. We thank you very much for your presence here today and your service. I know that we will be working together on these issues in Washington. Thank you.

Let me thank you, Mr. Little, for your testimony, and I am delighted to recognize Chief Thomas Lambert, to summarize your statement, Chief Lambert, for 5 minutes.

STATEMENT OF THOMAS C. LAMBERT, SENIOR VICE PRESIDENT AND CHIEF OF POLICE, METROPOLITAN TRANSIT AUTHORITY, HARRIS COUNTY, TX

Mr. LAMBERT. Madame Chair, members of the committee: Thank you. I refuse to accept that you are not truly tied to Texas.

Ms. JACKSON LEE. You are absolutely right.

Mr. LAMBERT. Thank you for your leadership and the opportunity to appear this morning.

I'm going to really quickly summarize, I think, some points. You have heard a lot of great information about the importance of transit security, and I think the real value that transportation brings to our communities.

As Commissioner Kelly said, transportation is really the life blood. If it goes away, our cities shut down, our economic vitality shuts down. So, the importance, we have got to make sure is that we are focusing on the safety and security of our systems and the people who operate those systems.

We applaud the Transportation Security Administration for really focusing on aviation security after the attacks of September 11. Clearly, that was the method of the attack, and we think they took the right approach. But we believe now the time is to get more money to securing our mass transit systems.

Madame Chair, as you said, 34 million people a day use public transportation systems across this country. We believe that you compare that to the number of folks using commercial aviation, although important, we believe that we need to be investing more funds into securing our mass transit systems across our country.

I want to applaud Administrator Kip Hawley. You have heard me say this before. We had an opportunity, a group of transit police chiefs and security directors—Commissioner Kelly has a member of his staff that's on the peer advisory group—had an opportunity meet with the Administrator, and basically made it very clear we were not pleased with the approach that TSA was taking by not involving the industry.

Now, to his credit, he's the one that set up the peer advisory group. We now work with him monthly, with conference calls. There is a great relationship that exists because nobody's feelings get hurt if we really raise issues we all need to be talking about. So, I want to compliment the Administrator for that.

However, as Mr. Little said, we are concerned we are not getting enough money. Congress has allocated, under House Resolution 1, some funding that should be coming to mass transit security. By the President's budget for fiscal year 2009, he's only proposing $175 million, compared to $400 million that Congress said should be going. Under the House 9/11 Commission Recommendation Act of 2007, Congress said we ought to be looking at $750 million authorized for transit and security. We are clearly not at that point.

Several points I'd like to make. One, we believe funding should go directly to the transit systems. The Federal transit administration has a program that's been in existence a long time, where funds go directly to transit agencies. They are accountable to make sure they are providing the services that they are getting the funds to do, and that by steps the process that we think slows down the process.

We believe that there is a difference. There's Tier 1 systems and there are Tier 2 systems. Although the Houston region is a high risk vulnerability area, and the City of Houston and the Port of Houston are Tier 1s, the transit system is a Tier 2. We think that there is some disconnect.

So, when you are looking at vulnerability in transit systems operating in an environment that's high risk, the transit system should also be considered high risk in how we are approaching that. So, we think there should be some clarification to how the tier approach is going. We recognize vulnerability. We believe we ought to be looking at making sure that consequences, threat, and vulnerability is important when we are at a priority of how we are doing

funding, but we think it's very important that that looks at the entire region one is operating in.

We also believe that, as the Commissioner said, as the Secretary said, as Mr. Little said, it's not just capital dollars. We think there should be some operating costs associated with providing for people that have to be out there to provide the service. That's not to say we don't believe in technology, because we do. Houston METRO has invested a lot of money in technology and will continue to do so. But, we have got to make sure that technology stays up with the real world, that it's got some flexibility, where there's intelligence that lets people that can then take that information and make good operational application of what we need to be working on. So, we think that's very important.

The VIPR teams, I think, are the perfect example. If we could use operating dollars to put more officers on overtime, more visibility, as well as more plainclothes, in the VIPR model, we believe that that does, as the Secretary said, basically puts the chaos where people don't know where we are out there and what we're doing. We think that's very important.

So, we believe that we have got good tools, we have got good approaches. We just think there needs to be more funding. Last but not least, front line transit employees.

If you want to know what goes on in a transit system, talk to a bus operator, talk to a rail operator, talk to a maintenance employee, because they will tell you want's going on. So, the more we train them, the more we make them more aware of their role, their opportunity to benefit, the more important we are in securing our systems, and our communities, and our country, and we think that's something good for us all.

So, Madame Chair, thank you again for the opportunity to appear this morning. I really look forward to working with you and your committee, and Congress, and working with TSA.

Again, we applaud TSA. We think they have done things that they believe are the right thing to do. We want to be very open with them to do more. We just believe that more funds should go to transit security in our Nation's transit systems, and we look forward to working with Congress and TSA to make sure that that occurs.

Thank you.

[The statement of Mr. Lambert follows:]

PREPARED STATEMENT OF THOMAS C. LAMBERT

APRIL 25, 2008

Good Morning Chairwoman Jackson Lee and members of the committee. I thank you for the opportunity to speak before this committee on the extremely important issue of transportation security as it relates to mass transit systems in our great Nation.

As the Senior Vice President and Chief of Police of Houston METRO, the transit agency for the Houston region, I have first hand knowledge of the challenges of securing a transit system in a high-threat metropolitan area.

Let me start by saying that we in the transit industry applaud the efforts of the Transportation Security Administration (TSA) in working to secure the Nation's transportation systems in the various modes. Since the September 11 terrorist attacks, TSA has focused the bulk of its resources, including funding, technology, and programs, on securing our aviation systems. While this focus was understandable

in light of the nature of the attacks, we believe that TSA must now invest in securing other modes of transportation, including our mass transit systems.

In 2007, the over 6,500 providers of public and community transportation services saw a ridership of 10.3 billion trips; the highest ridership level in 50 years according to the American Public Transportation Association (APTA). The number of people using public transportation has risen by 32 percent since 1995. Weekday boardings numbered 34 million compared to the 2 million daily domestic travelers using commercial aviation.

When you take these statistics, couple them with the fact that our transit systems are open to the public with many access points, and add the historical precedent of repeated attacks overseas on surface transit; one can clearly see that our transit systems, left unsecured, are viable and attractive targets for terrorists. This was evidenced in the attacks on the surface transportation systems in Madrid, London, and Mumbai. Transit agencies that have both rail and bus systems are particularly vulnerable to attack.

Transit agencies have worked closely with TSA to highlight the importance of transit security. Our efforts have resulted in establishment of the Transit Policing and Security Peer Advisory Group, the Transit Security Grant Program, and the current effort to train front-line employees. Also, the Transit Security and Safety Roundtable was established as a means for representatives of the 50 largest mass transit systems to share ideas and information, discuss security issues, and engage in collaborative efforts to secure our transit systems nationwide. This sharing of information and lessons learned ensures that we are doing the most that we can with the resources available. These programs are a good start; however, they fall short of addressing the bulk of the security needs of transit agencies and continue to leave our systems, particularly in high risk cities, vulnerable to attack.

The Transit Policing and Security Peer Advisory Group provides TSA with the experience and expertise of 15 transit Police Chiefs and Security Directors from systems across the Nation in addressing security concerns of transit systems. This group was instrumental in bringing about the accelerated front-line employee training effort that is currently underway.

The Transit Security Grant Program (TSGP) provides grants to the larger transit agencies to implement security programs and measures. This program, however, does not provide adequate funding for transit agencies to address their security needs. President Bush's fiscal year 2009 budget only proposes $175 million for transit security grants, compared to $400 million provided by Congress in the fiscal year 2008 Department of Homeland Security Appropriations legislation. It also falls far short of the $750 million authorized for transit security in fiscal year 2009 under the 9/11 Commission Recommendations Act of 2007.

In addition to the lack of funding, there are several other issues with the program that we believe should be addressed. First, despite Congress' direction to DHS to provide funding directly to transit agencies, TSGP funds are funneled through State Administrative Agencies (SAA's) thus creating delays in the receipt of these funds by the transit agencies. The direct awarding of these funds to transit agencies as is currently done with Federal Transit program funding would greatly improve the process and maximize the use of such funds. Second, the awarding of funds should be predicated on legitimate security exposure that is based on consequence, threat, and vulnerability; regardless of a transit agency's location, ridership, or Tier ranking. Third, transit agencies should be able to use the funds for operating expenses related to security efforts in addition to capital expenses. The Visual Intermodal Protection and Response (VIPR) team initiative is a good model for this concept. Agencies could use these funds for overtime and backfill in support of random and unpredictable patrols that would greatly improve the ability to deter and interrupt terrorist activities. The individual agencies know best what they need in order to secure their systems, and we believe that greater latitude should exist to leverage TSGP funds in furtherance of operational efforts in transit security. A major strength of the TSGP is the funding of training, drills, and exercises; the valuable tools that allow agencies to identify gaps, and prepare their employees to mitigate, prevent, and respond to the threat of terrorism. Vulnerability assessments must continue to be funded under TSGP as they compliment drills and exercises. Together they form a comprehensive approach to continual evaluation and improvement. These tools are essential in teaching our employees how to implement plans and procedures including how to respond to terrorist threats and actions.

The initiative that is currently underway to train front-line transit employees is a great example of how partnerships between TSA and local transit agencies can work in resolving transit security issues. Transit agencies nationwide realized a need to train their front-line employees on security awareness, behavior recognition, immediate emergency response and local emergency procedures. These agencies also

realized that addressing this need would require reducing their current funding of on-going security efforts in order to cover the costs of overtime and backfill so that front line employees could get "out of the seat" for training. Local transit agencies worked with TSA and the Transit Policing and Security Peer Advisory Group to resolve these issues. The effort resulted in additional funds that were granted during the fiscal year 2007 TSGP. The granting of these funds was accelerated in order to allow the transit agencies to provide this much needed training in a timely manner to their most critical employees.

In closing, I would like to commend TSA for their efforts to implement programs to ensure that our Nation's transportation network is safe and secure. I believe that transit agencies across the country stand ready to partner with TSA and Congress so that together we can secure this country's public transportation systems in order to protect the passengers, employees, and public at large from the threat of terrorism.

I want to thank the chairwoman and committee members again for this opportunity to speak, and we stand ready to provide you with any additional information that you may need.

Thank you.

Ms. JACKSON LEE. The gentleman's time has expired.

I thank each of the witnesses for their testimony.

Let me, for the record, remind members of this subcommittee and other members that are not present, that any statements may be submitted for the record.

I also want to make note that all of the witness's statements will be submitted in their entirety into the record, and I appreciate again their presence here as we move forward.

The members present now will be recognized by the chairperson in accordance with our committee rules and practice. I will recognize members who were present at the start of the hearing, of course based on seniority on the subcommittee, alternating between the members who are present.

I would also like to again thank the witnesses for their testimony and recognize that when we have field hearings, the idea is to be on the ground, and to be able to see first hand, and to hear from witnesses who are grappling with these issues on a daily basis. We are in New York. We expect to be out west, and we hope in the city of Houston, as well, as we begin to understand how the Federal dollars are being utilized.

In these questions, gentlemen, we hope that you will be vigorous in your answers. The give-and-take helps us construct legislation. That can be important to make the determinations that we need to make.

So, let me begin the questioning by asking the Secretary from New York, and having had legislative experience before, how good a job is the Federal Government doing after 9/11, in the backdrop of 9/11, in working with the States transmitting Federal funds and being accurate in how those funds are being utilized? Mr. Secretary?

Mr. BALBONI. Madame Chairwoman, in 2003, I was appointed by Tom Ridge to serve on a task force to actually chart how monies flowed from the Federal Government to locals for homeland security. So, that's the perspective from which I start.

It's gotten a lot better. But it really needs to get to the next evolution. The next evolution is that Washington does not truly represent the first line of defense when it comes to local transit security. That is done at the local level.

Oftentimes, we still have issues of intelligence sharing, we still have issues of sustaining the funding over time. The worst thing you can do to a transit system and security is to modify the amount of funding year to year. It's just you can't build a budget on that. You can't build expectations on that.

You can't pay down and buy down the risk over time. Because, as you know, you know, particularly in a transit system like New York's, which is really elderly and fragile, it takes a great amount of money, a great—and therefore, a great amount of time, to buy down the risks. I mean, for example, the Metropolitan Transportation Administration, they are spending—they want to spend another half billion dollars on capital security needs. You know, the first tranche of half a billion dollars—actually, $780 million, was utilized to secure the East River tunnels, do some station hardening, and a variety of different efforts in that regard.

The second half is going to be used for bridges. Because, as we all know, we may be focusing on trains, but if the bridges go down, the suspension bridges, the devastation would be enormous.

So what government has to do at this point—the Federal Government has to do is recognize that continuous funding at a level that is anticipatory, and that continues to work on the long range regional plan, is absolutely essential.

Ms. JACKSON LEE. Let me, Mr. Little, thank you for, I think, both—and thank you, very much—think both of you and Chief Lambert have noted some fractures in our commitment that I'm certainly going to be immediately pouncing on, if you will. We are right in the middle of the appropriations process. We worked very hard to pass the 9/11 Commission in its totality.

Speak again to this issue of the promises made on funding for training, an issue that you know we have worked extensively on in this subcommittee and fought hard to get that language in the 9/11 bill. Tell me what you have made note of in the drop in the funding. I think the commitment was $400 million, and you say $175 million.

What is the impact on that decrease, but what is the impact on untrained transportation workers?

Mr. LITTLE. Well, I think there's——

Ms. JACKSON LEE. What is the impact on our security by having untrained transportation workers?

Mr. LITTLE. Well, in the funding piece, I believe the President had really allocated, initially, that he was going to put $1.2 billion into transit and into rail. Now, we actually have a reduction with it, and in the fiscal year of 2009, as Mr. Lambert said, it's down to $175 million, which is about an 85 percent reduction.

Not having the proper funds, obviously you can't train first time responders. We—you know, as the Commissioner talked about, and I think that he gave an excellent example, is that, first of all, we have an inherent problem in our system where they cannot hire police officers because they don't have the salary structure that's conducive for people to want to take the job. That's a problem, in itself.

We have the same problem in the transit, when it comes to training our particular workers, because we have these gaping holes. A lot of time, management puts together a set of rules that are writ-

ten by attorneys, and it shows all the things that they are going to do, and it looks good on paper. But, when it comes to reality, they miss the point of not talking to the workers on the field, to find out what can be done. Can we not work together for a common good?

But, as soon as you talk that it may increase staffing, that's a no-go item. As soon as staffing becomes an issue, no one wants to talk about staffing.

As I mentioned, Amtrak is a prime example. They want to put servers on there, similar to McDonald's-type servers. There's nothing wrong with McDonald's-type servers. It's good jobs for some people.

However, on board a train that's traveling throughout the country, those workers there play the same role as we have for flight attendants. Flight attendants are not there just to serve. They are there to handle emergencies.

The NTSB, in numerous rail accidents, has actually added more work to those on-board service people. They gave them work that will require them to have more training. They are trained in CPR. They are trained in everything from a nose bleed, as I mentioned earlier. These people are trained in radioactive and biological stuff. They are there as a first line.

Sometimes, you are out in a rural area that takes quite a bit of time for even the people who have the discipline, whether it be the police departments, or the fire departments, or the medical facilities, to get there. So, you have to have someone there. So, eliminating them to try to save some money because of funding for Amtrak, they are missing—they are missing a key element of security.

As the Commissioner said, having people there is a deterrent. But, not having them there is worse. If you don't have the right people there—and we said we should have learned from what we have seen in Israel and in London—but exactly, you know, when Israeli—and just to add one more piece.

Israeli aviation is small in comparison to what we have in the United States, yet they have one of the most dynamic security pieces in place. But, what you don't realize is they also have a massive transportation system in buses. They have spent a great deal of resources training those first time bus operators to witness things, look for certain intelligence, and report it. So, I think that's something that we are missing. I think we have the wherewithal in this country to do similar, if not better, but yet we are missing that point.

Thank you.

Ms. JACKSON LEE. I believe, then, that the transit workers—trained transit workers, conductors and others, that level that you have just mentioned, I think you call them cashiers, and they wanted to move them off, put a machine, then put a server that just stands behind the counter—and, as I said, we respect everybody that works—really provides an opening, creates a major threat opportunity for terrorist activity.

Mr. LITTLE. Well, yeah.

Ms. JACKSON LEE. Is that what you are suggesting?

Mr. LITTLE. Yes, ma'am. You can actually see it. If you look at a—and, I will use Philadelphia, and SEPTA, and I will use MTA as an example.

I mean, in the subway system, we have crimes committed, and some of them get high play and high visibility. Those crimes are more susceptible to having crime if you don't have someone there who's there to witness and see what's going on and report it.

So, if you are having no one at the booth, a person who's standing there, they may be the only living soul in that area, because there's no workers available. There is no one else there to maybe pick up the phone and call for aid, or maybe even stop something from happening.

Because, if you see someone there—so, opening up for criminal activity, it leads into terrorism activity. Because, if it's—if it's susceptible to criminals, it's certainly susceptible to terrorism.

The part that no one seems to be putting their arms around is when we have equipment that is not necessarily in the station. A lot of times, those trains, those elevateds, the buses, are in an area where they really don't have the security.

Ms. JACKSON LEE. Let me just indicate that we will be introducing legislation that will congratulate TSA, as you all have indicated, that they have made great strides, but focused on them complying with the 9/11 recommendations, which includes focusing on the professional training of staff. I think you all have emphasized the importance of that.

We expect to mark it up very soon, and your testimony will be very helpful.

Let me move to Chief Lambert, and help walk me through this extreme dilemma and confusion of Title 1 surrounding areas, and Title 2 mass transit.

Please help me understand that and how it undermines the effectiveness of a synergized security mechanism in an area.

Mr. LAMBERT. Madame Chairwoman, I'm not I have a full understanding, but let me give you a perspective.

The Secretary——

Ms. JACKSON LEE. Well, you need to underline it, so I can run back to Washington and get it fixed, quickly.

Mr. LAMBERT. Well, I'm going to try to help with that.

The Commissioner said, the Secretary said, and Mr. Little have all said what you really have to do is look at things in a regional perspective. Transit does not operate in isolation. It does not operate in a vacuum.

Transit operates in a region with a lot of different moving parts. Quite frankly, my perspective is if you have got high risk threats in an urban area, and you are operating in an urban environment, that tells you you've got some exposure, as well.

So, I don't understand the logic, to be honest. I think the assumption was, because our concern initially was tunnels, bridges, underwater activity, to understand the logic, but I think as we continue to evolve and expand, a transit system operates within that broader community.

We serve the Port of Houston. We serve the airport. We serve the Texas Medical Center. We serve downtown. We serve financial. We

serve petrochemical. Every infrastructure that's critical to the vitality of that community is impacted, and we are a part of that.

So, we should, in our view, be considered a Tier 1 system, if that's the criteria that's being used. Unfortunately, that has not been the determination. So, I raise it more from this standpoint, because I don't understand the logic there.

It seems to me that if you are operating in a high risk environment, that's exposed to threat, you are just as vulnerable from what we have seen overseas that we think that there ought to be a logic to that. At this point in time, we are not really sure what that logic is.

Ms. JACKSON LEE. Well, my end——

Mr. LAMBERT. I will also, Madame Chair, as you know, I have also communicated this to TSA, so it has not been something we have been silent about.

Ms. JACKSON LEE. Well, the mechanism of change moves slowly. But, it's not being propelled by this field hearing. We thank you for that explanation.

My time having expired, I'm going to yield to the gentlelady from New York for 5 minutes.

Ms. CLARKE. Thank you, very much, Madame Chair.

I'd like to pose this first question to Deputy Secretary Balboni. We have been holding a host of hearings on the Hill around transition, quite frankly. Transition in government.

It occurs to me that that may be a moment of vulnerability, because to a certain degree, while an infrastructure is put in place for a transition, there will be a need for regions to look at their protocols and their autonomy during that period. Even when the government is fully stood up, there are vulnerabilities. Imagine during a transition period.

So, you have placed great value on the Regional Transit Security Working Group. Do you believe, Deputy Secretary, that you all have taken this into account, and you are coordinating in a way in which you are able to be autonomous in being able to secure the region during the period of transition?

Mr. BALBONI. Congresswoman, you are preaching to the choir. This is one of the key points that I have made to the entire directorate. As a matter of fact, I'm going to be heading up to Lake George this evening to speak to the Army National Guard.

Essentially, my message to them is that during the period of vulnerability, we must be ready and prepared, regardless of what happens in Washington.

Ms. CLARKE. Um-hmm.

Mr. BALBONI. As I said before, the rubber meets the road in terms of transit security at the State and local level. Well, the same is true with Homeland Security.

I referenced the Congressional Research Service, a report that just came out, talking about how al Qaeda has had attention to the political calendar. In addition to which, if we consider that the attacks of 2001 came shortly after the burst of the dot-com bubble, there are a series of fatwas and edicts that talk about damaging a Nation economically.

So, if we take the current economic malaise and we take this new—the first change of administration since 9/11, and the fact

that there will be new personalities and new directions, new leadership, and we probably won't know what the fact of the Department of Homeland Security looks like until probably, maybe even March, you know, when you take a look at all the different levels, in that period of time we must have a seamless transition, but we also must have the underpinnings of the State ready to respond at any moment.

Ms. CLARKE. Thank you. It's reassuring to know that brilliant minds think alike.

Let me just go on further to ask can you give us a little bit more detail on how the RTSWG does its work, and the initiatives that have come out of it? Is it a unique idea, or are there other similar organizations in the United States?

Mr. BALBONI. Essentially what we did that was unique was—and Ray Kelly had mentioned that they had asked to be a part of this Regional Transit Security Work Group. So, Commissioner Falkenrath approached me, and said, "Why can't we participate?" I said, "You know what? You ought to participate. You are 2,600 officers. You are not a transit agent, quote/unquote, but you certainly provide most of the men and women and services for the system." So, we let them in.

But, when they came in, suddenly the other groups looked at the pie and said, "Oops, mine. We are not going to participate with this, or we are going to shut down."

Ms. CLARKE. Um-hmm.

Mr. BALBONI. So, I came in a meeting in March, and put everyone together, and we started hearing back and forth. Then, I raised my hand, and I said, "Wait a minute. Have you ever all sat in a room, at a secret level, and talked about your vulnerabilities?" They said, "No, we've never done that." That's a part of trying to protect their market share, as well, not share their vulnerabilities.

So, I instructed that we would do just, in fact, that. I asked TSA to provide a secret clearance briefing on vulnerabilities, and we did it at the NYPD Counterterrorism Center in Coney Island. We had only the top security officials of all the systems in the room, including the FBI, and we went through all the vulnerabilities. It was an eye-opening process.

We then came back in August, and talked about other things that had been done, to see what kind of vulnerabilities were there. Then, we came and we said, "All right. Now, how do we fix the system? Not the individual transportation system; the system itself." Recognizing that if a bomb goes off on New Jersey Transit, it will shut down the rest of the transit system, whether it's in New York State, or Connecticut. We had to make that recognition, that securing vulnerability system-wide was going to secure each one of the intricate parts.

That—and, that was done with Kip Hawley in the room. He sat in the room through all of those 2-day meetings. What he's told me is that's the first time that's happened.

I know Houston has got its act together. They provide a great amount of service and security. But, I think that what the Chief talked about, in terms of Tier 1 and Tier 2, that happens more often than it should. We don't have uniformity of designation of security risks.

Ms. CLARKE. Thank you. My time—can I get in one more question, Madame Chair?

Ms. JACKSON LEE. Absolutely.

Ms. CLARKE. Great.

Ms. JACKSON LEE. Absolutely.

Ms. CLARKE. I'd like to get in one more question, then.

This is actually split between both you, Chief Lambert, and you, Mr. Little. I'm going to be more specific to Mr. Little, because I'm a little bit more familiar, but you raised this in the discussion today.

You discussed in your testimony today, Mr. Little, the role of rail and transit workers as being on the front line, and I very much agree with that, and I'm glad I was able to actually add the amendment adopted to help ensure in the 9/11 bill that we would provide grant funding to unions for security training.

Can you tell me what your union has done on this? Particularly here in New York City, or anywhere in the Nation. We'd like to have evidence that an infrastructure is being put in place, that funds are being utilized, but not enough is being done. Likewise, any benefits that you may have seen for the workers, Chief Lambert.

Mr. LAMBERT. Let me respond, real quick——

Mr. LITTLE. Okay.

Mr. LAMBERT [continuing]. To Ms. Clarke.

Again, I want to credit TSA because they did, in working with the industry and partners, they did do some fast track funding for frontline employee training.

We have got 1,200 operators that have already been trained in Houston. That's been very fast track. We started back in March, I believe.

We got direct funding not only for the training but something that was critical. Transit systems have peak operations they have got to get done. You cannot pull operators out of seats for training when you are trying to run the service.

Ms. CLARKE. Right.

Mr. LAMBERT. So, the TSA, again to their compliment, in talking to the industry, agree in that grant funding to pay overtime for training. So, that is something that's in the works now.

Houston's got 1,200 employees that have gone through that training, out of 2,200, and we are scheduled to get ours completed by August. So, we are trying to fast track that.

I will make one final comment and turn to Mr. Little.

Transit systems are very similar to a neighborhood, in my view. People that take care of their neighborhood are people that are engaged. Frontline employees are engaged, understand what's occurring on the system. When something is out of the norm, they are going to report it. That's the criticality of the frontline employees and how they work to make sure our systems are secure.

So, the more we can improve their capability of awareness, and not just one time, but I think now we've got to look to the future of recurring in-service type training, because circumstances are going to change——

Ms. CLARKE. That's right.

Mr. LAMBERT [continuing]. Conditions are going to change, and our application of operations and technology will change. So, we need to make sure that this is an ongoing program, as well.

Ms. CLARKE. Thank you.

Mr. LITTLE. I can add to that. I think even the most, you know, robust emergency response system, and we have found out that it was—it's—it can be overwhelmed, as we saw on 9/11—one of the things that we have been doing internally is that we have actually—our Local here in New York has handed out kits. I don't want to call it survival kits, but it basically gives you some things that you need in an emergency situation. Each one of our workers was done—has been handed that——

Mr. BALBONI. The "go bags."

Mr. LITTLE [continuing]. I think—yeah, the go bags. It's really been very helpful. I think that was worked out through a grant, as well. So, it was kind of a working together project.

We have also—the MTA has put together some films to start to begin a process of making our members more educated in what to look for. The film, itself, I think we can expand on that. I think we can do some, like, kind of a first—it's hard to do it.

Let me just say this, as the Chief said, it's not easy to take people off the clock all the time, because we do have some financial problems, as we all know. We are all faced with it. I don't care whether you are in the private or public sector.

However, I think we have to find maybe different ways to do that. I don't know the answer right now today. But, it's something I think collectively we should be looking at, and find ways to help. Because, I really am a firm believer that the best deterrent we have is the human deterrent. I think the more people that we educate—because I think the infrastructure of the United States is important to every citizen, not only to transport workers, but I think we owe it to the United States and everyone who lives here to protect our infrastructure at all costs.

Ms. CLARKE. Thank you. My time has expired.

Ms. JACKSON LEE. Your time has expired.

We are going to enter into a second round, and so you will have the opportunity. This is a rapid-fire round, and I thank you gentlemen.

It's what we call building a record. I do want to make it clear that field hearings are to generate solutions, legislatively and policy-wise, and you are very helpful to us as we try to build this record.

President Little, let me ask you to give your defined and informed opinion of the underpinnings of prevention and protection strategy as you deal with your transit worker force. That is, do you view it as training, screening, information sharing, or more technology?

These are your workers, and I wonder whether or not workers leave out in the morning on their shift and they gather and if there's any appropriate intelligence that they should have, do you know whether they are getting it, as they get out on the subways and various other facilities that they are utilizing?

So again, what involvement do you believe your workers have in helping to protect, as they are the pre-responders, if you will, in the transit system?

Mr. LITTLE. Well, as I mentioned earlier, I don't think we have actually gotten there yet. I don't think we are at any of those pieces that you mentioned.

We don't do basic, you know, what's happening in the area. I don't think we have enough collaboration between management. Because really, the main object is to get the buses out, get the subways out, get them out on time. We don't spend enough in trying to de-brief, or brief. So, that's not happening, to the best of my knowledge. If it is, I will correct it. But, to the best of my knowledge, that doesn't happen today. As I said, I'm not aware that it happens in any of our cities that we represent our transit people—Philadelphia, Miami. I don't—I'm not aware of any of that, that I have—so I can say reasonably that I don't believe we do any pre-briefing.

We have a tremendous amount of vulnerabilities out there. I think we need to educate more, especially on the subcontractors that come on the property. That's a whole other subject. But, there's areas that we need to start briefing people and holding accountable for.

Ms. JACKSON LEE. So, we have an overall need in technology, in training, in intelligence sharing. You think, overall, we need to have a greater focus on what we do with the numbers of transit workers across America.

Mr. LITTLE. Absolutely. I think that the TSA and everyone has put a lot of emphasis and dollars into the aviation side. I think we are quite there. We are probably not exactly 100 percent, but, you know, we are getting there on the airlines side.

The rail and transit has been totally behind. We have so much vulnerability. Not to be crude but, I mean, I was visiting one city, in Chicago, where I was at a rail yard, and—and this is no exaggeration. Osama bin Laden could be waling down the mainframe, leading a band, and no one would have stopped him.

I mean, that's how bizarre—I know that sounds bizarre, but that's exactly—there was a limited, if not any, security. Sometimes, it's just a little bit of a fence, a brick wall, maybe some barbed wire, you know, it looks good. But, when it comes right down to it, no one stops you.

So, and we also have that, and I submitted some of that in our written testimony, where we showed examples where subcontractors, people come on the facilities, they have access to all of our facilities.

So, there has to be some funding placed into manning some security checkpoints. We don't have any security checkpoints.

Ms. JACKSON LEE. You know, I don't think it is facetious or sounding out of order. One would think, if you look at the transit or rail system across America, it is found in our backyards. You know, I live in a city where you look out your window, and you are seeing major rail freight traveling down in back of your back yard.

Beyond Osama bin Laden leading a band, he might be taking a ride. I do think it is crucial that this be a wake-up call for what we need to do.

My next question to the Deputy Secretary and to Chief Lambert, both cities—both New York and Houston have been in the Olympic chasing game, and we wish each of the cities well as we move forward into the opportunities for having the Olympics.

That means large crowds. Certainly one of the assets, or one of the, I assume, offerings that any package gives is a transit system.

So, my question is what thoughts have been given when you think of even beyond the normal utilization, that you need to have in protecting these systems? These are open systems, so do you think it is the advance in technology? If so, what kind of technology are each of you using, as it relates to your own transit systems?

Deputy Secretary.

Mr. BALBONI. As the 2004 Convention—Republican National Convention here in New York City, as the Pope's recent visit has demonstrated——

Ms. JACKSON LEE. Um-hmm.

Mr. BALBONI [continuing]. What is absolutely crucial is a strategic collaboration that identifies technologies, but almost more importantly, identifies individuals that are on the same page of protection.

There are many different strategies that can be employed. What we are doing now, in various parts of the system there are chemical, biological, radiological nuclear detection systems that are being put together, utilizing camera—CTV cameras, training individuals, doing the surge with National Guard, as well as with police officers, increasing the number of officers.

We have developed a new program that—See Something/Say Something—where we try to utilize the riding public. Now, we are taking the information and we are putting it into computer system called CISAR. Essentially, what it is, it is a infrastructure mapping for the entire State and region. What we do is, every time we get a report of a suspicious activity, we pin map it around the critical infrastructure. We are able to develop a baseline.

Then, if we get a threat through our Federal partners, we are able to then go into that sector or that specific site and say, "You know, you've had activity that is of this nature over the past period of weeks, months, years. You need to pay attention to this, particularly as it relates to this threat."

That type of interaction, interactive behavior and collaboration, is absolutely essential because technology, by itself, as you know, is just not the silver bullet.

I'll give you one last example. There was a company that was assigned with the task of providing a camera that we would be able to use an algorithm, to be able to determine if there was a package left in the scene. There was great hope and promise when it was first announced. Well, what we found, it really doesn't work. Too many false images. Too many false alerts.

That's really the thing that we have to keep in mind. Every time you put in new technology, if you have too many false positives, then the system you are trying to protect simply doesn't work, and that doesn't work.

Ms. JACKSON LEE. Well, you believe that then it is an integrated system, when you begin to talk about large crowds and we can talk about prevention. You have to have overall.

You know, it's interesting because we go from a virtual fence at the border. I think we have fallen into the technology trap and, frankly, believe that we can put all our eggs in one basket.

You're suggesting that you want to see a seamless integration of——

Mr. BALBONI. Absolutely. I mean, if you look——

Ms. JACKSON LEE [continuing]. Of people, research, technology——

Mr. BALBONI. Oh, yeah, if you——

Ms. JACKSON LEE [continuing]. Is that what I'm hearing?

Mr. BALBONI [continuing]. If you look at—there's parallels drawn to our intelligence community and structure. When we went away from HUMINT—human intelligence—and we really rely so much on the SIGINT—you know, signal intelligence—and all of the technology, we lost the granularity. Because, it's not just information. It is the truth, it is the accuracy, it is the means, it is the method, it is the motivation and the capability that really inform us as to whether or not a threat is really a threat or it's simply another rabbit hole.

Every day, I get a threat briefing. I can't tell you how many times my hackles have been raised that something is coming and I need to pay attention, and it just evaporates into nothingness.

Ms. JACKSON LEE. Um-hmm.

Mr. BALBONI. That exercise, in and of itself, though enormously important, is also part of the war of attrition that I know our enemies are working against us. The point of terrorism is to terrorize.

Ms. JACKSON LEE. Um-hmm.

Mr. BALBONI. They want to keep us constantly in fear, and constantly expending dollars in a way so that we are distracted and not investing in the assets we really, truly need to prevent, and respond, and mitigate.

Ms. CLARKE. Exactly.

Ms. JACKSON LEE. Do you think we have enough people on the ground—and I'm going to yield to Chief Lambert, and I recognize your time frame—just bear with us for a moment.

Mr. LAMBERT. Okay.

Ms. JACKSON LEE. Do you think we have enough people on the ground to see—in this city, for example—in any place—bags and other items placed randomly——

Mr. BALBONI. Madame Chairwoman——

Ms. JACKSON LEE [continuing]. The potential that it has?

Mr. BALBONI [continuing]. The reality of the situation is that you would have to be—even if you added, you know, even if you doubled the police officers, and you wouldn't want to necessarily do that, because you don't want to make it a police state—even if you dramatically increased the number of officers, the chances of an officer seeing a vehicle-borne explosive device or a backpack being placed, just in time to get it out before it does its damage, is just—you know, it's not reality.

We need, again, the integration of training, of utilizing the public, of making sure we have really good threat analysis, but even better sources, and take all that information and get it real time to the people who need it. That's the system—that's the paradigm we are working towards. We are not there yet.

Ms. JACKSON LEE. So, I think what president Little has said is that all the eyes and ears are important.

Mr. BALBONI. Absolutely.

Ms. JACKSON LEE. Let me just go quickly to Chief Lambert.

Houston is certainly in the Olympic-searching opportunity, but answer the question that I posed, in terms of whether or not other resources are needed, or how you respond to protecting, in terms of large usage of the transit system because of large events.

Mr. LAMBERT. Madame Chair, let me say, as you know, we have a great partnership, regional partnership in our community, with the city, the county, the State and Federal agencies working with transit in any major event we do, like we did the Super Bowl in 2004. That took all of us working together. As the Secretary said, it takes everybody working together. As you said, it's got to be integrated.

Technology for technology's sake, we should not do. But technology that gives better information to boots on the ground, as the Commissioner said, is good technology. We believe technology does have a place.

As you know, we are doing a lot of things with technology on buses. It's not just closed circuit television that you record. It's the ability to then transmit that video out where any car along a corridor can see what's going on in the bus. If there's a problem, it protects the officer in how they are responding to the circumstance that takes place on the bus. It gives the operator a better sense that they know that something's gone wrong and we are aware of it, and assist in that regard. It's tied into vehicle location systems. It's tied into radio communication systems. It's tied into systems in an integrated approach.

So, I say that as an example. I think there still needs to be more research with that. Now we are building wireless clouds in our communities that all potential users can use, so the more we get communications capability, I think the more things we can do. The way we are trying to approach technology is does it give a benefit to officers in the field in doing their job, does it give them better information to do their job. If that does work, then you've basically got a multiplying effect. We think that's the reasonable approach.

The frontline employees, again, it's very challenging and I think there is more we need to do. We have very few—you have about 15 minutes with a bus operator coming into work in the morning. So, I think what we have got to figure out is how can we put information systems in place in club rooms that passes this information along in quick bursts. That hasn't been figured out yet, but that's something we need to be doing.

Ms. JACKSON LEE. Deputy Secretary, do you know how much you spend on mass transit in New York?

Mr. BALBONI. There's a number of different pots. I mean, the last that it was announced by Secretary Chertoff, $153 million was done for the Regional Transportation Work Group. However, as you know, dollars are fungible.

In the Urban Area Security Initiative for the New York region, approximately a quarter billion dollars was utilized last year, again thanks to the great work of members of the New York delegation.

Ms. JACKSON LEE. So noted on the record.

Mr. BALBONI. Right. Also, you know, there's the port security pot, also.

Ms. JACKSON LEE. Yes.

Mr. BALBONI. All these dollars are utilized for the region, and that's some of the things that I have really demanded and stressed as we apply these dollars. What is the capability that we are actually investing in? That is the question that is not asked enough.

Ms. JACKSON LEE. We are going to ask you to—we will probably submit a question for you to give us the structure of this regional cooperation.

Mr. BALBONI. Sure.

Ms. JACKSON LEE. We are glad that TSA has been involved in it, and we may begin to look at what you and Houston does with respect to that.

Do you know how much you spend on mass transit?

Mr. LAMBERT. How much grants we have received, or how much we spend?

Ms. JACKSON LEE. How much you spend.

Mr. LAMBERT. Our total budget annually is about $20 million for my department. That's both for system safety and security.

Ms. JACKSON LEE. Do you have direct funding?

Mr. LAMBERT. Direct funding from grants?

Ms. JACKSON LEE. TSA. Have you gotten—yes.

Mr. LAMBERT. The—no, ma'am.

Ms. JACKSON LEE. It's to the agency?

Mr. LAMBERT. It's to the State——

Ms. JACKSON LEE. To the agency or the State?

Mr. LAMBERT [continuing]. Administrative agency.

Ms. JACKSON LEE. To the—pardon me?

Mr. LAMBERT. The State administrative agency.

Ms. JACKSON LEE. And then down?

Mr. LAMBERT. Yes, ma'am.

Ms. JACKSON LEE. All right.

Let me just quickly say, do you have a counterterrorism roundtable, or——

Mr. BALBONI. Yes, I do.

Ms. JACKSON LEE [continuing]. I heard—I know you said the regional. But, you have that——

Mr. BALBONI. Yes——

Ms. JACKSON LEE [continuing]. A counterterrorism, where all the law enforcement and others are on it.

Mr. BALBONI. Yes. By the way, I just have to say, on the SAA, so I just have to say SAAs are OK, all right? You know, I know that everyone wants the direct funding, but we——

Ms. JACKSON LEE. Well, I wanted you to defend yourself.

Mr. LAMBERT. Please do not take that personally.

Ms. JACKSON LEE. We are going to have a question, but we will put it in writing——

Ms. CLARKE. One size doesn't fit all.

Ms. JACKSON LEE [continuing]. How you expedite getting funds to the boots on the ground.

Mr. BALBONI. We'd love to be able to address that.

Ms. JACKSON LEE. Yeah, we will do that.

Mr. BALBONI. Well, we do a——

Ms. JACKSON LEE. Do you have a counterterrorism group?

Mr. BALBONI. We do have it. At the State level——

Ms. JACKSON LEE. Right.

Mr. BALBONI [continuing]. We are utilizing about 16 different agencies, from the Department of Health, Department of Transportation. Because, as you know, it's all hazards. You know, it's not simply counterterrorism. It's also pandemic.

Ms. JACKSON LEE. But these are not a—sort of a law enforcement counterterrorism unit?

Mr. BALBONI. Yes, there is.

Ms. JACKSON LEE. In the city? Would it not—would Commissioner Kelly be on it, and——

Mr. BALBONI. Yes, well actually, Commissioner Kelly has his own counterterrorism force. There is a counterterrorism——

Ms. JACKSON LEE. No, but I'm talking——

Mr. BALBONI [continuing]. For New Jersey——

Ms. JACKSON LEE [continuing]. About these—this group that sits and listens to the intelligence, the chatter, the information.

Mr. BALBONI. They are a part of the Joint Terrorism Task Force——

Ms. JACKSON LEE. Yes.

Mr. BALBONI [continuing]. That is headed up by the FBI——

Ms. JACKSON LEE. Yes.

Mr. BALBONI [continuing]. Counterterrorism Division for New York City.

Ms. JACKSON LEE. All right. Then, let me just ask this question. Do we have a representative of the workers on that, then?

Mr. BALBONI. No, we do not.

Ms. JACKSON LEE. Let me just say this. Obviously, they would have to secure security clearance.

Mr. BALBONI. Right.

Ms. JACKSON LEE. I believe that that is a missing link in any counterterrorism unit, coalition, coordination. I know we have one in Houston, Chief Lambert, and I would suggest to you that is a link.

I believe it is important, and I'm going to put it on the record, that we provide an opportunity for a designated individual—for example, the staff of Mr. Little. He's the International President and he happens to be here in New York. I'm sure that it would not be an International President in other areas, but if a vehicle was made available for them to secure their security clearance, I think it is crucial that you have that insight.

Because, if it's not the local law enforcement, MTA police, or a subset of the NYPD, or it's not the METRO Police, it is some bus driver, conductor, another person whose eyes and ears are being utilized as they go through this process.

So, I want to put on the record that I think that is another missing element when we don't have the eyes and ears that are actually there, and to be able to avoid those—those entities.

Let me just do one other. Chemical and water tunnels. Have you got any special initiative? It's the other part of infrastructure protection. Any special initiatives on that?

Mr. BALBONI. Well, we—as you noted first off, that Congress has moved forward on the Chemical Plant Security Act. We are waiting, again, for the regulations to——

Ms. JACKSON LEE. But I want to know if you and the State had any specific——

Mr. BALBONI. We are watching how those regulations come out. In terms of the water, essentially what we are really focusing on is the aqueducts for New York City, in particular. As you know, they are——

Ms. JACKSON LEE. Very important.

Mr. BALBONI [continuing]. They are fed through upstate New York.

Ms. JACKSON LEE. Very important, yes.

Mr. BALBONI. We are monitoring them. It's really the infrastructure, itself, as opposed to the threats from polluting the source. We are really focusing on how the water gets from one place to another, making sure that that's secure.

Ms. JACKSON LEE. Let me go on the record by saying I think we'd like to have an opportunity to first hand view those aqueducts——

Mr. BALBONI. Great.

Ms. JACKSON LEE [continuing]. And get an understanding firsthand how that works.

Mr. BALBONI. Right.

Ms. JACKSON LEE. With that, let me gavel myself, and yield to the gentlelady from New York.

Ms. CLARKE. Thank you, very much, Madame Chair.

Deputy Secretary Balboni, your testimony alludes to the MS ISAC program, created by the New York State Office of Cyber Security and Critical Infrastructure Coordination, which has been so successful that you are now running the program nationally, as virtually every other State in the country has requested New York's support in keeping their systems secure.

Can you explain what this program is, and how it helps secure our city's transit infrastructure? Also, what developments do you see for MS ISAC in the future?

Since this is essentially a national level program, are you getting the Federal support you need to continue this development?

Mr. BALBONI. That's a great question. Thank you, Congresswoman.

Essentially, what we have in Albany is a 24/7 operation that provides monitoring, detection, mitigation, and recovery services to a variety of different private and public sector clients. It's the first of its kind.

Ms. CLARKE. Um-hmm.

Mr. BALBONI. What essentially is the backbone of it is the recognition that—I don't want to use the word "war"—but certainly we are in conflict on a minute-by-minute basis for outside sources seeking to breach our computer systems, to take information. We don't know what they really want, ultimately. Are they preparing the cyber battlefield?

But, there is a specter that has been thrown over all of the—whether it's the transit system, or chemical company system—and that is the specter of SCADA manipulation—supervisory control and data access.

This is the way we run things remotely in this Nation, and we use the Internet oftentimes. So, whether it's the operation of a dam, the operation of a shut-off valve for a chemical company, we sent it through the Internet.

Because it's through the Internet, it can be hacked into. If it's hacked into, we are very concerned that you could take over the SCADA system and then manipulate the operation. There have been demonstrations that have been done through Homeland Security that show that this is a fact, a capability.

So, we have two parts. One is a service where we say, "You know, you've been attacked. Here is where it's come. Here's how you mitigate it." I get alerts daily on this happening all the time. They seem to be happening more and more. Everything from defacing a Web page. They are actually going in and trying to plant Trojan Horses and compromise computer systems, massive computer systems.

The second is this SCADA system, where we are trying to inform local governments in particular. Much of the critical infrastructure at the local level is run by local governments. So, what we have to do is inform them of this threat and give them the ways in which they can secure their system within their budgetary constraints.

Absolutely, it's two crucial aspects. What we need from the Federal Government, and I have talked to Bob Stephens at the Office of Homeland Security, we need them to invest. We had a grant proposal before the Department of Homeland Security and unfortunately we hear it's not going to go.

That's a shame, because we can, again, force multiply. We can add value to the cyber operations, not just of New York State and its municipalities, but of other States, as well.

Ms. CLARKE. Thank you, very much.

To Mr. Little, I'm just wondering whether the city has taken any steps that other—that have not been undertaken overall through the Federal initiative, to involve workers in security plans, to your knowledge?

Mr. LITTLE. I don't believe we are involved in any security planning.

Ms. CLARKE. Well, that, I think, speaks to your recommendation, Madame Chair. I concur.

Just in closing, with my time, I have no further questions. I want to really thank you, gentlemen, for re-affirming my belief in being proactive and forward thinking. One of the things that have just sort of, as a freshman, observation, is the way that we think after the fact, it seems. You all are leading the way, and it was important that you testified here today. I certainly appreciate it, and thank you for your time and sacrifice for being here today.

Mr. LITTLE. Thank you.

Mr. LAMBERT. Thank you.

Ms. JACKSON LEE. Well, I can't thank Congresswoman Clarke enough for her, I guess, aggressive approach to homeland security, but more importantly, her very strong advocacy for the city in insisting that we come and undertake this important field hearing, and as well, this important field visit that we will be doing.

As I close, I'm trying to make sure that the record is clear.

Deputy Secretary Balboni, your tunnels in New York, does New York, itself, have a special initiative on securing your tunnels? Do you have enough money, and have you secured money from the Federal Government?

Mr. BALBONI. As it relates to the water tunnels?

Ms. JACKSON LEE. Water tunnels and all of your underground, including your subway tunnels.

Mr. BALBONI. The subway tunnels on the East River tunnels, they are, we believe, as secure as they can be. Obviously, there's no foolproof system, itself.

However, the Port Authority tunnels, the PATH tunnels still remain of vital importance, and unfortunately a vital vulnerability. We do not have the funding necessary to do that. If you were to have an off-line discussion with Director Hawley, I'm sure he would agree with me that it is a top priority in securing these tunnels, particularly as it relates to the rebuilding of Ground Zero.

Ms. JACKSON LEE. Um-hmm.

Mr. BALBONI. In terms of the aqueducts for the New York City drinking water supply, really crucial. There are initiatives to try to shore them up, as it were, and to develop another tunnel. But certainly, we do not have a separate grant source, and we would really, really need and appreciate that.

Ms. JACKSON LEE. Mr. Little, we spoke over you. Would you find it helpful if there was a set place for a representative of workers who would have security clearance to be part of the counterterrorism group?

Mr. LITTLE. Well, I think it closes the loop. I think it brings workers as part of the process. As I said, I think it's everyone's efforts. I have heard that from every one of the panel, the people here, how important it is to have these eyes and ears. Not one agency can handle all of it.

So I think, by closing the loop and making us part of it, I think also enhances our abilities, yes.

Ms. JACKSON LEE. You are way out west. So, Chief Lambert, you have a lot of chiefs under your jurisdiction. Are we doing the job that we need to do in intelligence sharing? Are you getting time sensitive information as you may need it?

Mr. LAMBERT. I think we can continue to do better at it. I think it's getting better, but I think we can do more.

I want to compliment the New York Police Department. We get intelligence from the New York Police Department, and Massachusetts Bay Area Transportation Authority does a weekly intelligence bulletin that we are getting, as well. The Federal Government is doing more on intelligence sharing.

I just think we've got also, with the Joint Terrorism Task Force, as you know. In our region, we are building a fusion center with the Houston Police Department, the Sheriff's Department, our department is involved, the Texas Department of Public Safety. I think we are getting better at that. The more timely we get real information, the sooner we get out to where we need to be, and I think we are still building on that.

Ms. JACKSON LEE. A person with security clearance, that represented workers in the appropriate position would add to any round table on counterterrorism?

Mr. LAMBERT. Yes, ma'am. I think the more perspectives we get, and the more insight we get, I think the better off we are going to be in how we are collectively resolved to address any issue we are confronted with.

Ms. JACKSON LEE. Let me just say again we came to seek, to look, and to determine. This has been a very forthright discussion. The witnesses have brought us a very broad array of concerns, as well as insight on how we can improve the conditions of transit security, but also, as we mentioned, infrastructure. The protection of your underwater tunnels and you aqueducts, as you just mentioned, is vital for us to take back to Washington.

I cannot thank enough Congresswoman Yvette Clarke for her service on this committee and, as well, her invitation.

We look forward to inviting you to our Washington hearings, as we pursue legislation, to address some of the concerns that you have made.

We are in the appropriations process on behalf of Chairman Thompson and Ranking Member King. The Authorization Committee is a very large part of the appropriations process.

When we begin to see how the authorization is not matching, it's time for us to insert and engage, and we will do so. Your bringing to our attention the concerns regarding training, the concerns regarding funding for certain infrastructure and, as well, not the oversight, but the need to expand our review and oversight of mass transit across America has been vital, not only to the city and State, but to the Nation.

For that, gentlemen, we are grateful, and we thank you for your presence before this committee.

Mr. BALBONI. Thank you.

Mr. LAMBERT. Thank you.

Mr. LITTLE. Thank you, very much.

Ms. JACKSON LEE. The meeting is adjourned.

[Whereupon, at 11:48 a.m., the subcommittee was adjourned.]

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