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ENSURING FULL IMPLEMENTATION OF THE 9/11 COMMISSION'S RECOMMENDATIONS

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

JANUARY 9, 2007

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ENSURING FULL IMPLEMENTATION OF THE 9/11 COMMISSION'S RECOMMENDATIONS

TUESDAY, JANUARY 9, 2007

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:32 a.m., in room 342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Levin, Akaka, Carper, Landrieu, Obama, McCaskill, Tester, Collins, Stevens, Voinovich, Coleman, Warner, and Sununu.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. That felt good. [Laughter.]

Good morning and welcome to the first hearing of the Homeland Security and Governmental Affairs Committee in this 110th Congress.

Like all beginnings, this one is full of opportunities—in the case of our Committee, the opportunity to work together to protect the homeland security of the American people and to improve the functions of our government. Those are the two unique and significant responsibilities that this Committee is given by the rules of the U.S. Senate. Together, we can and will carry them out productively in this session.

I particularly want to welcome the new Members of this Committee, some of whom are here, particularly the new Members who are also new Senators who are right here on time. Please don't learn the bad habits of Senators. I welcome Senator Claire McCaskill and Senator Jon Tester to this Committee. Joining the Committee are Senator Mary Landrieu and Senator Barack Obama, who we welcome. We welcome back to the Committee Senator John Sununu, who has wisely rejoined us after a temporary absence. I look forward to working with all the Members of the Committee in this session of Congress.

I am proud to again assume the Chairmanship of this Committee that traces its history back to 1921, when it was first established as the Committee on Expenditures in Executive Departments. In the years since then, this Committee has had many honorable and effective Chairmen, including, I am proud to say, my own personal mentor, Senator Abraham Ribicoff of Connecticut. But I believe that history will find that the Committee had no more productive

period than the years in which Senator Susan Collins served as Chairman of this Committee.

From the time Senator Collins took the gavel in January 2003, the first woman to ever Chair this Committee, we have not only conducted many important oversight investigations, but we have fashioned and seen through the Senate and the full Congress a series of very important historic pieces of legislation, including our far-reaching investigation of government failings in response to Hurricane Katrina and then the enactment of significant reforms to rectify those failings. We passed major port security legislation protecting our ports from attack, making it harder for terrorists to smuggle weapons of mass destruction in cargo containers. We enacted a landmark postal reform bill, the first major modernization of the Postal Service in more than three decades. Senator Gorton, with the experience of a Senator, knows that may be the most difficult of the accomplishments that occurred under Chairman Collins' term.

There are many others, but perhaps most significant is the subject of our hearing this day. We first passed the legislation creating the 9/11 Commission, I am proud to say, and then passed the landmark Intelligence Reform and Terrorism Prevention Act of 2004, which implemented most of the recommendations of that Commission.

Throughout it all, Senator Collins has worked tirelessly for the good of the American people without regard to party affiliation. It has been a great personal pleasure to work with her. I said to Senator Collins after the results of the election last fall were in that as far as I was concerned, all that was going to change in our relationship was the title that each of us had. I aspire to continue in the tradition of non-partisanship and productivity that she has set. The truth is that in a Congress increasingly divided by partisanship, this Committee has been an oasis of non-partisanship, which I think helps explain why it has also been so productive.

So now in that spirit, let us get to work. Since the enactment of the 9/11 legislation, this Committee has monitored and overseen its implementation as part of our broader effort and responsibility to protect the security of the American people from terrorism. Today, we continue that work.

Before we look forward, I want to say that I believe that much has been accomplished as a result of the work of the Commission and the passage of the 2004 legislation. Most significantly, the legislation created a strong Director of National Intelligence (DNI) with a budget and personnel authority necessary to coordinate our national intelligence efforts so that the dots, as we said, would be connected as they were not before September 11. We created a National Counterterrorism Center (NCTC) to connect more of those dots, which were left scattered before September 11, and to coordinate strategic operational planning across the Federal Government to fight terrorism.

Incidentally, I recently visited the NCTC. I was very impressed by what has been established there. I came home and said to my wife that evening that I saw some things today that should make her and every other American feel more secure about what their government is doing to prevent terrorist attacks.

These, the DNI and the NCTC, were the two major recommendations of the 9/11 Commission, which is to say the recommendations that the Co-Chairs Tom Kean and Lee Hamilton, whom we are honored to have with us today, told us we should most significantly adopt, and so I am proud that we have been able to do that. They are significant achievements. We are definitely better protected than we were before September 11, but we are not as well protected as we want and need to be. There are parts of the 9/11 Commission report that were not adopted and implemented. Some were adopted but only partially. Others were adopted and oversight will lead us, I believe, to conclude that they have not been adequately implemented.

That is the focus that we begin with at this hearing today, to take a look at some of what has not been done, and I would say to start with that though some progress was made in this regard in the last Congress, the Congress itself has failed to reform its own oversight of homeland security and has done even less with oversight of the intelligence community, which the 9/11 Commission recommended as a priority. We found it a lot easier to reform the rest of the government than we did to reform ourselves post-September 11. That is unfinished work.

Information sharing—the Commission's report showed how crucial it is that our law enforcement and intelligence agencies share information among themselves and with State and local agencies, but the new Information Sharing Environment that was envisioned in our intelligence reform legislation seems to me to not yet have fully taken shape at the scale necessary.

Third, communications interoperability—September 11 showed that it is imperative in a disaster for first responders to be able to talk to each other. It is clear that many of the first responders died on September 11 in New York because they couldn't communicate with one another. Hurricane Katrina showed us 4 years later that we still have a long way to go. This is a national problem, and the Federal Government needs to provide the leadership to solve it.

Fourth, keeping suspected terrorists out of the United States. The intelligence reform legislation included a number of provisions intended to prevent terrorist infiltration of the United States. The government has focused substantial resources on stopping illegal immigration across the Southwestern border, but terrorists typically have attempted to enter the country by obtaining legitimate travel papers, and we have to do more to analyze their methods and develop initiatives to stop them.

Fifth, the Privacy and Civil Liberties Oversight Board—implementing an important 9/11 Commission recommendation, the Intelligence Reform Act created this Board as a means of reconciling the national need for security with our primary national value of liberty. In 2004, the Senate overwhelmingly passed provisions we had drafted to create this independent Board, but the Board Congress enacted into law is less robust and independent and therefore deserves reconsideration.

State homeland security funding—unfortunately, we in Congress have not been able to come to an agreement to enact legislation concerning homeland security grants to State and local governments. Instead, in that failure to act, we have left the lawmaking

to the Department of Homeland Security. Each year, the Department comes out with a new set of rules reflecting its then well-intentioned yet inconsistent effort to determine how homeland security grants can be distributed to reflect the risks throughout the Nation.

The House passed a bill in this regard. The Senate passed a bill in this regard. Both distribute the overwhelming percentage of the money based on risk. The question is where to draw the line. I will say that I intend to make it a priority goal this year for this Committee to pass legislation and come to a meeting of the minds with our colleagues in the House so we can put into law an appropriate formula from the Federal level for responding to risk.

Let me just say finally that my hope is that in the next few weeks, by the end of the month, we will report out a piece of legislation that will take steps forward to adopt some of the unadopted, unimplemented, or inadequately implemented parts of the 9/11 Commission report. That is the request of the leadership of the Senate, and I hope the Committee will work together to accomplish that. But that won't be the end of it. We are going to continue to work on other parts that we may not be able to adopt in the next 2 weeks, and, of course, a priority of this Committee in this session will be to continue to monitor and oversee the work of the DNI, the NCTC, and the Department of Homeland Security itself. That is our responsibility.

We are blessed that more than 5 years after September 11, America has not been the target of another terrorist attack. That is a combination, I think, of what our government has done to prevent an attack and of the grace of God; we have just been plain lucky. The enemy is still out there, and we are not as defended and protected as we should be. Until we are, we are going to work tirelessly and restlessly with the help of the distinguished witnesses that are coming before our Committee today to do just that.

She has a different title, but she is my dear friend and co-worker, partner in these efforts, and will continue to be, Senator Susan Collins of Maine.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you very much, Mr. Chairman. Let me start by thanking you for your extremely generous comments. It was very hard to relinquish the gavel. [Laughter.]

But if I had to do so, there is no one whom I would rather relinquish it to. My colleagues should know that I have already provided the new Chairman with a chocolate gavel to help him along in his new task.

As the Chairman has indicated, this is the first Homeland Security Committee hearing of the new Congress, and it appropriately reflects the change in control of the Senate. What has not changed, however, is my high regard for the wisdom, the leadership, and the collegiality of our new Chairman, my respect for all of the Members of this Committee, and my belief that the Committee will continue to pursue a course of civility and cooperation, producing bipartisan legislation that benefits the American people. That is the proud tradition of this Committee, and I know it is one to which the new

Chairman is firmly committed, and I pledge my support to working very closely with him.

As Members of the Homeland Security Committee, we conduct our work ever mindful that thousands of lives were lost on September 11, that terrorists still threaten our Nation, and that we must work to protect Americans against that threat. The presence today of the family members of the victims of September 11, 2001, is a vivid reminder of our solemn responsibility—responsibility that transcends partisan politics.

I also very much look forward to hearing the testimony this morning of Mayor Bloomberg, whose leadership on counterterrorism issues has been outstanding. We are also very fortunate to have three former members of the 9/11 Commission with us, Senator Slade Gorton, Congressman Lee Hamilton, and Congressman Tim Roemer. All of them provided this Committee with much good guidance as we drafted the Intelligence Reform Act of 2004, which, like the Chairman, I look back on as this Committee's greatest accomplishment in the last Congress.

I also very much welcome the testimony of the President of the International Association of Chiefs of Police and Connecticut's homeland security leader.

As the title of this hearing indicates, our task is by no means finished. We would, however, be remiss if we did not recognize that Congress has already enacted many significant measures to achieve the goals of the 9/11 Commission. In 2004, a Herculean bipartisan effort by this Committee made possible the most significant sweeping reforms in the intelligence community in more than 50 years. The Intelligence Reform and Terrorism Prevention Act of 2004 established the position of the Director of National Intelligence and created the National Counterterrorism Center, which the Chairman and I recently visited. But this major reform legislation also improved interagency information sharing, strengthened border and transportation security, hindered terrorist travel by consolidating watch lists and improving the visa issuance process, expanded our ability to cut off the financing for terrorist activities, and established congressional expectations for coordinating diplomatic, military, and foreign aid initiatives in the war on terrorism.

Mindful of the balance between greater security and the civil liberties and privacy cherished by all Americans, we also established the Privacy and Civil Liberties Oversight Board and created two new privacy and civil liberties officers.

As this partial summary suggests, the recommendations of the 9/11 Commission were the very basis for the provisions in this important legislation. More recently, this Committee wrote the new laws that greatly strengthen the protections for America's cargo ports and chemical facilities, again addressing vulnerabilities outlined and highlighted by the Commission's report.

Implementing these Commission recommendations did not lighten our workload, however. Whenever a new policy or a new program is enacted, diligence in monitoring implementation and results is absolutely critical. For example, the Department of Homeland Security has granted nearly $3 billion since 2003 for improving interoperable communications, which are so vital to any coordinated disaster response. Yet we learned in our investigation of

the response to Hurricane Katrina that this area is still woefully lacking, and just last week DHS reported that only six of 75 cities that it surveyed had received top marks for interoperable communications. More work needs to be done in this area. I am sure the members of the Commission and the Mayor agree with the Committee Members on that.

Legislative efforts to implement the 9/11 Commission's recommendations were hard fought and they produced much progress. But the Commissioners warned us that one recommendation, if left unfulfilled, could undermine all those that were adopted. The Commission delivered this stark verdict: Congressional oversight for intelligence and counterterrorism is dysfunctional. The Commission made reform of congressional oversight a key recommendation for bolstering America's defenses, noting "The other reforms we have suggested will not work if congressional oversight does not change, too." Unfortunately, this is an area where Congress did not fulfill the recommendations of the 9/11 Commission, and more work remains to be done.

Mr. Chairman, I fully agree that urgent, unfinished business remains as we review the progress that we have made in passing the 9/11 Commission's recommendations. Yet Congress is not a rubber stamp. The 9/11 Commission did a terrific job, and I have such respect for its members. I agree with and have worked hard to implement many, indeed most, of its recommendations. But the thorough process that this Committee undertook to study the report demonstrated that not every single recommendation should be enacted.

For example, the Commission recommended that the Department of Defense rather than the CIA be the lead agency for directing and executing paramilitary operations. The DOD, the CIA, and many experts opposed that recommendation, and Congress did not adopt it. And I think some of the members of the 9/11 Commission would agree that perhaps we did make the right decision in that area.

Nevertheless, Mr. Chairman, it is so fitting that we start our work this year by evaluating the progress in countering the threats facing our country, and there is no better way to start than by hearing from the distinguished witnesses that you have called today. I look forward to working with you, Mr. Chairman, with both the veteran, the returning, and new Members of this Committee to identify and advocate added protections for our fellow citizens, and I once again thank the 9/11 Commission, the families of the victims of the terrorist attacks, State and local officials, including the Mayor, and other experts for their much needed guidance.

Thank you, Mr. Chairman.

[The prepared statement of Senator Collins follows:]

PREPARED STATEMENT OF SENATOR COLLINS

Mr. Chairman, this is the first Homeland Security Committee hearing of the new Congress, and it appropriately reflects the change in control of the Senate.

What has not changed, of course, is my high regard for the wisdom, leadership, and collegiality of our new Chairman, my respect for all of our Members, and my belief that this Committee will continue to pursue a course of civility and cooperation, producing bipartisan legislation that benefits the American people. That is the proud tradition of this Committee.

As Members of the Homeland Security Committee, we conduct our work ever mindful that thousands of lives were lost on 9/11, that terrorists still threaten our

Nation, and that we must protect Americans against that threat. The presence today of family members of victims of the terror attacks of September 11th is a vivid reminder of our solemn responsibilities—responsibilities that transcend partisan politics.

I also look forward to hearing the testimony of Mayor Bloomberg of New York City, whose leadership on counter-terrorism has been outstanding, and of three former members of the 9/11 Commission, Senator Slade Gorton and Congressmen Lee Hamilton and Tim Roemer, who provided the Committee with so much good guidance as we drafted the Intelligence Reform Act in 2004. I also welcome the testimony of Joseph Carter, president of the International Association of Chiefs of Police, and James Thomas, Connecticut's homeland-security leader.

As the title of this hearing indicates, our task is by no means finished. We would, however, be remiss if we did not recognize that Congress has already enacted many significant measures to achieve the goals of the 9/11 Commission.

In 2004, a Herculean, bipartisan effort by this Committee made possible the most significant reform in the structure and operation of our intelligence community in more than 50 years.

The Intelligence Reform and Terrorism Prevention Act of 2004 established the position of Director of National Intelligence and created a National Counterterrorism Center to coordinate intelligence analysis and operational planning for counterterrorism.

This major reform legislation also:

- Improved interagency information-sharing and required a more efficient security clearance process;
- Strengthened border and transportation security;
- Hindered terrorist travel by consolidating threat screening and improving the visa issuance process;
- Expanded our ability to cut off the financing that enables terrorist activities; and
- Established congressional expectations for coordinating diplomatic, military, and foreign-aid initiatives in the war on terror.

Mindful of the balance between greater security and the civil liberties and privacy rights cherished by all Americans, we also established the Privacy and Civil Liberties Oversight Board and created two new privacy and civil liberties officers—one at the Department of Homeland Security and one in the Office of the DNI.

As this partial summary suggests, the recommendations of the 9/11 Commission were the basis for many provisions in the Intelligence Reform Act.

More recently, this Committee wrote the new laws that greatly strengthened protections for America's cargo ports and chemical facilities, again addressing vulnerabilities highlighted in the Commission report.

Implementing these Commission recommendations did not lighten our workload, however. Adopting a new policy or creating a new program demands diligence in monitoring implementation and results. For example, the Department of Homeland Security has granted nearly $3 billion since 2003 for improving interoperable communications, so vital to any coordinated disaster response. Yet, just last week DHS reported that only 6 of 75 cities it surveyed had received top marks for interoperable communications.

More work must be done in the area of interoperable communications—on this, Members of this Committee and the Commission can agree. DHS must continue working with State and local governments, and this Committee must persevere in our oversight. The Nation demands better results.

Legislative efforts to implement the 9/11 Commission's recommendations were hard-fought and produced much progress. But the Commissioners warned that one recommendation, if left unfulfilled, could undermine all those that were adopted.

The Commission delivered this stark verdict: "Congressional oversight for intelligence—and counterterrorism—is dysfunctional." The Commission made reform of Congressional oversight a key recommendation for bolstering America's defenses, noting that "The other reforms we have suggested . . . will not work if congressional oversight does not change, too."

The 9/11 Commission called for a joint intelligence committee or, alternatively, for intelligence committees in each house with combined authorizing and appropriating authorities. We have neither, though some progress has been made on secondary recommendations like setting aside intelligence committee term limits in the Senate.

The 9/11 Commission also urged each house to establish an oversight committee for all homeland-security issues. The Commission noted that DHS officials were appearing before 88 committees and subcommittees.

Although the House and Senate have established such committees, their jurisdiction is far from complete. The House Homeland Committee does not have full jurisdiction over FEMA. This Committee, though charged with oversight of the Department of Homeland Security, lacks jurisdiction over several of its components, including the two largest—TSA and the Coast Guard.

Mr. Chairman, I fully agree that urgent, unfinished business remains as we review the progress we have made in passing the 9/11 Commission's recommendations.

Yet, Congress is not a rubber stamp. The 9/11 Commission did a terrific job, and I agree with, and have worked hard to implement, many of its recommendations. But the thorough process that this Committee undertook to study the report demonstrated that not every single recommendation should be enacted.

For example, the Commission recommended that the Department of Defense rather than the CIA be the lead agency for directing and executing paramilitary operations. The DOD, the CIA, and many experts opposed that recommendation, and Congress did not adopt it.

Nevertheless, it is fitting that we start our work in the new year by evaluating our progress in countering threats facing our country. I look forward to working with both the veteran and the new Members of the Committee to identify and advocate added protections for our fellow citizens, and I once again thank the 9/11 Commission, the families of the victims of the terrorist attacks, State and local officials, and other experts for their guidance.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks very much, Senator Collins.

Now we go to our first panel, a very distinguished panel. I thank you all for being here. Our three former colleagues, Lee Hamilton, Slade Gorton, and Tim Roemer, have shown us and the rest of America that there is productive life after service in Congress, and we thank you very much for all you have done, including returning here.

I welcome Mayor Bloomberg. It is really an auspicious beginning for the first witness of our year to be the Mayor of New York. He is a great mayor. He is a great friend. He has very personal and very proud connection to the subject of this hearing. The Mayor was chosen to lead the City of New York in 2001 while the embers still smoldered at the World Trade Center. He brought the city, which is the Nation's largest and most diverse, back, brought it together to rebuild itself, strengthen its ability to respond to a future attack, and has done some pioneering work in creating the systems to prevent an attack before it takes place.

As I begin my time as Chairman of this Homeland Security Committee, I look forward to working with Mayor Bloomberg as a full partner in addressing the homeland security needs of our country. I don't think anyone has more to offer in that regard than you do. The Mayor gave very strong, influential testimony before the 9/11 Commission and has continued to bring forward important practical solutions to address the security of our Nation's cities. I look forward to his counsel, his visits to Washington, and our visits to New York as we move ahead together to better protect the security of our cities and our country.

Mayor Bloomberg, thank you for being here.

TESTIMONY OF HON. MICHAEL R. BLOOMBERG,[1] MAYOR, CITY OF NEW YORK

Mayor BLOOMBERG. Chairman Lieberman, Ranking Member Collins, Senator McCaskill, Senator Tester, Senators Stevens, Voinovich, Coleman, and Sununu, thank you all for having me here.

First, let me congratulate you, Mr. Chairman, on your recent selection as Chairman. I think everyone knows of your formidable and well-documented commitment to fighting terrorism, and I look forward to working with someone who really understands the needs of New York and the region.

Let me also acknowledge Senator Collins for her great service in leading this Committee, a Committee that has played a crucial role in ensuring the safety of our Nation.

It is also a pleasure and an honor for me to join three distinguished members of the 9/11 Commission, Lee Hamilton, Slade Gorton, and Tim Roemer. These are three people that I guess I never thought I would be sitting with, so the pleasure is mine.

This morning, I wanted to take the brief opportunity I have to talk about the progress New York City has made since September 11, 2001, in improving our counterterrorism capabilities. I also want to discuss crucial areas where the Federal Government can and must do more to help this Nation.

As residents of the world's media capital, the Nation's financial hub, and the center of international diplomacy, we in New York realize that the attack on the World Trade Center was not intended to be a single, solitary event. We remain a prime, if not the prime, target for al Qaeda and other terrorist groups. This presents challenges that we are determined to meet head on, and we are sparing no expense. As I have said repeatedly, my responsibility as the Mayor is to first do everything I can to keep our city safe and then to find a way to pay for it, not the other way around.

From the outset, I think we have done exactly that. Our Administration has taken steps to strengthen all parts of our city, including our first line of defense, the NYPD. We created a unique Counterterrorism Bureau and overhauled the NYPD's Intelligence Division. Both units now employ a total of 1,000 police officers, and they have become a model to other big city police departments around the Nation and crucial weapons in the global fight against terrorism.

In August 2004, for example, they foiled a plot to bomb the Herald Square subway station in midtown Manhattan just a week before the Republican National Convention. The tip came from an informant whom the Intelligence Division had cultivated in our city, and just yesterday you may have read in the paper one of the plotters was sentenced to 30 years in jail for what he was trying to do.

Today, the NYPD's intelligence and counterterrorism program reaches around the world. In fact, we currently have 10 of our best detectives posted in Tel Aviv, London, Singapore, and other foreign cities working to obtain a full picture of the global terrorism threat. Getting a firsthand view of other approaches has always been one of our guiding management principles. We don't have all the answers, and we will take help from anyone, anyplace. We do not

[1] The prepared statement of Mayor Bloomberg appears in the appendix on page 83.

worry about whether we invented it or not. We only worry about whether it would be useful and whether it is right.

Other city agencies are also keys to our counterterrorism response. Our fire department has thoroughly expanded training for chemical, biological, and radiological emergencies. We have also created a subway simulator at the fire academy to train for emergency underground problems, and we are expanding the length of training for our new recruits, making ours one of the longest and most intensive fire fighting training programs in any city in the world.

Our Health Department's Syndromic Surveillance System examines 60,000 pieces of health information every single day, including ambulance runs and pharmacy sales, for the first signs of a bioterror attack. With bioterrorism, discovering that you are being attacked is as difficult as dealing with the actual attack. Our response last year to an isolated incidence of anthrax, although unrelated to terrorism, I think demonstrated our enhanced capability to identify and then react.

Our Office of Emergency Management, which recently moved into a new state-of-the-art headquarters, has taken the lead in organizing dozens of interagency simulations. They have tested, for example, responses to natural disasters, such as a Category 4 hurricane, and terrorist attacks that employ bioterrorism and other weapons of mass destruction. We have done simulations on our subway system. We have done simulations in Shea Stadium. We continue to believe that looking at these problems in advance is the way to be prepared when something happens.

Interagency communications and coordination has also been enhanced through our Citywide Incident Management System, or CIMS, as it is called, which adapts the new National Incident Management System to America's largest city and clearly spells out the division of responsibility for first responders at major incidents. CIMS has frequently been put to the test during our day-to-day operations and response from aviation accidents to building collapses and explosions, and in each case, CIMS has ensured that we responded swiftly and expertly.

In New York, we understand that preventing terrorism and responding to any large-scale emergency also depends on smooth coordination among key Federal, State, and city agencies. Our police department has an exemplary working relationship with the FBI's New York Field Office and its Assistant Director, Mark Mershon, and we have assigned more than 120 police officers to the FBI-NYPD Joint Terrorism Task Force, and I think the result is a genuine two-way information sharing that is unique in America. For example, when we discovered a threat to our subways in 2005, we stood shoulder-to-shoulder with the FBI and assured the public that we were taking the steps necessary to keep our transit system safe.

That is what we are doing to keep our city, region, and to some extent the country safe. But my message to you today has to deal with how we pay for this because all of these prophylactic and response capabilities require funding, and such excellent cooperation with the FBI notwithstanding, some parts of the Federal Govern-

ment have not been as good a partner to us as I think they should be.

From day one, I have urged that homeland security funding be distributed based on risk and risk alone. I first made this case in front of members of the House Appropriations Committee in April 2003, and I have repeated this call before Congress and at the White House many times since. I have talked about threat-based funding when I testified before the 9/11 Commission, and I was glad that Vice Chair Lee Hamilton, Senator Slade Gorton, Congressman Tim Roemer, and the other Commission members heartily endorsed my recommendation.

Yet time and time again, our calls for fully risk-based homeland security funding have been ignored. Instead, we have seen huge sums of homeland security money spread across the country like peanut butter. More than $3 billion has been distributed in this irrational way so far. Some communities don't even know what to do with it when they get it. For instance, one town spends some of its share on a custom-built trailer for its annual October mushroom festival. Al Qaeda must be laughing all the way to their tents. Meanwhile, New York City, which has enormous needs, which has been attacked before and has been targeted many times since and will most likely be targeted again, goes wanting.

If you want to build a honey pot to spread money around the 50 States, so be it, but call it what it is. Don't call it homeland security. Homeland security funds should all go to the places where we need those monies. Do not confuse risks with targets. Everyplace there are risks, but there aren't that many targets, and targets are what the enemies of this country will focus on.

I think it is fair to say that both the Administration and Congress share the blame for the politicalization of homeland security funding. For the sake of New York City and the sake of our Nation, I hope you stop writing politically derived formulas into homeland security bills. Instead, you should give the Department of Homeland Security complete flexibility to allocate 100 percent of homeland security grants according to risk, threat, and return on investment and then challenge the Department to exercise this flexibility in a coherent and rigorous manner.

Now, to give credit where credit is due, Homeland Security Secretary Chertoff has expressed now a willingness to bring more common sense into the process and to better address our concerns. Last Friday, the Department of Homeland Security released new guidelines for the distribution of funds in fiscal year 2007, which gave greater consideration to threat, vulnerability, and consequences of a terrorist attack. For the first time, the Department's Urban Areas Security Initiative will recognize six high-risk, sensitive areas, including New York. Establishing this high-priority group is a step in the right direction. But when you actually compare the percentage of funding that these six cities received last year with what is being set aside for them this year, it is virtually the same. Until we find out precisely what the allocation will be, it is unclear if these new guidelines will make a difference in the details.

Let me end with a little bit of other good news. After years of vigorously lobbying on our part, the Department of Homeland Security finally plans to loosen some of its restrictions on how Urban

Areas Security Initiative money can be spent. For New York, that means we can use up to 25 percent of our allocation to support the officers in the counterterrorism and intelligence units. We have always believed that one of the strongest defenses against terrorism is good old-fashioned boots on the ground, not spending the money on equipment that we don't need. And now we may finally get some Federal support to keep them there.

We will continue to work with Congress. We will continue to work with the Department of Homeland Security to increase the flexibility of their funding guidelines. Homeland security grants, for instance, still can't be spent on construction despite the fact that hardening sensitive targets can significantly lower the risk of attack.

We will also work with Congress and the Department of Health and Human Services to fix the distribution of bioterrorism preparedness funds. New York City is only one of a handful of places in this Nation that has ever experienced a bioterrorist attack. Yet in fiscal year 2006, we received $4.34 per capita, putting us at an incredible 27 out of the 54 eligible States and cities.

We will also continue to challenge Congress on making funding available for our wireless emergency communications network, which we have been developing for several years. This year, the Federal Government will distribute $1 billion for the development of State and local interoperable communications systems. This is a very sensible effort, and it speaks directly to one of the 9/11 Commission recommendations. But as of now, you should know, none of that funding is available to New York City because our systems will operate on frequencies other than the ones specified in the Federal Government's new grant program.

For New York, this restriction punishes us for our aggressiveness in protecting our city. We have already invested more than $1 billion of our own money in our network's infrastructure, and we are building it on a frequency that works best in the subways, skyscrapers, and density of our urban environment. We have tried to develop a solution that makes sense for our city's needs because one size does not fit all, nor will it. And for Congress to move forward on their plan without making sure New York City is part of it is just the height of foolishness.

And when you think about it, that is really the heart of the problem here. Time and time again, the Federal Government has tried to apply uniform solutions to localities like New York City, which deserve more nuanced and individual attention. What this country really needs is a Federal policy-making process that recognizes New York City for what it truly is, one of the largest, most densely populated areas in the world, a powerful symbol of what our enemies deeply despise, and a city that already has been targeted many times. This is our reality, and it is one that defies a mathematical formula, no matter how well intended.

I appreciate the opportunity to be here. I would just urge you to take a look at not the politics, but what will keep this city, this region, and this country as safe as it can possibly be. Thank you very much.

Chairman LIEBERMAN. Thanks, Mayor. Thanks very much for your excellent testimony. I know we are going to have some questions for you after we hear from the other Commissioners.

Lee Hamilton, it is an honor to welcome you to this Committee. We look forward to hearing from you now.

TESTIMONY OF HON. LEE H. HAMILTON,[1] FORMER VICE CHAIR, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. HAMILTON. Chairman Lieberman, Senator Collins, and distinguished Members of the Committee, thank you very much. It is an honor for me to be here with you.

I might say to the Members of the Committee that I had the opportunity, Mr. Mayor, to visit the Counterterrorism Center in New York City and the Joint Task Force. I think it is an example for the Nation. New York has led the way in that area. It is vitally important, and I would recommend to the Senators here, if they can possibly do it, to visit that Counterterrorism Center in New York City because they will learn a lot there and much of it can be applied in other areas of the country.

It is a pleasure to be here with the Mayor. He, of course, was very important, very cooperative in the work of the 9/11 Commission. We appreciated that very much, and it's a pleasure, of course, to be with Slade Gorton and Tim Roemer, both of whom were essential and very important contributors to the work of the 9/11 Commission.

I begin, of course, by acknowledging the extraordinary leadership of this Committee. Under Chairman Collins and Ranking Member Lieberman, it is my recollection that this Committee held the very first hearings on the 9/11 Commission recommendations. The Committee then drafted a bill based on those recommendations and managed the legislative process with very great skill. If my recollection serves me correctly, you had a remarkable 96-2 vote on the Senate floor. The Chairman and the Ranking Member then guided the bill through final passage of the Intelligence Reform and Terrorism Prevention Act of 2004.

Today, under Chairman Lieberman and Ranking Member Collins, I think the exceptional leadership role continues. I don't know of a better example in the U.S. Congress of bipartisan cooperation than we have had with the two of you and the other Members of your Committee, and I certainly commend you for it, and we thank you for your leadership.

I will make a few comments, very general comments, then turn it over to Senator Gorton and Congressman Roemer for filling in some of the details.

It is 2½ years now since the 9/11 Commission completed the largest investigation, to my knowledge, in the history of the U.S. Government. I believe that roughly half of our recommendations have been accepted now, especially those with regard to the intelligence community, which you referred to in your opening state-

[1] The joint prepared statement of Mr. Hamilton, Mr. Gorton, and Mr. Roemer appears in the appendix on page 92.

ments. They were taken up by the Congress, enacted into law, and that is the good news.

The bigger problem, and I was very pleased to see both of you hit upon this in your opening statement, is the challenge of implementation. Legislators sometimes think that passing the law completes the job. It is only the first step, as you recognize. No law is self-executing, and implementation is oftentimes the more difficult part of the process. Even when the letter of our recommendations was written into the law, we have often found that implementation has been lagging.

In some cases, it is reasonable to expect that implementation takes a long time. But Congress does need to provide, and again, you have both recognized this, robust oversight to ensure that reforms are carried out. The continuing work of this Committee is essential to achieve the purposes of the public law. The question for us today is the remainder of the Commission's work.

Roughly half of the Commission's recommendations still need to be addressed. We are, therefore, especially pleased and gratified by the commitment of the leadership of the 110th Congress to take up legislation to address the unfinished agenda. Those of us who served on the Commission certainly want to try to be helpful to you in every way that we can.

I will now turn to Senator Gorton to comment on information sharing.

Chairman LIEBERMAN. Thank you very much. Senator Gorton, welcome back.

TESTIMONY OF HON. SLADE GORTON,[1] FORMER COMMISSIONER, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. GORTON. Thank you. First, progress on information sharing is still too slow. As the Commission's report documented again and again, we in the United States missed opportunities to disrupt the September 11 plot because of the failure to share information. The Federal Government is doing a better job of sharing terrorist threat information within its own structure, but there are still huge gaps in information sharing with State and local authorities.

In November of this last year, the Director of National Intelligence issued an Implementation Plan for the Information Sharing Environment, a plan required by the 2004 statute. That plan deserves the careful oversight of this Committee. We continue to hear about turf fights about who is in charge of information sharing with State and local governments. We continue to hear complaints from State and local officials about the quality of the information they receive. Suffice it to say, many questions and issues remain about the Implementation Plan for the Information Sharing Environment. The problem of information sharing is far from resolved.

Second, we continue to be concerned about interoperability. As the just-released report from the Department of Homeland Security illustrates, first responders in many metropolitan areas still do not have the ability to communicate with one another effectively. Bet-

[1] The prepared statement of Mr. Hamioton, Mr. Gorton, and Mr. Roemer appears in the appendix on page 92.

ter communications depends on many factors—policies, technology, and training. It also depends on broadcast spectrum.

The Commission recommended that Congress expedite for public safety purposes the allocation of a slice of the broadcast spectrum ideal for emergency communications. Those frequencies, able to get messages through concrete and steel high-rises without difficulty, are now held by TV broadcasters. They had been promised for public safety purposes for a decade and will finally be turned over to first responders in February 2009. We do not believe that this date is early enough. Who can say that no disaster will strike before 2009? Why should public safety have to be put on hold to accommodate the broadcast industry? We believe that Congress should act to accelerate this date.

Third, States and localities need to practice their plans for emergency response. As this Committee outlined in its excellent report, Hurricane Katrina once again taught us lessons we should have learned from September 11. Every metropolitan area and every locality needs to have a working response plan that embraces the Unified Incident Command System. A response plan needs to be practiced and exercised regularly. You can't wait for a disaster to hit and then look for the plan. All first responders need to know long beforehand who is in charge and what their jobs will be.

The Department of Homeland Security now requires a Unified Incident Command System to be in place or States cannot receive homeland security funding, a good provision as far as it goes. But at the time of Hurricane Katrina, Louisiana and New Orleans had a paper plan, but it wasn't executed when it was needed. DHS needs to make sure that those plans are living documents, that first responders have practiced working together. If you are a first responder and you are talking to your counterpart for the first time on the day disaster strikes, your response plan will fail.

Fourth, we have taken a special interest in the work of the Privacy and Civil Liberties Board, which we recommended and Congress created. It is the only office within the Executive Branch designed to look across the government at the actions we are taking to protect ourselves to ensure that privacy and civil liberties concerns are appropriately considered. We believe that the government needs strong powers in order to protect us. We also believe that there needs to be a strong voice within the Executive Branch on behalf of the individual and on behalf of civil liberties.

The Board needs to move forward smartly with this important mission. Stories we read in the newspaper every day point up the importance of a strong voice and a second opinion within the Executive Branch before it goes ahead with controversial measures that affect our civil liberties. We want to do everything we can to encourage the work of the Privacy and Civil Liberties Oversight Board. We strongly supported this Committee's original proposal for the structure and authorities of the Board when it was created in 2004, and we believe that proposal deserves attention again.

Fifth, we still do not screen passengers against a comprehensive terrorism watch list before they get on an airplane. The airlines do the name checking, and the government wants to protect sensitive information and therefore does not share all names on its watch list with the airlines. So the airlines screen passengers against an

incomplete list. The solution recommended by the Commission is a straightforward one. The government should do the name checking of all passengers against its own comprehensive watch list.

The Transportation Security Administration's plan for integrating commercial data into the screening process, a plan called Secure Flight, has been delayed repeatedly. But this delay should not stand in place of the government taking over name checking from the airlines so that all passengers are screened against a complete and up-to-date no-fly list. We understand that action may take place relatively soon, but every day delayed is a day lost.

Sixth, scarce homeland security dollars must be allocated wisely. In our report, we recommended that homeland security funds be allocated on the basis of the greatest risk and vulnerabilities of attack. Secretary Chertoff has stated many times his support for this proposition. Therefore, we were surprised and disappointed last year that the Department of Homeland Security proposed cuts in homeland security funding for New York City and for Washington, DC. The terrorists targeted New York and Washington. So far as we know, they continue to target symbols of American power. It defies our understanding of the nature of the threat to reduce funding designed to protect New York and Washington, DC.

The problem is not only in the Executive Branch. The underlying legislation also needs reform. Last year, the Senate passed a useful bill, the House passed a superb bill, but nothing came out of the Conference Committee on the subject. What we need this year, above all, is an agreement between the House and Senate that moves reform in the right direction. Unless and until the Congress sends a bill to the President allocating homeland security funding on the basis of risk, scarce dollars will be wasted.

And, Mr. Chairman and Senator Collins, I want to add one thing that is not in our written statement. We have in the last weeks and months seen the resignations of the top two officials of the Directorate of National Intelligence, Ambassador Negroponte and General Hayden. I strongly suspect, although I don't have inside knowledge, that at least a part of this was due to frustration at their authority. I would strongly suggest that you look back not only at our own recommendations, but at your bill, the bill that the Senate passed on this subject that was watered down in conference with respect to creating clear lines of budget authority, personnel authority, and jurisdiction for the Director of National Intelligence so that person and that group can do the job that it was meant to do.

Chairman LIEBERMAN. Thanks. Congressman Roemer, welcome back, and thank you for all your service in this regard.

TESTIMONY OF HON. TIMOTHY J. ROEMER,[1] FORMER COMMISSIONER, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. ROEMER. Thank you, Senator. It is an honor to be here, and I just ask unanimous consent that my entire statement, the rest of our statement, be entered into the record, and maybe in a little bit

[1] The joint prepared statement of Mr. Hamilton, Mr. Gorton, and Mr. Roemer appears in the appendix on page 92.

more informal way, I can talk about the last three remaining yet very important items on the September 11 agenda.

I, too, want to say how much of an honor it is to be with Mayor Bloomberg, who has been so successful, both in the private and the public sector, serving one of the most important cities in the world, and with my colleagues on the 9/11 Commission, Lee Hamilton and Slade Gorton, who have done such great work.

Mr. Chairman and Madam Former Chairman, I just want to say that this Committee has done bipartisan, productive, and prodigious work in making our country safer. You helped create, with the work on the House side, the 9/11 Commission. We wouldn't be here without your great work. You took the first step toward passing one-half of the 9/11 Commission recommendations, thereby putting us in a position to make this country much safer.

Senator Collins, you said that we didn't do everything perfectly in this 9/11 Commission book—and anytime I am on talk radio shows, I hear more and more about the failures than the successes. We certainly did make some mistakes, but I think one of the things that we did right in this report was we looked at this problem in a global way, trying to develop a global strategy. How do we reorganize our government along the same lines as we did in 1947 with the National Security Act to create the Department of Defense, the CIA, and reorganize Congress, and how do we complement that with the global strategy to work with our allies, to talk about economic and educational programs, to have a message that is going to beat the seductive message of Osama bin Laden to the world's youth and the Muslim youth in this world? We have a long way to go on those fronts.

Al Qaeda seems to be changing, rapidly deploying their terrorists all around the world. They have a production company, as-Sahab, which is first-rate, communicating with millions of people on not only Al Jazeera, but on CNN and FOX. They are recruiting on the Internet and training their people how to use IEDs and the bombs of the future. They are working outside of Iraq and Afghanistan, popping up and generating cells all over the world. They have the best of pre-September 11 with command and control starting to come back in Pakistan and Afghanistan and now they have the best of post-September 11 with self-generating cells, and their shadow looms large in Europe.

So what can we do about these things in the short term? The 9/11 Commission talked about three remaining issues that are on my platter today. One is congressional reform. It is very difficult, as Mayor Bloomberg was saying, that Congress look at reforming the FBI and the CIA, but you must also look in your own backyard and reform the very powerful tool that you have, congressional oversight.

Large numbers of Members here on your Committee today, including freshmen Members, are conducting that vigorous oversight and learning about how to do the job better of protecting this country, accepting some of these recommendations and rejecting others. But more oversight reform is needed.

Congressional reform, I think, has taken a step forward with Speaker Pelosi's initiative on the House side to create a subcommittee on the appropriations panel that will not only empower

appropriators to do more intelligence oversight, but also cross-pollinate that committee with authorizers and then make the authorizing committee more powerful.

Homeland security jurisdiction is a big part of our recommendations, trying to make sure that your jurisdiction is not splintered among different committees, and I know your original bill to establish a powerful government reform committee was changed on the floor. Transit, and transportation and immigration and border issues were split up. The 9/11 Commission was hopeful that those issues might remain within this committee. So we hope that you will continue to look at both homeland security oversight reform and intelligence oversight reform.

Second, radicalization in the Muslim world. General Abizaid said very convincingly about a year ago, this is not just a military war, this is a political war. This is a war of ideas for hearts and minds. We must win that war. The time period for radicalized terrorists between alienation, radicalization, and detonation is shrinking. More and more young people may be signing up for al Qaeda. The United States needs to have a compelling message to counter that trend.

We talk on the 9/11 Commission, and we propose a host of ideas, building scholarship exchange programs and library programs. We initiate an International Youth Opportunity Fund for building and operating primary and secondary schools in Muslim communities, especially where Muslim states will put the money forward first in alternatives to the madrassas that teach the hatred of Americans and the killing of Jews. We must counter those kinds of trends in the Middle East.

And third, and maybe one of the most important issues that the 9/11 Commission recommended that we do more, we exert maximum effort in this area, is trying to make sure that the most dangerous weapons don't fall into the most dangerous hands, that the terrorists don't get ahold of nuclear fissile material and come and attack the United States with that kind of material.

We lost 3,000 people on September 11. We don't have a convention hall big enough for the mourning that would take place if this country or Europe would be attacked with a nuclear weapon. We have to do more. The 9/11 Commission talked about strengthening the Proliferation Security Initiative, expanding the funding for the Nunn-Lugar Program, and doing more to reach outside of the former Soviet Union and expand to the Global Threat Initiative, the encompassing nature of trying to make sure that these dangerous weapons don't get into dangerous hands from civilian reactors.

Finally, in conclusion, Senator Lieberman and Senator Collins and distinguished Members of this Committee, I just would like to say one of the highest honors, in addition to working with all of you, has been to work with the people that you are going to hear from in a few minutes, the September 11 family members. You are going to hear from Mary Fetchet who lost her son, Brad; from Carol Ashley who lost her daughter; and from Carie Lemack who lost her mother. These people have come up to Washington, DC, sometimes four and five times a week at their own expense for the last 5 years to try to encourage Congress to pass these reforms and

better put us in a position to make sure that we don't lose our sons and daughters.

I would hope that after you all take the necessary steps to pass the remaining September 11 reforms and then tackle the converging trans-national threats that face us in the future, these families will be given a rest from coming to Washington so often and we will see this job completed in 2007 so they can get back to their own families and get back to their private sector jobs and we can get on to some of the other pressing issues on energy and al Qaeda and global warming that I think this country faces over the next 10 years.

So thank you so much for your attention today, and we look forward to your questions.

Chairman LIEBERMAN. Thank you, Congressman Roemer. Thanks very much for very helpful testimony.

I welcome the Members who have arrived since we commenced, Senator Stevens, Senator Coleman, Senator Warner, and Senator Sununu. In your absence, I congratulated you on your wise decision to rejoin the Committee and welcome you. Senator Obama, welcome to you, as well, for an equally wise decision. Good to have you with us.

We are going to have a 7-minute round of questioning for each Member. I will say that I will call in order, as the rule of the Committee has been. If you arrived pre-gavel, you get called in order of seniority; post-gavel, in order of arrival.

Mayor Bloomberg, you mentioned the Counterterrorism Bureau that you established post-September 11 that grew from two dozen officers working the terrorism beat to now over 1,000 with a worldwide reach, which is truly impressive. There was a strong feeling certainly in New York and here, as well, that one of the reasons you did that was that the Federal agencies had let down New York City and the city had to take an initiative on its own. I wonder, now that the Commission has acted, recommended, and we have established both the Director of National Intelligence and the National Counterterrorism Center at the Federal level, whether you have an impression that there is a stronger working relationship and on this level the Federal Government is providing more in the way of counterterrorism assistance to the city than previously?

Mayor BLOOMBERG. Well, I have no knowledge of what occurred before January 1, 2002, when I took office. I can tell you that since then, we do get good cooperation from the FBI, in particular, which is the main interface in terms of intelligence. Having said that, we want to have somebody overseas to look and see what kinds of terrorist attacks actually take place, for example, on a subway, which is a natural target and it has been in many cities, and how responses have succeeded or what they could have done better.

I think one of the great dangers here is that people forget that in the end it is the city's responsibility to respond and to protect on a day-in and day-out basis on the streets. The mistake, whether it is a national problem or a local problem, whether it is a terrorist attack or a natural calamity, is to blame Washington for everything. Washington can give us advice. Washington can give us money. Washington can provide some overseas intelligence. But in the end, it is the responsibility of each city's government and then

a county or a State to respond, and I think that is what you saw in New York City on September 11.

Our police department and fire department responded, and in retrospect, whether the radios could have worked better or anything else, I am not sure that anybody has come up with a credible scenario that says we could have done a better job in evacuating 25,000 people, even at the cost of 400 of our first responders. I think a lot of those first responders, even if they had heard an order to evacuate, probably would not have evacuated. Their courage, their training, their dedication is to go into danger when the rest of us, our natural reaction is to go away.

But I think that each city has to—I think it was Mr. Gorton that said it—not only have a plan, but it has to be a real document that you live by. We test our coordination plan every single day when police and fire departments show up at the same place, every single week where there is a health issue and police and fire departments get involved, every day when our Department of Transportation has to face the issue of how would we move people in an emergency. Only if you do that will it work when you need it for a real emergency.

Chairman LIEBERMAN. Could you talk to us a little bit about what you have done in New York in terms of improving interoperable communications capabilities? I agree with Senator Gorton that we had fought to have an earlier turnover of the spectrum than February 2009. But 2009 was the earliest we could get. We may take another run at it. But in the meantime, the city has taken some action on its own. Could you tell us about that?

Mayor BLOOMBERG. Well, as I said, we don't wait for anybody else. My responsibility is to make our city as safe as I can now and then to worry about how it fits in with outside or who is going to pay for it. Our radios today have a lot more interoperable capability than they did before. Keep in mind, most times you have agencies dealing with one another, it is at the highest level, and so one of the most important things we do is at a significant event, we establish a command center right on site and have the ranking police and fire and other agency officers there, and they are the ones that have to make the decisions as to who is going to take responsibility for something.

We also have discussed this at length, argued about it, changed it, practiced, see whether it worked, moved responsibilities around, so that we know at a particular kind of event which agency is the most likely to be able to provide the response that the public needs. And we also cross-train because even if you have an agreement as to who is going to do what, the truth of the matter is the first person on the ground has to start providing life-saving capabilities and it may not be with their expertise.

Chairman LIEBERMAN. Thanks. Let me ask Mr. Hamilton first, and Mr. Gorton and Mr. Roemer if you want to add, about the Information Sharing Environment. There were great complaints in past years from the local and State levels about the ability to communicate and share information with them because, after all, they have hundreds of thousands of first responders who are not only first responders but if properly connected can be preventers, first preventers. What is your sense of how much progress we have

made at that level of information sharing, from Federal to State and local and back?

Mr. HAMILTON. Mr. Chairman, it is very much a work in progress. It is probably the weakest spot in the information sharing area. We have made a lot of progress in sharing intelligence information within the Federal Government, not exactly where I would like to be, but nonetheless a lot of progress. It seems to me your question puts the finger on the weakest link in information sharing, and that is the intelligence from the Federal Government to local police, State police, and other key local officials. A lot of effort has been put into this. Fusion centers have now been created around the country. I think that is a very good development. Some are working reasonably well, some not so well, but it gives us a mechanism to improve.

I do think there remains a bit of arrogance, frankly, on the part of the Federal people that we know it and we will share with you. Trust us, we will give you the right information in a timely way. It is not enough of a two-way street. That is, we at the Federal level have an awful lot to learn from these hundreds of thousands of people on the beat, on the streets of New York and every other city, State, and county.

So I think this is an area that needs very robust oversight, continual effort to try to improve by many people. But it remains the weak link, and we have not yet made the flow of information easy to the local people. Likewise, we have not made the flow of information easy from local and State to Federal.

Chairman LIEBERMAN. Thank you. My time is up, and I am going to try, because of the number of people here, to stick to that 7 minutes, so Senator Collins, it is all yours.

Senator COLLINS. Thank you, Mr. Chairman.

Mayor, the NYPD has an enormously capable Counterterrorism Unit that you have described today, and it is impressive that you have members of your department stationed overseas, as well, to improve your intelligence capabilities. This Committee has begun an investigation of homegrown terrorists. In other words, we can have all the border security in the world, but if there is radicalization right here in the United States, we may have people who are already here who pose a significant threat.

Congressman Roemer talked about the need to have more outreach to moderate Muslims and to try to counter that radicalization. Are you taking a look at that threat, as well, of homegrown terrorists?

Mayor BLOOMBERG. Well, we have 38-odd-thousand police officers. We spend $5.5 billion of New York City taxpayer money on providing protection because, while terrorism is something we are talking about today, it is street crime that most people have a much greater risk of experiencing. But I think all of those police officers are trained to look for terrorism in one form or another. A much more likely scenario in any big city than a massive terror attack is the individual who is mentally deranged who tries to take a few lives and gets a lot of the publicity and what our thousands of police officers really do focus on.

I think the other thing you point out is that immigration—or people coming across the borders—is not the answer or the only an-

swer to threat. Quite the contrary, I think that one of the great dangers in trying to keep people from coming into this country is to let al Qaeda win without ever firing a shot. The damage that is being done to our educational system, to our scientific community, to the future of our country in terms of jobs and opportunities—it is so great—it is hard to describe, and it will take decades to reverse.

We are making this country persona non grata to the very people that we need to have come here, and most of them are not terrorists, and the fact of the matter is if you want to be a terrorist, there are lots of ways to get into this country. What we have to do is stop them at the borders, if you can, but also on the streets once they get here because they are likely to get here or be grown here.

Senator COLLINS. Congressman Hamilton, Congressman Roemer talked about the importance of congressional reform. I think Congress finds it far more difficult to reform itself than to impose reforms on the Executive Branch. Your report outlined a situation in which Department of Homeland Security (DHS) officials were testifying before an astonishing 88 committees and subcommittees, and we did make some progress in consolidating oversight in one committee. But in the Senate, the two largest entities within DHS are outside the jurisdiction of this Committee. They are in the committee of my friend from Alaska. In the House, the oversight committee does not even have jurisdiction over FEMA, a major carveout, if you will.

How important do you think that congressional reform still is? You highlighted it in the report, but is it still a priority for the Commission?

Mr. HAMILTON. Well, yes, I think it is. I have some appreciation of the difficulties here inside the Senate and inside the House, probably more about the House than the Senate. The objective all of us share is that the Legislative Branch give very aggressive, robust oversight of the executive on the implementation of law to see that the law is being implemented in the manner that you had intended.

Now, it really makes the Secretary of DHS's job incredibly more difficult to have him reporting to so many different committees and subcommittees, and I think we have to have an appreciation of the burden that we put on the Executive Branch, we in the Congress, you in the Congress, when you do not clarify these lines of responsibility. It is a difficult thing to reorganize the Federal Government, and it is a very difficult thing to reorganize the committees of the Congress. But there has to be an appreciation of the fact that when a secretary is responsible to multitudes of subcommittees and committees, there is not good oversight. If you have that many committees doing the oversight, you don't have any committee doing the oversight effectively and comprehensively.

So I do not think we have—you have—in the Congress reached the point where you are sufficiently reformed to provide an efficient means of oversight, and I think the appropriations committees have made a lot of progress here. I think I am correct in saying—you can correct me if I am wrong—that in the appropriations committees now, the subcommittee has responsibility for all of home-

land security. That is not true in the authorizing committees. So the objective here, it seems to me, should be to organize it like the appropriating committees have done it and not the authorizing committees.

Senator COLLINS. Senator Gorton.

Mr. GORTON. Senator Collins, as my memory serves me, your reform in 2004 reduced that number from 88 to 79. [Laughter.]

And we would certainly not presume to tell you where various jurisdictions should lie. The thrust of our Commission report was there ought to be a considerable consolidation for two reasons. One, as Mr. Hamilton outlined, simply the burden imposed on the administrative agencies is too great without clear lines of authority to whom they report in Congress. But second, it is important for you. If it is everyone's responsibility, it is no one's responsibility. If it is concentrated someplace, the members of that committee will pay a lot of attention to the subject and will provide a better balance to the Administration than is the case when authority is too widely spread.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks, Senator Collins. I want to assure you that Senator Collins and I are both interested, though we know how difficult this is internally, to take another fresh look at this. I was encouraged that the House apparently is going forward, as Congressman Roemer said, with a proposal that Speaker Pelosi has made, so we will take a look at that and other alternatives to achieve the goals that I think you quite effectively argue for.

Senator McCaskill, it is my high honor to call on you for the first time as a Member of this Committee and to welcome you again. You bring a very strong background to the work of this Committee as a prosecutor. Thank you for joining us.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you so much, Mr. Chairman. It is an honor to be here with all of my colleagues and an honor to address this Committee, and I particularly want to acknowledge the families of those in the room that lost loved ones in the tragedy of September 11.

My area of concern today is really in two specific areas of wasteful spending and communication. As the Auditor of Missouri, I had the opportunity to audit the funds that came to Missouri from this program, and my office did an audit both in May 2004 and May 2006, and with the permission of the Committee and consent, I would like the summaries of those audits to be made part of the record.[1]

Chairman LIEBERMAN. Without objection, so ordered.

Senator MCCASKILL. What I found in those audits was everyone wanted to do the right thing but had no idea how to do it quickly, efficiently, or be trained appropriately, particularly in the area of equipment, where we found 19,000 individual personal protective equipment (PPE) suits had been shipped into Missouri, and even in our urban areas, when we looked into the PPEs, many of them were still in cardboard boxes. Many of them had never even been

[1] The information submitted by Senator McCaskill appears in the Appendix on page 205.

removed. A lot of the State employees that were supposed to be able to use these suits had never been trained appropriately.

I think the rub is, how do we avoid the mushroom festivals but yet still give Mayor Bloomberg the flexibility he needs with his unique situation in New York to utilize the funds in a way that is appropriate. I think there is a tendency to throw money at a problem, particularly one as horrific as the terrorism threat, but you want to give leverage and flexibility to the local areas.

Do the members of the 9/11 Commission who are here today have any specific recommendations for us as to how we can, either in a proactive or even in a punitive way, stop the kind of spending that has gone on with some of these monies to the great detriment of our ultimate security?

Mr. HAMILTON. Senator McCaskill, you put your finger, I think, on a very important matter. The recent internal reviews of the Department of Homeland Security reveal very great deficiencies in contracting, and so they have a real problem here by their own acknowledgment. Now, how do you get at it? It is not an easy question, but you have to be able to employ the tools that are available to you, and you have a lot of them.

I think the GAO can be hugely helpful to you if you give them direction and tell them what you want to achieve and let them become an investigative arm for you. Employing your Committee staff is hugely important here so that they can look into every nook and cranny of these operations, and contracting has become a very sensitive spot that needs to really be examined because government contracts drive so much of business today, and they are often not given the attention they need.

I think you have to work very closely with the inspectors general of the departments so that you know what they are looking at. These inspectors general vary in quality from department to department, but the good ones know what is going on in that department, and they know what needs to be uncovered in that department, and they can give you a lot of guidance.

And, of course, the hearing itself is important. I think when a secretary or under secretary comes before this Committee, your responsibility is to really grill them. You are a co-equal branch of government, and you have a responsibility just like the Executive Branch does. So I think you need to have questions that are very sharp and pointed with regard to performance.

Wasteful spending is a tough thing to deal with in government because there are such huge amounts of money involved, and you have to turn to every tool you can look at. I have mentioned a few. I am sure there are others.

Mr. ROEMER. Senator, if I may, I think the past election was more about change, not only in the status quo of foreign policy but in the status quo of Capitol Hill, and nothing reflects that more than how we use taxpayers' money. The 9/11 Commission found that some of these monies on homeland security were being spent on air-conditioned garbage trucks, Kevlar vests for dogs, and I talked to a Member of Congress from Southern Indiana who said he received in a sheriff's department a number of hazmat suits from the Federal Government that didn't fit anybody in his department. He couldn't use them.

So we need to reform this, and as Congressman Hamilton pointed out, I think we need to look at benchmarks and standards that are attached to our intelligence so that, with all due respect to New York, which has been successfully attacked not just in 1993, but again in 2001, a number of plots have been uncovered to attack New York again and again and again, Omaha and Louisville shouldn't get increases and New York get cut. So we need a formula that is risk-based and that requires tough decisions to be made by legislators to change the process that we have in place.

Senator MCCASKILL. Very briefly, because I am almost out of time and I don't want to overstay, especially my first day. Mayor Bloomberg, first of all, I acknowledge your incredible life story and that you have achieved the American dream, and we are grateful that you have devoted a lengthy chapter to public service.

I want to talk about communication going from Federal to local. Because of the tragedy, and out of that fire, you forged the ability to communicate in New York that, frankly, I don't think is happening around the country. On a personal basis, as a local prosecutor, it is very difficult to communicate with the Federal Government within law enforcement. It is a calcified cultural problem. Do you have any lessons that you can tell us as to how it is that the NYPD has that kind of working relationship that most local police departments around the country merely dream of?

Mayor BLOOMBERG. I think it is not realistic to expect the Federal Government to outreach. It is just too many places, and they don't know where to go. It is incumbent on every local government to take the initiative and try to develop relationships in Washington. They can do it through their elected officials. They can do it by traveling to Washington. There are a variety of ways of doing it. But any city that sits there and waits for Washington to come to them—and maybe that is the way it should work, but that is not a practical thing to do, and I think you are derelict in your responsibility if you don't take every opportunity to outreach, go to Washington, tell them what you need, and keep calling them until they give it to you.

Chairman LIEBERMAN. That was a classic Bloomberg "can do."

Senator MCCASKILL. I like that.

Chairman LIEBERMAN. Will do. Thanks, Senator. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Mr. Chairman. I would like to put my statement in the record. I am not able to stay, unhappily, but I want to thank you, Senator Collins, and our witnesses for their contribution.

Chairman LIEBERMAN. Thanks, Senator Levin.

[The prepared statement of Senator Levin follows:]

PREPARED STATEMENT OF SENATOR LEVIN

I thank Senators Lieberman and Collins for holding this hearing today. It is certainly an appropriate way to begin work in this Committee in the new Congress by examining what needs to be done to ensure that the recommendations of the 9/11 Commission are realized. I welcome the families of the victims of 9/11 as well as the Commissioners who worked tirelessly to come up with recommendations to improve our national security and correct problems that occurred before, during and after the tragedy of September 11, 2001. It is our responsibility, along with the Ad-

ministration, to implement more of those recommendations. Indeed, that is one of the top priorities of the new Democratic leadership of the 110th Congress.

We have made progress in some areas, but we still have a long way to go. First, if we're serious about homeland security, we need to fund it. Year after year, we've seen significant cuts to our vital first responder grant programs. We need to not only fund these programs and levels that will provide the needed security and training, but we also need to change the way that we allocate funding for our largest first responder grant programs. For the past 5 years, several of the largest State homeland security grant programs have distributed funds using a funding formula that arbitrarily sets aside a significant portion of funds to be divided equally among the States, regardless of size or need. The current "Small State Formula" has severely disadvantaged States such as Michigan with high populations and/or those with high risks. The Commission had it right when it recommended that those funds be allocated based on risk.

There are huge shortfalls in the area of interoperability. We still don't have a dedicated funding source for interoperable communications, even after September 11 and Hurricane Katrina tragically showed how vital those communications are. In the Senate, we have voted to establish demonstration projects for interoperable communications along the Northern and Southern borders, because of the added need to operate with foreign governments, but those projects have been dropped from legislation in conference. Further, our first responders don't have the spectrum they need for interoperability and instead of making broadcasters return their extra spectrum as a result of converting to digital Congress gave them even more time than originally intended to do so. This means our first responders will have to wait longer to get the spectrum intended for public safety use. I urge the 110th Congress to revisit this issue in the name of public safety.

We should also be pressing for faster results in developing explosive detection technology. The Commission gave the Administration a grade of "C" in deploying airline passenger explosive screening at U.S. airports. Though passenger explosives screening technologies have been under development for several years and are now being deployed in selected airports, they still have a ways to go regarding technical capabilities. We should be putting more resources into the research and development and deployment of these important airline safety technologies.

We also need to ensure that privacy and civil liberties concerns are considered in the development and implementation of our national security laws and policies. The current Civil Liberties and Oversight Board, which is housed in the Executive Office of the President, should be reestablished as an independent agency within the Executive Branch and it should have subpoena powers. Only if we ensure that the Board is independent with the tools it needs to investigate can we be certain that our citizens' privacy and civil liberties are adequately protected.

The Departments of Defense and Energy have made some progress in the areas of nonproliferation and threat reduction areas particularly in Russia. Now the focus has to be more global as the Commission recommended and the actions have to be implemented with a much greater sense of urgency. I would appreciate it if the former Commissioners here today could assess briefly if you believe any additional legislative authorities are needed by either the Department of Energy or the Department of Defense.

Further, the release of the 9/11 Commission Report fueled a debate about how our intelligence community should be reformed to better respond to the threat of terrorism and the Commission's report provided us many useful recommendations for improving the structure of our intelligence agencies. But, in taking on structural reform, we can't lose sight of the fundamental problem that was demonstrated not by the pre-9/11 intelligence failures but by the pre-Iraq War intelligence failures.

The massive intelligence failures before the Iraq War were of a totally different kind from the 9/11 failures. As described in a bipartisan 500-page SSCI report, to a significant degree, the failures were the result of the CIA shaping and manipulating intelligence. The CIA interpreted and communicated intelligence information in manner intended, in my opinion, to tell the Administration what it thought the Administration wanted to hear. The scope and seriousness of this problem of manipulated intelligence to serve policy goals cannot be overstated.

One way to promote independent objective intelligence is through strengthening Congressional oversight of intelligence. On this issue, the 9/11 Commission itself said that "Of all our recommendations, strengthening congressional oversight may be among the most difficult and important." I agree with the Commission's assessment. That is why, during the Senate's consideration of the intelligence reform bill, I worked so hard to include provisions aimed at achieving that goal. The absence of these provisions from the final bill was deeply troubling.

For example, the original bipartisan Senate-passed bill contained language that required the DNI, the NCTC, the National Intelligence Council, the CIA and other intelligence centers, to provide intelligence not shaped to serve policy goals. The original Senate-passed bill promoted independence of the NCTC by stating that the Director could not be forced to ask for permission to testify before Congress or to seek prior approval of Congressional testimony or comments. And the Senate-passed bill contained a provision requiring the DNI to provide Congress access to intelligence reports, assessments, estimates and other intelligence information and to do so within a time certain. Unfortunately those provisions were omitted from the final bill that was signed into law by the President. If we are to avoid another Iraq fiasco, it is imperative that the Congress revisit the issue of how best to strengthen its oversight as one way to promote objective, independent intelligence and incorporate the provisions which were dropped from the final intelligence reform legislation.

While the 9/11 Commission gave the government high marks in combating terrorist financing, the Commission also said that more needs to be done; that the State Department and the Treasury Department are locked in a turf battle; and that "the overall effort lacks leadership." While we were able to include vital anti-money laundering provisions in the Patriot Act, additional language may be required to spell out that every financial institution must establish anti-money laundering programs for all accounts, not just for private banking accounts. For the most part, many financial institutions already have anti-money laundering programs in place that cover all accounts, but we should ensure that it is the law, and not just an option for financial institutions. In addition, the Permanent Subcommittee on Investigations held a hearing in November where Federal agencies such as the Department of Justice, the Internal Revenue Service, and the Treasury Department, all concluded that the United States is out of compliance with a key anti-money laundering recommendation of the Financial Action Task Force—that the beneficial owners of U.S. corporations be known. This is also an area that Congress may wish to consider as we draft a 9/11 bill.

Finally, the 9/11 Commission Report stated that, if the United States is going to win the struggle of ideas, we must offer "an example of moral leadership in the world, committed to treat people humanely, abide by the rule of law, and be generous and caring to our neighbors." As the 9/11 Commission Report states, the United States must offer the Arab and Muslim world a vision of a better future, based on these principles. To do so, the Commission recommended that the United States engage in a "comprehensive coalition strategy" to counter terrorism.

One important element of this strategy would be, according to the 9/11 Commission Report, reaching out to other countries to develop common standards for detention and prosecution of captured terrorists. The Commission, which issued its report in July 2004, recommended that such a common approach could be based on Common Article 3 of the Geneva Conventions on the law of armed conflict. As the report notes, the provisions of Common Article 3 were specifically intended for situations in which the usual laws of war do not apply. However, the Administration failed to follow this 9/11 Commission recommendation. Only after the Supreme Court ruled 2 years later in *Hamdan* that Common Article 3 applied to the treatment of detainees in the war on terrorism did the Administration adopt these internationally-recognized standards for the treatment of detainees in U.S. custody. Meanwhile, the U.S. treatment of detainees has elicited broad criticism at home and abroad.

The revelation of secret CIA prisons outside of international monitoring, and the Administration's advocacy of military commission procedures that fail to meet international standards, show that the Administration has not embraced the 9/11 Commission's recommendations on developing a common coalition approach on the humane treatment of detainees. To promote cooperation with our partners in the war on terror, the Administration should change course. To promote cooperation in the war on terror, the Administration should change course and accept established international standards, already accepted by our allies, for the treatment of detainees. I am concerned that the Military Commissions Act, which Congress passed last fall over my opposition, could be construed to give the Administration license to continue some of these practices. I certainly hope that it will not do so.

These are just a few of the important areas that we need to address in the coming days. I look forward to working with my colleagues in the Senate to implement these important provisions.

Chairman LIEBERMBAN. Senator Voinovich, a very valued, hard-working Member of our Committee.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you very much. First of all, let me say at this first hearing of the new Committee in the 110th Congress, it has been a pleasure being a Member of this Committee because of its bipartisan nature. We have done a great deal of work here. I think this is one of the hardest-working Committees in the U.S. Senate. I would be remiss if I didn't acknowledge Senator Akaka, who is the new Chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, who I look forward to working with.

I am pleased that we have our witnesses here today, and I would like to raise just three areas of concern with you. First of all, I have been advocating a Chief Management Officer for the Homeland Security Department. We had Secretary Ridge. Now we have Secretary Chertoff, who will likely depart after the next presidential election. There continue to be major management challenges associated with integrating the Department. We have a major transformation problem with the 22 agencies and the 180,000 employees that were merged.

I am concerned about the void in leadership at the Department that may occur during the transition following the next presidential election. I would like your opinion on whether we ought to have somebody with a term that is in charge of transformation and could provide sustained leadership and continuity for the Department.

Second, I agree about the oversight of homeland security and intelligence here in the U.S. Senate. I probably shouldn't say this, but when you put Senators Harry Reid and Mitch McConnell in charge of putting legislation together, both of them wanting to be leaders in the U.S. Senate, it is very difficult for them to make changes affecting their colleagues that are jealous of their jurisdiction to give up that jurisdiction. I know I wrote to the Commission about this problem, and I said, if you make a big deal out of it, maybe we can get the kind of oversight that we should have here in the U.S. Senate. I know that Senator Collins agrees with me. We have to address that issue.

And last but not least, Congressman Roemer, I would like your opinion on the issue of radicalization of Muslims in the United States of America. I don't know if any of the Commission members read this book, *Mecca and Main Street: Muslim Life in America After 9/11,* but it is an eye-opener. If we are not careful, we are going to see radicalization of Muslims here in the United States of America. I know when I was mayor, I used to talk about the infrastructure of human understanding, getting people together, and encouraging a dialogue. Mayor, you know what I am talking about, getting everybody together, opening up the channels of communication, and trying to deal with this xenophobia in terms of the Muslim community.

So I would like you to comment on those three areas, and maybe, Congressman Roemer, you can start off. What are we doing to bring about better understanding right here in the United States about the Muslim population and between faiths and cultures? Senator Collins had a hearing on the issue of radicalization. What is your opinion of what we are doing and what should we do?

Mr. ROEMER. Senator, I think you bring up an excellent question, and I don't believe that we are doing nearly enough about this area or this topic. One of the most underreported speeches or talks given in the last 2 months was given by the Director of the MI5 over in Great Britain, and she stated that Great Britain has about 1,600 people that they are currently following in the Muslim community with about 30 ongoing plots that they have to monitor. Now, that is a problem for London. That is a problem for Great Britain. And that is a significant problem for the United States. If we have the radicalization going on in Europe, and with the kind of transportation and visas and passport systems we have, we have a big problem in the United States.

Your question gets to not only what is the looming problem in Europe, but how do we prevent that alienation and radicalization from taking place in our great country? And so far, we have been very successful. We have been working closely, including the Muslim community, but I don't think we are doing nearly enough.

Again, as I said to Senator Collins, you get on talk radio in our country and you don't get the kind of dialogue and the kind of respect and the kind of in-depth conversation that you need on this, and many people will call in and say, "we just need to profile every Muslim in our country," and "it is always a Muslim doing this, so let us make sure they cannot get on planes."

It is incumbent upon all of us to try to deepen and strengthen the conversation here with our American Muslim citizens that do so much for our country. Otherwise, we may have a potential problem here that we may alienate some of our own citizens. So I think this is something that we need to work on and work on together, and there are some ideas that I would love to share with you if I can come by and talk to you about this whole idea of moving forward on these issues both here and overseas.

Senator VOINOVICH. Thank you.

Mr. GORTON. I join in Congressman Roemer's comments. Compared with Western Europe, we have done a better job of integrating Muslim citizens into American society, which doesn't mean we have done an adequate job——

Senator VOINOVICH. One of the things about this book, and I don't know if you have read it, but you ought to read it, is it is amazing what has happened to the Muslim community after September 11.

Mr. GORTON. Yes.

Senator VOINOVICH. The second, third generation are getting more sincere about their religion. Many of them are having a difficult time dealing with modernity. It is a real problem.

Mr. GORTON. It is. It is a real challenge, but part of the challenge that Congressman Roemer referred to is that you have an even less integrated Muslim population in Europe, and many of them, of course, have British and French passports today, which makes their travel a great deal easier. Yes, it is a challenge. Yes, I think we should be doing a great deal about it. On your oversight point, I have already commented.

On your first point, on a Chief Management Officer, I gather your proposal was designed to create more continuity as you change secretaries of the Department. But wouldn't that imply that

the officer had Civil Service status, and if so, how much power are you going to give——

Senator VOINOVICH. I am talking about giving that person a term. For example, we give the head of the Government Accountability Office a 10-year term. I think a 5-year term would provide continuity and sustained leadership during a change of presidential administration to keep focus on the management and cultural transformation that has to occur at the Department. I think if we don't do something like this, we are just going to bumble along in terms of what we need to do in the Department of Homeland Security. The leadership is a revolving door. For example, Mr. Negroponte is now leaving as the Director of National Intelligence and another individual is going to come in. How far along are they with their transformation of those agencies? From a management point of view, it gives me some real concern.

Mr. GORTON. I think that is well worth the Committee's consideration.

Mr. HAMILTON. Senator, first of all, I like the idea of someone in the Department focusing on management. Our secretaries today are public figures. They really have to go from crisis to crisis in many ways, and they are heavily involved, as they should be, in policy, and they have very little time to manage the Department. Tens of thousands of people, billions of dollars that they manage, or should manage, but they just can't get to it. If you are the Secretary of State, Defense, DHS, or Energy, you can spend very little time on management. So I like the idea of having a management officer. I understand some of the problems Mr. Gorton has mentioned.

Second, with regard to oversight, the one simple point here it seems to me is crucial. The way power is shifting in the Congress from authorizers to appropriators is dramatic. And what that means is that the oversight needs to be linked to funding, and if it is not linked to funding, it will not be effective oversight because the folks out there in the Executive Branch are going to pay attention to the appropriators, not to the authorizers, because the appropriators have the real power.

More and more, you are seeing great difficulty in getting authorizing bills enacted into law to the point where some of our authorizing committees in the Congress today have relatively little input—I could put it more strongly—into policy. So if you are going to have robust oversight, you have to link it to budget power because that is what the Executive Branch understands—money—and you have to link these two in some manner.

The third point, on the radicalization, I think it is a huge problem. You have 1.3 billion Muslims spread from London to Jakarta. You have more and more Muslims coming into this country. Two comments here. One is that I think the problem of assimilation of Muslims into American communities is a huge problem, and I don't really think the Federal Government can do all that much about it. I am seeing in communities I am familiar with committees being established to help assimilate not just Muslims but others into the communities. I applaud that effort. I think we have to get much better at it. The Federal Government can do some things, but it really is a State and local matter, it seems to me. How do you as-

similate these very diverse populations into a given community in Indiana or any other place?

On the broader question of the radicalization of Muslims, that is the core of the war on terror. You are not going to win the war on terror if you cannot deal with the problem of radicalization of Muslims. It is a principal challenge of American foreign policy. I would be glad to discuss it in more detail. It is a huge problem.

In the 9/11 Commission Report, we talked about American foreign policy. It is so frustrating to us because we view the United States as a country of hope and of freedom and of opportunity and see all of these good things about the United States, and for some reason, we just cannot convey that effectively in our foreign policy. We have to show more sensitivity. We have to be on the side of those in the Muslim world who want to improve their lives. We can't solve the problems for them. Their governments have to be the principal people that try to help solve the problems. We have to let them know that we are on their side in terms of wanting a life that is more decent than they have.

That is a subject for not one, but many more hearings, but I am glad you have put your finger on it.

Thank you.

Chairman LIEBERMAN. Senator Voinovich, thanks. That was a very important exchange on both matters. I will just say very briefly that Senator Collins began an interest in this question of homegrown terrorism with a very important hearing last year on the efforts within American prisons to recruit and radicalize Muslims. I intend to continue more broadly on the question of what is the status of homegrown terrorism, what can we do about it, what should we be doing about it from a law enforcement point of view, but also how can we stem its spread in a community that has been relatively assimilated but is also undergoing all the pressures that the world Muslim community is undergoing.

Senator Tester, you are next. Thank you very much for joining the Committee. As I look around the half-circle, it is remarkable, the great diversity that is represented on the Committee. You bring the background from a farming family. You have been a teacher. You were a citizen who got angry about something. You ran for the legislature. You ended up as the President of your Senate, and here you are as a U.S. Senator on our Committee. Thank you for being here.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. Thank you, Mr. Chairman. I, too, have a written statement that I would like unanimous consent to be entered into the record.

Chairman LIEBERMAN. Without objection.

[The prepared statement of Senator Tester follows:]

PREPARED STATEMENT OF SENATOR TESTER

Thank you Chairman Lieberman and Senator Collins for scheduling this very important hearing at the beginning of the 110th Congress and for your work not only pushing for the 9/11 Commission, but also passing the Intelligence Reform and Terrorism Prevention Act of 2004 that responded to many of the 9/11 Commission recommendations. I am honored to be working with you on this key Committee.

As you know, in 2004, the bi-partisan independent 9/11 Commission released its report on its investigation of the events leading up to the 9/11 attacks.

It is now 2007 and only half of those recommendations have been addressed in legislation or executive order. And many of the recommendations that have been addressed have been underfunded or not fully implemented.

My own Montana Department of Homeland Security is happy to meet greater homeland security requirements, but the problem is the funding keeps going down as the requirements increase.

Montana has a 600 mile border with Canada. Without the proper funds and proper coordination among local, State and Federal officials it will continue to be an ideal location for a terrorist to cross the border.

Plus, we have to realize that there are more threats to national security than just terrorists. Wildfires, earthquakes and hurricanes have the potential to cost lives and devastate communities.

Funding formulas for emergency preparedness need to take all threats to national security into account.

These are just a few of the many gaps in protection our country still faces more than 5 years after September 11, 2001, and more than a year after Hurricane Katrina.

From this point forward, I urge the Administration and we in Congress to tend to business and pass and robustly implement the 9/11 Commission recommendations that remain unaddressed.

I look forward to the testimony today and working with this Committee to improve our Nation's security.

Senator TESTER. My first question would probably be for Senator Gorton, since you brought it up about the frequencies that are to be turned over in 2009. It seems to me that here we are 5 years-plus after September 11. What is the hold-up?

Mr. GORTON. The hold-up, of course, has been the television industry itself not wanting to give up those frequencies on which you still get your over-the-air analog—Channel 4, Channel 5, and Channel 7. Originally, Congress just said that it would be given up and turned over to law enforcement when a certain very high percentage of people, as I remember, had high-definition television.

Last year, the Congress did respond with the 2009 deadline. We are still deeply concerned because that puts us at risk until that date arrives. I can't say that the decision of the Congress was utterly irrational. There were interests on the other side. But the risk to our national security and to our people's lives, it seems to me, is greater than the inconvenience that would attend an earlier date.

Senator TESTER. Thank you. Mr. Chairman, Mayor Bloomberg, assuming that this does happen in 2009 or before, you have already got your system put into place. Would it dovetail in with this?

Mayor BLOOMBERG. Well, we can make anything dovetail, but we are going to stick with our system because at 400 megahertz, you get a signal that goes into buildings and into subways a lot better and that is what our need is. To build a system and waste money that isn't going to fit the environment of Manhattan and of the surrounding boroughs doesn't make any sense for us at all.

We are going to do it regardless. Our issue is getting the Federal Government to pay for it, not whether we are going to do it.

Senator TESTER. I guess the question would be, then, is why were certain bandwidths picked? Obviously, Mayor Bloomberg thinks the 400 megahertz was the best. That is why you chose it.

Mayor BLOOMBERG. For us. I am not an expert on other places.

Senator TESTER. You are using it now. Is it possible to use that bandwidth to take care of the problem? We could start immediately.

Mr. HAMILTON. I think the key here is to allocate an adequate part of the broadcast spectrum for public safety purposes. There are technological problems involved there. There are big financial problems. This broadcast spectrum is a hugely profitable piece of property, big-time money here. To give up part of that is quite a sacrifice.

You are not dealing here, though, with inconsequential matters. You are dealing here with the lives of people. And if our first responders cannot talk to one another when they reach the scene of a disaster, you lose lives. We did lose lives because of that. We will again unless we get this problem resolved.

Two-thousand-nine is fine, but my goodness, it is way too far in the future from our point of view.

Senator TESTER. I understand. Go ahead, Congressman Roemer.

Mr. ROEMER. Senator, I am not an expert on the difference between 400 megahertz and 700 megahertz spectrum, but I do remember sitting in testimony up in New York City and hearing fire chiefs and people from the New York Fire Department say that on September 11, CNN knew more about what was happening about the building crashing next door to them than they could report to each other. They couldn't talk. They couldn't communicate effectively with one another. And we need, whether it is 400 megahertz radio spectrum that the Mayor thinks works in New York, 700 megahertz, whatever it might be, it needs to penetrate concrete and steel. The White House issued an after-action item report on Hurricane Katrina, and they said that this issue was one of the key issues that we need to resolve, and we still haven't resolved it today.

Senator TESTER. Point well taken.

Mr. Chairman, I guess this should be for Congressman Hamilton, the 9/11 Commission recommended a strong, independent Privacy and Civil Liberties Oversight Board to oversee information sharing and to prevent abuse, I guess is the best way to put it, and to ensure that privacy and civil liberties are appropriately considered. How would you assess the effectiveness of this Board? Is it independent? And is it properly funded?

Mr. HAMILTON. It took a long time to get it into place, and once it got into place, it has taken a long time, it seems to me, to get itself organized. I try to follow these things fairly carefully, and I am not aware that they have really stepped in and challenged any agency on a civil liberties question. Maybe they have. I am certainly not aware of it.

Almost everything you do in homeland security has a civil liberties implication to it, and the people that have to take action are under a lot of pressure to take action, but they need to be checked. They need to be reviewed on the question of what it is they are doing. How does it impact on our privacy and on our civil liberties?

We all understand the fact that we have lost a huge amount of civil liberty and a huge amount of privacy because of terrorism. You probably cannot avoid that. You certainly cannot avoid it completely. But you must have somewhere in the government a strong,

robust review, looking at every proposal that is made from a civil liberties standpoint.

Now, we wanted an independent agency. We wanted a Senate confirmation. We wanted subpoena power. We wanted reports to the Congress regularly. I think most of that is in place, maybe not the subpoena power. But we have a Board in place, and I think your function now is to make sure that Board is aggressive and robust in what they do. They have not been, I don't think, up to this point, but they are still getting their act together.

Senator TESTER. Thank you.

Chairman LIEBERMAN. Thanks very much, Senator Tester.

Senator Sununu, as I have said before, I welcome you back to the Committee. I look forward to working with you.

OPENING STATEMENT OF SENATOR SUNUNU

Senator SUNUNU. Thank you, Mr. Chairman. Let me just begin with an observation about the point Congressman Hamilton just made. As a supporter of the Board taking a look at civil liberties and someone who pushed very hard to include oversight provisions, I admit the review process may not be everything that you would like. While there are still some issues with regard to implementation, I believe it is worth noting that sometimes the mere existence of such an organization is enough to encourage better internal oversight, better internal management in consideration of these civil liberties issues. I think to a certain degree, we have already seen some benefits, even if there are still improvements to be made on the implementation side.

[The prepared statement of Senator Sununu follows:]

PREPARED STATEMENT OF SENATOR SUNUNU

As a Member of this Committee, during the 108th Congress, I worked with my colleagues under the leadership of then Chairman Collins to craft and pass the Intelligence Reform and Terrorist Prevention Act. This bipartisan legislation, guided by the recommendations of the 9/11 Commission, was an important step forward in making our intelligence community more agile and responsive to the threats America faces. We were able to accomplish this by: Creating the position of National Intelligence Director to manage the Nation's intelligence community; establishing a National Counterterrorism Center that integrates intelligence capabilities and develops interagency counterterrorism plans; forming an information network system to better facilitate the exchange of information between Federal, State, and local entities; and creating a Civil Liberties Board to ensure that privacy and civil liberties of law abiding citizens are protected as the country defends itself against terrorism. Although these changes were important in removing the outdated, stove-pipe structure of our intelligence organizations, this Committee must continue to press for effective reform to better protect the United States against terrorist attacks.

Moving forward, it is our role as Members of this Committee to assess the government's ability to properly detect and defend the Nation against any and all perceived threats. The 9/11 Commission's warning that if one of their recommendations went unfulfilled, it could undermine those that have been implemented, should not go unheeded. However, the Senate needs to remain diligent in evaluating the effectiveness of current, as well as new, programs aimed at bolstering our security.

To date, we have spent almost $3 billion on improving interoperability, but as the scorecard released from the Department of Homeland Security last week indicates, there is still much work to be done. Although allocating and spending money on effective equipment and technology is important, of equal if not greater importance is our ability as a government to prevent future attacks by changing the way our country is viewed. Creating a better understanding of the opportunity and growth present in America, while simultaneously dispelling myths, is vital.

We also must be willing to reform. Congress needs to implement a system of oversight under which those in charge of protecting the Nation spend their valuable

time in the field rather than testifying before various Congressional committees. To her credit, Senator Collins worked at narrowing the scope of committees and subcommittees in which officials at the Department of Homeland Security have appeared; however the list is still too broad.

I look forward to working with my colleagues on the Homeland Security and Government Affairs Committee to achieve these and many other goals aimed at protecting our country and its citizens.

Senator SUNUNU. I want to ask the members of the panel a question about education, the discussion of a battle of hearts and minds, ideas, which I think is extremely important. I think Congressman Roemer mentioned it at some length in his comments. One of the best opportunities and systems that we have for supporting this critical effort with regard to education, not just here in the United States but in particular abroad in the Arab world, are the U.S. educational institutions overseas. In particular, we have three within the Arab world that have more then a few years of experience, they have decades of experience: Lebanese-American University, American University in Beirut, and American University in Cairo.

Coincidentally, I happened to meet with the President of the Lebanese-American University today, and these institutions are educating close to 20,000 students as we sit here. They have a great track record in fostering the lessons and systems for open dialogue, tolerance, and naturally carry with them a better understanding of what America is in terms of opportunity, growth, and democracy, as well as what we are not.

In the review of the Commission, I am curious to know in this subsequent work whether or not you have assessed or attempted to assess the specific value of these institutions and whether you made any specific recommendations for better utilizing these institutions. One of the few methods that we use to support them is through a scholarship program, and I have fought very aggressively for continued and some increased funding in those programs. Sometimes I have had to fight very hard with my own colleagues here in the House and Senate, as well as the Administration, to get proper recognition for the value of these institutions.

But I am curious to know what the Commission found and whether or not you had any recommendations regarding these or other educational institutions abroad. Why don't we start with Congressman Hamilton?

Mr. HAMILTON. Senator Sununu, I personally think among the most important dollars we spend in foreign policy is in the area of scholarship and student exchanges and the American universities that you refer to. These American universities are centers of excellence in their region, and I have been impressed and you probably have been, too, with how many leaders in these countries go through these universities. I don't know of a dollar we spend anywhere from which we get a bigger benefit than these American universities, these centers of excellence in the Arab world, and I personally would strongly favor strengthening them.

I don't think we mentioned them specifically in the 9/11 Commission Report, and as you were talking, I said to myself, we should have because we certainly emphasized the idea of exchanges and scholarships as being critically important in dealing with the radicalization of the Muslim world, but we did not specifically men-

tion these American universities. I strongly support them. I think all of the Commissioners would without hesitation.

Mr. GORTON. I can't improve on Lee Hamilton's statement.

Senator SUNUNU. Congressman Roemer.

Mr. ROEMER. I can't improve, but I will probably put my foot in my mouth trying. We had as our chairman, a very distinguished former governor from the State of New Jersey, Tom Kean, who was also a university president, president of Drew University. I remember many conversations, although Mr. Hamilton is absolutely right, we didn't put enough emphasis on this in the report, but Mr. Kean would talk all the time to us about the importance of making sure we kept our system open for people coming into the United States, for these cultural exchanges. Even more importantly today, we send people to these centers of excellence and education so that we understand the culture and the history and the language and the challenges in the Middle East and places all around the world. It is a two-way street, and I think we need to do a much better job here, Senator. You are right.

Senator SUNUNU. Thank you. The second question I want to ask comes back to this issue of technology and interoperability. Mayor Bloomberg, you talked about and we just heard an exchange about which frequencies you choose to use. I want to ask about the issue of Federal technology mandates because that is really what this is. The Federal Government has decided to provide funding support for systems that only use a very specific technology or frequency. I have had a general concern about the Federal Government mandating—whether it is in the public sector, public safety, or even in the private sector—specific technologies that have to be used to solve a problem because that tends to stifle innovation and competition. In this case it has restricted your ability to use what you feel is the best technological solution for meeting a public safety problem. Clearly, the 400 megahertz works better for you.

Are there other areas where you have seen that the Federal Government has mandated technology or equipment to be used or an approach to be used in this area of homeland security that you have found similarly problematic?

Mayor BLOOMBERG. Well, I have always thought, Senator, that the Legislative Branch of Government should provide monies for functionality and leave it to the Executive Branch to decide how to use that money. That is the division of powers that I think the Founding Fathers envisioned. They might not have talked about technology as being one of those, but every one of these things is exactly the same thing.

Each locality has different needs. Geography plays a big part in how communications functions. Scale is a very different thing. If you have a small volunteer fire department and a police department of a handful of officers, they need very different kinds of communications and equipment than if you are dealing with somebody in an inner city, where you have obstructions and scale and density that make first responders behave differently and have different needs.

I think you shouldn't restrict it to just technology, whether it is the frequencies they pick or how the radios should work or who should manufacture the radios. In the end, an awful lot of this, re-

member, comes out of the fact that companies lobby Congress to devise regulations or requirements that only their products can fit. One of the Committee Members talked about the amount of money that spectrum represents. That is just symptomatic of all of this. In the end, the functionalities we are trying to provide lose out to the economic interests that different manufacturers try to promote.

Senator SUNUNU. Thank you, Mayor.

Mr. Chairman, I will note Congress is going to deal with a very large supplemental spending bill in the coming months——

Chairman LIEBERMAN. Right.

Senator SUNUNU [continuing]. For Iraq and for the Middle East more broadly. There is going to be a lot of support in there for our troops, which I think we need, but I hope we also find a way to deal with some of these underlying educational questions and questions about winning hearts and minds because that funding is at least as important as that for the military consequences. Thank you, Mr. Chairman.

Chairman LIEBERMAN. I agree with you. Thank you for your contribution.

Senator Obama, I think all of us know that you are at one of those stages in your career where everything you do is being widely observed. I want to say that I don't believe you have made a more important decision in recent times than to join this Committee. [Laughter.]

I think it shows a great wisdom and maturity of judgment, and I hope those who are watching will note. [Laughter.]

But more directly, we welcome you and your considerable experience and ability to this Committee. Thank you.

OPENING STATEMENT OF SENATOR OBAMBA

Senator OBAMA. Mr. Chairman, it is an honor to be serving with you and Ranking Member Collins. The two of you have done outstanding work together and I just hope to play a small part in the work of this Committee.

I want to congratulate the members of the 9/11 Commission for your outstanding service and your stick-to-it-ness and your diligence.

I am going to have to probably leave before the next panel, so I want to just take the opportunity to thank the members of the families who are here for your doggedness in trying to turn a personal tragedy into something more meaningful for the country as a whole.

What I would like to do, and Mr. Chairman, if I could have unanimous consent to place a written statement into the record——

Chairman LIEBERMAN. Without objection, so ordered.

[The prepared statement of Senator Obama follows:]

PREPARED STATEMENT OF SENATOR OBAMA

Mr. Chairman, thank you for holding this hearing today. As a new Member of the Homeland Security and Governmental Affairs Committee, I am pleased that the first hearing we are having this Congress is on the 9/11 Commission recommendations.

In the more than 5 years since the 9/11 attacks, our Nation has failed to implement some of the most basic elements necessary to make this country safer. I thank Mayor Bloomberg, Vice Chair Hamilton, and Commissioners Roemer and Gorton for joining us today to discuss these issues.

In a report card delivered in 2005 by the 9/11 Commission, the country's security efforts received mediocre to failing grades—including 17 Ds and Fs—in 41 areas of homeland security.

To this day, our first responders still do not have the communications equipment they need to coordinate a rescue in the event of an attack. We still inspect only 5 percent of the 9,000,000 containers that enter this country every year. We're still spending only 2 percent of what we need to secure our railroads and subways, and not nearly enough on baggage and cargo screening at our airports. We still have only 10,000 border patrol agents to guard 8,000 miles of land borders, and only one agent to guard every 3 miles of border with Canada. And we're leaving some of America's most vulnerable targets—including chemical plants with toxic substances that could kill millions—with the most minimal security.

The Commission made recommendations in these areas, many of which we still have not implemented. And the recommendations that we've implemented haven't been as rigorous as we would hope. When the Director of National Intelligence steps down from his post to be a deputy in the State Department, I have to wonder whether the effort to restructure our intelligence community is being taken seriously. And when our homeland security funding is still not being allocated primarily on the basis of risk, I have to wonder whether we're placing home-state politics above good policy.

If, on the day after September 11, you had told anyone in America that these gaps in our security would still exist more than 5 years later, they might have thought you were crazy. This cannot go on. National security cannot be something we only discuss on September 11, or when terrorists try to blow up planes over the Atlantic, or when it suits our political interests on Election Day. It is an every day challenge, and it will take Americans of every political persuasion to meet it.

In my questioning I intend to inquire further into the Commission's recommendations on risk-based funding and congressional reorganization and I thank you again for appearing before the Committee.

Senator OBAMA. I would like to focus on something that was mentioned in the initial testimony but we haven't talked about since, and I will address the first set of questions to Mayor Bloomberg and that has to do with the Urban Area Security Initiative and risk-based funding.

I know this is something that is very important to you. It is important to my State, obviously. We have a major urban area in Chicago. I represent the entire State of Illinois, which means that there are discussions within Illinois about how money should be allocated, and sometimes downstate communities want to make sure they are not shortchanged. I am sympathetic to that because I represent the whole State, but I have argued even within the State that it is very important for us to focus our money on where the prime targets are.

Recently, last week, Secretary Chertoff announced a revision in the UASI funding formula so that New York and five other areas, which includes the Chicago area, will be competing for 55 percent of all of these dollars. Looking at how the numbers were allocated last year, it is not clear to me whether this signals a significant improvement with respect to risk-based funding, and I am wondering whether you would like to comment on the changes that have been suggested.

Mayor BLOOMBERG. Before you came, I pointed out that while focusing on the half-a-dozen high-risk areas is a step in the right direction, if you look at the numbers, in fact, you probably wouldn't get any more money than you did last year, and so the devil is always in the details.

What I would say to you for your State is just they have to understand downstate that it is Chicago that is the economic engine of the State, just like New York City is the economic engine of New

York State, and Rich Daley is as good a mayor as you will ever find anyplace, and he certainly understands it is boots on the ground, it is training, it is making sure that you worry about street crime. It is education, which is the first line of defense against almost every problem we have.

Senator OBAMA. So I guess the question is, have you in conjunction with other leaders in what I think we would agree would be prime targets for terrorist activity, in this upcoming budget season, come up with a specific approach that you would like to see taken when it comes to how the Federal Government allocates these dollars?

Mayor BLOOMBERG. I think it is very simple. Agricultural money should go to places where they grow things and homeland security money should go to where there are vulnerabilities that are targets. Just because we have something that if it was destroyed would hurt the country doesn't mean that is appropriate for homeland security dollars to defend. Our corn crop is very important. We can't eat in this country without it. But homeland security money shouldn't go to protect the corn crop because that is not what terrorists are going to try to attack.

They are going to go after half-a-dozen big cities. They are going to go after the big cities that represent America to the rest of the world. They are not that smart in terms of picking economic targets. They are picking targets that have symbolic value. And when you think of America, you think of New York City, you think of Washington, DC, you think of Chicago, you think of San Francisco and L.A. Those are the cities that are on the picture postcards around the world, and they are trying to destroy our way of life. Everything that we value is so threatening to these terrorists. We have to protect against what they are likely to do, not against where we would like to have money spent in this country.

Senator OBAMA. Would any of the other members of the panel like to comment on this?

Mr. HAMILTON. Senator, I very much agree with the Mayor's observations here. The statute today, as I understand it, has two phases to it, two parts to it. One is a fixed allocation and the other is the Urban Area Security Initiative. The latter is distributed on the basis of risk. The former is revenue sharing, in effect.

What the Mayor has said repeatedly, and I strongly support his comments, is if you want to provide revenue sharing, go ahead and do it, and you should do it, I guess. But let us not take very precious homeland security money, which is designed to protect the lives of American people, and shift that into the normal uses of local and State Government.

Senator OBAMA. I just want to be clear, Mr. Chairman, what you are arguing is if we are going to do revenue sharing, let us do it outside of homeland security——

Mr. HAMILTON. Absolutely. You have the point.

Senator OBAMA. OK. Thank you.

Mr. GORTON. I think I have learned something here today by listening to the Mayor. We constantly use the word "risk." He is unhappy with that word. There are lots of things that are risks that are not——

Senator OBAMA. Targets.

Mr. GORTON [continuing]. Likely targets, and his use of that word "vulnerability," I think, was a very important distinction. We at least have to try to think what the targets are and to anticipate them. And what you have to do, I don't think you can define them here in the Committee or in the Congress, but you have to empower someone in the Department of Homeland Security to use the right considerations in determining how to distribute the money.

Senator OBAMA. I think that is a useful distinction between targets and risk. I am going to squeeze in, since I have 15 seconds left, just a quick question. We raised the fact that there is a gap between 2005 and 2009 as to when we are supposed to be shifting over the spectrum. Does the Committee have some specific recommendations on this—in terms of covering that 4-year gap, in terms of what we could be doing at the Federal level legislatively, or is it just a function of making sure that the money is flowing properly to the local jurisdictions and letting them make some decisions like Mayor Bloomberg has made very ably in New York City?

Mr. ROEMER. Senator Obama, I think it is a function of two things. First of all, I think it is still worth the effort to try to move the radio spectrum from being handed over in 2009 to 2007. The House bill that was introduced on Friday does not do that. Congressman Hamilton and I participated in a press conference yesterday encouraging them to take another look at this issue and in the meantime to address the homeland security funding issue. You have heard it from very eloquent people here on the panel. We still need a homeland security strategy that really highlights our vulnerabilities and our targets and our intelligence. If we have 103 nuclear power plants, and there are a couple close to Illinois and Indiana——

Senator OBAMA. There are a lot of them in Illinois.

Mr. ROEMER. What are we doing? What are the 10 benchmarks to make those safer, and how many of them have reached eight of those 10? That is the kind of national strategy that we still need to have come out of homeland security that will better allocate our funding and get away from the pork-barrel process that we have now.

Senator OBAMA. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Obama.

Audience Member. [Inaudible.]

Chairman LIEBERMAN. Excuse me. Could you wait until the end, please, because we have witnesses who are waiting for quite a long time, Senators, as well.

For the record, I want to thank Senator Stevens, who was here for quite a long time and had to go before he was able to question. Senator Coleman, you are next. You bring the extraordinary experience of a mayor to this Committee.

Senator COLEMAN. Thank you. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Excuse me, Senator Coleman. I want to indicate that Congressman Hamilton and Congressman Roemer indicated to the Committee that they had a time limit, and I understand that this has been a very thoughtful debate and we have many more Senators than normally come. It is a tribute to the panel. It has been a very thoughtful exchange, and I want to say

that, with our gratitude, we will completely understand if you have to leave in the next few moments.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Mr. Chairman. I just want to thank the Chairman and now Ranking Member. One of the messages out of the last election was for us to work together and get things done. I don't know if there is a better Committee in the Congress that has both a reputation and a track record for doing that, and so it is an honor for me to continue to serve on this Committee.

I just have to note, Mr. Mayor, by the way, having been a former New Yorker, but there is that joke that says a New Yorker's view of America is New York. Chicago is right next to it. Then you have L.A. and San Francisco, and I think Miami is now joined in. There are those other pieces. [Laughter.]

But you have raised an interesting issue with this risk-target. In Minnesota, we have the Mall of America, a target. On the other hand, we have a nuclear power plant on an Indian reservation right on the Mississippi River, a risk.

And one of the challenges, and I think as a mayor that is of concern, is we mandate local departments all through the country to do a lot of things without the resources. I think this deserves further discussion, this risk-target, but there are a lot of areas of great risk throughout the heartland. Minnesota Wild played at the Xcel Energy Center, a symbol of America. Indianapolis hosts the NCAA Final Four, symbols of America. But I think you raise interesting issues that certainly need further discussion.

Let me ask you a question, if I can, about interoperability, where we stand today. I was listening to my colleague, Senator Sununu. I totally agree with the concern about the Federal Government mandating specific technologies. My concern, though, in this area of interoperability, and again, I go back to a challenge on the Northern border, the inability of a local sheriff's department to be in communication with folks perhaps in the National Guard in Minneapolis-St. Paul, two police departments that can't talk together.

If there were a major attack in New York today, would there be an ability of police and fire departments to talk together? And in addition, if Federal authorities join in? And there is the National Guard. What would be the status of the ability of those various agencies to communicate with each other to respond to the crisis?

Mayor BLOOMBERG. Well, we have radios that are interoperable between the police and fire departments. We have, as a matter of fact, a separate back-up network where we call the commissioners every month, our Office of Emergency Management, in case all the cell service were to go out and somebody were to try to jam some of those others. We have another separate back-up system.

Which brings to mind, I will solve your problem for you on how you assess risk. You talk about the Mall of America. It is a place where somebody might want to attack, but there is a very simple solution to this. Call the insurance industry and say you want to buy insurance for everything, and they will tell you with their quotes as to just how much they think there is a risk. There are

professionals doing it. They are not tied to the politics of spreading money around.

The problem here is not that we don't know how to establish what is the most vulnerable, what is the most likely to be attacked, what is going to hurt this country the most, what is the expected probabilities of these things, the expected mean value of them. It is that we are not willing to do it. And I think that is the real issue that Congress has to face. Are they serious about giving money to where they can best protect the country or are they trying to use it for other purposes?

I think it was Mr. Hamilton who said there are good reasons to spread money around. It is called revenue sharing. You collect it from everybody. You want to give some of it back to everybody. There is nothing wrong with that, but that is not homeland security.

Mr. HAMILTON. Senator, I think you have raised the question of priorities. I think the toughest problem in homeland security is establishing priorities. You have all kinds of targets. You have all kinds of facilities out there. Every community has them. A really tough job is to say, OK, I am going to protect this facility but not that one. Establishing priorities is tough.

Now, we have been very slow in doing it. The DHS talks about an assessment of critical infrastructure. There is value to that. You have to go around to every community and say, OK, what are the most important facilities to protect? But it doesn't help you to come in with a list of 1,000 facilities in New York City that need protection. You don't have that much money. You have to decide on a priority basis, and that gets really tough. I think, frankly, over a period of years now, several years, we have just been very slow to tackle the tough question of priorities.

Senator COLEMAN. I think you are absolutely right, and the challenge then that we face is, there is not enough money for everything.

Mr. HAMILTON. Yes.

Senator COLEMAN. But there are needs that go beyond even the highest priorities. There is still risk. Those insurers will tell you there is risk. Now, do we just fund the top 10? Is that what we do? Or do we say that there is risk and terrorists hit soft targets? There is a provision in a House bill, I understand, of 100 percent cargo screening. This Committee has spent a lot of time on that issue. There are 11 million containers coming into this country. It is going to cost a lot of money, and I am not sure we have the technology. It probably sounds good, but you have to figure, we have X-number of dollars. What are you going to spend it on?

Mr. HAMILTON. Yes.

Senator COLEMAN. So maybe we have a layered system that we have and use some of the money to go to some of the other things. Congressman Roemer, you——

Mr. ROEMER. Senator, I think you are absolutely right. I think it was Sun Tzu in "The Art of War" who said, if you try to protect everything, you protect nothing, and a layered defense is probably the most effective way, expecting that we are going to be vulnerable. We are not going to be perfectly secure in the future and there will probably be some successful attacks.

One of the most interesting things about Osama bin Laden's statements, particularly the one he made before the 2004 Presidential election, was he said not only am I going to kill Americans—he talks a lot about the military implications—he also talks at length about leading America to bankruptcy, making them spend money in emergency spending bills on Afghanistan and Iraq. He knows our spending process here. And so I think if we fall into Osama bin Laden's trap, if we just throw money at all these problems and we don't layer our defenses and make priorities, Osama bin Laden has one up on us.

Mr. HAMILTON. You have some guidelines here. You have the guideline of experience. They have struck New York City twice. They have struck Madrid. They have struck London. We know the targets they go after. They go after the targets in the very big cities.

Another guideline is what they have said, and what they have said, of course, is they want to strike symbolic targets. They wanted to hit the Capitol of the United States. They wanted to hit the White House. They wanted to hit the Washington Monument.

So you are not totally at a loss here. You have to look at the best intelligence that is available to you as to what targets you protect.

Mr. Chairman, I will take advantage of your gracious offer. I am hosting a lunch here in just a few minutes.

Mayor BLOOMBERG. Mr. Chairman, could I add something to Senator Coleman's question?

Chairman LIEBERMAN. Go right ahead, Mayor.

Mayor BLOOMBERG. I think, in the end, you can't protect everything, as Mr. Roemer said, and you are going to have to look some constituents in the eye and say, no, we are just not going to do that. But al Qaeda wins if we close our ports, which was exactly what would happen if you tried to look at every single one of the 11 million containers that come here. Al Qaeda wins if we close our borders and don't have the people that are going to create the next industries or do the research.

There is a level of risk that society has to be willing to run, and is not somebody responsible for every natural disaster, you can't blame somebody? And you can't have the ultimate protection. We have to worry about our civil rights, and we have to worry about the economic consequences, and within that framework make decisions which will not please everybody and are not easy to explain, but decisions that, look, this is what we are going to do and this is what we can't do.

Senator COLEMAN. Thanks, Mr. Mayor.

Mr. ROEMER. Mr. Chairman, can I just follow through on something that just came to mind while the Mayor was speaking? This is not something that we proposed in the 9/11 Commission, but I think it is something that with powerful independent checks and balances, better oversight in Congress, that you could accomplish here. What about working with the States to develop best practices at the States to see what New York City and New York State has done in the right ways to prioritize risk assessment and targeting the resources? Maybe there are five or six other States that are really doing this well. If so, we should try to drive those best practices to the local and the State levels and reward the adoption of

best practices at the State and local level. What are the States that are doing this well? Are they Ohio and Connecticut and Maine and other States? Or what are they not doing well? And how do we replicate this and encourage this to take place in the future?

Chairman LIEBERMAN. It is a good idea, and we will ask the folks from State and local government on the next panel. Thanks very much, Senator Coleman.

Senator Akaka, welcome back. Thank you, dear friend.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman. Before I start my questions, I want to add my welcome to the panel that is here today and my welcome to the September 11 families who are here. I look forward to working with the Committee in this Congress. Under the leadership of you and Senator Collins, this Committee has embodied bipartisanship. I know that the trend will continue in the 110th Congress.

I have a statement that mentions three main issues that I am concerned with: The lack of foreign language skills in the Federal workforce; inadequate oversight of privacy and civil liberties in the war on terror; and insufficient efforts to secure nuclear material both at home and abroad. Mr. Chairman, I ask that my full statement be included in the record.

Chairman LIEBERMAN. Without objection, so ordered.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

It was over 2 years ago that this Committee came together to review the report of the National Commission on Terrorist Attacks Upon the United States, known as the 9/11 Commission Report, to issue legislation that addressed a number of the Commission's recommendations. The work we did was important and timely, but more remains to be done.

Many of the issues I raised during the original 9/11 Commission Report hearings are still outstanding.

First, not enough has been done by the Administration to increase foreign language capabilities in the Federal Government. According to the 9/11 Commission Report, al Qaeda was more globalized than we were. I completely agree. Al Qaeda knew the English language and American culture, but we didn't know theirs. Federal agencies lacked sufficient Arabic speaking agents on September 11th which contributed to the United States' inability to predict and prevent the September 11 attacks. Although critical attention has been brought to the lack of foreign language expertise in America, much more needs to be done.

For Federal agencies to recruit individuals with language proficiency, we need an educational system to produce individuals with those skills. And we need to not only teach the languages that are deemed critical today, but those that will be critical in the next 20 to 50 years.

At the recommendation of language policy experts; Federal, State, and local government officials; and businesses, I offered legislation in 2005 to establish a National Foreign Language Coordination Council with Senators Cochran and Dodd to develop a national language strategy.

However, the Administration has blocked this effort and instead has focused efforts on a very limited plan: The National Security Language Initiative (NSLI). While I believe NSLI is a good first step, it should not be the only step the government takes to improve language capabilities in the United States. Five years after September 11 we should not still be debating how to improve foreign language training in the United States. I look forward to hearing our witnesses suggestions on how to improve language skills and cultural understanding to address current and future needs.

Second, the 9/11 Commission's recommendation that privacy and civil liberty protection oversight be increased has not been fulfilled. I was pleased that the Commission recognized the need for strong oversight of counterterrorism efforts to protect

the privacy and civil liberties of all Americans. The Intelligence Reform and Terrorism Prevention Act (P.L. 108–458), as passed by this Committee, was on the right track in establishing the Privacy and Civil Liberties Oversight Board. However, the bill that passed Congress was weaker than initially proposed. In light of the increasing threats to personal civil liberties, I believe that the Board must be independent and have the power to protect the freedoms we hold most dear. Likewise, Federal agencies must have strong and independent privacy officers to ensure that laws and procedures protecting the rights of individuals are followed. That is why I introduced the Privacy Officer With Enhanced Rights Act, or the POWER Act, with Senators Lieberman and Feingold, to strengthen privacy oversight at the Department of Homeland Security. As the 9/11 Commission Report states, "... insecurity threatens liberty. ... Yet if our liberties are curtailed, we lose the values that we are struggling to defend."

Privacy need not be sacrificed in the name of security. In fact, violating privacy rights can endanger security, as is the case with the REAL ID Act. The 9/11 Commission recommended that the Federal Government set standards to prevent fraud in U.S. identification documents, such as drivers' licenses. This important recommendation was addressed by the Intelligence Reform Act, which mandated that standards for issuing drivers' licenses and identification cards be promulgated by a group of stakeholders under the direction of the Secretary of Transportation.

Unfortunately, the Intelligence Reform Act requirement was eclipsed in 2005 by the REAL ID Act, which requires each State's driver's licensing agency to collect and store substantial numbers of records containing licensees' most sensitive personally identifiable information, including Social Security number, proof of residence, and biometric identifiers. If such a State database is compromised, it could provide a one-stop access to virtually all information necessary to commit identity theft.

Moreover, the sharing of the aggregated personally identifiable information of licensees between and amongst various government agencies and employees at the Federal, State, and local level, as contemplated by the REAL ID Act, could allow millions of individuals access to that information without protections or safeguards. The potential for the private sector to scan and share the information contained on a REAL ID compliant license exponentially increases the risk of identity theft as well. Despite these obvious threats to Americans' privacy, the REAL ID Act fails to mandate privacy protections for individuals' information nor does the Act provide States with the means to implement data security and anti-hacking protections that will be required to safeguard the new databases mandated by the Act.

REAL ID exacerbates the threat of identity theft: As the *Honolulu Star Bulletin* noted in an October 1, 2006, editorial, the REAL ID Act gives us "a false sense of security."

It is important that the 9/11 Commission's recommendations are implemented with good judgment and common sense and not overzealously. The identification security recommendation can be fulfilled without unduly sacrificing privacy in the process.

A third issue concerns the importance of securing nuclear weapons and nuclear material both at home and abroad. The Government Accountability Office (GAO) has undertaken a number of investigations at my request into how the United States can improve the security of nuclear material. Some significant steps have been taken in the United States to store safely low-level nuclear materials that could be used in the production of so-called "dirty bombs."

However, more needs to be done. Even more critical is the importance of securing nuclear weapons and material in the States of the former Soviet Union. As the recent death by polonium-210 poisoning in London of a former KGB agent illustrates, deadly nuclear materials are more widely available than previously suspected. Next month GAO will release another report at my request on the Department of Energy's international radiological threat reduction program.

Mr. Chairman, I look forward to working with you to draft legislation to address these and many other concerns raised in the 9/11 Commission Report. In addition, as Chairman of the Oversight of Government Management Subcommittee, I will hold hearings on many of these crucial issues because rigorous oversight and strong legislation go hand in hand. Thank you, Mr. Chairman.

Senator AKAKA. Mr. Roemer and Mr. Gorton, the 9/11 Commission Report pointed out that on September 11, al Qaeda was more globalized than we were. Its members know the English language and American culture, but we don't know theirs. Following September 11, the FBI scrambled to find agents capable of speaking

Arabic. The ability of Federal agencies to recruit individuals with language skills is directly tied to the ability of U.S. schools to educate individuals with those skills. Congress must help schools and universities teach the languages that are deemed critical today as well as those that will be critical in the next 20 to 50 years.

However, our Nation lacks a long-term plan for improving foreign language skills and increasing cultural understanding. That is why I introduced legislation to establish a National Foreign Language Coordination Council to develop and oversee the implementation of a national language strategy. Would each of you give your assessments of the status of our foreign language capabilities today and your suggestions to improve our language proficiency in the United States. Mr. Roemer.

Mr. ROEMER. Senator, I think you bring up a critically important point and a very good question for not only our human intelligence capabilities and our intelligence that we gather overseas in the future and how we rebuild and recruit people into the CIA, but also something Senator Sununu talked about a little bit earlier, how do we work at the primary and secondary levels of education to compete with the madrassas and how do we do a better job of working at the higher education level to understand cultures and histories and regions of the world better than we do.

When I served on the House Intelligence Committee, Senator, I took a trip to Southeast Asia, and without revealing the country, I went into one of the stations where we run our spies and was welcomed by somebody who said, we have somebody here in charge of these efforts who is from Southern Indiana, is a Hoosier like you, and can't wait to see you. We haven't had many Members of Congress visit here lately.

I was a bit chagrined and surprised, and when I did get a chance to meet this person, he looked a lot like me, Caucasian, six-two, blue eyes, didn't look the part to how we should be oriented, postured, and trying to penetrate that particular society. The person's language skills weren't much better than mine for that particular country.

We need to do a much better job, sir, in terms of our language skills, our knowledge of history, our recruitment, our diversity, and strengthening where we are now blind in so many areas—Iraq, Iran, North Korea, and penetrating al Qaeda. This is an area that I hope our intelligence communities and our Intelligence Committees are overseeing.

One of the things that I worked on with Senator Feingold before I left the U.S. Congress was a reserve corps, trying to recruit first-generation Americans into the translation area and then tier them into subsequent areas when we have clearance problems and security issues to overcome, to test their skills and their backgrounds and see if we have a longer length of time so that we can clear them for even higher-risk areas. So it is an area of vulnerability for us. It is an area where we have to do a lot of work, sir, and I think there are some good ideas out there that the 9/11 Commission has outlined. Where I work at the Center for National Policy, we have a paper that I would love to share with you on how to help rebuild our human intelligence capabilities in this area.

Mayor BLOOMBERG. Senator, you couldn't be more right in the need for foreign-speaking law enforcement and intelligence people. I just swore in a class of 1,300 police officers at Madison Square Garden a couple of weeks ago. In that class, people were born in 65 different countries. So we have a lot of people in the police department that come from around the world, speak foreign languages, but we also make a special effort to recruit into the police department people that speak the languages that the intelligence community would find useful, Arabic, Urdu, a bunch of other languages, and we probably have more Arabic-speaking police officers in the NYPD than maybe exist in any other police or intelligence operation in the entire Western world. We would be happy to lend some to the Federal Government if—— [Laughter.]

I have sat there while the Federal Government has tried to find somebody to translate, and we just send it over and get it back in 10 minutes.

Chairman LIEBERMAN. Maybe we could make an exchange for more homeland security funding. [Laughter.]

Mayor BLOOMBERG. Senator, we have always been very pleased and thankful for the monies that Washington sends, and we would be happy to, at a price, sell you some services back. [Laughter.]

Chairman LIEBERMAN. That is a deal.

Senator AKAKA. Mr. Gorton.

Mr. GORTON. Senator Akaka, I think your idea has a great deal of merit, but, of course, there are trends in teaching foreign languages to Americans. In World War II, you needed to know German. When I was growing up and was in school, the language to take was French, and for four very unproductive years, I took French—— [Laughter.]

And I can get an occasional line in a French movie today out of that investment. And then we all had to know Russian when the Cold War was going on or Japanese because they were the future of economics in the world. Now, of course, there are more Chinese than any other. Obviously, Spanish is overwhelmingly important to Americans because of our make-up. You spoke of Arabic, but it looks like Farsi is every bit as important as Arabic to us now.

If you are choosing a career, it is very difficult to go into one of those languages and find that it may not, by the time you are done, be the one that everyone needs. And so perhaps the idea of someone to overlook and make some kind of recommendations in this entire area is, certainly from my perspective, worth considering. But it is a big bet when you decide, as a young person, to make that your major investment of time.

Senator AKAKA. Let me conclude, Mr. Chairman, and since you mentioned World War II, there was what they called the MIS, the Military Intelligence Service, at that time where they recruited people to study Japanese. That program really was basic to shortening the war by 2 years.

Mr. GORTON. Absolutely.

Senator AKAKA. These Japanese-speaking and reading members of the force made a huge difference, and we need to do that here and prepare for the future.

Thank you so much, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Akaka.

I must say, I visited Iraq in December, and I was struck by the number of Arab-Americans, including Iraqi-Americans, that are there in translating positions to our great benefit.

Senator Warner, thank you very much for your return to this Committee. You obviously are one of the great leaders on national security in the Senate, and you bring that experience to our focus on homeland security.

OPENING STATEMENT OF SENATOR WARNER

Senator WARNER. Thank you very much, Mr. Chairman. I thank you and the Ranking Member. Having been here nearly three decades in this institution, I have watched the transition occasioned by elections, but the most important symbolism is the notepad, and that remains unchanged. [Laughter.]

There is Senator Collins, right on the notepad.

Chairman LIEBERMAN. We are both very thrifty. We are going to use those until they run out. [Laughter.]

That is what you would do, Mayor, wouldn't you?

Mayor BLOOMBERG. Absolutely. [Laughter.]

Senator WARNER. And I thank this distinguished panel. I stepped out a minute to speak to Lee Hamilton. Where he finds the time to do so much public service is remarkable. I have known each of you, and there is life here after the Congress, I am sure.

But Mr. Mayor, I stumbled out of bed yesterday morning, and the first thing I saw on CNN was you jumping, not stumbling, off the subway about 6:30 in the morning to greet another problem in the great city. I have had the privilege of knowing you a number of years now, and you have made one of the most remarkable transitions from the private to the public sector. Not only are New Yorkers lucky to have you, but indeed, your symbolism of the importance of the role of mayors, be they in your major city or even the smallest communities of my State——

Mayor BLOOMBERG. Or Senator Coleman. There is life after being a mayor.

Senator WARNER. Oh, yes, and he reminds us of that with some frequency. [Laughter.]

To get down to just two good, basic matters, and I call these to your attention and hope you will speak up accordingly, first, Mr. Mayor, on the question of port security, you have one of the greatest ports in the world, as we do in my State of Virginia, East Coast ports. We are trying to keep apace. You are trying to keep apace. Where are we, in your judgment, of coming to a point where we have a reasonable confidence in the security of our port system?

Mayor BLOOMBERG. Without violating any intelligence information, I think we do a not terrible job. We are likely to spot significant problems, although we are a long ways from ever being able to look at every container, and it is not clear to me that you would really want to do that. The cost-benefit may not be worthwhile. The country may have other ways to protect itself with the limited dollars that it has.

A big part of our port is over on the New Jersey side. There are big ships that come in. You try to do things overseas before those ships get loaded, and then you try to look for patterns when they arrive as to who is going to pick them up. We are always trying

to balance creating jobs, for example, on the waterfront, where if you do background checks, some people may not pass, but you want those people to have opportunities to get a job.

The fact of the matter is, we are an international world where goods and services and information moves very easily, and controlling it totally is probably not possible.

Senator WARNER. Do you find there is a good system of sharing experience with your other competitive ports in the United States and the world? In other words, is there a synergism——

Mayor BLOOMBERG. I just don't know whether we do. I am not an expert on that, but I will be happy to have somebody get back to you.

Senator WARNER. And I appreciate that very much.

To my former colleague on the Armed Services Committee, Slade Gorton, I ask you about the impact of the potential services of the National Guard to our communities given the ever-increasing burdens that are being placed upon the Guard and the Reserves occasioned by the conflicts primarily in Afghanistan and Iraq. I think we will hear tomorrow night some rather interesting comments with regard to recognition of their remarkable participation both at home and abroad, but at the same time, they are stretched pretty thin. What is your view on that?

Mr. GORTON. Senator Warner, your last comment is 100 percent correct. The Guard and the Reserves are stretched overwhelmingly thin. It was my pleasure and my privilege after my service in the Air Force to serve more than 20 years in the Air Force Reserve, never once being called up to do anything other than Reserve duty. It boggles my mind to think of my successors being called up not once, but twice, and sometimes three times from productive careers in civilian life to serve their country. It is less disruptive when it is a very short-term call for some kind of, say, physical emergency or catastrophe here in the United States, basically in their own home areas.

But I believe that one of the immense challenges that you have on the Armed Services Committee and Senator Levin is going to have is how do we keep people encouraged and serving in our National Guard and in our Reserves with these immense demands that we put on them. These are extraordinarily patriotic, selfless individuals, and we have to recognize the contribution that they are making.

Senator WARNER. The question specifically is they are your first line of surge, if we use that word now, surge response in difficulties here domestically.

Mr. GORTON. They will be, just as they were in Hurricane Katrina. If there is another major terrorist attack of a certain nature, there is no question but there is going to be a significant role for the National Guard in connection with responding to it.

Senator WARNER. Thank you. My time is up, Mr. Chairman.

Chairman LIEBERMAN. Thanks very much, Senator Warner.

We have two more Senators who want to ask you questions. Mr. Bloomberg and Mr. Gorton, thanks very much for the time you have given us this morning.

Senator Carper, welcome back.

Senator CARPER. Thanks, Mr. Chairman. Welcome back to you.

Chairman LIEBERMAN. Thank you.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Mayor and Senator Gorton, it is good to see both of you. I slipped out of the hearing just a few minutes ago when Congressman Hamilton left, and I wanted to go with him over to the Capitol. He is hosting a luncheon there and wasn't sure just which way to go to get out of this building. We all get lost from time to time. I took him over to the Capitol and pointed him in the right direction, but what I really wanted to do was have a chance to talk with him beyond the give and take that a session like this affords us.

I suspect that Senator Lieberman and Senator Collins may recall roughly 2 years ago when Congressman Hamilton, Governor Kean, and others on the 9/11 Commission came before us and presented their findings and responded to our questions and over 40 recommendations in all that they were submitting to us. I reminded Mr. Hamilton of that and the question that I asked him and Governor Kean, I said, how is it that a group as diverse as that which the two of you have led have come to consensus around all these different recommendations, some 40 recommendations, and you agree on all of them and present them to us in their entirety.

Now I sort of link that to the working group he has headed with Jim Baker, again, another group of 10 very diverse people, five Democrats, five Republicans, and they have come forward and made not 40 recommendations, but some 70 recommendations and have reached, I think, unanimity on, I believe, just about all of them.

The question I asked him 2 years ago, I asked him again today as we were walking down the hall and taking the subway over to the Capitol, and I said, how did you initially with Tom Kean and then you and Jim Baker manage to foster this kind of consensus when we struggle so much with that here? It kind of relates to what Senator Warner was mentioning earlier. Senator Warner said, where does he find the time to do so much public service? It is remarkable.

And Mr. Hamilton said to me this afternoon, he said, I have the time because I don't have to live with the kind of schedule that you do, where you live your life, and Senator Gorton, you remember what this was like, I know, and we do, we live our life in 15- to 30-minute increments here. He said, what you don't have as a Representative or as a Senator is really the chance to sit down and to have good heart-to-heart, in-depth conversations with your colleagues. He said it was out of those kinds of conversations that he had with Tom Kean that they sized one another up, developed a sense of understanding, and then trust, and that sense of trust really infused the rest of the Commission. A similar kind of thing happened with Jim Baker and the members of the working group that they led on Iraq.

So when our time here is over and done with, maybe we can look forward to having some time to really kick back and do good work across the aisle with our friends and colleagues from around the country and come back and testify and tell how we really believe they can solve these issues.

Mayor, I have a question of you, if I may, and then maybe if I have time one for Senator Gorton. In your testimony, I believe you praise the Department of Homeland Security for allowing cities like New York City that receive urban area grants to spend at least a portion of their grant funding to pay personnel costs. I recognize as an old governor that this may be necessary from time to time, but I am concerned if we are going to be spending Federal dollars day-in, day-out to cover cities' operating costs.

I am especially concerned when I think of all the unmet homeland security needs across our country, some of which we have talked about here today. Where do you think the Federal Government's responsibility in funding first responders should end and the responsibility of State and local governments begin?

Mayor BLOOMBERG. Well, I think operationally, State governments and local governments, local in particular, are where the buck should stop, and they are the ones responsible for protecting their cities, counties, or States. In terms of funding, we all try to get as much money as we can from every place that we can. I think if the Federal Government wants to spend its money wisely on providing homeland security, it has got to take a look at what works. Its natural inclination is to go and buy equipment—that we can have a photo opportunity in front of, for example—but that may not be what you need.

Somebody talked before about a local town near the Canadian border. They probably don't need very fancy equipment. They need some smart people who know strangers when they walk into the community and know what path through the woods somebody is likely to take and know where the river is shallow so that people might want to cross it. We have added a lot of police officers and other emergency responders to our payroll because that is the way to stop terrorism. We can always use more equipment, but we can't use it anyway near as productively as we can well-trained, well-supervised boots on the ground, as I call it.

Let me also just close by saying something that occurred to me when you were talking about Mr. Hamilton and how he does everything. My experience in life has always been that when you have a tough job, you give it to the most overworked person you know. There is a reason why that person is overworked, and there is a reason why everybody wants Lee Hamilton.

Senator CARPER. Good point. Senator Gorton, if you will, I believe the 9/11 Commission has been on record calling for a risk-based distribution of Federal first responder aid. Mayor Bloomberg, in his testimony, talked a little about this just now. He calls for a system that is based entirely on risk. Do you think that this would be a responsible step for us to take, to eliminate base allocations or small State minimums entirely, and how do you envision grants being distributed under that kind of scenario?

Mr. GORTON. Mayor Bloomberg has made that a central point in his testimony here today. The comparisons that he has made about amounts of money and distribution formulas have been eloquent and are ones with which I agree and ones with which the Commission agrees.

I don't believe that the Congress can set the formula itself. You really can't do it. This is a dynamic situation. But I think the Con-

gress should set a formula for monies for homeland security to be based on vulnerability and on the threat that is provided by international terrorism. It would presumably be the Department that used that guidance, probably to make adjustments in each and every year. But if the Congress is going to give money to deal with the problem of homeland security and the threat of terrorism, it ought to be focused on homeland security and on the threat of terrorism and not on something else.

Mayor Bloomberg has also been eloquent on the proposition that there may very well be room for other kinds of aid and assistance to State and local governments, but it should be denominated as being for purposes other than homeland security and the struggle against terrorism.

Senator CARPER. Thanks.

Mr. GORTON. If I can say, Senator Carper got it absolutely right in his opening remarks about organizations like the 9/11 Commission. It was a very different experience than being here in the Senate, where you all do live in 15- and 30-minute increments. We had a year and a half, 10 people who didn't know one another when they started out, but an overwhelming single challenge. And almost from the beginning, it was in our minds that if we split up, especially if we split up on a partisan basis, our recommendations would be worthless. We were able to reach agreement on the history and then ultimately on the recommendations.

I can tell you, with Tim Roemer having sat here next to me, he and I had a disagreement that lasted until the last night before we finished on a very important matter. We reached the conclusion that it was far more important to be united than to do our own separate views, and in reflection afterward, the final answer on that issue was better than it would have been had either of us completely prevailed. It wasn't a lowest common denominator compromise, it was a highest common denominator compromise.

But it was that ability to get to know one another on a single issue, as profound as it was, that led to those results. Your statement is entirely correct in that respect.

Senator CARPER. Thank you.

Chairman LIEBERMAN. Thank you. Good advice every now and then, that still happens around here, and we hope it——

Mr. GORTON. You did it when you took up our recommendations in this Committee.

Chairman LIEBERMAN. I can't tell you how many Members of the Committee on both sides of the political aisle said to Senator Collins and me, this is why we came to the Senate, to work together to solve a problem like this. Talking about 15- or 20-minute segments, every now and then we get the chance to spend 3 hours at a hearing like this—— [Laughter.]

And that is a good experience.

The last Senator to ask this panel questions, with thanks again to the panel, is Senator Mary Landrieu. Welcome to the Committee. You have just joined us, and we look forward to working with you.

OPENING STATEMENT OF SENATOR LANDRIEU

Senator LANDRIEU. Thank you, Mr. Chairman, and I am looking forward to the next panel and want to provide time, so I will just be as quick as I can. I have an opening statement for the record. I am very pleased to join this Committee and look forward to working with both of you, who I consider extraordinary leaders.

[The prepared statement of Senator Landrieu follows:]

PREPARED STATEMENT OF SENATOR LANDRIEU

The terrorist attacks that occurred on September 11, 2001 shocked and saddened the Nation and the world. Legislation subsequently offered by Senators Lieberman and McCain created the independent National Commission on Terrorist Attacks Upon the United States. The 9/11 Commission's final report revealed critical gaps in our Nation's security and the need to modify and develop policy, law, and regulation to mitigate vulnerabilities, threats, and consequences.

Of its 41 recommendations, approximately half have been addressed, by a combination of the Legislative and Executive Branches in association with foreign, State, and local governments and the private sector. The Intelligence Reform Act addressed a number of these gaps, but many more remain. Hurricane Katrina demonstrated massive shortcomings in our Nation's emergency preparedness and response capabilities. This Committee conducted an extremely thorough investigation, which led it to conclude what many Americans have since witnessing response failures in New Orleans, namely that the Nation's people, economy, and infrastructure has not been adequately safeguarded since September 11.

Some of the witnesses here today plan to talk about the failure to practice plans in place before Hurricane Katrina, and the importance of established responder networks and regularly conducted exercises. I look forward to hearing the witnesses' views on progress in implementing and expanding Incident Command capabilities among State and local governments, which was one of the Commission's recommendations.

I look forward also to hearing each of your assessment of our progress in the area of interoperable communications, which was among the response community's chief failures on September 11. Communications failures paralyzed command and control networks on the Gulf Coast after Hurricane Katrina, when catastrophic damage to communications infrastructure left police without a functioning radio network. Satellite communications were slow to arrive on the scene, and responders were forced to utilize text messaging in order to coordinate with one another. This demonstrated the emergency management potential for communication modes other than voice, and I am hopeful that newly available spectrum for public safety use will allow increased transmission of data, video, and internet-based information. The spectrum transfer should also increase network capacity and transmission speed. Allocation of additional spectrum to first responders was another recommendation of the Commission upon which Congress has acted, and I look forward to hearing panel views on the transition process, and the viability and utility of the February 2009 deadline for broadcasters to disconnect.

Just last week, the Department of Homeland Security issued a report which stated only six major American cities, out of 75 surveyed, have achieved optimal communications interoperability. We clearly have a long way to go in achieving this goal, and I look forward to hearing your assessment of current funding schemes, standards setting, technical assistance, interagency coordination, and Federal outreach in this area.

While progress has been made in reforming the intelligence community and improving information sharing at the Federal level, more progress must be made to coordinate information between Federal and local law enforcement. We must act also to improve border and document security, secure weaponizable material around the world, and strengthen oversight of intelligence and homeland security structures.

I am highly encouraged by the incoming Congress's enthusiasm for implementing the remainder of the 9/11 Commission's recommendations, and I commend Chairman Lieberman and Senator Collins for their past leadership in this area, and their continuing commitment to this task. I look forward to the witnesses' testimony and to also working with my colleagues on this Committee to legislate additional security requirements and ensure their timely and effective implementation.

Senator LANDRIEU. Mayor Bloomberg, we had an incident, as you know, in New Orleans, Hurricanes Katrina and Rita, and the subsequent collapse of the levee system that flooded an area larger than the size of Great Britain and put a major city under 20 feet of water. Needless to say, there was a tremendous amount of confusion about where the water came from, what happened, what caused it, how to swim out of it, where to go, where was the high ground, where were the helicopters, and none of the communications systems worked. Our National Guard was left riding bicycles up and down the levees delivering notes to one another to try to save people as the helicopters swirled around to try to lift people off of roofs, and you know because you sent people from New York to help us, and we are very grateful.

I know before I came, there had been a lot of comments about communications, but I would like for the record if you could just briefly, what additional communications have you all done since September 11 to make sure that your fire fighters can speak to your police officers, can speak to the ambulance drivers, etc.? What would you recommend for us that we haven't done, and I know that we haven't done our frequency plan yet because I am going to focus, Mr. Chairman, on this communications issue, which I thought was really at the heart of the "charge" of disorganization. Anyone would be disorganized if you can't communicate with the next person, and everyone's cell phones went down. Doctors couldn't communicate to nurses. It just goes on and on.

So I am going to stay focused like a laser on this communications piece because panic becomes a real problem in our situation, as in yours, but ours was greatly expanded. So just a comment about communications and what could we do that would be better in your mind than what we are doing now.

Mayor BLOOMBERG. Senator, I think all of the country feels the pain, if it is not too trite to say so, that the people of New Orleans felt. We tried to do the little bit that we could. We just pray that everybody recovers and it doesn't happen to anybody else.

I think you have to answer your question on two levels. One, we have put automatic vehicle locators into all of the ambulances and all of the fire trucks so that we can look at a computer display, know what is the closest piece of equipment to dispatch, and it has actually brought down response time for our ambulances about 26 seconds, which is a very big percentage of the response time and can save a lot of lives. We have back-up radios, and we have radios that are now interoperable. We have a back-up system.

But I think a better answer to your question is the communications that you really need in New Orleans and we really need in New York is the face-to-face communications. Our police officers and fire fighters and transportation people and health officials all have to know each other. They have to know each other on a first-name basis. They have to know the ethics and the procedures of the other departments. They have to work together. And you do that by everyday training. You have tabletop exercises. You have field exercises where people show up. You encourage communications. You have the chiefs of different departments go and have a meal with each other, a cup of coffee. You make sure that they talk. You have athletic events.

We get them together, and they just get a chance to know each other and to respect each others' values and each others' capabilities, and that is more important than any technology because no matter what the event is, in the end, it is going to be solved by people who are facing each other, having to decide who goes into this building, who does this, who does that. Our Office of Emergency Management is planning in advance. No matter what the event is, what is your responsibility, what is my responsibility? What happens if you don't show and I do, and I don't have the equipment I need? How do I go and behave?

Senator LANDRIEU. And what about cell phone capacity because all the cell phones basically went down and nobody could communicate.

Mayor BLOOMBERG. Well, you are always going to have——

Senator LANDRIEU. The same thing that happened on September 11, 2001.

Mayor BLOOMBERG. Nobody is ever going to build a phone network, whether it is cell phones or wire lines, that can handle everybody wanting to make a call at the same time. We had that problem at the World Trade Center tragedy, where a lot of people couldn't get through. The cell system didn't go down, it just got overburdened. But that can happen with land lines, as well, and one of the dangers that we worry about is that we get so dependent on cell phones that it is the only kind of communications we have. We want to use cell phones. We want to use hand-held radios. We want to use radios in trucks. We want to use satellite phones. We want to use a lot of different things because you can't be assured that any one system will be there.

If you want to know what is the great danger in today's world in a modern city, it is losing communications. One piece of software could take out all the telephones in the city. Just one little comma in a line of code, and it would take an enormous amount of time perhaps to find it and to fix it. So you have to know how to behave without that line of communication.

Electricity goes down, your cell phones may work, but eventually the generators run out of fuel, and they stop working. What do you do? We had a case where we had a blackout, and the pumps that pumped gasoline are electric, and they couldn't put the fuel in the truck, so the truck couldn't take the fuel to the back-up generators. Nobody thought about that. Now, I don't think that is going to happen. We have taken steps. But it is that kind of level.

The only way that you do it is you practice all the time, Senator, and it is, in the end, the city's responsibility to take care of themselves, certainly for big cities, counties when you get to the smallest cities where they have to pool the resources, and then the State somewhat and the Federal Government way down the line. The Federal Government does things in advance or afterward, not during.

Senator LANDRIEU. Thank you, Mayor Bloomberg.

Chairman LIEBERMAN. Thanks very much, Senator.

Both of you, thank you. Senator Gorton, thanks for your continuing service. Mayor, your experience and testimony today has been very helpful to us. I believe, based on the experience, I think

you have become a national asset, and we intend to call on you as we go forward with our work here. Thank you very much.

Senator VOINOVICH. Mr. Chairman, I was remiss in not asking that a statement I have be inserted in the record previously.

Chairman LIEBERMAN. Without objection, Senator Voinovich, will do.

[The prepared statement of Senator Voinovich follows:]

PREPARED STATEMENT OF SENATOR GEORGE V. VOINOVICH

The September 11, 2001 attacks revealed numerous shortcomings in our nation's capacity to detect potential terrorist threats and respond effectively. In response, Congress enacted legislation to establish the Department of Homeland Security, and to reform and reorganize our intelligence community to address current and future national security threats. The reorganization of the Intelligence Community was guided by the recommendations of the 9/11 Commission, and represented the most sweeping reform of our intelligence agencies in more than 50 years. In conjunction with legislative reform, the Federal Government has more than tripled government-wide spending related to non-defense homeland security, distributing approximately $12 billion dollars in direct grants for State and local preparedness.

As this Committee works to assess the results and implementation of legislative reforms, and as our national homeland security policy matures, it is important to acknowledge that while we can enact legislation and authorize funding to minimize risk, we can never fully eliminate it. Thus, we must use common sense in developing legislative reforms that ensure our limited resources are allocated based upon risk assessments grounded in credible intelligence and analysis.

While activities devoted to preparing for, protecting against, and responding to potential terrorist attacks are essential elements of our national homeland security strategy, preventing terrorist attacks from occurring is our government's primary responsibility. For this reason, I believe efforts dedicated to detecting, preventing, and disrupting terrorist activity yield the greatest results. It is critical that we continue to strengthen our intelligence gathering capabilities as the first and best line of defense against potential terrorist activity.

Successful implementation of the 9/11 Commission recommendations depend on how the intelligence community agencies operate together as well as how they are organized. Accordingly, I will remain focused on the capacity of the intelligence community to execute its mission in terms of management and personnel. I look forward to hearing whether or not our witnesses believe the Intelligence Reform and Terrorism Prevention Act gave the Director of National Intelligence sufficient authority to effectively manage and integrate the intelligence community.

My continued work in enacting positive human capital reform in our intelligence and homeland security agencies stems back to March 2001, when I chaired a subcommittee hearing entitled, "National Security Implications of the Human Capital Crisis." During the hearing, former Defense Secretary Schlesinger, a member of the U.S. Commission on National Security in the 21st Century, testified "We must take immediate action in the personnel area to ensure that the United States can meet future challenges . . . fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy." Similarly, the 9/11 Commission concluded, "We know that the quality of the people is more important than the quality of the wiring diagrams. Good people can overcome bad structures. They should not have to."

We must be sure that the reforms implemented to date provide for a highly-skilled intelligence community workforce supported by organizational systems that lead to measurable results in the capacity of our nation's Intelligence Community to meet its ever-changing mission. The report card released by the Public Discourse Project showed evidence of some progress, but weaknesses remain. Further progress is needed if we are to prevent future attacks against our homeland.

Finally, one aspect of the various homeland security reforms that I have been disappointed in has been the Congress's unwillingness to reform itself in accordance with the 9/11 Commission's recommendation to provide better and more streamlined oversight of the Department of Homeland Security. I continue to believe that Congress could do a better job if we were willing to set aside the turf battles and reorganize our own committee structure to provide more efficient oversight over homeland security.

I commend Chairman Lieberman for convening this hearing as part of this Committee's continued oversight of the various homeland security and intelligence re-

forms it has played a large role in shaping. I look forward to working with my colleagues in a bipartisan manner as we ensure our intelligence community is capable of marshalling the full range of capabilities needed to respond to threats against our homeland.

Chairman LIEBERMAN. The Committee will take a 5-minute recess. We have two more panels, and we look forward to hearing the testimony of both panels.

[Recess.]

Chairman LIEBERMAN. I am going to reconvene and thank our witnesses on this second panel for their patience. Obviously, there was a lot of interest in the first panel. A lot of people came. But the Committee is interested in the perspective that the two of you bring. I am grateful that you are here and that you stayed.

Chief Carter, you are the President of the International Association of Chiefs of Police (IACP), and in that capacity you are going to be testifying on behalf of police chiefs nationwide. Since 2003, Chief Carter has served as Chief of the Massachusetts Bay Transportation Authority Transit Police Department. He has been in law enforcement for nearly 30 years, achieving a high rank in the Boston Police Department and also, I am proud to note, grateful to note, Brigadier General in the U.S. Army Reserve.

Chief Carter, why don't you begin.

TESTIMONY OF CHIEF JOSEPH C. CARTER,[1] PRESIDENT, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Chief CARTER. Thank you and good afternoon, Mr. Chairman, Senator Collins, and Members of the Committee when they come. [Laughter.]

On behalf of the International Association of Chiefs of Police (IACP), it is my pleasure to be here this afternoon to share the view of the Nation's law enforcement community on our national efforts to detect, prevent, prepare for, and respond to acts of terrorism.

Over the past several years, a number of dramatic steps have been taken to confront the menace of terrorism, including the passage of the Patriot Act, the establishment of the Department of Homeland Security, and the creation of a variety of programs designed to assist State and local governments in their efforts.

Unfortunately, despite these efforts and the billions of dollars appropriated by Congress for homeland security initiatives, State, Tribal, and local law enforcement executives have grown increasingly concerned over a homeland security strategy that has moved too slowly and has not fully comprehended the post-September 11 role of State, local, and Tribal law enforcement in securing our homeland. It is a strategy that while improving the security and safety of a few communities has left many others increasingly vulnerable.

For these reasons, I would like to spend a few moments discussing what the IACP believes are the vital elements that must form the basis of a successful homeland security strategy.

First and foremost, the IACP believes that the prevention of terrorist attacks must be a paramount priority in any homeland security strategy. To date, the vast majority of Federal homeland secu-

[1] The prepared statement of Chief Carter appears in the appendix on page 100.

rity efforts have focused on increasing the national capabilities to respond to and recover from a terrorist attack. Although the Association agrees that there is a need to enhance response and recovery capabilities, such preparations must not be done at the expense of efforts to improve the ability of law enforcement and other public safety and security agencies to identify, investigate, and apprehend suspected terrorists before they can strike.

On a related note, because of IACP's strong belief in the importance of prevention, we are extremely dismayed over the Congress's failure to establish the Office of Terrorism Prevention within the Department of Homeland Security as part of its FEMA reform legislation last year. The failure to create this office substantially undermines efforts to improve our Nation's security and further hinders terrorism prevention efforts of State, Tribal, and local law enforcement agencies. The IACP implores the Congress to address this situation as soon as possible.

Another critical element that must serve as the foundation for a successful homeland security strategy is the realization that terrorist attacks that occur in the United States, while they have national and international repercussions, are inherently local crimes that require immediate response of State, local, and tribal authorities. Even more critical is the realization that while planning, conducting surveillance, or securing the resources necessary to mount their attacks, terrorists often live in our communities, travel on our highways, and shop in our stores.

As we discovered in the aftermath of September 11, several of the terrorists involved in those attacks had routine encounters with State and local law enforcement officials in the weeks and months before the attack. If Tribal, State, and local law enforcement are adequately equipped and trained and fully integrated into the information and intelligence-sharing network, they can be invaluable assets in efforts to identify and apprehend suspected terrorists before they strike.

In that light, I would like to touch briefly on the importance of intelligence and information sharing. As the 9/11 Commission properly noted, the lack of effective information and intelligence sharing among Federal, State, Tribal, and local law enforcement agencies was and continues to be a major handicap in our Nation's homeland security efforts. The IACP wholeheartedly agrees with this determination. In fact, in 2003, the IACP developed the National Criminal Intelligence Sharing Plan (NCISP), which was endorsed by the Department of Justice, the Department of Homeland Security, and the FBI, to provide a cohesive vision and practical solutions to improve law enforcement's ability to detect threats and protect communities.

The recommendations contained in the NCISP focused on establishing a collaborative partnership that would not only ensure that all levels of government are equal partners, but would also promote a freer flow of information and make certain that the experience and capabilities of all parties are realized.

It is for these reasons that the IACP strongly supports the Information Sharing Environment (ISE) implementation plan recently submitted by the Office of National Intelligence. The ISE plan, along with the release of Guideline 2, which directs the develop-

ment of a "common framework for the sharing of information," is a major step forward in intelligence integration and will allow the law enforcement community to better detect, disrupt, and prevent future acts of terrorism.

The IACP is particularly pleased that the ISE plan emphasizes the vital role that State, local, and Tribal law enforcement must play in the development and dissemination of critical intelligence. This reinforces the IACP's longstanding belief that only through effective information sharing can we hope to make our home towns and the homeland safer.

The IACP is also very supportive of the aggressive yet achievable time line set forth for establishing the Information Sharing Environment and believes that meeting the 2009 date is critical to our homeland security efforts. Therefore, it is imperative that the Director of National Intelligence retain the Program Manager for Information Sharing Environment for the 3-year implementation phase as recommended in the plan. The IACP strongly supports this recommendation.

As Congress continues its efforts to develop policies and programs to prevent terrorist attacks in the future, the IACP urges you to support the proposals contained in the ISE implementation plan.

Finally, I would like to conclude my remarks by addressing another essential element in a successful homeland security strategy. It is critically important that we commit to the development and maintenance of a broad-based effort that builds on the Nation's prevention and response capabilities from the ground up. It is vital that a baseline capability be established in all communities, not just urban areas or those determined to be at greatest risk. Once these capabilities are established nationwide, they can be used as a foundation upon which more advanced homeland security capabilities can be built.

Regrettably, the current homeland security strategy and funding formulas appear to have the opposite goal. The last several years have witnessed a pronounced shift away from a broad-based homeland security program toward a program that targets primarily urban areas for assistance. While the IACP agrees that there is a need to provide urban areas with the resources they need to protect their communities from terrorist attacks, this must not be done at the expense of programs that provide assistance to law enforcement agencies throughout the rest of our country.

Unfortunately, this is exactly what is happening. As funds have shifted toward major metropolitan areas, the vast majority of our Nation's communities have been forced to compete over an ever-dwindling pool of resources. As a result, their ability to upgrade their capabilities and improve their readiness has already been severely hindered. It is the IACP's opinion that failure to implement and adequately fund a broad-based effort that will improve the security of all communities weakens our overall approach to securing the homeland.

Indeed, as larger metropolitan areas become more secure, terrorists will seek out other less protected targets to attack. As we move forward in developing our national homeland security strategy, we

must remember that we are a Nation of communities and that all our communities are at risk.

This concludes my statement, and I will be glad to answer any questions you may have.

Chairman LIEBERMAN. Thank you, Chief, for that excellent testimony. We do have some questions, and I look forward to asking them.

I am delighted and honored to welcome Commissioner Skip Thomas, who leads the Department of Emergency Management and Homeland Security in the State of Connecticut. The Commissioner previously served as Director of Justice Planning for the Connecticut Office of Policy and Management and also as Chief of Police in Glastonbury and Vernon, Connecticut.

We thank you for coming down, and we look forward to hearing your response from the point of view of the States of our country.

TESTIMONY OF JAMES M. THOMAS,[1] COMMISSIONER, CONNECTICUT DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND SECURITY

Mr. THOMAS. Thank you very much, Senator. Good afternoon, Senator Lieberman, Senator Collins, Senator Voinovich. My name is James Thomas, and I am the Commissioner of the Department of Emergency Management and Homeland Security for the State of Connecticut. I am here today to talk about the continued implementation of the 9/11 Commission recommendations.

There are three overarching themes that influence my thinking. First, I strongly feel that the No. 1 priority for government is and always should be public safety. Public safety and security are the two critical areas that cannot be delegated to anyone other than government. With that in mind, the Federal Government, in partnership with the State and local agencies, share this responsibility. For America to be safe, we must all work together, and we are only as strong as the weakest link.

Second, we have focused a great deal on funding and planning for response and recovery, as the Chief mentioned. We need to focus on funding and planning for prevention and protection. What we really want to do is to prevent another act of terrorism anywhere in this great country.

Third, when we are talking about collaboration, we need to make sure that all partners are included. By that, I mean local, regional, State Governments, private sector, and Tribal Nations, as well as the Federal Government, who should be leading the way through adequate funding and sharing of the very best technology that we have to offer, as well as the sharing of lessons learned.

With these themes in mind, I would like to address three specific areas, the areas of funding, interoperability, and information sharing.

I recently heard DHS Under Secretary George Foresman say that we should not judge States by how much grant money they have spent or how fast they spent it. Instead, success should be judged by the quality of their programs and the extent to which they have supported and approved upon interagency and intergov-

[1] The prepared statement of Mr. Thomas appears in the appendix on page 109.

ernmental coordination and collaboration throughout the program development. I wholeheartedly support this perspective.

The Federal Government should ensure that grant funding streams are flexible enough to accommodate unique needs within each State. States would greatly benefit from expanding funding to an all-hazards planning, prevention and mitigation, preparedness, and response and recovery. Federal streams must acknowledge that different States across the country are at different stages of development. Those States that have well-defined programs need funds to sustain their work. Other States with less robust programs need funding to achieve their initial programmatic goals. All States must be able to address the emerging needs that arise in this environment of ever-changing technology and events.

If States can justify unique circumstances which require specialized funding, they should be allowed to spend their Federal funds this way. Again, we must remember that our country is only as strong as the most vulnerable locale, that being a large metropolitan area, a county, or even a rural community where one would think that the terrorists would be least likely to train at or to strike.

Risk-based funding is a laudable and appropriate concept that should be adopted as recommended by the 9/11 Commission. In order to achieve the consistent data on which the Federal agencies will base funding determinations, the Federal Government should use one template, or standardized tool, for risk and vulnerability assessment to be used by each State across the country. Significant progress has been made this year in this area, but the States should continue to have the opportunity to provide input on the creation of this tool.

Clearly, high-risk jurisdictions must receive adequate funding to protect their citizens and visitors. But nonetheless, funds should not be targeted exclusively to the immediate geographic areas of high risk because that will leave the surrounding communities extremely vulnerable. For example, a terrorist event in any large urban area, such as New York City, will affect several States and jurisdictions. In the example of New York City, both New Jersey and Connecticut as well as other States might be impacted as the New York residents and visitors flee the city. Such an event may even require the evacuation of lower Fairfield County in Connecticut and sections of Northern New Jersey.

We also must make sure that the large cities and UASIs are safe and secure by taking the necessary steps to keep any potential threat or danger from ever getting into those large areas. For example, hundreds of thousands of people enter New York City every day from rail, buses, and ferries. We have to make sure that our transportation systems are secure all along the routes leading into these areas. Again, we are only safe and secure when the entire system is safe and secure.

I know Senator Lieberman has introduced legislation for improving rails. If you think about Penn Station, more people use Penn Station than all the airports combined in the New York area. We have to make those areas very secure.

State and local governments must be given the flexibility to apply the resources to identified needs and target dollars in a way

that is meaningful to every State, regional, and local community. In Connecticut, we do not have county governments. It is important that the State and municipalities be able to focus on the priorities that we have identified, such as the greater need for prevention and protection rather than just response and recovery.

All States need to develop and further enhance their public and private partnerships. A small amount of Federal funds should be set aside for this purpose. With 80 percent of the funds having to go to local governments and 20 percent of the funds allocated to the States, there are really no funds available to partner with the private sector. Yet the private sector owns about 85 percent of all the assets in most of our States. Federal funds should be made available so that States can adequately share resources with the private sector. That will greatly improve information sharing, collaboration, training, and again, prevention and protection. In return, there must be private sector accountability for this relationship.

A key area that I would like to address is interoperability. Standardizing systems across the United States would greatly enhance interoperability. In Connecticut, we are working with New York State, New York City, and New Jersey to administer and distribute our Federal transit security grant in a manner that is beneficial to the tri-State area. We are making sure that all our radio systems in that tri-State area allow the officers on the trains to be able to talk to each other. We think this is a critical area as people move through. Even the police officers in New York are sworn into Connecticut, and our troopers that go in from Connecticut into New York. We need to have interoperability of communications within that whole tri-State region.

There are other examples of the need for standardization in interoperability. Nationwide, there are hundreds of individual communication and information systems into which critical information is funneled. There are still many silos around communication systems that need to be eliminated.

In our State, we have tried to address this by bringing all the people from the State and local disciplines together to coordinate and collaborate on issues involving interoperable communications. Planning for and participating in exercises and drills brings all the stakeholders to the table and encourages not just the testing of equipment and protocols, but getting to know each other very well. It provides an opportunity for the development of interpersonal relationships and enhanced communications among stakeholders, which are very vital to successful emergency management.

But interoperability means more than just voice, from my viewpoint. It should include geographical information systems, oblique imagery, and mobile data terminals in every response vehicle. From a practical viewpoint, voice, one person is talking and a lot of people are listening. If you have mobile data terminals in every first responder vehicle, everybody sees the picture, sees the maps, and you can communicate very effectively using data. It is a great tool.

And finally, the Federal Aviation Administration legislation and homeland security legislation needs to be synchronized and coordinated in all areas of aviation security, port security, and rail security. States need a consistent message from Washington in the

areas of transportation policy, planning, and grant funding. For example, perimeter security at airports is just as important as a strong baggage check area. All security starts on the outside boundaries and moves in toward the key assets, such as the airport, train station, and other transportation hubs. Ultimately, if the outside boundary is not secure, neither is that mode of transportation.

Last, information sharing is a vital tool in the fields of emergency management and homeland security. As I mentioned earlier, there is a great need to collect information at the local level—that is where most of it is going to come from—pass it up to the State and on to the Federal Government in a very timely manner. The Homeland Security Information Network should be used by all States. This would allow all States to share vital information.

A fusion center, where information that is collected from a variety of local, State, regional, and Federal sources is subject to analysis and dissemination, is a critical component of information sharing. Local communities need proper funds and technologies to accomplish this goal. We have to have a fusion center in all of our 50 States and territories. They need to be linked regionally and then to the National Security Center and capable of sharing real-time information, stressing real-time information.

There is also a need to review and revamp the current classification system within the intelligence community. Much of the information that is now being classified "secret" should be reclassified "for official use only," so that it can be shared with those who need it most, the State and local police officers and emergency personnel at the scene.

Information sharing should be expanded with the notion that the public is a partner with government and, if well informed, can serve as the eyes and ears for protection and prevention. Again, we will need the help of the general public. There will never be enough police officers, FBI agents, and other law enforcement personnel to do the job without the assistance of the public. We need to have a strong, sustained public education campaign that engages and challenges the people of our great country not to be complacent. We need each and every one of us to be involved if we are going to be truly effective in the area of homeland security.

We are concerned more than ever that because of September 11, our lives have changed as we once knew them. We need to implement the recommendations of the 9/11 Commission as soon as possible. Again, I say to you, it is the responsibility of government, Federal, State, local, and Tribal, to provide a safe place for all of us to live. We need to work together like we have never worked before. Check the egos at the door. Do the right thing. Let us make the United States a safer and better place to live. Let us move on the implementation of the 9/11 Commission recommendations this session.

Chairman LIEBERMAN. Thanks very much, Commissioner. That was excellent testimony.

Let me ask you both to talk a little bit more about this funding question. Obviously, this is something we have been struggling with here in Congress. Mayor Bloomberg makes a very strong argument that you have to distinguish between risk and targets, that

the cities have more targets. Therefore, they should essentially get almost all the money, maybe all the money.

In the two bills that were passed in the House and the Senate, most of the money in those formulas is distributed based on risk. There is a small percentage, slightly larger in our bill, smaller in the House bill, that goes on a minimum per State, and that is based on the perception that everything is at risk in the war on terrorism.

There is a limited pot of money here. I would say parenthetically that one of the big problems, as I think one of you said, is that homeland security funding, the major programs have been cut 43 percent since 2004. So the arguments we are having over allocating and priority setting get a lot more difficult when you are dealing with a shrinking pot and a growing need.

But from the perspective of the State and local law enforcement, how do you make the case? How would you set the priorities here, knowing that even if the pot were larger, it is always not going to be enough? How do we allocate between the argument that the Mayor of New York makes and the arguments that the two of you make on behalf of State and other local governments?

Mr. THOMAS. Well, I think we have to consider risk, and there is no doubt about it that there are certain targets that we are anticipating based upon intelligence, let us say, the six larger areas, UASI areas, and we have 39 new areas. We also have to look at, if you are a terrorist and you are trying to think, including homegrown terrorists, would you put all of your efforts going to a place where the protection is the very highest, everything you are doing is being monitored, or are you going to be working in an area that probably doesn't have the same level of resources?

A lot of our communities anywhere in the United States, just because of our geographic location, place us at very high risk because of, let us say, New York City. Our State of Connecticut—and I am not here just for Connecticut or New Jersey or our State—in our part of the country, we talk of the 10 State Northeast Consortium. We go down as far as Delaware, Pennsylvania, New York, New Jersey, and the six New England States because we think we all have to work together.

So when you are talking about that, I think that people are looking at a risk. We are talking regionally and ultimately nationally. But everybody has a high degree of risk just because of the way that terrorists operate, and we can't put all of our money just in the six UASI areas and the 39 tier two groups and leave everybody else. That would be extremely foolish. I think it would be a tremendous mistake. We all have critical assets in our State that are very prime targets, and I think that is reality, whether it be nuclear power plants or we have submarine bases. We have all kinds of industries that have a direct impact upon national security today.

I think you have a difficult task. Where do we draw that line? But in reality, we are here to protect the country, and there are 50 States in that country and six possessions. We have a responsibility to protect the country.

Chairman LIEBERMAN. Chief, in your answer, let me just ask you to address one other thing, as well. There are two arguments made on this subject. One is that there is a greater need in the cities,

for instance, like New York, but the second is that when you spread money around the country on a minimum per State basis, some significant amount of money will end up being used for non-homeland security needs. I don't know whether your association has ever tracked this. Obviously, you can always find somebody who is spending public money for something different than it should be spent for.

But it would be real helpful to this Committee if it is possible for you, and maybe you want to address it today, to give us some basis for concluding that the overwhelming amount of the money that is going to the States and then to the localities on these different homeland security grant programs are actually being used to protect against the risk that exists in those non-central city areas.

Chief CARTER. Mr. Chairman, I am not familiar with a specific study——

Chairman LIEBERMAN. Yes.

Chief CARTER [continued]. But we could examine that among our membership pretty easily.

Chairman LIEBERMAN. That would be helpful.

Chief CARTER. But not withstanding that and just to piggyback on what Commissioner Thomas indicated, and not to minimize the need that was articulated by Mayor Bloomberg in terms of his risks that he sees in the City of New York, New York being an epicenter of life in America and having the many vulnerabilities that it has, those vulnerabilities, those risks again exist throughout America. When terrorists plan, when they exercise, all the things you heard in earlier testimony that we need to do at the State and local level as well as the Federal level in preparation to ensure that we are operable should there be an incident, terrorists are doing the same thing, and they are not doing it in Mayor Bloomberg's city because they know about the 1,000 officers that are doing intelligence that are there. They are in the hamlets. They are in the small cities.

When you look at and examine terrorist incidents around the country, particularly those that are on mass transit, they are coming from the suburbs, they are coming from those small villages and towns into the city.

Chairman LIEBERMAN. That was true on September 11, 2001.

Chief CARTER. It was true on September 11, true in London, true in Spain. If you look at incidents that take place on almost a daily basis—we monitor this in transit policing throughout the country and throughout the world—they are coming from the suburbs, they are coming from the small towns that you would least expect would have terrorist activity. It is that police officer on a midnight shift, or on that last half, as we call it, or on early evening shift that is going to have perhaps an interaction with a potential terrorist.

And if we don't have a network or an effective system of information sharing, if we do not have a piece of the pie in terms of being able to get the tools and resources that they get in a New York City, then we would have a failed homeland security strategy. I want to underscore, home town security, we profess, is homeland security.

Chairman LIEBERMAN. Thank you both very much. My time is up. Senator Collins.

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

First, let me start by thanking you both for excellent testimony. I so wish that more of our colleagues and members of the previous panel were here to listen to your caution and what you have to say.

Chief, you made an excellent point about the need to focus on prevention, and this is a point that resonates with me because two of the September 11 terrorists started their journey of death and destruction from Portland, Maine. I think that fact has been lost in the debate on the funding formula.

Moreover, if you look at the 9/11 Commission Report, it is just as you say. The terrorists trained, hid, transited in smaller communities. It is, and I agree completely with Mayor Bloomberg, much more likely that a large community, a city like New York, will be the target, but we want to prevent the attack from happening in the first place. That is why both Senator Lieberman and I did advocate the Office of Prevention, an idea that your Association shared with us, and we put it in the Senate version of the FEMA reform bills. Unfortunately, we lost it in conference.

But I would like to ask both of your opinions on an idea that we have been exploring as we try to seek a compromise on the formula issue, and that is that we carve out a percentage of the money to be used for prevention, not just improving recovery and response as the Commissioner has mentioned, which is what a lot of the emphasis has been on, recovery and response, but for up-front efforts to prevent. I would like to ask you both to comment on that as my first question.

And then my second question, we have also explored the idea of having a percentage of the money carved out to support interoperability communications. That is critical, whether we are talking about a terrorist attack or a natural disaster, such as Senator Landrieu talked about earlier. It was very frustrating to me when we did the oversight of Hurricane Katrina to find exactly the same interoperability problems in the Gulf Region that were such a problem on September 11, so many years later.

So if you could comment on both: Should we, taking your advice on prevention, carve out some funding to make sure that there is this emphasis on prevention and carve out some funding for interoperability? Chief Carter, we will start with you.

Chief CARTER. Thank you, Senator Collins. We strongly believe that the prevention rubric is quite important to homeland security strategies in America. We firmly believe that in having the ability to deter, detect, and prevent terrorism, that we must get funding in that area to help buttress programs that communities have established without funding. Cities, towns, and States have been forced because of lack of funding to do things, stealing from Peter to pay Paul, to put in place programs that could use some funding to help strengthen our homeland security strategy. So it is an area that we strongly urge that you consider in terms of the homeland security funding strategy. Prevention is key and we support that.

The other area that you asked about was interoperability. Interoperability of communications, again, at the local level, the Tribal level, and at the State level, is that all communities have some kind of standardization of communication, of data sharing, so that if there is an incident, it will not only impact the big city, but it

is going to impact that entire region, and if we cannot communicate with each other, if we have not exercised with each other and tested systems that are interoperable, we would have failed. Those lessons have been demonstrated for us not only on September 11 here in this country, but all around the world. Interoperability is also key, as well as the prevention dimension that you talked about.

Senator COLLINS. Thank you. Commissioner, my time has almost expired, but if you could comment on those two issues.

Mr. THOMAS. I would support the Chief's comment 100 percent. Key for us is to prevent things from happening, and we do that through effective education campaigns. We have put the 1–800–TIPS line in New York City. A lot of States are doing it. We have to educate the public. They are the eyes and ears for us, as well as the police officers on the different shifts. That is who is going to break and prevent things from happening. We really have to promote prevention. That is the key for us. I think none of us want another attack. It is going to be a police officer out there working a shift who sees a group of people doing something unusual.

There is a story—it is a true story—a lady who lived in a condominium saw somebody throw something into the dumpster. She was upset. We consider it larceny sixth degree, somebody using the dumpster. They went into the dumpster and found somebody had dropped a whole bunch of IDs off and things along this line, which would give them access. So an investigation was done, and in reality, it was much more than somebody dumping off trash, but in reality, an effort to do criminal acts using fake IDs, and the reality has significant impacts.

So what we have to do is get the public involved. Let them, when they see something suspicious, call the local police department, engage that officer. Let us give the example that the Chief had mentioned. An officer is working late at night. He or she sees something unusual. If they had the mobile data terminal system in their car and they punched in and were able to tie into the Homeland Security Information Network or NCIC, which hopefully most of us can do, but not everybody has that mobile data terminal. What if critical information came out and said, listen, that person is an area of concern. Get as much information—I mean, you could maybe prevent something. That officer or trooper may never know that. We have to get information out there. Let us prevent things from happening.

Interoperability, you cannot stress it enough. It is almost 6 years later, and for some reason we are still talking about it. It is frustrating. But the Mayor is right. Some people work better on a 400-megahertz system. Some people work on an 800. Some of them work off of 700. Each locality, because of the topography, the demographics of the city, the community, is going to be different. But homeland security has to give us the flexibility to get systems that work on a regional basis because we are going to rely on each other. We need interoperability—police, fire, EMS, emergency management, or when our other partners come in, we have to stress that.

I say, carve money out for interoperability. You can carve money out for prevention as long as it includes that public education. That is who is going to make the difference for us. The public is going

to make a difference. So we could carve it out. We have to do this together. Nobody can do it alone.

Chairman LIEBERMAN. Thank you, Commissioner and Chief, for your testimony, for the excellent answers to the questions. Actually, I have more questions, and what we would like to do is submit them to you through the mail and ask that you answer them for the record, and we will share them with the other Members of the Committee. Thanks very much for being with us. All the best.

Chief CARTER. Thank you.

Chairman LIEBERMAN. We will call the third panel, with apologies to them that we come on at this point. I don't know, Senator Collins, whether the Chairman has the ability to issue a special certificate of merit to the witnesses, the people in the audience, and particularly the media who have stayed to this point, but if I could, I would. [Laughter.]

This panel is composed of three of the heroes, if one can say that, of this fight. Each one lost a loved one on September 11 and took that terrible loss and grief and turned it into advocacy for prevention and protection.

Mary Fetchet lost her son, Brad, at the World Trade Center. She founded Voices of September 11th.

Carol Ashley, mother of Janice Ashley, who died at the World Trade Center, has testified before Congress and serves on the Family Advisory Board of Voices of September 11th.

And Carie Lemack, daughter of Judy, who was a passenger on American Airlines Flight 11, one of the planes the terrorists crashed into the World Trade Center, is co-founder and President of Families of September 11th.

Senator Collins and I know, we say this often, you never can say it enough, that without the support and the persistent advocacy and, in fact, the kind of outcry that you brought to the cause, there never would have been a 9/11 Commission, there never would have been a 9/11 Commission Report, and there never would have been the September 11 legislation and all that it has done and yet has to do. So thanks for sticking with us all the way, including in this latest chapter.

Ms. Fetchet, I think you are the first to go. Thank you.

TESTIMONY OF MARY A. FETCHET,[1] FOUNDING DIRECTOR, VOICES OF SEPTEMBER 11TH, AND MOTHER OF BRADLEY JAMES FETCHET

Ms. FETCHET. I was going to say good morning, but I guess I will say good afternoon——

Chairman LIEBERMAN. Thank you.

Ms. FETCHET [continuing]. Mr. Chairman, Ranking Member Collins, and Members of this distinguished Committee, I am honored to testify today at this vitally important hearing on ensuring full implementation of the 9/11 Commission recommendations.

My name is Mary Fetchet. I am Founding Director of Voices of September 11th, and as you mentioned, my husband and I suffered the ultimate loss as parents when our 24-year-old son, Brad, was tragically killed in Tower Two of the World Trade Center. Like

[1] The prepared statement of Ms. Fletchet appears in the appendix on page 113.

many Americans, my sense of faith in our government's effectiveness was shattered on September 11, 2001, and I sit here before you today once again filled yet with renewed hope that in the new Congress, your Committee will continue to take this opportunity to address the unfinished business identified on December 5, 2005, in the final report card of the 9/11 Public Discourse Project.

I have made a personal commitment along with other family members to advocate for full implementation of the September 11 recommendations, and I have been driven really by the wake-up call that our family suffered when my son was senselessly murdered at the hands of terrorists on September 11. It is my personal belief that almost 6 years later, our country remains vulnerable. And although some progress has been made, there remains much work to be done. I feel that we collectively, the Administration, Congress, government agencies, and interested individuals, have a moral obligation and responsibility to work together.

I am adamant that the 9/11 Commission recommendations must be implemented in their entirety, and I will limit my comments. As you saw from our reports, they were quite lengthy, and so much has been covered already this morning. But I do want to talk about preparedness, the importance of information sharing, unified incident command, funding based on risk and vulnerability, and another controversial issue, congressional reform.

Voices of September 11th conducted a national survey of over 2,000 Americans in August 2006 that measured their perceptions of preparedness. The results illustrate that few Americans are adequately prepared in their home, their community, their workplace, or the Nation at large. Sixty-nine percent of those surveyed rated U.S. preparedness for terrorist attacks as fair or poor. Local and home preparedness fared slightly better. But only 15 percent of respondents had participated in preparedness training.

The results in the workplace, and I reflect on this because I feel Brad and 618 others should be alive today if they were prepared as being one factor, were especially troubling because 64 percent of the respondents either don't know what their company's plan for a natural disaster or terrorist attack is or they are not confident in it. And to validate the importance of preparedness in the workplace, I have included the summary of the World Trade Center evacuation study, which was conducted by Columbia University, and the study surveyed September 11 survivors and highlights the factors that led to their understanding of preparedness on 2001, but also it made very important recommendations about the importance of emergency preparedness by everyone in the building and drills for high-rise buildings.

DHS, I think, has taken some great steps with their Ready Campaign, the Resolve to Prepare 2007 Campaign, and recently also the Ready Kids Campaign, and Voices of September 11th has supported those activities through our membership in promoting September as Preparedness Month. I think that DHS should expand their private sector partnership and also look for other ways to educate the younger generation. My suggestion would be integrating age-appropriate preparedness education and training in elementary, middle, and high schools, and Voices of September 11th

has actually begun a pilot program to do just that, and I am happy to share our findings and the work that lies ahead.

Unified Incident Command Centers for disasters is something we have all talked about earlier. Hurricane Katrina really demonstrated the need for better coordination of response efforts between Federal, State, and local agencies, and certainly I think it is just so critical and a core component to really both preventing and reacting to an emergency. I think that Congress really has to closely monitor and implement the mandates that have been suggested and allocate appropriate funding.

Voices of September 11th and I, as President, have participated—in fact, I saw the two of you at the Connecticut TOPOFF program, and we also attended the one in New Jersey and Washington, DC. We also work on local roundtables for planning local response. My husband and I just recently went through CERT training, which is Citizen Emergency Response Training. My view is that, with this experience, our local and regional emergency response plans have progressed in the last 5 years, but we are operating, as they say, in a bubble.

Our local communities—I can speak for New Canaan, which is great to pass this along to you, Senator Lieberman—are doing a wonderful job due to volunteers and collaborating with the Red Cross, the fire department, and police department. So they have made significant strides. I think they are only beginning to work on the regional plans, though, and so I think that we have a long way to go there.

Funding is a real issue. As local communities are distracted or have other priorities in their community, it is really going to require Federal funding from the government to fund very necessary roundtables, exercises, and drills.

One area where we haven't begun, and I actually talked to Mayor Bloomberg about it today, New Canaan is in the trampling zone, and should there be an emergency in New York City, we could have millions of people coming across the border. So any metropolitan area like Washington, DC, with Virginia and Maryland, like New York City, with Connecticut and New Jersey, it is just critical that we sit down at a roundtable—it doesn't have to be formal—and make sure that we are on the same page, that we understand our planning on the local level, and that we are prepared. I think you saw that in Hurricane Katrina, as well, where there was a mass exodus, and many communities that weren't prepared were taken with the responsibility of having to take on not just food and clothing, but education and relocation of individuals. So I would encourage that.

The other thing is the business community must be integrated into the planning and training exercises with the emergency management teams, both to identify potential resources that they may have, like food, water, clothing, but also to have the open lines of communication. I think of Brad on September 11 when those people were told to remain in the buildings. The information sharing was just critical, and I think business has to play an active part in that.

Interoperable communications, we have talked about this ad infinitum this morning. When I think about the 9/11 Commission and

the value that they had in really stepping back and looking at the broader picture, I think my hope for them was that they wouldn't suffer the same fate of other GAO reports, other commissions that have been established, and that these reforms would be implemented. So with regard to interoperability, I know I was shocked to learn at a press conference that in 1995, this was identified as a problem in a GAO report. Had that been implemented, had it been addressed, even as late as 2000, my son's life and, as I said, 618 others would have been saved on September 11.

The thought that we are not much further along the line is incomprehensible to me because I think that is the first defense in really saving lives. To put our first responders in the compromising position that they find themselves in, going into buildings when they can't communicate with their counterparts in the next room is, I think, negligence on the part of the government. So I do think it has to be a priority. There has to be a mechanism to put this in place, and it has to be addressed.

I also think the spectrum—I disagree with the 2009 date. I think there is no reason why we can't be addressing this and setting a much more aggressive date on that.

Connecticut, for your information, Senator Lieberman, Region 1 in Connecticut just developed a telecommunications interoperability plan. It took them over 3 years and 9 months of trying to coordinate this. I tried to give you a record for the review, but they had forwarded me the draft form, so I will get the final version for you. The equipment, I think, to make them all operable is very expensive, which again comes down to funding. Coincidentally, Westport had made that investment, so they were able to go through this exercise, and it was very effective. So I will share that with you.

We have talked a lot about information sharing. I think my concern here is that we are without leadership right now with the recent resignation of the DNI, Mr. Negroponte, and then, of course, his deputy position has been vacant for quite some time. So I just question not that the State Department shouldn't be a priority, but I am hoping that when you have another candidate sitting before you, you talk about the long-term commitment and vision that they have to have. This is at the core of trying to organize our intelligence data and really oversee the broader agencies.

I think we have to be more thinking out of the box. I heard there is a real infighting going on a couple levels down from the DNI on whether they should be using html or xml systems. I think we do have to look for new technologies. I know another one that has come up recently is like Wikipedia and Telepedia, and that would be another way for people to share information. So I do hope that they are looking at new technology.

Risk-based homeland security appropriations, I do think that it has to be based on risk. I think as Mayor Bloomberg reiterated today, the large municipalities with dense populations and a lot of targeted infrastructures should be a priority. So I would hope that you would reevaluate that decision.

Congressional reform and oversight—Congress has to make a commitment to reform itself. I know there is a lot of talk about intelligence oversight reform, but I have this chart of homeland secu-

rity, and most Congressmen and Senators have some jurisdiction over homeland security. I remember when I first received this, my 15-year-old at the time said, how do they know who is in charge and who makes the decision? I thought, out of the mouths of young babes. But I do think that your Committee has made such an incredible commitment to this cause, and I would hope that you would have much more jurisdiction over homeland security issues. It has to be streamlined. People have to make swift, educated decisions, and I think you bring a lot to the table, and so that would be my recommendation.

And just in concluding, over 5 years ago, my husband and the other people sitting here at the table suffered a horrific loss. Ours happened to be the death of our wonderful son, Brad, who with 2,748 other innocent victims was senselessly murdered at the hands of terrorists living right here and traveling within the United States. Our lives were changed dramatically, and the innocence of our children and our country was really snatched away from us on September 11 as we became part of a global community that lives with the threat of terrorism every day.

I think there is still a mentality that if we kill terrorists over there, it will address the problem, and I think we need somebody focused on looking here domestically at the people that are living in our country. We have to have a comprehensive watch list. We have to know who is living here, who is coming here, who is leaving here. It has to be documented.

And while I recognize that this is a daunting task that lies ahead, I believe we must remain vigilant and steadfast in our commitment to ensure that our government is doing everything within its power to make our country safer.

You know, there have been so many junctures. You talk about families being here. I thought when the Commission was established that my job was done. I thought when the legislation was legislated that my job was done. And I really debated about coming back to Washington. Is it really my responsibility? But I feel like I have a moral obligation to my family and the memory of my son, Brad, and I think with this 110th Congress, we have another opportunity. And so I look to you, and we look forward to working with you. I feel so thankful that you are both still here working on these issues, and I just want to thank you again from the bottom of my heart.

Chairman LIEBERMAN. Thank you. Thank you, Ms. Fetchet. It doesn't get any easier 5 years later, does it?

Ms. FETCHET. No.

Chairman LIEBERMAN. It is a reality. But you have accepted a moral obligation, and you have reminded us of our moral responsibility, as well, and we are going to all stick together until we get everything done we possibly can. I appreciate everything you have said and all that you have gone through. You and Ms. Ashley and Ms. Lemack have actually become not just advocates, but some of the Nation's most informed experts on what is happening and what could happen.

Carol Ashley, thank you for your patience. We look forward to your testimony now.

TESTIMONY OF CAROL ASHLEY,[1] FAMILY ADVISORY BOARD MEMBER, VOICES OF SEPTEMBER 11TH, AND MOTHER OF JANICE ASHLEY

Ms. ASHLEY. Thank you. Thank you for giving me the opportunity to speak today about implementation of the September 11 recommendations. My name is Carol Ashley, and my daughter, Janice, was killed in the World Trade Center. She was 25 years old.

I commend Senators Lieberman and Collins for once again drafting bipartisan legislation to address some of the security gaps, and I respectfully ask the Congress to endorse their effort. More than 5 years after September 11, there are still gaps in our security. We do not know when, where, or how the terrorists will strike again, and we have to cover ourselves.

One method of attack might be to attack a chemical facility. In America, there are about 15,000 of them. Seven thousand of these facilities, if they are attacked, could affect 1,000 people. One-hundred-and-twenty-three of these facilities would affect 1 million people.

Legislation concerning chemical plants was passed in 2006, but it is not strong enough. It closely followed the recommendations of the chemical industry. It allows the chemical companies to assess their own vulnerabilities and provide a plan for addressing them, and they are allowed to contest the government's disapproval of their security plans. So who has the final say on security?

For early detection, the CDC and the American Association of Poison Control Centers use a program called TESS. It is a national real-time surveillance database of human exposure to chemical elements, and it compares these on a daily basis to see if there are aberrations.

The information sharing concept applies to biological surveillance, as well. Mayor Bloomberg talked about monitoring daily health data. Local monitoring is an excellent idea, but recall that al Qaeda's method of attack is multiple attacks simultaneously, and so what we need is a database where information streams flow into a central location which can be monitored by all agencies. The DHS's National Biosurveillance Integration System is a step in the right direction. It is based on integrated information that records biological events in real time from all across the country. I encourage you to adequately fund this program and promote it.

The terrorists might also attack by slamming a fast boat into a gas tanker that is near a metropolitan area. The Coast Guard has implemented security initiatives to thwart that kind of activity. However, the Coast Guard is in trouble. Its fleet is aging and some of the modernization efforts that have been made are not working as well as they should. Right now, it uses a 43-year-old unmanned icebreaking tugboat to patrol around the Indian Point nuclear power plant on the Hudson River, which is 24 miles north of New York City. The boat's top speed is 10 knots. The Coast Guard needs help. Its radar system is unreliable. There is no unified command of the coasts and the waterways, and the control is divided among at least 15 Federal agencies. So I hope that Congress will address

[1] The prepared statement of Ms. Ashley appears in the appendix on page 132.

this issue, as well. There are also turf issues over who should be sharing intelligence still reportedly.

I would like to move on to intercepting the terrorists, which you mentioned in preventing, putting part of the money toward preventing the terrorists from even initiating an attack. A layered security approach increases the opportunity for interception of terrorists all along the way. On September 11, all our layers of security failed. To ensure that they cannot gain access to or control any parts of our transportation system, the identity of all transportation workers and passengers must be verified.

Now, the new Transportation Worker Identification Rule is a good start. It adds a layer of protection, which requires credentialing of maritime and seaport workers with biometrics data. However, the TSA rule did not require port operators to install the machines to read these credentials. This is incredible. How do you have protection if they can't read the credentials? It defeats the purpose. So immediately, I hope that you will urge the TSA to issue a supplementary rule requiring installation of machines to read these credentials, and if the credential program is working as well as it is said to be, then it should be accelerated so that it can go to workers in all vulnerable industries because 5 years, which is the plan, is too long to wait for credentialing in other vulnerable industries.

There are other port security issues that are helping. We have the 24-hour rule in which manifests have to be submitted to Customs before cargo is laden on a U.S.-bound vessel in a foreign port. That is a good idea. The Secure Freight Initiative, which was just announced, is also a good idea, but it is only happening in three countries and limited ports and the screening is only going to take place on container ships, not on ships carrying tons of other kinds of cargo, like cars, fuel, or goods placed on pallets. The detection equipment is not always reliable. It is also prone to false positives and not all of the X-ray images will be checked. So there are things that need to be improved in that area, as well.

Now, in monitoring of travelers, the 9/11 Commission noted that when people travel, they move through defined checkpoints and that is an opportunity to stop them. For optimal security, an integrated terrorist watch list should be made available to those who are monitoring activity at all these checkpoints. Now, it is not happening, as was pointed out this morning, particularly on domestic flights.

On international flights, when people come through, first they are checked on a no-fly list, and right after the wheels leave the ground, then they are checked by Customs and Border Protection against their comprehensive selectee list. Now, on domestic flights, they are checked against the no-fly list by the airlines, not the government, and then there is no comparable checking against a government list that includes enough names to make it valuable. So it needs to be done as the government needs to do the checking on the airline passengers and check them against a comprehensive list. So this way, the privacy issues which are involved with the airlines checking the passengers will not be part of a problem. It is scandalously negligent, really, that an effective plan for sharing

integrated watch list data has not been implemented more than 5 years after people were killed.

I was looking through the legislation about the chemical plants, and I noticed something that said they were trying to address the problem of innocent names being put on the watch lists. I hope that whatever was put in that legislation does address that issue because it is extremely difficult, from what I understand, for those names to be removed. I comment on that.

Undermining security initiatives that we have in America is our leniency regarding the kind of documentation that is acceptable for proof of identity and for crossing our borders. A visa is required for entry unless you come from one of 27 visa waiver countries. Now, the President recently said he wanted to expand that, but I urge you to quash that idea. In a recent report, it said DHS could not keep up with the 27 visa waiver countries that have already been approved, and the most dangerous aspect of that is that travelers do not have background checks prior to arrival in the United States. That means there is only one opportunity during the immigration inspection at the port of entry to identify a terrorist or others who shouldn't be coming into our country. Visa waivers offer a loophole for terrorist entry. Even friendly nations, like England, Germany, and Spain, have terrorist cells, as evidenced by attacks and arrests there.

Illegal immigration poses a threat, also, to our security. Mayor Bloomberg made a comment this morning which was very interesting about illegal immigration, but it is very important not to confuse or interchange legal immigration with illegal immigration. Some Middle Eastern people have tried to come across our borders and have been caught on our Southern borders. They have been intermixed with others coming across. We need to know who is entering our country. We need to verify their identity. We have to get our illegal immigration under control. We have to rein it in. The 9/11 Commission recommended setting national standards for State-issued documents, including birth, death, and driver's licenses, and you are urged to follow that recommendation.

I would like to talk next to last about the Privacy and Civil Liberties Oversight Board. We do have one. It is not as effective as it should be, and you are urged to take the following steps. Give the Board subpoena power; prohibit any person or agency from interfering with its investigations because currently, the Attorney General and the DOT can halt an investigation; require Senate confirmation of its members; balance the representation of political parties on this Board; and provide adequate funding for staff and investigations.

In the pursuit of security, it is imperative that the government stay within the parameters of the law. Security and privacy must be balanced. Surveillance of Americans suspected of terrorist ties is legitimate. However, warrantless spying in which government agencies listen in on conversations and read the e-mails of Americans in violation of the 1978 FISA Court law is dangerous to a free society. Requiring warrants for surveillance does not prohibit the government from surveillance of suspected terrorists. Unfettered clandestine surveillance increases the potential for abuse and with it the potential for insidious erosion of our rights. This is a signifi-

cant reason why we need a strong, rigorous Privacy and Civil Liberties Oversight Board.

And the last issue is that Congress reorganize itself for more effective oversight, taking steps to correct problems that they see in both intelligence and DHS. Unfortunately, it seems that the only way for Congress to enforce its will is by withholding appropriations, so for this reason, oversight should involve both the authorizing and appropriations committees working collaboratively from the same knowledge base. It would seem logical that this Senate Committee on Homeland Security and Governmental Affairs be the one which oversees all the various aspects of homeland security, one Committee that sees the big picture.

Chairman LIEBERMAN. I definitely agree with that. [Laughter.]

Ms. ASHLEY. And the final comment, the American people depend on our government, which is our Congress, the Executive and the Judiciary Branches, to protect us from both external and internal threats to our safety and security and to protect our constitutional rights to privacy and freedom. So you are urged to approve the full implementation of the 9/11 Commission recommendations. Decisions that you make today will affect American families now and in the future. And in your oversight capacity, please remember the lessons of September 11 and hold all government agencies accountable for protecting the American people. Thank you.

Chairman LIEBERMAN. Thank you, Ms. Ashley. That is exactly what we intend to do. You gave excellent testimony and some very specific recommendations which we will take seriously.

Ms. Lemack, you deserve a special medal. Go right ahead.

TESTIMONY OF CARIE LEMACK,[1] CO-FOUNDER AND PRESIDENT, FAMILIES OF SEPTEMBER 11TH, AND DAUGHTER OF JUDY LAROCQUE

Ms. LEMACK. My name is Carie Lemack, and I am here because my mother, Judy Larocque—I brought her picture with me because I like to bring her when I come here——

Chairman LIEBERMAN. That is a beautiful picture.

Ms. LEMACK. Thank you. She would appreciate that. She was on American Airlines Flight 11 on September 11, 2001. It is an honor to be here today and to give a voice to the thousands of people who couldn't be here. So I thank you, Chairman Lieberman and Senator Collins, and I thank your impressive and dedicated staff who also sat through a very long morning, as it is.

The 9/11 Commission published its book, which had 41 recommendations, and nearly half of them have been implemented thanks in no small part to what you all have done since it came out 2½ years ago. But in the words of 9/11 Commission Chairman Thomas Kean, we are still not as safe as we need to be.

My story, sadly, is one of thousands. On September 11, 2001, my mom woke up at 5:30 in the morning to make her 8 a.m. flight to the West Coast. Actually, I was up earlier than her, which never happened, because I was a coxswain for a crew team, and that morning before I got in my shell, I thought I was going to give Mom a call just as a kick to be up that early, and then I thought,

[1] The prepared statement of Ms. Lemack appears in the appendix on page 163.

well, I will just call her after she lands because she is probably rushing to make her flight and I was already running late and my crew team didn't want to wait.

Unfortunately, I never got to make that call. I did leave lots of messages for her on her cell phone, but I never got through.

Even now, years later, when my cell phone rings, I still look at the Caller ID and I hope that it is going to say "Mom cell," and it never does. I wonder, what would I say to her if I could talk to her now? I sometimes think, well, she was CEO and president and founder of a company and maybe I would tell her about founding the nonprofit Families of September 11, tell her about the 2,500 individuals who have joined us, who support our work to prevent terrorism and are happy for all that we have been doing in the 5½ years since September 11. But I think more importantly what I would tell my mom is that I love her and that I am going to do everything in my power to make sure that what happened to her never happens again.

I fully support the statements of my colleagues, Ms. Ashley and Ms. Fetchet. I have been honored to get to know them in the last 5½ years. As one September 11 widow once said to me, these are the best people I never wanted to meet. But I don't want to repeat their words, so instead, I am going to focus on four different areas, on congressional oversight, nuclear terrorism, transportation security, and risk-based homeland security funding, which sounded like a new thing except for this morning we have talked about it quite a lot, so I will make it short.

But first, congressional oversight. I can find no better words than that of the 9/11 Commission, so I am going to quote them. "Congressional oversight for intelligence is dysfunctional. The creation of a National Intelligence Director," the so-called DNI "will not work if congressional oversight does not change, too. So long as oversight is governed by the current congressional rules and resolutions, we believe the American people will not get the security they want and they need." Those are stunning words.

In 2002, Congress and the President created the Department of Homeland Security (DHS), which is charged with securing the homeland. As such, it merits strong congressional oversight. Unfortunately, as it stands today, there is no consolidated congressional oversight for this department. Instead, as we have heard, it is literally split among dozens of committees and subcommittees.

And what I can't understand is if legislators saw the need to create all of these agencies and put them into one department, why they weren't willing to also make the very difficult but very necessary change to have one committee overseeing them. I know that you share these views. I just wanted to reiterate them and let you know that we support that, as well.

Chairman LIEBERMAN. Thank you. Please go on, but I appreciate the support. Senator Collins and I are ready to do battle on this again. It is a tough one because it strikes at the status quo and turf here, but——

Ms. LEMACK. But we will be there by your side.

Chairman LIEBERMAN. OK.

Ms. LEMACK. We are committed to it.

Chairman LIEBERMAN. Thank you. That gives me hope.

Ms. LEMACK. What we don't want to see is that we have to wait for another catastrophic event to bring more victims' family members to this witness table. It has been enough. We need to make the changes, even though they are difficult, as you say.

My next topic is the topic of nuclear terrorism. Osama bin Laden was the mastermind behind my mom's and your daughter's and your son's murders, and he has pledged now to kill 4 million innocent Americans. He has pledged to do it with a nuclear bomb. I think we have to listen to his words, and we need to stop him.

The 9/11 Commission agreed. They said that "the greatest danger of another catastrophic attack in the United States will materialize if the world's most dangerous terrorists acquire the world's most dangerous weapons." President Bush and Senator Kerry both agreed during the 2004 debates that weapons of mass destruction in the hands of terrorists was the biggest threat facing the country. And I am pleased that leaders on both sides of the aisle have agreed and expressed their support. But the support has got to be combined with action.

The good news is, at least in the case of nuclear terrorism, we can do a great deal to stop these terrorists. There is a limited amount of nuclear weapons material. No terrorist organization currently has the capabilities to create their own. And if we lock down the nuclear weapons materials before the terrorists get them, they will not have a nuclear bomb and there will not be nuclear terrorism.

There is bad news. Unfortunately, the government was issued the grade of a "D" by the 9/11 Commission over a year ago on their efforts to prevent nuclear terrorism. As former Senator Sam Nunn says, "We are in a race between catastrophe and cooperation, and the outcome is unclear." So I hope that we can make that outcome clear, and we need to take action to do that now.

The most fundamental requirement of success is sustained high-level leadership. That is why I find it shocking that there is no high-level person in the Administration who wakes up every single day who is solely responsible and focused on preventing nuclear terrorism. We need, as a start, a high-level assistant to the President whose sole job it is to oversee and prevent nuclear terrorism. This person should be a Deputy National Security Advisor who works within the national security apparatus. This person should be able to coordinate work across departments, across State and Energy and Defense, to dramatically accelerate our work with other nations to lock down nuclear weapons materials at their source, someone with Presidential access to create opportunities to accelerate work to lock down nuclear weapons materials, and someone to break through the bureaucratic obstacles that stymie progress. The terrorists do not operate in functional silos, and we cannot afford to, either.

I would like to make one final point on the issue of nuclear terrorism. We have devoted huge resources to the detection of nuclear weapons at our borders, in our ports, in our cities. But I want to make one thing clear. If we are talking about detecting a nuclear bomb, even if we are 100 percent effective, we are talking about a nuclear device that has already been created, that is already capable of doing great harm. Rather than relying on scanning equip-

ment at ports in the United States and abroad, our first line of defense should be securely managing the nuclear materials that are essential to bomb making.

We know that there are nuclear weapons materials in more than 40 countries, many of which are secured by only a chain-link fence. We need a global effort to lock down highly enriched uranium and plutonium, and the United States must be leading the charge. Detection is hard to do. Nuclear bombs give off very little radiation, and even a thin shield of lead can stop radiation from getting to the detection equipment. As such, the best way to make the country and the world safer against nuclear terrorism is to lock materials at their source, plain and simple.

Incidentally, there is a short 45-minute docudrama called "Last Best Chance" that stars one of your former colleagues, Senator Fred Dalton Thompson, and it puts you in the perspective of the President of the United States after terrorists have acquired nuclear weapons. His character laments, after learning al Qaeda has become a nuclear power, "Why didn't we do something about this sooner?" Today is our last best chance. Today, we simply cannot afford to squander it.

Next, I want to talk about transportation security, and I want to make clear that when I talk about transportation security, it is not just aviation security, it is rail, it is transit, it is where all these modes connect, as well. The difficult truth is, we can never make planes or ships or railways fully secure. Almost anything can be used as a weapon. Our focus on preventing dangerous weapons from getting on board is necessary. It is a necessary part of the solution. But it is not the only way to go. We also need to focus on preventing dangerous people from getting on board.

Toward that end, there is a list of five things I think that we need to do. Very quickly, one, implement Secure Flight, giving the government responsibility for comparing passengers' names to the terror watch list instead of the current system in which the airlines do the passenger pre-screening. Congress should take action to ensure that all available technologies and resources are being employed to keep dangerous people off planes on both international and domestic flights.

Two, expand the use of behavior pattern recognition, using specially trained screeners and law enforcement officers to scan crowds looking for odd, suspicious behavior. Behavior pattern recognition is not racial profiling, and George Naccara is the Federal Security Director at Logan International Airport who uses this, and he will tell you, anyone using race as a part of behavior pattern recognition is simply doing it wrong.

Three, we need to provide funds to train law enforcement officers, screeners, and others who work in transportation in the Screening of Passengers by Observation Techniques. It is the SPOT program. It was started after September 11, 2001. It is being used at Boston's airport, and it has shown promising results, adding a much-needed additional layer to security.

Four, we need to direct the Secretary of Homeland Security to create an unclassified version of the National Strategy for Transportation Security so that it can be used more widely as a tool to tie transportation priorities to budget priorities.

And fifth, we need to talk about cargo and screening 100 percent of air cargo. It is a loophole that anyone could exploit right now, and it is one we can't afford to.

Last, I will talk quickly about homeland security funding. The 9/11 Commission Report says, "Homeland security grants should be based strictly on an assessment of risks and vulnerabilities." I recommend that you require governmental jurisdictions and infrastructure facility operators to conduct risk assessments using a federally prescribed common methodology. This methodology should, to the maximum extent possible, enable cross-comparisons. It will allow decisionmakers to better understand where are the greatest relative threats, and then can allocate available funding accordingly.

In every way, Congress has to convey the extraordinary importance of fighting terrorism and preparing to effectively respond. Treating the allocation of homeland security grants like any other run-of-the-mill Federal program undercuts that message, and certainly we all know that no taxpayer dollars that have been designated for homeland security can be spent on air conditioned garbage trucks, as they have in the past.

And in conclusion, I began my testimony today talking about what I would tell my mom if I had a chance to talk to her. I would tell her about my little nephew called Jude. He is 2 years old. This is him in the voting booth with me this past November. As you can tell, he is already an engaged citizen. And I would tell her that he loves dogs, fire trucks, and his little stuffed lion Simba, and he is a big fan of Warren Miller, extreme ski movies, even at age two. But I would also tell her that I am doing everything possible to make sure that this world is safer for him.

Today, we stand here, and your actions in this session going forward will send a message to the American public, and I hope it is the same message I am going to send to Mom, which is we want to make sure that we are going to do everything we can to make this country safer and more secure. That means making the tough decisions and fighting the tough battles and heeding the wise advice of the 9/11 Commission and implementing in full their recommendations that have not been yet implemented and have been ignored for too long.

With that, I conclude and thank you for your patience today and will take any questions.

Chairman LIEBERMAN. Thank you.

I think I owe you first not only thanks, but that the next time we do a hearing and we invite you, we are going to put you on first. That is compensatory justice.

Part of the power of your presence and testimony is the personal loss that you suffered because it awakens anyone who hears you, and many will hear you who are not in this room over C–SPAN. It awakens them from a denial that may actually exist. We have been 5 years-plus since September 11. We haven't had another terrorist attack. There is a sense that it is "over there." But it really is here, and as you said, you just have to listen to the enemy and you know this is what they were saying in the 1990s before September 11, 2001. They did it. What they are saying now is they will try to do it again, and so we have to arouse the public, to awaken

the public. But also, frankly, our role as leaders is to act when the danger doesn't seem painfully present because we know it is there.

Your testimony does two things, really. You bring the personal tragedy, that loss, but also you bring the remarkable experience and expertise that you have developed in these areas. So your testimony has been very helpful.

I am going to forego questions because of the hour. I apologize again. Maybe because it is early in the session, maybe because of the witnesses we had on the first panel, there was a much larger turnout than we expected. So I guess that is a good problem.

Ms. FETCHET. Senator Lieberman, I wonder if I could just mention one more thing.

Chairman LIEBERMAN. Please.

Ms. FETCHET. The Commission was so effective, as I said before, stepping back and looking at the broader picture, and I would hope that we are not going to have to rely on watchdog groups to monitor this process here in Washington. I would like you to consider the thoughts of putting a mechanism here in place right here in the House and Senate to, on a regular basis—and I would suggest this actually for DHS, too—in September, why not hold a hearing in all of these committees to see where do we sit, what has been implemented, do a full evaluation of what is working, what isn't working, and what do we need to tweak.

And I think, is it the Gold-Nichols——

Chairman LIEBERMAN. Goldwater-Nichols?

Ms. FETCHET [continuing]. Goldwater-Nichols. Maybe even look back to them because I can't imagine that was an easy task that lay ahead of them.

Chairman LIEBERMAN. It took years.

Ms. FETCHET. And yet they were very effective. As I mentioned, DHS, I think, has to have roundtables around the country for local, regional, and interstate communities to sit down and do a full evaluation, what is working and what is not. What better way to celebrate September as Preparedness Month?

But I do think there has to be a mechanism in place. The Commissioners have gone well beyond the call of duty, and there should be something here.

Chairman LIEBERMAN. I accept that challenge. I promise you two things. One is that we should find a way to institutionalize that kind of review in September as part of Preparedness Month and other activities. But at the beginning of this term, as Chairman of this Committee for this session, I promise you that exactly that kind of oversight is our No. 1 priority. And we have done a lot of legislating in this Committee over the past 2, 3, or 4 years, a lot of it historic, and a lot of it directly in response to September 11.

But we need to spend more time on oversight to see how this is working and to fill the gaps that still exist.

Ms. LEMACK. If I may, I completely agree with Ms. Fetchet's suggestion that we have to do a better job at oversight, but we also have to be forward-thinking. One recommendation that is not in the 9/11 Commission report that I think is a huge issue we need to tackle is there is no Office of Victims' Assistance within the Department of Homeland Security, meaning we have a Department whose job it is to protect the homeland, but there is no one solely

focused on the people who will be affected if there is a catastrophic event, whether it be manmade or natural. We need Congress' support to create this Office of Victims' Assistance, and I am hoping that we can do that in the next session to plan because there are going to be events and there are going to be people who are affected. Imagine how in Hurricane Katrina, we could have done a better job if we had had some sort of system in place.

Chairman LIEBERMAN. Yes. I agree with you. There is a lot of work going on to look back and review what happened particularly to the victims in Hurricane Katrina, which will have real relevance to what you are talking about. Also, the lack of readiness to deal with special needs populations in Hurricane Katrina, which will be the same if there is another terrorist attack.

So, look, here is our short-term goal, and this is what Senator Reid has asked us to do. We are going to take some things coming out of this hearing that we feel a special urgency about and that we feel we can do something meaningful about and put it into legislation. We are going to mark it up by the end of this month. That will be a beginning because there is a feeling that the threat is obviously there and we see gaps and needs that you have testified to and needs. So we are going to move on that front.

Then we are going to come back and begin a more comprehensive process of ongoing monitoring of all that we have created to provide for homeland security, and we will continue to both report on that, investigate, hope to change things as a result of that. We are going to focus on the status of terrorism here within the country, or the threat of terrorism from within the country and people coming into the country for purposes of terrorism, and then we will continue to report out legislation as we go forward.

I thank you very much. We have hit now, I don't know if this is going to be a precedent for my chairmanship—— [Laughter.]

But we are about 4½ hours into the hearing. It has been actually a very productive, valuable hearing. It certainly confirms not only my intention, but it deepens my motivation to continue to produce legislation that protects because the threat is still there.

We are going to leave the record of this hearing open for another 15 days, and with great thanks to you and a knowledge and also a confidence that we will continue to work together, I will adjourn the hearing.

[Whereupon, at 2 p.m., the Committee was adjourned.]

A P P E N D I X

Testimony of

MICHAEL R. BLOOMBERG

MAYOR
CITY OF NEW YORK

Tuesday, January 9, 2007

Senate Committee on
Homeland Security and Governmental Affairs
342 Dirksen Senate Office Building
Washington, DC

Chairman Lieberman, Ranking Member Collins, and members of the Committee: Good morning, and thank you for inviting me to testify.

It's a pleasure to join three distinguished members of the 9/11 Commission: the Commission's Vice-Chair, Congressman Lee Hamilton… Senator Slade Gorton…and Congressman Tim Roemer.

First, I want to congratulate Senator Lieberman on his recent selection as chairman. As one of the principal authors of the legislation creating the Department of Homeland Security, you've shown a formidable commitment to the fight against terrorism. And I look forward to working with someone who truly understands the needs of New York City and the region.

I also want to acknowledge Senator Collins for her great service in leading this Committee.

The work that you are all doing is absolutely critical to New York, to other big cities, and to every jurisdiction in the nation. Our country's security is inter-dependent. So it's vital that we work together and hold each other accountable.

This morning, I want to talk about the progress we've made since 9/11 in improving our counterterrorism capabilities in New York City. I also want to discuss a few critical areas where the federal government can do more – and must do more – to help us in this mission.

As residents of the world's media capital… the nation's financial hub… a center of international diplomacy… a vibrant intersection of diversity and new ideas… we understand that the attack on the World Trade Center was not intended to be a single, solitary event.

The freedoms and opportunities that New York symbolizes mean that we remain a prime – if not the prime – target for al-Qaeda and other terrorist groups. It's a daunting reality – but it presents challenges we are determined to meet head on. And we are sparing no expense.

During the first days of my administration in 2002, we took steps to strengthen our first line of defense – the NYPD. We created a unique Counterterrorism Bureau and began transforming the NYPD's Intelligence Division from a unit that primarily provided criminal intelligence and protection for dignitaries into a nimble, ground-breaking, and innovative intelligence-gathering machine.

Both of these groups – which now employ a total of 1,000 officers – have become models to other big city police departments around the nation – and crucial weapons in the global fight against terrorism.

One of their many achievements came in August 2004, when they foiled a plot by two homegrown extremists to bomb the Herald Square subway station in Midtown Manhattan. The NYPD arrested those would-be terrorists just a week before the Republican National Convention, acting on a tip from an informant whom the Intelligence Division had cultivated in our city.

Today, the NYPD's intelligence and counterterrorism program also reaches around the world. In fact, we currently have 10 of our best detectives posted in Tel Aviv, London, Singapore, and other foreign cities that have been targeted in recent years. They're there to work on law enforcement issues of mutual concern and to obtain a full picture of the global terrorist threat – a threat which can rear its head in our city at any time.

Our Counterterrorism Bureau and Intelligence Division also oversee the successful Critical Response program, which protects the city's landmarks and critical infrastructure

through the carefully orchestrated, rapid deployment of specially-trained police units, including our heavily-armed "Hercules" patrol teams.

The effectiveness of such security was demonstrated in 2003. After repeated reconnaissance, Iyman Ferris – an avowed member of al-Qaeda – called off the attempted bombing of the Brooklyn Bridge, telling his handler, Khalid Sheik Mohammed, that "the weather is too hot" – a coded reference to the intense security on the bridge and in the waters of the East River.

Many other City agencies play a key role in counterterrorism detection and response. In the FDNY, we've thoroughly expanded training for chemical, biological, and radiological emergencies, providing our firefighters and EMS workers with the latest and most effective equipment.

We've also created a subway simulator at the Fire Academy to train for emergencies underground – and we're expanding the length of training for new recruits, making ours one of the longest, most intensive firefighting training programs of any major city.

The Health Department's Syndromic Surveillance System is up and running, scrutinizing 60,000 pieces of health information each day –including ambulance runs, emergency room visits, and pharmacy sales – for the first signs of a bio-terror attack. Our response last year to an isolated incident of anthrax – although unrelated to terrorism – demonstrated our enhanced capability to react to a potential attack.

Our Office of Emergency Management, which recently moved into a new state-of-the-art headquarters and command center, also has taken the lead in organizing dozens of inter-agency simulations. They have, for example, tested responses to natural disasters like a Category 4 hurricane… or attacks employing bio-terrorism and other weapons of mass destruction at Shea Stadium, and on our subway and commuter rail systems.

We've significantly improved communication and coordination among our City agencies. A prime example is our 'Citywide Incident Management System' – or 'CIMS' – which adapts the new National Incident Management System (NIMS) to America's largest city and clearly spells out the division of responsibilities for first responders at major incidents.

CIMS has frequently been put to the test during our day-to-day operations and response – from aviation accidents to building collapses and explosions. And in each case CIMS has ensured that we responded swiftly and expertly.

In New York, we understand that preventing terrorism and responding to any large-scale emergency also depends on smooth coordination among key Federal, State, and City agencies. Over the past few years, our Police Department has developed an exemplary working relationship with the FBI's New York field office and its assistant director, Mark Mershon. We've assigned more than 120 officers to the FBI-NYPD Joint Terrorism Task Force.

The result is genuine two-way information sharing that is unique in America. Classified global intelligence about possible terrorist activity is quickly relayed to our police officers working on the front lines, while local intelligence collected by the NYPD is routinely passed to the FBI to supplement their efforts.

And when we encountered a threat to our subways in 2005, we stood shoulder-to-shoulder with the FBI and assured the public that we were taking the appropriate measures to keep our transit system safe.

As strong as our relationship is with the FBI… we still need robust, effective partnerships with the federal government to ensure the safety of our citizens. And the simple fact is: the federal government has not been as good a partner as it should be.

From Day One, I have urged that Homeland Security funding be distributed based on risk alone. I first made this case in front of members of the House Appropriations Committee in April 2003. And I've repeated this call before Congress and at the White House many times since.

I talked about threat-based funding when I testified before the 9/11 Commission – and I was glad that Vice-Chair Lee Hamilton, Senator Slade Gorton, Congressman Tim Roemer, and the other Commission members heartily endorsed my recommendation.

Yet time and time again, our appeals for fully risk-based Homeland Security funding have been ignored. And instead, we have seen huge sums of Homeland Security money spread across the country like peanut butter.

More than $3 billion has been distributed in this irrational way so far. Some communities don't even know what to do with it when they get it. For instance, one town spent some of its share on a custom-built trailer for its annual October mushroom festival. And one state has used some of its funding on an initiative to prevent terrorists from raising money at their local bingo halls.

Meanwhile, New York City – which has enormous needs… which has been attacked before, has been targeted many times since, and will most likely be targeted again – goes wanting.

The Administration and the Congress need to stop pointing fingers about who is to blame for the politicization of homeland security funding. The fact is, they are both responsible. For the sake of New York City – and the security of our nation – I hope you will stop writing politically-derived formulas into your Homeland Security bills.

Instead, you should give DHS complete flexibility to allocate 100% of Homeland Security grants funds according to risk, threat, and return on investment – and then challenge the Department to exercise this flexibility in a coherent and rigorous manner.

To their credit, the Department of Homeland Security recently expressed a willingness to bring more common sense into the process, and to better address our concerns. Last Friday, DHS released new guidelines for the distribution of funds in Fiscal Year 2007 which gave greater consideration to threat, vulnerability and consequences of a terrorist attack. For the first time, the Department's Urban Areas Security Initiative program will recognize six high-risk urban areas – including New York.

Establishing this high-priority group is a step in the right direction – but when you actually compare the percentage of funding that these six cities received last year with what's being set aside for them as a group this year… it's virtually the same. Until we find out New York's precise allocation, there's no guarantee these new guidelines will make a difference for us. The devil is in the details.

Some definite good news is that, after years of vigorous lobbying on our part, DHS plans to loosen some of the restrictions on how Urban Areas Security Initiative money can be spent. For New York City, that means we can use up to 25% of our allocation to support the daily activities of the some 1,000 New York City police officers who are dedicated to our counterterrorism and intelligence units. We've always believed that one of the strongest defenses against terrorism is good old-fashioned "boots on the ground." And now we may finally get federal support to help keep them there.

We'll continue to work with Congress and DHS to increase the flexibility of their funding guidelines. Homeland Security grants, for instance, still cannot be spent on construction – despite the fact that hardening sensitive targets could significantly reduce the risk of attack in the first place.

We'll also work with Congress and the Department of Health and Human Services to fix the distribution of bioterrorism preparedness funding. This is a process that's lagging even further behind in moving to risk-based distribution. New York is only one of a handful of places in the nation that's ever experienced a bio-terror attack. Yet in Fiscal Year 2006, we received $4.34 per capita, putting us an incredible 27th out of 54 eligible states and cities.

We will also continue challenging Congress on another necessary issue – making funding available for our wireless emergency communications networks, which we've been developing now for several years. This year, the federal government will be distributing one billion dollars for the development of state and local interoperable communications systems. This is a very sensible effort – and it speaks directly to one of the 9/11 Commission's recommendations.

But we're concerned that, as of now, New York City is essentially ineligible for that funding because our systems operate on frequencies other than the ones specified in the federal government's new grant program. For New York, this restriction punishes us for our aggressiveness in protecting our city: We've already invested more than a billion dollars in the development of our network's infrastructure. And we're building it on a frequency that works best in the subways, skyscrapers, and incredible density of our urban environment.

We've tried to develop a solution that makes sense for our city's needs – because one size does not, and will not, fit all. And for Congress to move forward on their plan without making sure New York City is part of it is the height of foolishness.

When you think about it… this is the heart of the problem. Time and time again, the federal government has tried to apply uniform solutions to localities like New York City which deserve more nuanced and individual attention.

What this country really needs is a federal policy-making process that recognizes New York City for what we truly are: One of the largest, most densely populated areas in the world… a powerful symbol for what our enemies deeply despise...and a city that already has been targeted many times before. This is our reality – and it is one that defies a mathematical formula – no matter how well-intended.

I appreciate the chance to be here with you today. Hopefully, this hearing will begin the process of creating a system that more fairly and equitably attends to the security of our homeland.

Thank you for your time. I'll be happy to answer any questions.

Hearing on
"Full Implementation of the
9/11 Commission's Recommendations"
Prepared Statement of
Vice Chair Lee H. Hamilton
and Commissioners Slade Gorton
and Timothy J. Roemer, former Members
of the National Commission on
Terrorist Attacks Upon the United States,
before the Committee on Homeland Security
and Governmental Affairs,
United States Senate
January 9, 2007

Chairman Lieberman, Senator Collins, members of the distinguished Committee on Homeland Security and Governmental Affairs: It is an honor and privilege to appear before you today, to testify on behalf of legislation to implement the recommendations of the 9/11 Commission.

We want to begin by acknowledging the extraordinary leadership role of this Committee. Under Chairman Collins and Ranking Member Lieberman, this Committee held the first hearing on the recommendations of the 9/11 Commission. This Committee drafted a bill based on Commission recommendations and managed the legislative process with great skill, leading to a remarkable 96 to 2 vote on the Senate floor. The Chair and Ranking Member then guided the bill through final passage of the Intelligence Reform and Terrorism Prevention Act of 2004.

Today, under Chairman Lieberman and Ranking Member Collins, this Committee continues its exceptional leadership role. They are an example to the Congress and to the country of effective bipartisan cooperation. On behalf of the former Members of the 9/11 Commission, we thank you for your leadership.

What has been accomplished?

It is two and one-half years since the 9/11 Commission completed the largest investigation of the U.S. government in history. The mandate of the Commission was to "investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism."

We found that our government failed in its duty to protect us on September 11. We found failures of imagination, policy, capabilities and management. We made 41 recommendations to ensure that we were doing everything possible to prevent another attack.

After the Commission ended, we formed a non-profit organization, the 9/11 Public Discourse Project, for the purpose of public education on behalf of our recommendations. The Public Discourse Project tracked progress on the Commission's recommendations and issued a report card in December 2005. We found a very mixed record.

Roughly half of the Commission's recommendations, including those to reorganize the Intelligence Community, were taken up by the Congress and enacted, primarily in the Intelligence Reform and Terrorism Prevention Act of 2004. That is the good news.

The bigger problem, we found, is the challenge of implementation. Changing the law is only the first step in changing public policy. No law is self-executing. Implementation is often the more difficult step. Even when the letter of our recommendations was written into law, implementation has been found lagging.

In some cases, implementation can be expected to take years. In every case, Congress needs to provide robust oversight to ensure that reforms are carried out. The continuing oversight work of this Committee is essential to achieve the purposes of the public law it helped so much to create.

The question before us today is the remainder of the Commission's work. Roughly half of the Commission's recommendations still need to be

addressed. Therefore, we are honored and gratified by the commitment of the leadership of the 110th Congress to take up legislation to address the Commission's unfinished agenda.

We want to work with this Committee in every way we can – to complete action on our recommendations, to make our country safer and more secure. We believe our time before you today is best spent focusing on a few issues, where the attention of the Congress is most necessary.

Information Sharing

First, progress on information sharing is still too slow. As the Commission's report documented again and again, we missed opportunities to disrupt the 9/11 plot because of the failure to share information.

The federal government is doing a better job sharing terrorist threat information within its own structure, but there are still huge gaps in information-sharing with state and local authorities.

In November 2006 the Director of National Intelligence issued an Implementation Plan for the Information Sharing Environment, a plan required by the 2004 statute. That plan deserves the careful attention of this Committee.

We continue to hear about turf fights about who is in charge of information-sharing with state and local governments. We continue to hear complaints from state and local officials about the quality of the information they receive. Suffice it to say, many questions and issues remain about the implementation plan for the Information Sharing Environment. The problem of information sharing is far from resolved.

Communication among First Responders

Second, we continue to be concerned about interoperability. As the just-released report from the Department of Homeland Security shows, first responders in many metropolitan areas still do not have the ability to communicate with each other effectively. Better communications depends

on many factors, including policies, technology and training. It also depends on broadcast spectrum.

The Commission recommended that Congress expedite for public safety purposes the allocation of a slice of the broadcast spectrum ideal for emergency communications.

Those frequencies – able to get messages through concrete and steel high-rises without difficulty – are now held by TV broadcasters. They had been promised for public safety purposes for a decade, and will finally be turned over to first responders in February, 2009.

We do not believe this date is soon enough. Who can say that no disaster will strike before 2009? Why should public safety have to be put on hold to accommodate the broadcast industry? We call on the Congress to act.

Plans for Emergency Response

Third, states and localities need to practice their plans for emergency response. As this Committee outlined in its excellent report, Hurricane Katrina taught us again lessons that we should have learned from 9/11. Every metropolitan area and every locality needs to have a working response plan that embraces the Unified Incident Command System.

A response plan needs to be practiced and exercised regularly. You cannot wait for a disaster to hit and then look for the plan. All first responders need to know long beforehand who is in charge and what their job will be.

The Department of Homeland Security now requires a Unified Incident Command System to be in place or states cannot receive homeland security funding. That's a good provision – as far as it goes.

During Katrina, Louisiana and New Orleans had a paper plan, but it wasn't executed when it was most needed. DHS needs to make sure that these plans are living documents, that first responders have practiced working together. If you are a first responder and you are talking to your counterpart for the first time the day a disaster hits, your response plan will fail.

The Privacy and Civil Liberties Oversight Board

Fourth, we have taken a special interest in the work of the Privacy and Civil Liberties Board, which we recommended and the Congress created. It is the only office within the Executive branch to look across the government at the actions we are taking to protect ourselves, to ensure that privacy and civil liberties concerns are appropriately considered.

It is our belief that the government needs strong powers in order to protect us. It is also our belief that there needs to be a strong voice within the Executive branch on behalf of the individual, and on behalf of civil liberties.

The Board needs to move forward smartly with its important mission. Stories we read in the newspaper every day point up the importance of a strong voice and a second opinion within the Executive branch before it goes ahead with controversial information-gathering measures.

We want to do everything we can to encourage the work of the Privacy and Civil Liberties Oversight Board. We strongly supported this Committee's original proposal for the structure and authorities of the Board when it was created in 2004, and believe that proposal deserves attention again.

Airline Passenger Screening

Fifth, we still do not screen passengers against a comprehensive terrorism watchlist before they get on an airplane. The airlines do the name-checking, and the government wants to protect sensitive information and therefore does not share all names on its watchlist with the airlines. So the airlines screen passengers against an incomplete list.

The solution, recommended by the Commission, is a straightforward one: the government should do the name checking of all passengers against its own comprehensive watchlist.

The Transportation Security Administration's plan for integrating commercial data into the screening process – a plan called Secure Flight – appears to be delayed indefinitely. But this delay should not stand in the

way of the government taking over name checking from the airlines, so that all passengers are screened against a complete, up-to-date no-fly list.

Homeland Security Funding

Sixth, scarce homeland security dollars must be allocated wisely. In our report we recommended that homeland security funds be allocated on the basis of the greatest risks and vulnerabilities of attack. Secretary Chertoff has stated many times his support for this position.

Therefore, we were surprised and disappointed last year that the Department of Homeland Security proposed cuts in homeland security funding for New York City and Washington, D.C.

The terrorists targeted New York and Washington. So far as we know, they continue to target symbols of American power. It defies our understanding of the nature of the threat to reduce funding designed to protect New York and Washington.

The problem is not only the Executive branch. The underlying legislation also needs reform. Last year, the Senate passed a useful bill; the House passed a superb bill. Unfortunately, nothing emerged from conference.

What we need this year, above all, is an agreement between the House and Senate that moves reform in the right direction. Unless and until the Congress sends a bill to the President allocating homeland security funding on the basis of risk, scarce dollars will be wasted.

Congressional Reform

Seventh, Congress needs powerful Intelligence and Homeland Security oversight Committees. The Congress has provided powerful authorities to the Executive branch in order to protect us against terrorism -- and now it needs to be an effective check and balance on the Executive.

Because so much information is classified, Congress is the only source of independent oversight on the full breadth of intelligence and homeland

security issues before our country. The oversight committees need stronger powers over the budget. They need exclusive jurisdiction.

The Congress cannot play its proper role as a check and balance on the actions of the Executive if its oversight committees are weak. To protect our freedoms we need robust oversight.

We believe Speaker Pelosi's plan for an Intelligence oversight panel on the Appropriations Committee is a step in the right direction. It is not what we recommended, but it is animated by the right idea: Robust oversight needs to link closely to the provision of funds. Much will depend on the panel's leadership and how it works in practice, but we are encouraged by this step.

Radicalization in the Muslim World

Eighth, our security also requires us to deal with the fundamental problem of radicalization in the Muslim world. The enduring threat is not Usama Bin Laden, but young Muslims without jobs and without hope, who are angry with their governments, who don't like the war in Iraq or U.S. foreign policy. We need to do a much better job reaching out to the Muslim world, so that America is seen as a source of hope and opportunity, not despair.

We should offer an example of moral leadership in the world, committed to treat people humanely and abide by the rule of law. We should rebuild scholarship, exchange and library programs. We should generously support an International Youth Opportunity Fund for building and operating primary and secondary schools in those Muslim states that commit to investing sensibly their own money in public education.

Stopping Terrorists from Gaining Access to Nuclear Materials

Finally, preventing terrorists from gaining access to nuclear weapons must be elevated above all other problems of national security. Nuclear terrorism would have a devastating impact on our people, economy and way of life. The Commission called for "a maximum effort" against this threat. Given the potential for catastrophic destruction, our current efforts fall far short of what we need to do.

We see increased efforts by the Administration to improve nuclear detection technology at our ports and borders. These are good steps. But we cannot be safe if we rely only on our last line of defense to protect us.

We need a much stronger, forward leaning policy: to secure nuclear materials at sites outside of the United States. If those sites are secure, the terrorists cannot get nuclear materials. If the terrorists cannot get nuclear materials, they cannot build nuclear bombs.

The United States needs to dedicate the personnel and resources, and provide the domestic and international leadership, to secure all weapons grade nuclear material as soon as possible – in the former Soviet Union and the rest of the world. There is simply no higher priority for national security.

Conclusion

As we review our recommendations, it is clear that so much still needs to be done, and there is little time left to do it. The terrorists will not wait.

We are encouraged by the strong message from the leadership of the House to take immediate action on our recommendations, and the strong signal from the Senate leadership to act expeditiously as well.

H.R. 1 is a comprehensive bill to carry out the Commission recommendations. It is a giant step forward toward the completion of our work.

We look to this Committee to continue its own history and tradition of leadership. We look forward to working with both sides of the aisle. From your actions and the workings of the legislative process, we are convinced an even better bill will emerge.

If we can make progress on these recommendations, we will make significant progress in making our country safer and more secure. We thank you for your time and attention, and we look forward to your questions. #

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

TESTIMONY

Statement of

Joseph C. Carter

President
International Association of Chiefs of Police

Before The

Committee on Homeland Security and Governmental Affairs

United States Senate

January 9, 2007

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Good Morning, Mr. Chairman, Senator Collins, and members of the Committee:

On behalf of the International Association of Chiefs of Police, it is my pleasure to be here this morning to share the views of the nation's law enforcement executive community on our national efforts to detect, prevent, prepare for, and respond to acts of terrorism.

Law enforcement's efforts to combat terrorism did not begin on September 11, 2001. For decades prior to that fateful day, law enforcement agencies throughout Europe, Asia, Central and South America, and the Middle East were engaged in daily battles to apprehend terrorists and keep their communities safe from harm.

Nor was September 11 the first terrorist attack in the United States. The Unabomber, the 1993 World Trade Center bombing, Oklahoma City, and the Atlanta Olympics demonstrated that the United States was not immune from terrorist strikes. Yet, despite these incidents, the United States did not fundamentally alter its security strategy, and law enforcement agencies throughout the nation, while certainly learning from these incidents, did not dramatically adjust their policing philosophies.

However, the incredible and horrific nature of the September 11 terrorist attacks and the massive devastation and loss of life that they wrought ushered in a new era of policing in the United States.

In the aftermath of these attacks, as the nation struggled to comprehend the new menace confronting our society, our nation's law enforcement agencies realized that they now had a new and critically important mission. No longer could they focus their energies solely on traditional crime fighting efforts. Now they would be asked to confront a new threat to their communities, perpetrated by individuals and organizations that had vastly different motivations and means of attack from that of traditional criminals. Accepting this challenge required law enforcement agencies to reassess their operations and reevaluate their priorities. At the same time, realizing that confronting international and domestic terrorism required a national effort, these agencies also looked to the federal government for both leadership and resources.

The September 11, 2001 attacks also required the federal government to fundamentally alter its traditional role. Over the past several years, a number of dramatic steps have been taken to confront the menace of terrorism, including the passage of the Patriot Act, the establishment of the Department of Homeland Security, and the creation of a variety of programs designed to assist state and local governments in their efforts.

Unfortunately, despite these efforts and the billions of dollars appropriated by Congress for homeland security initiatives, state, tribal, and local law enforcement executives have grown increasingly concerned over a homeland security strategy that has moved too slowly and has not fully comprehended the post 9/11 role of state, local and tribal law enforcement in securing our homeland.

It is a strategy that, while improving the security and safety of a few communities, has left many others increasingly vulnerable.

For these reasons, I would like to spend a few moments discussing what the IACP believes are the vital elements that must form the basis of a successful homeland security strategy.

First and foremost, the IACP believes that the prevention of terrorist attacks must be the paramount priority in any homeland security strategy.

To date, the vast majority of federal homeland security efforts have focused on increasing our national capabilities to respond to and recover from a terrorist attack. Although the IACP certainly does not quarrel with the need to improve the response and recovery capabilities of the state, tribal, and local public safety communities, law enforcement officials understand that it is their primary responsibility to prevent these events from happening in the first place. As a result, law enforcement officials view the need to build response and recovery capabilities as secondary to the need to build our capacity to prevent terrorist attacks from happening at all.

Although the association agrees that there is a need to enhance response and recovery capabilities, such preparations must not be done at the expense of efforts to improve the ability of law enforcement and other public safety and security agencies to

identify, investigate, and apprehend suspected terrorists before they can strike.

On a related note, because of the IACP's strong belief in the importance of prevention, we were extremely dismayed over the Congress's failure to establish the Office of Terrorism Prevention within the Department of Homeland Security as part of its FEMA reform legislation last year. The failure to create this office substantially undermines efforts to improve our nation's security and further hinders the terrorism prevention efforts of state, tribal and local law enforcement agencies. The IACP implores the Congress to address this situation as soon as possible.

Another critical element that must serve as the foundation for a successful homeland security strategy is the realization that terrorist attacks that occur in the United States, while they have national or international repercussions, are inherently local crimes that require the immediate response of state, local, or tribal authorities. Even large-scale and coordinated attacks that simultaneously impact multiple jurisdictions, such as the ones that occurred on September 11, 2001, require that state, tribal, and local law enforcement agencies handle the initial response and recovery efforts.

Even more critical is the realization that while planning, conducting surveillance or securing the resources necessary to mount their attacks, terrorists often live in our communities, travel on our highways, and shop in our stores. As we discovered in the aftermath of September 11th, several of the terrorists involved in

those attacks had routine encounters with state and local law enforcement officials in the weeks and months before the attack. If state, tribal, and local law enforcement officers are adequately equipped and trained and fully integrated into an information and intelligence sharing network, they can be invaluable assets in efforts to identify and apprehend suspected terrorists before they strike.

Therefore, IACP believes that it is imperative that as homeland security proposals are designed, they must be developed in an environment that fully acknowledges and accepts the reality that state and local authorities, not federal, have the primary responsibility for preventing, responding to, and recovering from terrorist attacks. It is the IACP's conviction that adherence to this fundamental philosophical viewpoint will greatly enhance the value and effectiveness of all future homeland security efforts.

In that light, I would like to touch briefly on the importance of intelligence and information sharing. As the 9/11 commission properly noted, the lack of effective information and intelligence sharing among federal, state, tribal, and local law enforcement agencies was, and continues to be, a major handicap in our nation's homeland security efforts. The IACP wholeheartedly agrees with this determination.

In fact, in 2003 the IACP developed the National Criminal Intelligence Sharing Plan (NCISP), which was endorsed by the Department of Justice, the Department of Homeland Security and the FBI, to provide a cohesive vision and practical solutions to

improve law enforcement's ability to detect threats and protect communities. The recommendations contained in the NCISP were focused on establishing a collaborative partnership that would not only ensure that all levels of government are equal partners, but would also promote a freer flow of information and make certain that the experience and capabilities of all parties are realized.

It is for these reasons that the IACP strongly supports the Information Sharing Environment (ISE) Implementation Plan recently submitted by the Office of National Intelligence (ONI). The ISE plan, along with the release of Guideline 2, which directs the development of a "Common Framework for the Sharing of Information", is a major step forward in intelligence integration and will allow the law enforcement community to better detect, disrupt, and prevent future acts of terrorism.

The IACP is particularly pleased that the ISE plan emphasizes the vital role that state, local, and tribal law enforcement must play in the development and dissemination of critical intelligence. This reinforces the IACP's longstanding belief that only through effective information sharing can we hope to make our hometowns and homeland safer.

The IACP is also very supportive of the aggressive, yet achievable, timeline set forth for establishing the Information Sharing Environment and believes that meeting the 2009 date is critical to our homeland security efforts. Therefore, it is imperative that the Director of National Intelligence retain the Program Manager for

Information Sharing Environment for the three-year implementation phase as recommended in the plan. The IACP strongly supports this recommendation.

As Congress continues its efforts to develop policies and programs to prevent terrorist attacks in the future, the IACP urges you to support the proposals contained in the ISE Implementation Plan.

Finally, I would like to conclude my remarks by addressing another essential element in a successful homeland security strategy. It is critically important that we commit to the development and maintenance of a broad-based effort that builds our nation's prevention and response capabilities from the ground up. It is vital that a baseline capability be established in all communities, not just urban areas or those determined to be at greatest risk. Once these basic capabilities are established nationwide, they can be used as the foundation upon which more advanced homeland security capabilities can be built.

Regrettably, the current homeland security strategy and funding formulas appear to have the opposite goal. The last several years have witnessed a pronounced shift away from a broad-based homeland security program toward a program that targets primarily urban areas for assistance.

While the IACP agrees that there is a need to provide urban areas with the resources they need to protect their communities from terrorist attacks, this must not be done at the expense of programs

that provide assistance to law enforcement agencies throughout the rest of the country.

Unfortunately, this is exactly what is happening. As funds have shifted toward major metropolitan areas, the vast majority of our nation's communities have been forced to compete over an ever-dwindling pool of resources. As a result, their ability to upgrade their capabilities and improve their readiness has already been severely hindered.

It is the IACP's opinion that failure to implement and adequately fund a broad-based effort that will improve the security of all communities weakens our overall approach to securing the homeland. **For as larger metropolitan areas become more secure, terrorists will seek out other, less protected targets to attack. As we move forward in developing our national homeland security strategy, we must remember that we are a nation of communities and that *all* of our communities are at risk.**

This concludes my statement, I will be glad to answer any questions you may have.

JAMES M. THOMAS
TESTIMONY BEFORE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
TUESDAY, JANUARY 9, 2007

OPENING COMMENTS

Senator Lieberman and Senator Collins, members of the Committee, good morning and thank you for inviting me here today. My name is James M. Thomas and I am the Commissioner of the Connecticut Department of Emergency Management and Homeland Security. I am here to talk to you about the continued implementation of the 9/11 Commission Recommendations. There are three overarching themes that influence my thinking.

- First, I feel strongly that the number one priority for government is, and always should be, public safety. Safety and security are two critical areas that cannot be delegated to anyone but government. With that in mind, the federal government in partnership with the state and local entities share this responsibility. For America to be safe we must all work together, for we are only as strong as the weakest link.

- Second, to date we have focused a great deal on funding and planning for response and recovery. Now we need to focus on funding and planning for prevention and protection. What we really want to do is to prevent another act of terrorism anywhere in this great country.

- And third, when are talking about collaboration, we need to make sure all partners are included: by that I mean local, regional, and state governments, the private sector, and our tribal nations as well as the federal government, who should be leading the way through adequate funding and sharing the very best that technology has to offer as well as always sharing lessons learned.

With these three themes in mind, I would like to address the specific areas of funding, interoperability and information sharing.

FUNDING

I recently heard DHS Undersecretary George Foresman say that we should not judge states by how much grant money they have spent or how fast they have expended it. Instead, success should be judged by the quality of their programs and the extent to which they have supported and improved upon interagency and intergovernmental coordination and collaboration throughout the program development and implementation process in

The federal Government should ensure that grant funding streams are flexible enough to accommodate unique needs within each state. States would greatly benefit from an expanded funding approach to all hazards planning, prevention and mitigation, preparedness, response and recovery. Federal funding streams must acknowledge that states across the country are in different stages of development. Those states that have well-developed programs need funds to sustain their work. Other states with less robust programs need funding to achieve their initial programmatic goals. All states must be able to address emerging needs that arise in this environment of ever-changing technology and events. If states can justify unique circumstances which require specialized funding, they should be allowed to use federal dollars to address those needs. Again, we must remember that our country is only as strong as the most vulnerable locale, that being a large metropolitan area, a county, or even a rural community where one would least expect the terrorists to train or strike.

Risk-based funding is a laudable and appropriate concept and should be adopted as recommended by the 9/11 Commission. In order to assure consistent data on which the federal agencies will base funding determinations, the federal government should provide one template, or standardized tool, for risk and vulnerability assessment, to be used by each state across the country. Significant progress has been made this year in this area and the states should continue to have an opportunity to provide input in the creation of this tool.

Clearly, high-risk jurisdictions must receive adequate funding to protect their citizens and visitors. Nonetheless, funds should not be targeted exclusively to the immediate geographic areas of high risk, because that will leave surrounding communities extremely vulnerable. For example, a terrorist event in any large city or Urban Area Security Initiative (UASI) such New York City will affect several states and jurisdictions. In the example of New York City, both New Jersey and Connecticut as well as other states might be impacted as New York residents and visitors flee the city. Such an event may even require the evacuation of lower Fairfield County in Connecticut and sections of northern New Jersey.

We also must make sure that the large cities and UASI's are safe and secure by taking the necessary steps to keep any potential threat or danger from ever getting into the area. For example, hundreds of thousands of people enter New York City via rail, buses and ferries. We have to make sure that our transportation systems are secure all along the routes leading into the UASI Areas. Again we are only safe and secure when the entire system is working together.

State and local governments must be given the flexibility to apply resources to identified needs and target dollars in a way that is meaningful to every state, regional, and local community. In Connecticut, where we do not have county governments, it is important that the state and municipalities be able to focus on the priorities we have identified, such as the need for greater prevention and protection rather than response and recovery.

All states need to develop or further enhance their public/private partnerships. A small amount of federal funds should be set aside for this purpose. With eighty percent (80%) of federal homeland security funds going to local governments and twenty percent (20%) of funds allocated to the states, there are no funds available to partner with the private sector. Yet the private sector owns about eighty-five percent 85% of the assets in any given state. Federal funds should be made available so that states can share resources with the private sector. That will greatly improve information sharing, collaboration, training, protection and prevention. In return, there must be private sector accountability for such funds.

INTEROPERABILITY

Standardizing systems across the United States would greatly enhance interoperability. In Connecticut, we are working with New York and New Jersey to administer and distribute our federal transit security grant in a manner that is beneficial to all citizens in the tri-state area.

There are other examples of the need for standardization in interoperability. Nationwide, there are hundreds of communication and information systems into which critical information is funneled.

There are still silos around communication systems, which need to be eliminated. In Connecticut, we have tried to address this by bringing people from relevant local and state disciplines together to coordinate and collaborate on issues involving interoperable communications. Planning for and participating in exercises and drills brings all stakeholders to the table and encourages not just the testing of equipment and protocols. It also provides an opportunity for the development of interpersonal relationships and enhanced communications among stakeholders, both of which are vital to successful emergency management.

Also, interoperability needs to expand beyond voice communication, and should include, for example:

- Geographic Information Systems;
- Oblique imagery; and,
- Mobile data terminals in all emergency response vehicles.

Finally, Federal Aviation Administration legislation and homeland security legislation need to be synchronized in the areas of aviation security, port security, and rail security. States need a consistent message from Washington in the areas of transportation policy, planning, and grant funding. For example, perimeter security at airports is just as important as a strong baggage check program. All security starts at the outside boundaries and moves in towards the key assets such as the airport, train station, and other transportation hubs. Ultimately if the outside boundary is not secure neither is the mode to transportation itself.

INFORMATION SHARING

Information sharing is another vital tool in the fields of homeland security and emergency management. As I mentioned earlier, there is a great need to collect information at the local level, pass up to the state level, and on to federal level in a very timely manner. The Homeland Security Information Network (HSIN) should be used by all states. This would allow all states to share vital information.

A Fusion Center, where information that is collected from a variety of local, state, regional and federal sources is subject to shared analysis and dissemination, is a critical component of information sharing. Local communities need the proper funds and technology to accomplish this goal. We need to have a Fusion Center in all of the 50 states, and the territories of the Untied States. They need to be linked both regionally and then to the DHS National Security Center and be capable of sharing critical information in "real time" as needed.

There is also a need to review and revamp the current classification criteria within the intelligence community. Much of the information that is now deemed "classified" should be reclassified as "for official use only", so that it can be shared with those who need it (state and local law enforcement officers; emergency management personnel; emergency preparedness planners.)

Information sharing should be expanded with the notion that the public is a partner with government, and if well informed, can serve as the eyes and ears for protection and prevention. Again, we need the help of the general public. There never will be enough of police officers, FBI Agents, and other law enforcement personnel to do the job without the assistance of the public. We need to have a strong, sustained public education campaign that engages and challenges the people of our great country to not be complacent. We need each and every one of us to be involved if we are truly going to be effective in the area of Homeland Security.

We are concerned more than ever that because of 9/11 our lives as we once knew them has changed. We need to implement the recommendations of the 9/11 commission as soon as possible. Again, I say to you -- It is the responsibility of the government; federal, state, local and tribal to provide for a safe place for all of us to live. We need to work together like we have never worked before. Check the ego's in at the door – Do the right thing. – Let us make the United States a safer and better place to live. Let us move on the implementation of the 9/11 Commission recommendations this session!

Again, thank you for giving me an opportunity to share my thoughts with you today. I would be happy to answer any questions you might have.

Statement of

Mary A. Fetchet,

Founding Director of Voices of September 11th
Mother of 24 year-old, Bradley James Fetchet
who perished in the World Trade Center attacks on September 11, 2001

before the
United States Senate Committee on
Homeland Security and Government Affairs

Hearing on Ensuring Full Implementation of the
9/11 Commission's Recommendations

Tuesday, January 9, 2007
Dirksen Senate Office Building, Rm. 342
Washington, D.C.

INTRODUCTION

Good morning, Mr. Chairman, Ranking Member Collins, members of this distinguished committee. I am honored to testify today at this vitally important hearing on ensuring full implementation of the 9/11 Commission recommendations.

My name is Mary Fetchet. I am Founding Director of Voices of September 11th. As you know, my husband and I suffered the ultimate loss as parents – when our 24 year old son Brad was tragically killed in Tower II of the World Trade Center that fateful day. Like many Americans, my sense of security and my faith in our government's effectiveness was shattered on September 11th. I sit before you today, once again, filled with renewed hope that in the new Congress your committee will take the opportunity to address "the unfinished business" identified in the December 5, 2005 final report card of the 9/11 Public Discourse Project.

I have made a personal commitment to advocate for the full implementation of the 9/11 Commission recommendations driven by the "wake-up" call when my son was senselessly murdered by terrorists on 9/11. It is my personal belief that almost 6 years later our country remains vulnerable, and although some progress has been made, much work remains ahead. We collectively – the administration, congress, government agencies and interested

individuals - have a moral obligation and responsibility to work together to ensure our government is taking the necessary steps to make our country safer.

Although I am adamant that the 9/11 Commission recommendations must be implemented in their entirety, with the limited time available today, I will focus my comments on issues related to preparedness, information sharing, unified incident command, funding based on risk and vulnerability and congressional reform.

PREPAREDNESS

Voices of September 11th conducted a national survey of over 2,000 Americans in August, 2006 that measured their perceptions of preparedness. The results illustrate that few Americans are adequately prepared in their home, their community, their workplace or in the nation at large. 69% of those surveyed rated U.S. preparedness for terrorist attacks as "fair" or "poor". Local community preparedness (67% fair or poor) and home preparedness fared slightly better (65% fair or poor). The results regarding workplace preparedness were also troubling: 64% of respondents either don't know about their company's plan for a natural disaster or terrorist attack or are not confident in it.[1]

[1] Voices of September 11th National Survey Conducted by Greenfield Online: (http://www.voicesofsept11.org/dev/PDF/VOICESNationalPreparednessSurveyDATA.pdf)

The survey conducted nearly 5 years after 9/11 paints a sobering picture that despite government programs such as Ready.gov and national promotions of September as preparedness month, little progress has been made post 9/11.

These perceptions are perhaps partly explained by the fact that only 15% of respondents had participated in preparedness training for terrorist attacks or natural disasters. DHS has taken steps in the right direction with its Ready Campaign, which VOICES has actively supported through our website. In particular, the Resolve to be Prepared '07 campaign is a good effort to promote preparedness in the new year. However, I believe the public has not heard enough about the Ready campaign and other resources. DHS should expand its partnership with the other private sector organizations and look for ways to educate the younger generation. The Ready Kids program is a good start, but DHS should explore ways to integrate age-appropriate preparedness education and training into elementary, middle, and high school levels. A modest investment in preparedness now will go far in mitigating the effects of another terrorist attack or natural disaster.

To validate the importance of preparedness in the workplace, I have included the summary from the WTC Evacuation Study conducted by Columbia University. The study surveyed 9/11 survivors and highlights the absence of worker preparedness on 2001 but also

makes recommendations that validate the importance of emergency preparedness and drills for high rise buildings.[2]

UNIFIED INCIDENT COMMAND CENTER FOR DISASTERS:

Hurricane Katrina demonstrated the need for better coordination of response efforts between federal, state and local agencies in the event of a large-scale terrorist attack or natural disaster.

Congress has moved to fix some of the limitations of the National Incident Management System (NIMS) in the FY 07 DHS budget by requiring state and local training programs and exercises to be aligned with NIMS and working with regional state and local emergency managers to create "an operationally ready, NIMS compliant, incident management system for use by the first responder community that includes redundant 24/7 online capability."[3]

Congress must monitor the implementation of these mandates to ensure that disaster response plans at all levels are integrated into NIMS. $30 million has been allocated for NIMS this year, and Congress must also make sure that this vital program gets the

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[2] The World Trade Center Evacuation Study, Mailman School of Public Health, Columbia University (released 6/6/06) http://www.mailman.hs.columbia.edu/CPHP/wtc/documents/Gershon%20NFPA%202006%20Presentation.pdf

[3] H.R.5441: Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes http://thomas.loc.gov/cgi-bin/cpquery/?&item=&&sid=cp109pOPWa&&refer=&&r_n=hr699.109&&dbname=cp109&&sid=cp109pOPWa&&sel=TOC_512416&

resources it needs to facilitate fully integrated disaster response plans at all levels.

Congress must also verify that the local and state authorities receiving federal homeland security grants have created response plans integrated with NIMS and are conducting realistic training and exercises based on these integrated plans.

Will the federal government be ready to coordinate response efforts for another disaster on the scale of Katrina? Is there a timetable and benchmarks for full integration of state and local plans into NIMS?

Members of VOICES of September 11th attended the TOPOFFS exercises in Connecticut, New Jersey and Washington, D.C. In addition, we are participating in local roundtable planning attended CERT (Citizen Emergency Response Training) training. I have seen firsthand on many levels, the value in preparedness exercises and planning with the broader community which will help us as an organization play an active role in the event of an emergency. My view is that our local and regional emergency response plans have made progress in the five years due to the dedication of volunteers of individuals in our community in collaboration with emergency response agencies, such as the local Red Cross, fire department and police department.

In Connecticut, our state and local responders have made significant strides in preparedness despite limited funding, however, long-term in

the current environment of reduced federal funding and perhaps a lack of focus, progress is beginning to lag behind. In my opinion, and the opinion of our emergency responders, we have made the bare beginnings of preparedness plans. We believe there should be a recommitment by the federal government to enable continued progress so as to not lose the momentum we have gained thus far.

Examples of significant progress:

- Lessons learned from TOP OFF are being implemented.
- Connecticut plans for evacuation and sheltering are taking shape on a regional basis.
- State plans for improved telecommunications assets for emergency responders have started to be documented and exercised. (see attached report)

Examples of areas yet to be addressed:

- Planning by our towns and cities (other than TOP OFF) have been focused on possible emergency situations within their immediate regions. This focus within our "bubbles" has been the result of insufficient funding and emphasis on the need to plan for emergencies beyond our areas.
- TOP OFF was a regional simulation exercise involving state, local and federal agencies and was very expensive to conduct. Because of the limited geographical scope, in the state of CT it had limited benefit in areas beyond New London.

- There have been no initiatives to expand the planning and exercise beyond state borders. For example, in our area of Connecticut almost all the towns in the western panhandle of the state leading to New York City have borders in common with New York State and Westchester County but no planning or exercising for common emergencies has taken place and we are not aware of any that might be planned. We've not even had elementary discussions.
- It's time to think beyond planning for emergencies that would involve our state capital and focus on the coordinated responder needs in the western Connecticut panhandle along with Westchester County and New York City. We need to now move beyond our local and regional "bubbles" to build a broader collaborative effort.
- Planning and training exercises are very expensive for local towns and cities to absorb and it's easy with all the other budget pressures they face to defer the funding of planning and training. Continued federal funding will be required for many years before we are at the required state of readiness.
- This funding must force planning that involves entire metropolitan areas and deals with the evacuation and sheltering needs this will require.
- I would highly recommend that the Department of Homeland security broadens it's September preparedness month to include local, state and federal planning - broadening the local

"bubble" mentality to regional and inter state roundtable planning supported by federal funds.

- The business community must be integrated into planning and training exercises with emergency management teams – both to identify potential resources the business can offer in the event of an emergency ie. food, water and shelter as well as to have open lines of communication when an emergency occurs for evacuation and direction.

The last five years have witnessed only the beginning of what's required to protect the lives of our citizens. Local planning has improved. Regional planning is only beginning. Large metropolitan area planning has not yet begun. This will take a major recommitment in terms of emphasis and federal funding, at a time when public willingness and the will of many of our politicians has diminished.

INTEROPERABLE COMMUNICATIONS

Past research has shown that the subject of interoperability for emergency responders is far from a new topic. Sadly, in 1995 a GAO report called out this vulnerability – and yet tragically the issue was not addressed leading up to 9/11. Interoperability was a key factor in the death of my son and 618 others in the south tower of the WTC buildings on 9/11 and played a part in our slow response to Katrina. As a 9/11 family member wrote me, "It's hard to believe we can put a

man on the moon and we don't have the technology for first responders to communicate in the event of an emergency".

Since 9/11, some progress has been made, but a recent DHS report on interoperable communications showed that only 6 of 75 U.S. cities have optimized their communications procedures and equipment. Cities were judged on operating procedures in place, use of communications systems and how effectively local governments have coordinated in preparation for a disaster. Even New York City ranked 14th out of the 75 areas surveyed. Chicago ranks near the bottom, yet it is clearly as a high risk location.[4]

The report found that while emergency agencies in more than 60 percent of the communities studied had the ability to talk to each other during a crisis, only 21 percent overall showed "the seamless use" of equipment needed to also communicate with state and federal officials.[5] Fixing this gap and setting a hard deadline for nation-wide operability should be a priority for DHS. It will require a clearly dedicated grant program for emergency communications with guidance on what kind of equipment to buy to ensure interoperability. As it stands now, the free market for communications equipment is an underlying impediment to effective interoperability. State and local authorities are free to purchase whatever equipment they choose

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[4] DHS Report, Tactical Interoperable Communications Scorecards Summary Report and Findings, (http://www.dhs.gov/xlibrary/assets/grants-scorecard-report-010207.pdf)

[5] Associated Press 1/3/06: "Chertoff promises to upgrade emergency communications in 2 years," Devlin Barrett (http://www.signonsandiego.com/news/nation/terror/20070103-1201-emergencycommunications.html)

regardless of whether it is compatible with equipment in neighboring areas or federal agencies such as FEMA. DHS must certify that these local agencies are using federal dollars wisely to ensure interoperability, not just to secure equipment.

Congress has passed legislation to transfer spectrum which will be made available in 2009. In addition, Congress must ensure that DHS follow up on its scorecard by helping these localities make measurable progress on communications interoperability in 2007. A follow-up report in 2008 would measure the effectiveness of DHS' leadership in facilitating interoperable communications across the country.

Locally, Region 1 in Connecticut developed a Telecommunications Interoperability plan with the help of state and federal resources. A contractor of the Navy helped with the technical aspects of this plan and its documentation. Those involved feel the exercise, although time consuming, was successful and an example of what needs to be done nation-wide. Even with the federal and state help this effort dominated planning efforts for a year. However most importantly the effort was planned, documented and exercised.

RECOMMENDATION: Most importantly a firm date for nationwide interoperability must be set by the Department of Homeland Security. In addition similar exercises, like the Telecommunications Interoperability plan that I've provided should be tested in other areas of the country and measurements of success be documented and shared. There's a saying amongst emergency management planners

– "The first thing you do in an emergency is throw out the plan and use your training". This clearly speaks to the importance of emergency planning exercises. Emergency preparedness cannot be a plan sitting in a 3 ring binder, the plan is not effective if it isn't exercised.

INFORMATION SHARING:

It is important to note that the Intelligence Community has recently lost its leadership with the resignation of DNI Negroponte and the deputy position remains vacant. Currently we have no leadership at the most critical role suggested by the 9/11 Commission. The White House must move quickly to appoint a successor and fill these 2 positions. During the confirmation process, the Senate should take the opportunity to question the new DNI on his goals and plans for benchmarks for success over the next two years at the Intelligence Directorate. Congress should also reinforce the importance of facilitating information sharing, one of the DNI's most important jobs.

Congress mandated the creation of a comprehensive Information Sharing Environment (ISE) in the Intelligence Reform and Terrorism Prevention Act of 2004. The ISE was slow to begin operation, with limited resources and staff. Reportedly the ISE has picked up speed with the appointment of Ambassador McNamara. It is encouraging that the Information Sharing Environment implementation plan was released in late November 2006. The report contains a two-phase,

three-year plan to implement a comprehensive information sharing network among federal, state, local and tribal authorities.[6]

The ISE Program Manager's position is integral to the continued success of the program. The office should be made permanent and be subject to formal approval by the Senate. The Program Manager must have the authority to issue government wide standards for information sharing. An important part of this authority is the ability to create incentives for improving information sharing as well as impose sanctions for agencies that fail to share information properly.

Institutional loyalty and rivalries over turf and funding are significant impediments to the creation of an effective information sharing network. Congress should look into ways to rotate intelligence professionals among various agencies to reinforce the collaborative nature of the new environment. Congress should also use its oversight powers to create incentives promoting a "culture of information sharing" and break down barriers that hinder it.

The ISE Program Manager is currently exploring ways to streamline the classification system for terror-related intelligence. A March, 2006 GAO report details the 56 different categories currently in use for "sensitive-but-unclassified" information.[7] Streamlining and

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[6] Information Sharing Environment Program Manager: Information Sharing Environment Implementation Plan (released 11/06) http://www.ise.gov/docs/ISE-impplan-200611.pdf

[7] GAO Report, The Federal Government Needs to Establish Policies and Processes For Sharing Terrorism-Related and Sensitive but Unclassified Information (released 3/06) http://www.gao.gov/new.items/d06385.pdf

consolidating the categories of "sensitive but un-classified" information would that counterterrorism and law enforcement agencies at all levels—including the front-line law enforcement and first responders—find the intelligence "products" they need.

Local and State authorities that have reached a certain level of expertise should be "horizontally" integrated into the ISE, so they can access and add information just like the 17 federal intelligence agencies are able. Cities like New York and Los Angeles that have recruited intelligence professionals and have independently operational intelligence gathering units should be given access to the full network of information to facilitate their own investigations. These large cities also represent the most likely locations for terrorist attacks and should have access to whatever intelligence they request, not just what has been "spoon-fed" to them by federal agencies.

Innovative ideas such as the "Intellipedia" information system will allow intelligence officials across agencies to share information and synthesize reports for policymakers. This "Wiki"-style system will ensure that dissenting views are shared prominently, preventing the kind of intelligence "group think" that affected the prewar estimates on Iraq.[8] This effort and the use of open-source data mining is a commendable application of new technology to information sharing. Congress should support these efforts.

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[8] http://msl1.mit.edu/furdlog/docs/latimes/2006-11-01_latimes_intellipedia.pdf

Information sharing is not limited to top-down dissemination. A comprehensive plan must facilitate the development, analysis and dissemination of locally-collected intelligence up the ladder as well. Local and state law enforcement officials are the ground-level eyes and ears of the intelligence community. Clear channels and proper procedures should be established to ensure that intelligence flows into the information sharing "stream" and is directed to the appropriate federal agency for review.

The newly established 38 state/federal Intelligence Fusion Centers around the country will serve as important liaison offices to conduct information analysis and coordinate security measures. DHS should continue strongly supporting these Centers with grants and analysis training from Department experts. DHS has committed to having "tailored, multi-disciplinary teams of intelligence and operational professionals in major Fusion Centers nationwide by the end of fiscal year 2008."[9] It is important that Congress hold them to this goal and monitor the effectiveness of the Intelligence Fusion Centers from all perspectives—federal, state and local.

Finally, bureaucratic infighting in the office of the DNI-CIO has delayed a working technological system for sharing information. There is a valid debate over the merits of an HTML system versus a newer XML system. The office needs to show strong leadership,

[9] http://www.dhs.gov/xinfoshare/programs/gc_1156877184684.shtm

select the programming the best technology, and implement it quickly.

RISK-BASED HOMELAND SECURITY APPROPRIATIONS

It's common knowledge that homeland security monies have been misspent over the several years. There has also been disparity in dedicating resources among the transportation industry. Following 9/11 securing the airline industry was set as a priority with 18 billion spent to date on aviation security, yet unscreened cargo is loaded onto passenger planes each day. I have particular concerns about the rail and transit systems, with less that $500 million dedicated, our mass transit systems remain vulnerable, despite terrorist attacks in London and Madrid. A strategic plan must be implemented to address these vulnerabilities and resources must be devoted to protecting the large numbers of individuals using mass transit in the railway and transit industry. In particular, plans should be implemented to protect intramodal areas, particularly in the high density areas within metropolitan areas with dense populations.

We have learned that al Qaeda and Islamist extremists want to cause mass casualties and strike centers of national economic and political power. They are interested in destroying the nation's critical infrastructure – our nuclear, chemical, and power facilities, our transportation and telecommunications center, our food and water supplies. Thus, not all targets and locations are as likely to be attacked. We know, that high rise buildings in cities are a vulnerable targets and are hard to defend and difficult to evacuate. A pure

assessment of risk must guide our homeland security decision making.

CONGRESSIONAL REFORM and OVERSIGHT

The 9/11 Commission urged Congress to reform its own convoluted oversight practices and set up a simplified system to oversee Homeland Security. However, this effort has been derailed by familiar turf battles regarding authorization and appropriations. We urge this committee to take steps towards consolidating Homeland Security oversight into a single committee with broad authority. Since this committee is responsible in name for Homeland Security oversight, it should assume a leading role. The effort in the House to streamline intelligence oversight is encouraging, and the Senate should follow their lead. There are too many supervisors and not enough accountability in oversight of the Department of Homeland Security—especially in the appropriations process. If Congress is truly committed to effective oversight of homeland security, it must lead by example, take a hard look at itself, and make painful changes.

Congress should use existing resources such as the GAO, CRS and others to provide ongoing evaluations of not only the overall implementation of the 9/11 Commission Recommendations but also the job that Congress itself is doing. Reports must include benchmarks for success and timetables for accomplishing them, along with recommendations for ways to promote success and punish non-compliance. A mechanism should be established in Congress, by

ad-hoc committee or other means, to act on these reports and function as an internal "watchdog" on full implementation of the 9/11 Commission Recommendations.

CONCLUSION

In closing, the new Congress has an opportunity and responsibility to act with a sense of urgency and work cooperatively rather than competitively. The terrorist threat is evolving and as the threat evolves, so should we.

Let me summarize through the following:

- Americans in general do not feel safe from the threat of follow-on terrorist attacks
- Our government must increase the enablement of preparedness initiatives at the national, state and local levels – and make them seamless.
- Emergency worker communications through compatible technologies and processes is long overdue
- Information sharing needs to be the new normal in government – driven by a changed culture, changes expectations, inspected through revised management compensation systems.
- DHS must more prudently allocate monies and ensure funding is driving the expected results. Models based on risk and vulnerability must take precedence.

Over 5 years ago, my husband and I suffered the horrific loss of our wonderful young son Brad who along with 2,749 innocent citizens was senselessly murdered at the hand of terrorists living right here in the United States. Our lives were changed dramatically and the innocence of our children and our country was snatched away from us. On 9/11 we became part of a global community that lives with the threat of terrorism every day.

While I recognize the daunting task that lies ahead, I believe we must remain vigilant and steadfast in our commitment to ensure the government is doing everything within its power to make our country safer. Voices of September 11th welcomes the opportunity to work with your committee and other like-minded individuals, who feel as I do that no mother, father, wife, child or sibling should suffer the loss we have… and that innocent citizens should not die a horrific death at the hands of terrorists. I want to thank you, Senator Lieberman and Senator Collins and your colleagues for the opportunity to testify before this distinguished committee. Your unwavering dedication and commitment to the safety and security of our nation sets an example that will hopefully lead Congress to action in the new session.

Testimony of Carol Ashley

for the

United States Senate
Committee on Homeland Security and Governmental Affairs

on

Ensuring Full Implementation of the 9/11 Commission's Recommendations

Washington, D.C.

January 9, 2007

My name is Carol Ashley. My daughter, Janice, was killed in the World Trade Center on September 11th. She was 25. Thank you for giving me the opportunity to speak today about implementation of the 9/11 Commission recommendations.

Along with other members of the Family Steering Committee, I worked for passage of intelligence reform legislation in 2004 based on the recommendations of the 9/11 Commission. Our goal was to make our nation as secure as possible to reduce the chances that any other American families would lose a loved one to terrorism. Unfortunately, that bill did not fully implement the 9/11 Commission recommendations. Some that were included were not as strong as they should have been. The result is that more than five years after 9/11 there are still gaps in our security.

The safety and security of all Americans rests in your hands, and those of your colleagues. I commend Senators Lieberman and Collins for once again drafting bi-partisan legislation to address some of those security gaps. I respectfully ask you to endorse their effort.

Tightening our security and upgrading preparedness is urgent. Although five years have passed with no terrorist attack on our soil, there is no way to know when, where or how the terrorists will strike again. To fulfill its foremost obligation to protect the American people, Congress must ensure through legislation and oversight that comprehensive security safeguards are in place; and if the terrorists succeed in breaching our security, that our federal, state and local agencies are fully trained, equipped and prepared to respond cohesively.

Urgent Issues

REORGANIZATION OF CONGRESS FOR BETTER OVERSIGHT

Effective Congressional oversight is crucial to ensuring the safety, security and rights of the American people.

The 9/11 Commission recommended that Congress reorganize itself for more effective oversight of the intelligence community and homeland security. You are urged to devise a plan for effective oversight. If the actions of our intelligence and other information gathering agencies are ineffective or inappropriate, Congress should take steps to correct the problems. The same is true for the performance of the Department of Homeland Security (DHS). Unfortunately, it often appears the only way for Congress to enforce its will is by withholding appropriations. For this reason both the authorizing and appropriations committees must work collaboratively and from the same knowledge base.

To an outside observer, it appears that Congress is in many ways like our intelligence community before 9/11. Each committee has its specific area of oversight, but no committee sees the big picture. This Senate Committee on Homeland Security and Governmental Affairs should logically be the one which oversees *all* the various aspects of homeland security.

In the House, Speaker Pelosi is developing a plan which appears to partially address the problem of "*separation between committees with substantive authority over particular departments or agencies (authorizers) and those who wield the power of the purse (appropriators)*." [1] The Senate is urged to consider implementing a similar plan.

Hampering oversight is the fact that the top line of the intelligence budget is classified because it is within the defense department budget. Congress is urged to declassify that aggregate figure to facilitate effective oversight.

Further hindering oversight is that some agencies within our security network ignore Congressional deadlines with apparent impunity. DHS has been late, years late in some cases, in responding to Congress. 118 security plans for mass transit, rail, aviation, ports and borders, for example, were due in 2003, but still had not been received as of May, 2006. [2] Although one would hate to see funding slashed to those agencies which ignore deadlines, if that is the only control Congress has, it should use it ruthlessly.

PRIORITIES

Government Accountability Office Comptroller General David M. Walker listed priorities for the 110th Congress. Many of them were among the 9/11 Commission recommendations released in 2004. Congressional action, or lack or it, on these priorities will have a direct impact on the safety and security of America.

- *Ensure the Effective Integration and Transformation of the Department of Homeland Security;*
- *Enhance Information Sharing, Accelerate Transformation, and Improve Oversight Related to the Nation's Intelligence Agencies;*
- *Enhance Border Security and Enforcement of Existing Immigration Laws;*
- *Ensure the Safety and Security of All Modes of Transportation and the Adequacy of Related Funding Mechanisms;*
- *Strengthen Efforts to Prevent the Proliferation of Nuclear, Chemical, and Biological Weapons and Their Delivery Systems (Missiles);*
- *Ensure a Successful Transformation of the Nuclear Weapons Complex;*
- *Enhance Computer Security and Deter Identity Theft;*
- *Ensure the Effectiveness and Coordination of U.S. International Counterterrorism Efforts;*
- *Ensure a Strategic and Integrated Approach to Prepare for, Respond to, Recover, and Rebuild from Catastrophic Events;*
- *Ensure the Adequacy of National Energy Supplies and Related Infrastructure;*
- *Ensure Transparency over Executive Policies and Operations.* [3]

We are looking to the 110th Congress to implement needed safeguards.

Privacy vs. Security

THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

The 9/11 Commission recommended a strong, independent Privacy and Civil Liberties Oversight Board to oversee the Information Sharing Environment. Its goal is to monitor the collection and sharing of information to prevent abuse. However, the Privacy and Civil Liberties Oversight Board established by Congress is not the strong, independent board envisioned by the 9/11 Commission. Members of this board were appointed by the President without needing Senate confirmation. The Board has no subpoena power. Both the Attorney General and the Department of Defense can halt an investigation of alleged abuse.

Outrageously, the Privacy and Civil Liberties Oversight Board

> *" didn't even get a formal briefing on the administration's eavesdropping on American citizens until October — almost a year after the warrantless surveillance program had been uncloaked...[and the] board's initial report to Congress in March will first be vetted by administration factotums."* [4]

This is not the definition of a strong independent Board.

Congress is urged to strengthen the independence and authority of the Privacy and Civil Liberties Oversight Board and empower it with credible oversight capability by

- **Giving the Board subpoena power;**
- **Prohibiting any person or agency from interfering with its investigations;**
- **Requiring Senate confirmation of its members;**
- **Balancing the representation of both political parties on the Board;**
- **Providing adequate funding for staff and investigations.**

Recently, DHS' privacy office reported that in 2004 during a test phase of Secure Flight which screens passengers against terrorist watch lists, the Transportation Security Administration (TSA) violated federal law when it gathered and stored 100 million commercial data records on passengers. The TSA had said the data would not be stored. [5]

The collection of travel data is a legitimate tool for combating terrorist travel. But the pursuit of security must be balanced with the right to privacy. The key is to ensure that what is done with private information stays within the parameters of the law.

Surveillance of Americans suspected of terrorist ties is also a legitimate counterterrorism tool. However, warrantless spying in which government agents listen in on the conversations and read the e-mails of Americans, in violation of the 1978 FISA Court law, is dangerous to a free society. The FISA law protects the privacy rights of Americans by requiring a warrant within 72 hours of the initiation of surveillance. Requiring warrants for surveillance does not prohibit government surveillance of suspected terrorists.

Unfortunately, to further emphasize the danger of spying in contravention of the law, and the need for an effective Privacy and Civil Liberties oversight board, surveillance was not confined to suspected terrorists. A Freedom of Information request revealed that a Joint Terrorism Task Force spied on Americans who demonstrated against the Iraq war and against other administration policies. [6]

The FISA law protects the privacy rights of Americans which are a hallmark of our country. Secrecy, even that which is integral to national security, must not be allowed to trump America's system of checks and balances as it did last year when a Department of Justice probe into the NSA's warrantless eavesdropping was thwarted when DOJ attorneys were denied the necessary security clearance. No government entity should have the power to stop a legitimate investigation into its activities. [7]

Unfettered clandestine surveillance increases the potential for abuse, and with it the potential for insidious erosion of our rights to privacy and dissent. The freedoms we take for granted are at stake.

It is not only terrorists about whom we should be concerned. There is danger to America from within when unsupervised, possibly illegal government surveillance of American citizens continues unchecked.

Before allowing warrantless spying, Congress is urged to determine the nature and scope of the warrantless spying program, what has been done with the information, and its efficacy. Consideration should also be given to the presidential directive on warrantless spying which appears to circumvent the law, in terms of its impact on the balance of power, as well as its impact on the concept of America as a nation of laws. Further, Congress is urged to explore whether other hidden programs are monitoring Americans. If our government does not adhere to the law, what mechanism is there to protect our rights? Immediate effective Congressional oversight is needed.

Chemical and Biological Threats

Early warning of chemical and biological attacks is essential. Sensors and real time data concerning possible chemical or biological attacks are essential to minimizing casualties, particularly for crowded mass transit locations where an attack would have the most severe impact. The military has some amazingly sophisticated sensors, which could perhaps be adapted for civilian use. Among them are an infrared device that scans for blister and nerve gas in a 60 degree arc for a distance of up to 5 kilometers. It sounds a horn and illuminates the agent. Another is the portable chemical detector kit which tests for blister agents, blood agents, nerve agents, and lewisite (a component of mustard gas). [8]

TOXIC EXPOSURE SURVEILLANCE SYSTEM (TESS)

To improve surveillance of chemical exposures, the CDC and the American Association of Poison Control Centers are using TESS, a national real-time

surveillance database that contains all reported cases of human exposure to toxic substances.

By monitoring daily clinical effects, TESS facilitates early detection of illness from chemical exposure. The frequency of each clinical event is compared to a historic baseline. Aberrations result in notification of respective poison control centers.

TESS can identify illnesses from isolated chemical releases or from multiple locations. [9]

While early detection is crucial to effective response,

> *"The only way to guard against the use of chemical and biological weapons is to increase safeguards. Protocols should be strengthened and there should be stringent control over the manufacture and distribution of weapons-grade material. For chemical agents, markers like those used for plastic explosives to identify the country of manufacture, permit tracing the movement of these chemicals. Technological surveillance needs to be increased over the purchase of storage equipment and precursors."* [10]

ISSUES REGARDING BIOLOGICAL WEAPONS

In 2002, the president signed Public Law 107–188. The goal of that legislation was *"to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies."*

It mandated

> *" improving state, local, and hospital preparedness for and response to bioterrorism and other public health emergencies with supporting grants; emergency authorities; enhancing controls on dangerous biological agents and toxins communication streamlining and clarifying communicable disease quarantine provisions and reporting deadlines."* [11]

Biological events are particularly dangerous because the effects of an attack cannot be detected immediately.

The information sharing concept applies to biological surveillance as well as to intelligence and oversight. Optimally, biological surveillance streams would feed into a centralized location accessible to all monitoring agencies.

Some interagency communication has already been established. For example, the Food Emergency Response Network (FERN) links state and federal laboratories that analyze food samples in the event of a biological, radiological, or chemical terrorist attack. FERN laboratories are hooked into the Electronic Laboratory Exchange Network (eLEXNET), an integrated information network that allows health officials across the country to compare, share and coordinate laboratory findings.

DHS' National Bio Surveillance Integration System is a step in the right direction. Established in 2005 as part of the National Biosurveillance Initiative, its goal is to

> *"combine and analyze information collected from human, animal and plant health, food and environmental monitoring systems. Such an analysis, combined with evolving threat and intelligence information, will provide greater context for those making critical homeland defense decisions."* [12]

The National Bio Surveillance Integration System, based on integrated information sharing, alerts authorities to a disease outbreak by recording biological events in real time from across the country. Such a program should be encouraged and adequately funded.

In addition, Congress is urged to expand funding for laboratories to enable rapid identification of human and animal disease pathogens and appropriate rapid response.

Protecting America's Chemical Facilities

In America, there are 15,000 facilities that produce, use, or store dangerous quantities of hazardous chemicals, according to the Environmental Protection Agency (EPA). Many of these plants are in densely populated areas making them targets for terrorists. Seven thousand of these chemical facilities have the potential to affect more than 1,000 people. 123 of these facilities, if attacked, could affect more than 1,000,000 people.

Besides the devastating human cost, a terrorist attack on a chemical plant could disrupt commerce because many chemical plants and refineries are located near ports and/or major highways.

Transportation of hazardous chemicals through heavily populated urban areas is another opportunity for a terrorist strike.

Some chemical facilities have begun to institute "Inherently Safer Technologies" (ISTs) in which dangerous chemicals are replaced by safer ones. Not only does IST improve security, it also reduces the danger posed by shipping large amounts of extremely toxic chemicals. [13]

CONGRESSIONAL ACTION

Although legislation concerning chemical plants was passed in 2006, it was not strong enough.

> *"Congress passed an appropriations bill giving the Department of Homeland Security (DHS) interim authority until 2009 to review and approve chemical sites' security plans. The measure does not allow DHS to require specific measures, and provides a mere $10 million to improve chemical plant security."* [14]

Under the legislation, which reflected the recommendations of the chemical industry, America's chemical companies would assess their own vulnerabilities and provide a plan for addressing them.

Chemical companies will be required to conduct background checks on employees. But is there mandated standardization of acceptable criteria for access to the all U.S. plants? Is there a rule that requires biometric identification cards like the ones that will be mandatory for our maritime workers?

Although the companies are required to institute better control access or face fines of up to $25,000 a day, or even being shut down, they are allowed to contest the government's disapproval of their security plans. [15]

Who has the final say on security?

DHS can strengthen security at chemical companies by setting industry wide standards for employee screening, immediate implementation of biometric identification cards, and rigorous binding standards for compliance. In addition standards for risk and vulnerability assessments, with strict deadlines for submission will heighten safety. Finally, for enhanced security, no flight paths should be allowed over the facilities.

Coastal Defense

The Coast Guard is an integral component of border security.

A layer of security was added by the rule that ships approaching the United States must provide notice 96 hours before arrival. It allows the Coast Guard to determine whether to board a vessel before it lands (which it did about 10,000 times in 2005.) [16]

The latest security initiatives are designed to thwart a terrorist attack by sea. To defend against a terrorist attack, for example, in which terrorists crash a fast boat packed with explosives into a liquefied natural gas tanker, the Coast Guard is arming helicopters with machine guns, training security teams to rappel onto moving ships and to gain control of a hostile vessel by force. It is using technology such as sensors, satellites, and surveillance cameras to convey information to harbor based command centers. [17] These are valuable tools to defend against terrorism.

The Coast Guard needs to be equipped with state of the art technology and a fast efficient fleet. But the Coast Guard's fleet is aging. It uses a 43-year-old ice-breaking tug boat to patrol around the Indian Point nuclear power plant on the Hudson River, 24 miles north of New York City. The tug boat's top speed is 10 knots. It has no weapons except handguns. [18]

Unfortunately, the Coast Guard's Deepwater program to refurbish its aging fleet has encountered problems. A number of cutters are out of service. Some ships have deformities and structural cracks; surveillance cameras have blind spots; and communications systems are not secure. [19]

There are other problems as well:

- Its radar system is unreliable. Sometimes waves are mistaken for boats and the image of large ships is split in two.
- Communications and surveillance systems are less effective than expected.
- There is no unified command of the coasts and waterways. Control is divided among at least 15 federal agencies.
- The Coast Guard does not have enough armed vessels or planes.
- The Automated Identification System used to identify approaching ships is not secure. Those intent on avoiding detection can send out false information about the location or identity of the vessel, or even turn the system off.
- The Coast Guard has not yet developed an efficient system for collating the maritime threat information it collects and receives.
- There are turf issues regarding jurisdiction during maritime events. [20]

The Deepwater program is being investigated by the General Accountability Office. (GAO).

Congress is urged to consider streamlining oversight of the Coast Guard. The Coast Guard and other agencies with jurisdiction over maritime events should establish an incident command structure to define responsibilities. Congress should consider what can be done to eliminate substandard contract work and equipment failures which compromise national security. It is also urged to consider ways to prevent outrageous cost overruns.

Border and Transportation Security

The complexity of border and transportation security makes management difficult.

A 2005 CRS Report on "Border and Transportation Security: Possible New Directions and Policy Options", discussed the value of a layered approach to border and transportation security. The layered approach focuses on both logistics, which control the flow of goods, information, and travelers from one point to another, and on intermodal points of vulnerability across the transportation network. Layered security increases the opportunity for intercepting terrorists or terrorist activity at multiple points along the way.

On September 11th, 2001, none of the layers of security — intelligence, passenger prescreening, checkpoint or onboard screening— stopped 19 terrorists from boarding four airplanes at three different airports, For that reason, the 9/11 Commission cautioned that

> *"Each layer must be effective in its own right. Each must be supported by other layers that are redundant and coordinated."* [21]

LAYERED SECURITY MEASURES

For optimal effectiveness, the CRS recommended security measures at these points of vulnerability.

STAFF AUTHENTICATION AND SCREENING AT ALL POINTS ALONG THE TRANSPORTATION CHAIN

The identity of all transportation staff should be verified to ensure that terrorists cannot gain access to, or control of, any part of the transportation system.

SECURE IDENTIFICATION OF TRANSPORTATION WORKERS

Although President Bush signed legislation mandating the new identification cards for transportation workers in 2002, only now are the cards beginning to be issued. [22]

The Transportation Worker Identification Card (TWIC) rule issued by TSA and DHS on January 3rd, 2007, should help protect our ports and add a layer of security when fully implemented. The TWIC rule requires seaport and maritime workers, port owners and port operators to undergo background checks for criminal history and immigration status, and to submit all ten finger prints. Any applicants whose criminal history might place them in the "nexus of terrorism," will be banned. [23]
Federal law enforcement officials are increasingly concerned about the potential interchangeability of smuggling networks and their possible nexus with terrorist networks. [24]

Once the applicant is approved, he or she will be credentialed.

> *"The credential will be a "smart card" containing a photograph and name of each worker, expiration date and serial number. An integrated circuit chip will store the holder's fingerprint template, a personal identification number and a unique identifier."* [25]

Without the credentials there will be no unescorted access to secure areas of vessels and facilities.

In addition to monitoring access, biometric credentials should be used to provide "*a record of ...every instance of request for entry, grant of entry, denial of entry and other data; a record of personnel movement; asset protection; and flexible security.*" [26]

The ID credentials will be gradually phased in beginning in March. Ultimately more than 750,000 employees, union workers, mariners and truckers will be credentialed. The TWIC fee is $159 and valid for five years. The fee is high, especially for truckers who have a high turn over rate and may not use them for the full five years.

Incredibly, the TSA rule does not require port operators to install the machines to read the cards that verify employees' identities. [27] That defeats the purpose of requiring the card.

Why didn't the rule require card readers at the same time as implementation of the TWIC rule?

Ultimately the plan is to apply a single standard to approximately 5 million transportation workers at seaports, airports, chemical plants, and other protected facilities in the United States. [28]

TSA and DHS should issue an immediate supplementary TWIC rule requiring installation of machines capable of reading the TWIC smart cards.

As soon as its efficacy is proven, implementation of this credentialing program should be accelerated and expanded to include workers in all vulnerable industries.

ADVANCE ELECTRONIC CARGO MANIFEST REQUIREMENT

Security was improved when Customs implemented the "24 hour rule" requiring submission of specific manifest information 24 hours in advance of cargo being laden on a US bound vessel at a foreign port. This rule gives Customs enough time to do a risk assessment of arriving cargo. [29]

SECURE FREIGHT INITIATIVE

Another security program which should heighten port security is the Secure Freight Initiative which will begin this year. The Departments of Energy and Homeland Security announced that all US-bound cargo sent by container ships from three ports in Pakistan, Honduras and Southampton, England, will be scanned for hidden nuclear weapons or components.

The containers will be scanned by a radiation detection machine and an X-ray device and have their identification numbers read by an optical character reader. The combination of radiation detection and X-rays is supposed to find bomb-making materials that have been shielded. The radiation scan and X-ray images will be transmitted electronically to U.S. Customs and Border Protection officials, who can request that local law enforcement at the foreign ports to do a more comprehensive search of suspicious findings.

However, some antiterrorism experts have expressed concern:

- The screening will take place only on container ships, not on ships carrying millions of tons of other cargo, including cars, fuel or goods placed on pallets;
- The detection equipment is unable to see through many items that might be inside a container, like frozen food;
- The equipment is prone to false positives;
- Not all of the X-ray images will be checked, so a bomb could still get through.
- Since the equipment is installed in only a small number of ports, terrorists could send a bomb by container from somewhere else. [30]

Homeland Security Secretary Michael Chertoff said the department will also install radiation detection and X-ray scanners at three other ports — in South Korea, Oman, and the Port of Singapore. However, not all containers at these ports will be scanned using the combination of radiation scanning and X-ray technology. [30a]

Other possible safeguards to protect the vulnerability of cargo in transit include "smart-container" technology which can detect and record when a container is opened and the use of Global Positioning System (GPS) technology to track container location at any given point in time. [31]

Screening of Travelers

The Commission noted that when people travel, they usually move through defined checkpoints. Each checkpoint is an opportunity to verify the identity of the traveler and to intercept terrorist suspects: when they acquire a passport, apply for a visa, check in at ticket counters and gates, stop at exit controls at airports and seaports, and pass through immigration inspection points. Or interception can occur when the traveler seeks another form of identification or to change his immigration status in order to remain.

Onboard security worked in the recent case of six imams who were ejected because their behavior was alarming to the flight crew and passengers.

> *"Flight attendants said they were concerned that the way the imams took seats that were not assigned to them -- two seats in the front row of first class, exit seats in the middle of the plane and two seats in the rear -- resembled the pattern used by September 11 hijackers, giving them control of the exits."* [32]

The airline acted correctly.

INTEGRATED TERRORIST WATCHLIST

For optimal security, an integrated terrorist watch list should be made available to those who are monitoring activity at our borders.

On Sept. 16, 2003, President Bush signed Homeland Security Presidential Directive-6 directing that more than a dozen federal terrorist watch lists be integrated into a single master list of "known and suspected terrorists" maintained by the FBI. The deadline for creating the integrated master list was Dec. 1, 2003.

As a result of the directive, the FBI's Terrorist Screening Center was created. The FBI master list was to become a subset of the database maintained by the joint FBI-CIA Terrorist Threat Integration Center (TTIC).

When new information was added to the database, DHS was to review it and decide whether it would be made available to state and local law enforcement and to those responsible for critical infrastructure.

TTIC was also directed to "promptly assume responsibility" for the State Department's TIPOFF database which has more than 110,000 names of known and suspected terrorists. TIPOFF is used by consular officials to screen foreign visitors to the US. [33]

Noting that the watch lists had not been integrated and shared, the 9/11 Commission recommended in 2004 that

> *"Every stage of our border and immigration system should have as part of its operations the detection of terrorist indicators on travel documents. Information systems able to authenticate travel documents and detect potential terrorist indicators should be used at consulates, at primary border inspection lines, in immigration services offices, and in intelligence and enforcement units".* [34]

Where are we now? The lists have been consolidated but not merged.

Nominations from both the intelligence agencies and law enforcement, including the FBI, and state and local police, are submitted to Terrorist Screening Center for inclusion on the Terrorist Watch List. The CIA makes most of the nominations from the intel side.

But as for sharing of information and access by state and local law enforcement, as of June, 2006, DHS was still in the " 'early stages' of developing a strategic plan for capturing and disseminating intelligence along the nation's borders" and that Customs and Border Protection officers do not have access to all watch list databases. [35]

It is scandalously negligent that an effective plan for sharing integrated watch list data, and "capturing and disseminating data" along our borders is not in place more than 5 years after 9/11. Development of such a plan should have started immediately after the terrorist attacks.

An integrated terrorist watch list is integral to protecting our borders and our nation.

In evaluating terrorist screening, Congress is urged to

- **Explore how best to integrate and share the various watch lists;**
- **Direct DHS to implement an intelligence information sharing plan along our nation's borders as soon as possible;**
- **Examine the criteria used to accept a nomination for inclusion on the watch list;**
- **Determine who has access to the watch list and how that information is used;**
- **Address the difficulty of removing an innocent person's name that has been included on the watch list. Redress is currently very difficult.**

SCREENING PASSENGERS BY OBSERVATION TECHNIQUES (SPOT)

One credible new screening program which should be expanded and adequately funded is SPOT. It is race neutral and adds another layer of security. Trained TSA

workers identify suspicious passengers by observing unusual or anxious behavior reflected in mannerisms, excessive sweating, or changes in the pitch of a person's voice. So far, SPOT has resulted in the arrest of more than 50 people for drug possession, illegal entry or having fake identification.

Suspicious passengers will receive more thorough screening which might include face-to-face interviews with local police and national criminal database checks to help determine if a threat exists. If terrorist ties are suspected, Federal counterterrorism agents will become involved.

The TSA is considering deploying SPOT teams to other transportation systems like train and bus stations. [36]

Because the SPOT program is successful, the TSA should expedite expanding SPOT to include screening in all modes of transportation, including intermodal nexus points. To broaden the scope, SPOT training should be mandated for state and local police to add another layer of protection, especially for mass transportation. Congress is urged to ensure adequate funding for the program.

BIOMETRIC IDENTIFICATION

Securing our borders while simultaneously facilitating the movement of people to and from our country without unnecessary delays or intrusion into their privacy is a priority.

The State Department's implementation of new passport rules beginning this year is a welcome initiative. New electronic passports embedded with a smart chip that stores the traveler's photo and personal information will add a layer of security at our borders. To counter the possibility that hackers will compromise security by skimming personal data as it is being transmitted wirelessly, the State Department added metallic anti-skimming material to the passport covers and encrypted the information.

Another positive is the requirement beginning January 23rd that air travelers to and from Canada, Mexico and the Caribbean will need a passport except for those travelers who have a "Nexus Air card", issued through a joint US-Canada program which prescreens travelers.

Undermining these security initiatives though, is America's extraordinary leniency regarding the kind of documentation that is acceptable for crossing our borders. Diverse forms of acceptable documentation and multiple exceptions to the rule do not enhance our security. For example, a passport is required now for air travelers — unless they have a Nexus air card for travel to and from Canada. Land and sea travelers will need a passport by June, 2009 to travel to Canada, Mexico and the Caribbean —unless they don't want to pay the $97 passport fee and opt instead for a $20 "passport card" to be introduced later this year. [37]

Then there are those who enter through the Visa Waiver Program (VWP). A visa is required for entry— unless you come from one of 27 visa waiver countries. President

Bush wants to increase the number of countries included in this program. You are encouraged to quash that effort. [38]

The Government Accountability Office (GAO), concluded in a July report that the Department of Homeland Security (DHS) cannot keep up with the 27 visa waiver countries already approved. [39]

In addition, travelers admitted through the VWP do not have background checks prior to their arrival in the U.S.. That means there is only one opportunity— during immigration inspection at the port of entry— to identify terrorists or others who should not be admitted. [40]

Visa waivers offer a loophole for terrorist entry. England, Germany, Spain, and other friendly nations have terrorist cells, as evidenced by attacks and arrests there. Requiring visas of everyone who enters our country would add an extra layer of protection, providing another opportunity for interdiction at which a terrorist could be screened and stopped.

Leniency of admission standards, variable standards for entry and failure to enforce current immigration laws contribute to our porous borders and compromise our security.

Congress is urged to mandate uniform requirements for entry into America.

US-VISIT PROGRAM

US-VISIT was designed verify the identity of visitors and record their arrival to and departure from the United States using biometric identifiers (fingerprints of two index fingers) and digital photographs. Information collected is compared to watch lists to screen for criminals, suspected terrorists and visitors who stay in the country illegally.

Of 170 U.S. land Ports Of Entry (POEs), 154 have US-VISIT entry capability. Although there are statutory requirements for exit capability, US-VISIT officials have concluded that biometric US-VISIT exit monitoring cannot be implemented at this time due to technical difficulties, impact on the flow of traffic across the border and the cost of expanding facilities and infrastructure that would be needed. [40a]

The only proven technology for verification of an exiting visitors' identification is the same one which is used for entry verification. CBP officers at land POEs would follow the same screening procedures as for US-VISIT entry:

> "*examine the travel documents of those leaving the country, take fingerprints, compare visitors' facial features to photographs, and, if questions about identity arise, direct the departing visitor to secondary inspection for additional questioning.*" This would result in "*additional staffing demands, new infrastructure requirements, and potential trade and commerce impacts.*" [40b]

Non-biometric exit technology was tested using radio frequency identification (RFID) technology in the interim, but the failure rate was high and RFID could not verify that visitors who enter the country are the same as those who leave. In RFID trials, a microchip with a single number was embedded in a tag on the departure form. This unique ID number was linked to the visitor's biographic information but did not verify the identify of the holder. [40c]

US-VISIT officials are expected to announce soon that plans for verifying visitors' identification upon exiting will be dropped. [40d]

DOMESTIC FLIGHTS

One of the first lines of defense against terrorism is determining who is on the flights, whether they are international or domestic.

International passengers are checked before boarding against the No Fly List. Once the plane leaves the ground all names on the passenger manifest are checked against DHS' Custom and Border Protection's Selectee list, which is a comprehensive watch list. CBP can then decide whether to admit someone or contact the FBI. **To strengthen security, Congress should mandate that the manifests be checked *before* the plane leaves the ground.**

On domestic flights, the airlines check passenger names against the No Fly list. Once the plane leaves the ground, there is no parallel process to that of international flights. Passenger manifests are not checked by government agents against a comprehensive watch list. Today, once a potential terrorist boards a domestic flight, one layer of security is missing, even though it was four *domestic* flights that were hijacked on September 11th. This lapse in security is unacceptable, especially since we know from the 9/11 Commission investigation that two of the 9/11 terrorists were on a CIA watch list in 2001, and could have been stopped if the information had been shared in time.

The first objective is to keep potential terrorists from entering our country. If that security layer fails, then domestic security must be stringent enough to succeed in stopping them. To increase the chances of interception, Congress should mandate that domestic passenger manifests be checked by government agents against a comprehensive watch list.

INTERNAL TRAVEL

America would be more secure if state issued documents such as drivers' licenses adhered to consistent standards from state to state. A driver's license often serves as proof of identity, enabling the holder to travel within the country and conduct business.

The 9/11 Commission recommended setting national standards for state-issued documents — including birth and death certificates and driver's licenses. This recommendation was only partially implemented in the Intelligence Reform and Terrorism Prevention Act of 2004. Although the House passed H.R. 418, The Real ID Act, on February 10, 2005, the Senate took no action. [41]

Illegal immigration poses a threat to our security because it is impossible to verify the identity of those who do not come through America's official ports of entry. Standardization of legally acceptable proof of identity would add another layer of security to combat terrorist travel and would help stem identity theft.

Congress is urged to standardize legally acceptable proof of identity; to investigate lax enforcement of current immigration laws; and to fully fund the building of a fence on our southern border, technology to provide virtual barriers, and the hiring additional border patrol agents.

IMPROVED TRAINING FOR BORDER INSPECTORS

Border inspectors should receive updated training that highlights terrorist travel methods and document falsification techniques. Fifteen of the 19 hijackers carried documents that would have made them vulnerable to interception by border inspectors. [42]

Screening for Other Modes of Transportation

RAIL AND MASS TRANSIT SECURITY

Since 9/11 the government has spent $18 billion in aviation security and less than $500,000,000 on rail and transit security combined.

Government attention and leadership in this area is needed. Although mass transit is locally owned, protecting those modes of transportation and the intermodal connections is a national security issue and thus the federal government's responsibility.

Currently, within the executive branch, there is no single entity responsible for rail and mass transit. Responsibility is shared by the DHS and DOT.

Screening passengers on trains and mass transit is extremely difficult because of the numbers of people involved, and the speed with which passengers board and disembark. However, as evidenced by the Madrid and London bombings, rail and mass transit are especially vulnerable to attack.

Congress is urged to establish a leadership position whose responsibility is rail and mass transit issues, comparable to the FAA Administrator, within the executive branch.

VEHICLE SECURITY

In addition to the above security measures, the CRS report advised monitoring the physical security of all the various kinds of vehicles and vessels that carry passengers and cargo.

Steven Flynn author of *America the Vulnerable* recommends the use of transponders to track the location and route of vehicles transporting hazardous material. Others have proposed an automatic shutoff device for large rigs hauling such material. [43]

These two proposals would add another layer of security and are worth exploring.

Additional Security Tools Suggested by CRS

RED TEAMS AND WAR GAMES

As proposed by 9/11 Commission staff tasked with aviation and transportation security, Congress should create covert Red Teams outside the TSA and DHS to pinpoint and explore potential vulnerabilities in all transportation modes and use war-games to devise counter measures to those vulnerabilities.

In the two years preceding the terrorist attacks on 9/11, there were no Red Team exercises at Logan and Newark airports.

EXPAND RESEARCH AND DEVELOPMENT FUNDING FOR COMPATIBLE RADIATION AND EXPLOSIVES SCREENING DEVICES

There should be increased funding for research and development of radiation and explosives detection devices that can be used across all transportation modes. The ability to use Non-Intrusive Inspection (NII) technology at rail and transit terminals to detect explosives carried by a passenger at a distance would significantly improve security, as would "puffer" type explosive screening for passengers, sensors for chemical and biological materials, and bomb-sniffing dogs. Congress is urged to ensure adequate funding for all these security initiatives.

INVESTIGATE WAYS TO STRENGTHEN SECURITY AT NEXUS POINTS

Security should be strengthened at every juncture where cargo moves from point to point — from truck to container to ship to train to truck to delivery. Security should also be improved for smaller pallets to prevent tampering at these vulnerable points. [44]

Nuclear Danger

Nuclear danger is two-pronged.

EXTERNAL DANGER

The first involves the accessibility of radioactive and fissile material. The US must be more aggressive in securing the loose nuclear and radiological material especially in the former USSR to prevent it from falling into the hands of terrorists. Nuclear smuggling has increased sharply. In 2005 alone, there were more than 100 confirmed incidents of trafficking and unauthorized access to nuclear and fissile materials. [45]

A report released in 2005 by the John F. Kennedy School of Government at Harvard says that there is enough material in the former Soviet Union to build 80,000 nuclear weapons. Only half of it was secured. [46]

Interestingly, Dr. Igor Bolshinsky of the U.S. Department of Energy's National Nuclear Security Administration said during an ABC News taping that weapons-grade, highly enriched uranium can be picked up with one's bare hands, making it very attractive to terrorists. [47]

Between 2005 and 2010, the United States expects to spend more than $500 million to reduce the nuclear threat globally. Critics contend that is not enough. However, Ambassador Linton Brooks, former head of the National Nuclear Security Administration, said,

> *"Our problems are not primarily money...Our problems are access in the Russian Federation. Our problems are convincing other countries that they need to take the threat as seriously as we are, and we keep working through that. The greatest incentive in the world is to understand that we're all in the cross hairs, and therefore we want to take away the bullets."* [48]

Al Qaeda has repeatedly tried to obtain nuclear material and recruit nuclear scientists. Improved tracking of nuclear and radiological material has helped security, along with the use of radiation monitors at airports, ports and tunnels leading into major cities, but more needs to be done, and quickly. [49]

INTERNAL DANGER

The second involves internal security lapses at our nuclear facilities. Knowing that there is the threat of nuclear terrorism, it is inconceivable that security at Los Alamos and other nuclear weapons facilities is so lax. In a report dated Nov. 27, 2006, the Energy Department's inspector general criticized the National Nuclear Security Agency (NNSA), saying, "In a number of key areas, security policy was nonexistent, applied inconsistently, or not followed." [50]

Two striking security breaches occurred within the past year. Police responding to a domestic dispute uncovered drug paraphernalia and computer flash drives containing thousands of classified documents in a former Los Alamos worker's home. The other breach occurred when a computer hacker stole Social Security numbers, birth dates and other sensitive information about 1500 Energy Department contractors. [51] For nine months, neither those whose data was compromised, nor top officials were notified of the breach. [52]

It is not only federal facilities that are lax. In 2005, over a four month period an ABC News investigative team visited 25 universities with nuclear reactors. It found

> *"gaping security holes at many of the little-known nuclear research reactors operating on 25 college campuses across the country. Among the findings: unmanned guard booths, a guard who appeared to be asleep, unlocked building doors and, in a number of cases, guided tours that provided easy access to control rooms and reactor pools that hold radioactive fuel".* [53]

Congress is urged to invite expert witnesses to testify regarding the nuclear threat to gain their perspective on stumbling blocks that are slowing the process of securing accessible nuclear material and their recommendations on how Congress can help.

In addition, Congress is urged to make securing nuclear materials, a high priority and emphasize to the President and the Secretary of State that strong leadership is needed to convince all nations to cooperate in diminishing the nuclear threat.

Regarding internal security at our nuclear facilities, please consider dispatching Red Teams to evaluate security flaws, and act on their evaluations without delay.

For an added layer of security, flight paths should not be allowed over America's nuclear power plants.

Risk Based Homeland Security Funding

In the past both the House and the Senate have proposed legislation allocating to each state a percentage of the total funding for homeland security assistance. The differences between them lie in the criteria and formulas for distribution.

As explained in CRS Report RL 33050, *Risk-Based Funding in Homeland Security Grant Legislation: Analysis of Issues for the 109th Congress,* the House would guarantee each state a minimum amount after risk-based state allocations are determined. The Senate would guarantee each state a base amount without regard to risk. [54]

After weighing all the information it obtained about the 9/11 attacks—including the terrorists' targets and goal of killing as many people as

possible with nearly simultaneous multiple attacks— the 9/11 Commission concluded that Homeland Security assistance should be risk-based. For this reason, Congress is urged to mandate risk based distribution.

Emergency Preparedness

Two aspects of emergency preparedness must be considered. The public must be prepared and informed about protective measures it can take, and the first responders must have an organized emergency plan and the best available interoperable communications system.

To prepare the public for an emergency, in addition to detailing the contents of an emergency go-bag, emergency evacuation drills should be required in the private sector, preferably unannounced. Some drills should include blocked exits. These drills should be held several times a year so that occupants are familiar with both usual and unusual escape routes. High rise buildings should be required to hold full evacuations which exit on the ground.

In the event of a terrorist attack, or other mass casualty disaster, first responders must be prepared to act as quickly and efficiently as possible to minimize the loss of life and limit destruction. These key elements are needed:

INCIDENT OR UNIFIED COMMAND

Mandating rigorous training in either Incident or Unified Command Systems which define leadership responsibilities and allow each group of first responders across multiple jurisdictions to understand their unit's role, will make rescue efforts will more organized and efficient.

INTEROPERABLE COMMUNICATIONS

An interoperable communications system which enables state and local emergency responders to talk across jurisdictions is needed to prevent a tragedy such as happened on 9/11. Hundreds of firefighters died when they did not hear Police department evacuation orders prior to the collapse of the Towers because their radios were incompatible with police radios.

One official knowledgeable about DHS grant programs remarked "The interoperability goal is fine but how is it going to be paid for?" [55]

Some members of the House Homeland Security Committee urged Congress to address the problem by creating a grant program to help cities update their emergency communications. 56]

It is hoped the Senate will also address the interoperability issue, especially since a DHS report just released revealed that there are still major problems

with how well emergency agencies communicate. DHS evaluated 75 cities and surrounding suburbs on their emergency response capabilities in three categories: operating procedures; communication; and coordination. Only 6 cities received a top rating. [57]

The twin issues of interoperability and unified command must be resolved for the safety of both victims and first responders.

SIMULATED ATTACKS

Simulations and drills sponsored by Homeland Security are needed, but it is important for Congress to evaluate the effectiveness of the various exercises before it designates funding.

Top Officials program (TOPOFF) incorporates seminars, planning events and large-scale national exercises to train and drill government leaders and responders. It focuses on preventing, responding to and recovering from various types of large-scale terrorist attacks.

The scope and cost of TOPOFF exercises have increased rapidly, from 18 federal agencies participating in the first drill (pre-9/11 at a cost of $3 million) to 27 federal agencies, dozens of state and local departments and 156 private sector organizations (at a cost of $21 million) in the last full-scale event.

There are valid criticisms of TOPOFF:

- Its high cost and inefficient use of funds. Critics contend that for the cost of a two-city TOPOFF event, exercises could be done in 30 cities.
- Its use of consulting companies to run and evaluate disaster exercises. Critics believe that invalidates the simulations because contractors approach all locations the same way, without considering the unique variables of a specific location.
- Simulations that give advanced warning. This results in an unrealistic picture with fewer unforeseen problems. Critics believe more valuable emergency response insight is gained from real-life false alarms.

Critics argue that rigorous, independent evaluation is needed to accurately assess both the positive and negative of response capabilities. An after-action report on the exercise should be mandatory to aid in critical follow-up needed to correct deficiencies, either through additional training or policy changes.

Positive steps taken by the DHS include its Lessons Learned Information Sharing Web site (www.llis.gov) where registered users have access to preparedness information and after-action reports, and its Homeland Security Exercise and Evaluation Program (www.hseep.dhs.gov), which standardizes policy, methodology and language for designing, conducting and evaluating exercises.

Also positive is that DHS, Health and Human Services (HHS), and the Centers for Disease Control and Prevention (CDC) are beginning to require

use of the Homeland Security Exercise and Evaluation model before funding an exercise. [58]

Critical Infrastructure

To protect critical infrastructure, standards for risk assessment and well defined protective strategies and warning devices must be in place. If target dates for compliance are missing, DHS should set immediate deadlines for receipt of this information from critical infrastructure elements such as oil refineries, chemical facilities, nuclear power plants, and those who manage metropolitan area transportation systems, energy networks, and our food and water supply.

Recently, an analysis done for the New York-New Jersey Port Authority, a bi-state public agency that manages bridges, tunnels, bus terminals and airports, determined that the train tunnels running under the Hudson River are more vulnerable to a bomb attacks than previously thought. A relatively small bomb would flood one tube within 6 minutes, and within hours, produce significant flooding of the rail system. To address this vulnerability, the Port Authority plans to lay concrete blankets atop the tubes to plug holes caused by a blast, strengthen critical sections of the tubes and install floodgates.

However, neither the DHS, the governors, the Mayor of New York City, nor the New York Police Department were told of the vulnerability analysis. [59]

Congress is urged to determine how best to ensure that public authorities and others responsible for critical infrastructure report risk assessments to DHS (and other pertinent officials) in real time.

If the public authorities receive separate homeland security funding, that would be a place to start.

A Clearly Articulated Plan for Information Sharing

When this legislation is passed, it is hoped it will include a clearly articulated plan for information sharing.

Frustrated by the lack of federal leadership and harmonization, cities and states in 37 states have established their own "fusion centers" which collect and analyze information from local, state and federal law enforcement officials. The centers have received $380 million in federal support since the 2001, but with little concomitant federal guidance, training, and standards. [60]

To strengthen the Information Sharing Environment, Congress is urged to:

- **Extend the term of the Program Director and make the position permanent;**
- **Require Senate confirmation for the appointment;**

- **Give the Program Director the ability to issue government wide standards;**
- **Move the Program Director's office to NCTC;**
- **Provide for training of state and local law officers by experienced professionals in preparing and interpreting intelligence data so that there is some consistency and cohesiveness between the fusion centers and federal agencies. Such training would**
    - **improve the usefulness of data sent to the NCTC by state and local authorities;**
    - **increase state and local authorities' ability to interpret intel products correctly;**
    - **better integrate the state and local law enforcement with the federal government agencies;**
- **Determine the quality of interaction between state and local police and the FBI. Communication between these agencies is critically important. State and local police may be the first to encounter terrorists. For example, in Oklahoma, a trooper stopped 9/11 terrorist Nawaq al Hazmi for speeding on April 1, 2001.** [61] **Another terrorist, the pilot of Flt. 93, Ziad Jarrah, was stopped on September 9, 2001, in Maryland doing 90 mph.** [62] **Unknown to the police officers at the time, Al Hazmi, his passenger fellow terrorist Hanjour, and Jarrah all were in violation of immigration laws and could have been detained, perhaps unraveling the plot.**
- **Establish a federally funded intelligence institute for training of state and local law enforcement;**
- **Authorize additional funding for improving the Information Sharing Environment.**

Define What We Stand For

"The U.S. government must define what the message is, what it stands for. We should offer an example of moral leadership in the world, committed to treat people humanely, abide by the rule of law, and be generous and caring to our neighbors." [63]

As Congress moves forward under new leadership, it also needs to look back at the actions of our government, and ask whether those actions best represented the ideals of our nation. If not, what changes need to be made?

After the devastation of 9/11, the families who lost so much were overwhelmed by the outpouring of support from across the country. Americans are compassionate, generous, caring people. We need to show that face to the rest of the world.

Conclusion

Congress shoulders a huge responsibility when it comes to national security. There are so many agencies and issues involved: 17 intelligence agencies, federal state and local law enforcement; security across all modes of transportation; port and coastal security; protecting the infrastructure, energy and communication networks; preparedness, and emergency response. The American people depend on our government—on Congress, the Executive and the Judiciary branches—to protect us from external and internal threats to our safety, our security and our Constitutional rights.

Decisions which you make today will affect American families now and in the future. Six or seven years ago, the FAA yielded to pressure from industry lobbyists who objected to heavy fines for egregious airline security violations. The purpose of the FAA fines was to force the airlines to correct identified security problems. What if the FAA had not reduced the fines to 10 cents on the dollar? Suppose those in Congress tasked with aviation oversight had disallowed any fine reductions for security lapses and instead called for full imposition? If the airlines had hardened security in response to heavy fines for violations, would that have stopped the terrorists on 9/11? We will never know. But in your oversight capacity, please remember the lessons of 9/11, and hold all government entities accountable for protecting the American people.

You are urged to approve full implementation of the 9/11 Commission recommendations. They were designed to make America safer. It is only a matter of time before terrorists breach our security network again. Our level of protection will depend on the safeguards and defense mechanisms that you, the members of Congress, mandate, along with your oversight to ensure compliance.

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Senate Committee on Homeland Security
and Governmental Affairs

"Ensuring Full Implementation of the 9/11 Commission's
Recommendations"

Testimony given by:
Carie Lemack
Daughter of Judy Larocque
Co-founder and President of Families of September 11

9 January 2007

It is an honor to testify before the Senate Committee on Homeland Security and Governmental Affairs. I would especially like to thank Chairman Lieberman and his impressive staff for inviting me here today. I would also like to thank Ranking Member Collins and her dedicated team with whom I have had the privilege of working in the years since 9/11. My appreciation and thanks go out to all members of this committee. The work you do in overseeing our country's homeland security helps ensure those tasked with defending our country stay focused.

The 9/11 Commission made 41 recommendations. Roughly half of these recommendations have already been implemented, thanks in no small part to the efforts of this committee. The fall of 2004 was an extraordinary time. Many of us were inspired by your willingness to spend weeks and months making sure the Commission's recommendations did not fall on deaf ears. The passage of the 2004 Intelligence Reform and Terrorism Prevention Act was an historic moment, of which we can all be proud.

So much to be proud of, and yet, so much more to do. More than five years after 9/11, the terrorist threat has inevitably grown a little more distant. Some experts are now telling us that it isn't as serious as we had thought. If al Qaeda are such a threat, why haven't we been attacked again? To answer that question, just ask the people of London, or Madrid, or Bali, or the other places where the terrorists have struck since 9/11. The US has not been attacked again. But we will be.

Thanks to the work of so many dedicated public servants we are safer than we were. But in the words of 9/11 Commission Chairman Thomas Kean, we are still not as safe as we need to be.

On the morning of September 11, 2001, my mother, Judy Larocque left home to go on a business trip. She woke up early that day, at 5:30am, in order to make her 8 o'clock flight to the West Coast. Oddly enough, even though I am not a morning person, I was up even before her that day, serving as a coxswain for the MIT graduate school crew team. As I glided on the Charles River that morning, I realized I could have called Mom before my 6am practice, just for a kick, since it was not often we were both up so early. But I didn't, thinking she might be running late (a trait she passed down to me and my sister) and knowing it would be easier to talk later in the day, once her cross-country flight landed.

I never did get to talk to Mom that morning, though I left many messages on her cell phone. To this day, I still find myself looking at my caller ID whenever the phone rings, waiting for it to say "Mom cell", waiting for the call from her that I never got that gorgeous fall morning.

I often think about what I would tell Mom if she called. I dream about it all the time. She was founder and CEO of a company, so I sometimes think I might tell her about

founding the non-profit organization Families of September 11, which represents more than 2,500 individuals who chose to join our group and support the terrorism prevention work we do. I might tell her about the opportunities I have had in the past five years that she could never have predicted, like testifying before this esteemed Committee today.

But the most important thing I could possibly tell her is that I love her, and that I am doing everything in my power to make sure what happened to her never happens again. That would come as no surprise to Mom. She brought my sister and me up to fix wrongs and make them rights.

Today I am asking you to fix a small number of important wrongs, and make them right. Some of the important recommendations of the 9/11 Commission report have still not been implemented. I raise them not in the spirit of placing blame or making accusations, but rather in the hope that together we can own up to gaps, failures and mistakes in the past, so that we are not condemned to repeat them in the future.

I fully support the statements of my colleagues who are also testifying before this panel, so I will not use your valuable time repeating their words. Instead, I will say that I share their views, and echo their sense of urgency on the topics of private sector preparedness, proper first responder communication interoperability, improved information sharing in the intelligence community, creation of a shared, consolidated terror watch list, adequate border control and appropriate port security.

I will focus today on four main areas where I believe there are still important gaps that you can help to fill: congressional oversight, nuclear terrorism, transportation security and risk-based homeland security grant funding.

Congressional Oversight

Intelligence

First, congressional oversight. Since 9/11, we have overhauled the intelligence community, restructuring it so it can face up to today's threats without having to rely on yesterday's structure. We have created a new Department of Homeland Security to better organize the agencies that protect the nation. But in order to provide adequate oversight over those acting in our defense, Congress itself must change.

The 9/11 Commission report talks about the need to strengthen congressional intelligence oversight, and I will use their words to underscore its importance. "Congressional oversight for intelligence…is dysfunctional[1]". The creation of a National Intelligence Director, the so-called DNI "will not work if congressional oversight does not change, too.[2]"

They go on to say "[o]f all our recommendations, strengthening congressional oversight may be the most difficult and important. So long as oversight is governed by current

[1] 9/11 Commission report, pg.420.
[2] Ibid.

congressional rules and resolutions, we believe the American people will not get the security they want and need.[3]"

Their words are unambiguous and compelling. Without congressional action to improve intelligence oversight, we are denying the American people a vital element in ensuring the security they need. You can help change this and help provide adequate oversight that is so desperately needed. As the Commission's final report says: "The American people may have to insist these changes occur, or they may not happen.[4]" Please consider this testimony our insistence. The change needs to take place now, not after another catastrophic event brings even more victims' family members to this witness table.

Homeland Security
In 2002, Congress and the President created a new Department of Homeland Security (DHS), implementing the largest government reorganization in fifty years.

DHS is charged with securing the homeland, an incredibly important task. As such, it merits strong congressional oversight. Unfortunately, as it stands today, there is no consolidated congressional oversight over the department. Instead, it is split among literally dozens of congressional committees and subcommittees.

It was reported in 2004 that the Secretary of Homeland Security reported to 88 committees and subcommittees. That number has decreased, but not by nearly enough. When we talk of oversight we should not mistake quantity for quality. Secretary Chertoff has a hard enough task as it is, managing a department with over 180,000 employees . It is right he and his team should be subject to rigorous oversight. But he also needs to be allowed to get on and run his Department too.

Congress needs to streamline homeland security oversight to a limited number of committees and subcommittees. If legislators saw the urgent need to dislocate many agencies from their departmental homes to form one Department of Homeland Security, why would they not see the need to make a corresponding, if difficult, change in committee jurisdiction to have one point of oversight? Would it not help those agencies work more efficiently?

I have been told that people in Washington refer to jurisdiction as "the big J". People are loath to talk about it. But we must. Oversight over homeland security is too important not to.

Proliferation of Weapons of Mass Destruction

Nuclear Terrorism
Osama bin Laden was the mastermind behind my mom's murder. He planned it, watched it on CNN, and gloated about it. Now he has pledged to kill 4 million innocent Americans, backed by a religious edict. We have seen the patience, skill and

[3] 9/11 Commission report, pg. 419.
[4] Ibid.

determination with which al Qaeda works. We would be foolish not to take seriously al Qaeda's aspiration to obtain WMD.

We must stop them.

The 9/11 Commission knows it – they said "the greatest danger of another catastrophic attack in the United States will materialize if the world's most dangerous terrorists acquire the world's most dangerous weapons.[5]" President Bush and Senator Kerry both agreed during the 2004 presidential debates that weapons of mass destruction in the hands of terrorists were "the biggest threat facing this country".

I am pleased that so many leaders, on both sides of the aisle, have expressed their concern about preventing terrorists from acquiring weapons of mass destruction. But expressed support, unfortunately, is not enough to keep this country safe and secure. Rather, that support must be combined with action.

The good news is, at least in the case of nuclear terrorism, we can do a great deal to stop Osama and his hate-filled comrades. Happily, there is a limited amount of nuclear weapons materials, and no terrorist organization currently has the resources to make their own. If we lock down nuclear weapons materials before the terrorists acquire them, they will not have a nuclear weapon, and there will be no nuclear terrorism.

The bad news is that our government was given a "D" by the 9/11 Commission for its work in preventing nuclear terrorism.

At the end of 2005, US funded comprehensive security and accounting upgrades had been completed for only 54% of the buildings in the former Soviet Union; quick-fix upgrades had been completed for an only an additional 10 percent.

The Global Threat Reduction Initiative, the US led program to secure highly-enriched uranium (HEU) around the world has major gaps. Two thirds of the US supplied HEU abroad is not yet covered and nearly half of the research reactors that use weapons usable material are not yet targeted or conversion to fuel that can't be used for a nuclear weapon.

As Senator Sam Nunn says, we are in a race between cooperation and catastrophe and the outcome is unclear. We need to take action now.

There has been much discussion about what Congress can do to prevent terrorists from acquiring weapons of mass destruction. There is an answer.

First, and foremost, we need proper direction for this effort in the Administration. The most fundamental requirement of success is sustained high-level leadership. So the task is - in the first instance - bureaucratic. We need someone with the clout to bring departments and agencies together, someone with Presidential access to create

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[5] 9/11 Commission report, pg. 380.

opportunities to accelerate work to lock down nuclear materials and someone to break through the bureaucratic obstacles that stymie progress.

Right now, for the most part, there are still separate streams of work, separate reporting chains and I find it shocking that there is no one at a high level in this Administration who wakes up every day solely focused on preventing nuclear terrorism.

We need, as a start, a high level assistant to the President, whose sole job it is to oversee and prevent nuclear terrorism. This person should be a Deputy National Security Advisor, who works within the National Security Council. This person should be able to coordinate work across departments (State, Energy, Defense) to dramatically accelerate our work with other nations to lock down nuclear weapons materials at their source. The terrorists don't operate in neat functional silos. We cannot afford to do so either.

I urge you not to wait for a systemic failure that will bear witness to the need for this high level, focused attention to dramatically accelerate our cooperative work to lock down nuclear weapons materials – we simply cannot afford the consequence of failure -- whether measured in human lives or on economic terms.

I'd like to make one final point on this issue. We have devoted huge resources to the detection of nuclear weapons materials– at the borders, in ports, in our cities. But I want to make one thing clear - even if it were 100% effective, by the time we are talking about "detecting" a nuclear device, we are talking about a bomb that has already been formed and is ready to do severe damage. Rather than relying on scanning equipment at ports in the U.S. and abroad our first line of defense should be in securely managing the nuclear materials that are essential to bomb-making.

There are nuclear weapons materials in more than 40 countries, some secured by nothing more than a chain link fence. We need a global effort to lock down highly enriched uranium and plutonium world wide and the United States government should be the change agent. Detection is very hard to do. Nuclear bombs give off very little radiation, and a sheet of lead can easily shield radiation from detection equipment. As such, the best way to make the country—and the world we live in—safe against nuclear terrorism is to lock down the materials at the source, plain and simple.

Incidentally, there is a short, 45-minute docudrama called *Last Best Chance* that highlights this issue quite well. It stars one of your former colleagues, Senator Fred Dalton Thompson, and puts you in the perspective of the President of the United States after terrorists have gotten their hands on nuclear weapons materials. As Senator Thompson's character laments, why didn't we do something about this sooner? Now is our last best chance, and we simply cannot afford to squander it.

Families of September 11, the nonprofit organization I co-founded, understands that nuclear terrorism is not the most probable, but that it is the most devastating form of terrorism. We have joined with the Nuclear Threat Initiative, a non-profit, non-partisan organization led by former Senator Sam Nunn and Ted Turner and whose Board Members include Senators Lugar and Domenici. We're now working together to raise

public awareness about the issue and what we can do to reduce the risk. The 9/11 Commission gave the government the grade of "D" in its efforts to prevent terrorists from acquiring weapons of mass destruction. Families of September 11 and NTI are working to turn that "D" into an "A". I am happy to supply more information about our work for the record.

Transportation Security

All Modes of Transportation
Third, a word on transportation security. The threat to our nation's transportation assets has not lessened in the five years since 9/11. We know al Qaeda is plotting its next attack - we don't know where and when, but we can safely assume based on previous attacks around the world that it will probably involve some sort of public or commercial transportation.

Aviation security is a key part of this. The planners of al Qaeda have shown themselves peculiarly fixed on terror in the air. My mother's murder is one of many that testify to this. We can never let our guard down at airports and in the skies. But transportation security is not just aviation security. Transportation security must also include rail and transit. In that vein, any complete strategy for transportation security must encompass all modes. That includes those places where different modes of transport come together, where chaos, confusion and crowds reign each day.

Prevent Tomorrow's Threat, Not Just Today's
The methods of the terrorists evolve at alarming speed. But there are common themes. For example, we shouldn't have been too surprised last August when we found out that al Qaeda operatives were planning to use liquid explosives to blow up commercial aircraft while en route. In fact, more than 11 years ago, in 1995, Operation Bojinka was uncovered. Planned by 1993 World Trade Center bombing mastermind Ramzi Yousef and his uncle, 9/11 mastermind Khalid Sheikh Mohammed, Operation Bojinka was a plot to explode more than a dozen commercial airliners over the Pacific Ocean. They were planning to carry out the attack with liquid explosives, smuggled on board through passenger security checkpoints.

Law enforcement and intelligence officials deserve credit for uncovering the August 10th plot. The teamwork between British, Pakistani and American officials to prevent the execution of the attack is commendable. But the incident demonstrates how much more work we need to do. If we are not even protecting against methods we know terrorists have tried to use in the past, it is hard to imagine we are protecting against new methods they might think up in the future. We must think like them, in order to out-think, and stop, them.

The difficult truth is that we can never make planes - or railways or buses or ships - fully secure. Almost anything can be used as a weapon aboard an airplane, train or bus, even a ballpoint pen. Our focus on preventing dangerous weapons from getting on board is a

necessary part of the solution, but it is not the only way to go. We also need to focus on preventing dangerous people from getting onboard.

Implement Secure Flight

Part of this will be accomplished through a consolidated terror watchlist, which my colleagues have already discussed. Part of keeping dangerous people off planes involves the long-awaited Secure Flight program. Millions of dollars have been sunk into this program that would transfer responsibility to the government to compare passengers' names to the terror watch list, instead of the current system in which the airlines do the passenger pre-screening. We have waited many years to see Secure Flight take off, but I am told we have a long wait to go. This is even more disturbing, since we know airlines are not screening passengers against the most up-to-date terror watch lists.

TSA must be held accountable for the money it is spending, and the programs it has been entrusted to implement. If TSA cannot get it done, Congress should take action to ensure that all available technologies and resources are being employed to keep known dangerous people off planes on both domestic and international flights.

Behavior Pattern Recognition

At the end of the day, though, we need more than lists to determine who boards planes. And we need to consider other modes of transportation on which Secure Flight, when it is completed, will not be used. One potentially valuable way to identify ticket-bearing persons who present a potential threat on our transportation systems is through behavior pattern recognition. And I am concerned this technique is not getting the investment and prominence it deserves.

What is behavior pattern recognition? It is the use of specially trained screeners and law enforcement officers to scan crowds, looking for odd, suspicious behavior. When a would-be passengers demonstrate such behavior, which is evident in "micro-facial expressions" that screeners are trained to identify, they are approached by officials, who ask them questions: "Where is your ticket?" "What are you doing here?" "Do you have any identification". If the answers are benign, the passenger moves on. If the answers raise more questions, the individual may be assigned for secondary screening or receive more in-depth questioning.

Behavior pattern recognition is not racial profiling. Privacy advocates and racial profiling opponents who have voiced opposition to it may in fact not understand what behavior pattern recognition actually is. I encourage them to be partners in making it an effective tool against terrorism and ensuring its proper use. As George Naccara, the Federal Security Director for Boston's Logan Airport has said, anybody using race as part of behavior pattern recognition is simply doing it wrong[6].

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[6] PBS Online Newshour broadcast, 8 September 2006.

Screening of Passengers by Observation Techniques (SPOT)
George began the SPOT program, which stands for Screening of Passengers by Observation Techniques, after 9/11. It has shown promising results and adds a much needed additional layer on the airport's security system.

The Transportation Security Administration is talking about expanding this program nationwide. But it takes money, and training, in order for the SPOT program to work - money you can authorize, to ensure an adequate number of screeners needed to cover thousands of checkpoints at hundreds of airports nationwide get the proper training.

Importantly, when a SPOT-trained screener identifies an individual that needs questioning, the person who does the questioning should be trained in behavior pattern recognition as well. If law enforcement officers are going to conduct questioning, they should be trained to detect the same micro-facial expressions. Otherwise, as Rafi Ron, the former head of security for Israel's Ben Gurion Airport has noted, that officer "is doomed to fail"[7]. I urge you to consider behavior pattern recognition training for law enforcement officers, screeners and others who work in all modes of transportation, and in agencies government-wide.

One final thought on transportation security. Congress has given authority to the Secretary of Homeland Security to develop the National Strategy for Transportation Security. However, it is classified. This document should be used to as a tool to tie transportation priorities to budget priorities, but because it is classified, it can be hard to demonstrate those ties to those who don't have access to the document. It is a situation that begs for a solution. If anything, you should direct the Secretary of Homeland Security to create classified and non-classified versions of the two-year review so those who need to better understand the Department's priorities are allowed to view it.

Risk-based Homeland Security Grant Funding

"Homeland security grants should be based strictly on an assessment of risks and vulnerabilities.[8]" This is what the 9/11 Commission report says in its recommendation regarding homeland security grants. Priorities must be set, and funding must be tied to those priorities.

I understand the desire to ensure a broad distribution of money for grants to states and locales. True, a terrorist may strike anywhere. Moreover it is human nature—and an American trait—to want a piece of the pie. But I would argue that there is a better and more effective way to address the issue. Require governmental jurisdictions and infrastructure facility operators to conduct risk assessments using federally prescribed, common methodology. That methodology should, to the maximum extent possible, enable cross-comparisons. It will allow decision-makers to better understand where are the greatest, relative risks and needs. Then allocate available funding accordingly. If a state or jurisdiction does the hard work and develops the prescribed assessment and an

[7] PBS Online Newshour broadcast, 8 September 2006.
[8] 9/11 Commission report, pg. 396.

effective strategy for use of homeland security grants, their applications should be accorded an appropriate level of priority with the grant award being based on its merit. Furthermore it is critical for states to use homeland security grant money wisely.

In every way Congress must convey the extraordinary importance of fighting terrorism and preparing to effectively respond. Treating the allocation of homeland security grants as run-of-the-mill Federal aid undercuts that message. Certainly, no taxpayer dollars should be spent on air conditioned garbage trucks again.

Conclusion

I began my testimony mentioning what I would say to my mom, if I had a chance to speak with her again. One thing is for sure, I would tell her all about Cole Jude, my two-year-old nephew, Mom's first grandson who she never got to meet. I would tell her how he likes fire trucks, dogs and his stuffed lion Simba. I would tell her he has developed a penchant for skiing and Warren Miller extreme skiing movies. I would tell her I am doing everything I can to make sure this world is safer for him.

Your actions this session, and in creating a 9/11 Commission recommendation implementation bill, will be a message to the American public. I hope it is the same message I want to get through to Mom. That we all are going to do what it takes to make the country safer and more secure. That we are willing to make the tough decisions, take on the tough battles, be accountable for our actions, and heed the wise advice of the 9/11 Commission by implementing, in full, those recommendations that have been ignored for too long.

Thank you for doing this difficult work on behalf of all Americans, and on behalf of those, like Mom, who cannot be here today to help and applaud you.

Thank you for inviting me to speak today. I am happy to answer any questions you may have.

Post-Hearing Questions for the Record
Submitted to the Honorable Timothy J. Roemer
From Senator Daniel K. Akaka

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1)

A) What recommendations do you have to strengthen Chief Privacy Officers at federal agencies, particularly those agencies with intelligence and law enforcement functions?

I believe that the course adopted by the House legislation for enhancement of the Department of Homeland Security's Privacy Officer could be very helpful for securing data and privacy in the federal government. Section 812 of HR 1 would give the Department's Privacy Officer the ability to access the information necessary to ensure that Americans' privacy is protected in accordance with the law. I believe these authorities are necessary given the Department of Homeland Security's unique domestic role in counterterrorism.

B) What do you believe the relationship should be between the Privacy and Civil Liberties Oversight Board and agency privacy officials?

I would point toward the relationship indicated in H.R. 1 as a solid model for the relationship between Privacy Officers and the Privacy and Civil Liberties Oversight Board as a model. I would characterize it as primarily a reporting relationship whereby the reports of Privacy Officers help inform the Oversight Board's assessment of privacy concerns across the federal government.

2) Do you believe that Congressional oversight committees would benefit from the ability to task GAO to conduct audits and evaluations of the intelligence community?

As you well know, the 9/11 Commission found that Congressional oversight of intelligence represented one of the most critical areas in need of reform. Indeed, I still believe that Congress could improve oversight by adopting the measures outlined in the Commission report for reforming its oversight structure.

Speaking as a former Member of the House Permanent Select Committee on Intelligence and 9/11 Commissioner, I have great respect for the professionalism and skill of the Government Accountability Office's dedicated staff. Insofar as the GAO acts as a complement to rather than a replacement for Congressional oversight, the ability to task the GAO for audits and evaluations would be a valuable tool for the oversight committees. Congress, though, must take the lead in oversight and refrain from outsourcing its responsibilities.

Post-Hearing Questions for the Record
Submitted to the Honorable Timothy J. Roemer
From Senator George V. Voinovich

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1) Has the Director of National Intelligence been given sufficient authority to effectively manage and integrate the intelligence community?

Since the creation of the Office of the Director of National Intelligence there has been much scrutiny with regard to the authorities of the DNI. Specific focus has been placed on the Director's ability over personnel and funds within the Department of Defense.

After some early tensions over its standing, I believe the current climate in the intelligence community bodes well for the authority of the DNI. Prior to his nomination, Defense Secretary Robert Gates indicated a desire for an empowered DNI. Thus, I was very encouraged by Secretary Gates' remarks during his confirmation hearing when he stated that he would work with the Director of National Intelligence to grant him certain authorities over personnel. Moreover, Secretary Gates' selection of General James Clapper—another proponent of the DNI's authority—as Undersecretary of Defense for Intelligence could ensure a more cooperative relationship between the Department and the Office of the Director.

In order for the DNI to be maximally effective, though, it cannot rely solely on the relationships and personalities of current personnel. It requires long lasting, defined authority. Allowing the DNI greater ability to hire and fire personnel would help ensure that the DNI, as an institution, functions as it was intended to.

2) From your perspective in monitoring the various reforms under way in the intelligence and law enforcement communities, has intelligence gathering and analysis has improved significantly since 9/11? How would you characterize relationships between federal agencies with intersecting intelligence missions, including DHS, FBI, CIA, and the DNI? How effectively is the federal government sharing actionable intelligence and critical information with state, local, and private sector entities?

I must preface my remarks with the caveat that I am somewhat constrained in my ability as a private citizen to assess the quality and distribution of classified intelligence information.

Nonetheless, some conclusions can be drawn from open sources. My impression is that some progress has been made for information sharing within the executive branch but that serious challenges remain in sharing information with state and local officials.

America's intelligence community has much responsibility for preventing catastrophic terrorist attacks in this country. However, state and local officials also have an important role in this

mission. Information developed in the intelligence community about terrorist plans may be wasted if it is not shared with the local officials.

3) Does the Director of National Intelligence have sufficient authority to reform the personnel policies within the various federal agencies to develop a more cohesive intelligence community?

The 2004 Intelligence Reform and Terrorism Prevention Act gave the Director the ability to transfer and appoint personnel as well as reprogram funds. In consultation with the heads of other agencies, the Director may also set standards for education and training and make promotions contingent upon service in more than one intelligence agency. However, more power may be necessary. In particular, I believe that the Director would benefit from the ability to hire and fire senior intelligence personnel.

4) How would you rate agencies' continued progress in standardizing the security clearance process? What additional actions should Congress consider to ensure further reform in this critical area?

I have been quite concerned about the government's progress in issuing security clearances and ensuring their reciprocal acceptance. It is critically important that federal government have access to the best and brightest this nation has to offer—and in sufficient numbers. In today's competitive labor markets, delays in issuing clearances make intelligence work less attractive to potential employees. Moreover, the lack of reciprocal acceptance of clearances inhibits the kind of information sharing and interagency exchanges that form the foundation of a unified intelligence community.

The recent report from the Security Clearance Oversight Group indicates a measure of progress in issuing timely clearances, but we must deepen our commitment to expediting the process. But the goal of ensuring that 90 percent of clearance applications receive a determination within an average 60 days is fast approaching. Given the widespread, bipartisan consensus on the need for faster clearances, Congress must apply continuous pressure the intelligence community to ensure it meets the requirements laid out in the 2004 Intelligence Reform and Terrorism Prevention Act.

5) What is your view of the level of information protection that should be afforded to information pertaining to the nation's critical infrastructure?

Senator, I share your concern for the protection of sensitive information from public disclosure. We must be careful not to telegraph the details of our most crucial weaknesses to our enemies. My understanding is that this information would be protected under HR 1. However, I would encourage leaders in the House and Senate to clarify the status of such information if the need exists.

6) As the Committee continues to consider the most effective way of allocating grant funding, what is your opinion of the appropriate cost share between federal, state, and local governments to fund interoperability?

New York, Northern Virginia and Somerset County, Pennsylvania all faced communications difficulties on 9/11. But communications difficulties have plagued disaster response even after 9/11. Both this Committee's and the White House's investigations discovered that first responders faced similar communications difficulties in the response to Hurricane Katrina. That this problem exists so long after 9/11 illustrates the need for action.

As you noted, the federal government has offered large sums towards standing up interoperable communications systems across the country. Nonetheless, I believe the critical need for interoperable communications necessities a federal role in achieving that capability.

7) What is your view of the progress made in lessening the vulnerabilities of our nation's critical infrastructure? I would also like your view of how we can best allocate our limited resources in minimizing the risk to our nation's infrastructure.

As you know, the 9/11 Public Discourse Project was concerned enough about the Department of Homeland Security's lack of progress on the National Infrastructure Protection Plan that we gave it a "D" grade. Now that the plan has been completed, Congress must provide adequate oversight of the development of sector-specific plans. 85 percent of America's infrastructure is privately owned, which demands that the federal government establish a cooperative relationship with the private sector. The more progress we make it striking the proper balance between security and enterprise, the closer we will come to securing our critical infrastructure.

As to your second question, I believe we can best minimize the risk to our critical infrastructure through adopting a layered approach to homeland security. In the midst of a complex and frightening threat environment it is tempting to look for absolute defenses. But America cannot defend everything, everywhere at every time with absolute certainty. We simply lack the resources. In order to make the most of our homeland security dollars, we should focus on creating a network of concentric security layers that protect our most critical infrastructure, rather than haphazardly building fortresses.

Post-Hearing Questions for the Record
Submitted to the Honorable Slade Gorton
From Senator Daniel K. Akaka

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. As a result of the Consolidated Appropriations Act of 2005, each agency is required to have a Chief Privacy Officer assume primary responsibility for privacy and data protection policy. Successful implementation of this requirement is essential since, in 2005, the Government Accountability Office reported that federal agencies are not following all privacy and data security requirements. This trend is troubling in light of the increasing use of personal information by intelligence and law enforcement agencies.
   A. What recommendations do you have to strengthen Chief Privacy Officers at federal agencies, particularly those agencies with intelligence and law enforcement functions?
   B. What do you believe the relationship should be between the Privacy and Civil Liberties Oversight Board and agency privacy officials?

   (A) The best way to strength Chief Privacy Officers at federal agencies is for agency heads to include them fully in the decision making process. The best way to encourage agency heads to follow this course is through robust oversight by the congressional committees of jurisdiction.

   (B) The relationship between agency privacy officials and the Privacy and Civil Liberties Oversight Board should be a close and cooperative one. Agency privacy officials should stay in close touch with the Board on both emerging problems and best practices as solutions. Agency privacy officials should serve as an early warning mechanism for the Board as to the issues that require the Board's attention. An important part of the Board's work, in turn, should be to address itself to real-world problems as identified by privacy officials from the agencies.

2. The 9-11 Commission called for the creation of a Director of National Intelligence (DNI) with the task of eliminating stovepipes, driving reform, and creating a unity of effort. The Commission's final report noted that the success of the DNI would require active Congressional oversight. I share the Commission's concern. That is s why I reintroduced the Intelligence Community Audit Act of 2007 last week, which reaffirms the authority of the Government Accountability Office (GAO) to audit the financial transactions and evaluate the programs and activities of the intelligence community. The legislation does not interfere with the clear responsibility of the intelligence committees for intelligence sources and methods or covert activities. Rather, my bill clarifies GAO's authority to conduct audits and evaluations relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial

management, information technology, human capital, knowledge management, information sharing, and change management – on behalf of other relevant Congressional committees.

Do you believe that Congressional oversight committees would benefit from the ability to task GAO to conduct audits and evaluations of the intelligence community?

The GAO should have the authorities with respect to the Intelligence Community as it does with respect to other agencies of the federal government. In short, the GAO should have the authority to audit financial transactions and evaluate the programs and activities of the intelligence community.

The intent of the Intelligence Community Audit Act of 2007 (S.82), is a very good one. Congressional oversight committees would benefit from the ability to task GAO to conduct audits and evaluations of the intelligence community. The Intelligence Community, in turn, would benefit from its agencies being held to the same high standards of performance as other agencies of the Federal Government.
From an accountability standpoint, there is much to be said for granting the GAO authority to audit intelligence agencies in a manner similar to that of other federal agencies.

The most direct way in which to assure the success of the DNI, however, is to broaden his authority over other intelligence agencies in a manner consistent with the 9/11 Commissioner's report and with the original 2004 Senate bill, unfortunately watered down in conference with the House.

Post-Hearing Questions for the Record
Submitted to the Honorable Slade Gorton
From Senator Mary L. Landrieu

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. The 9/11 Commission recommends that nonproliferation efforts need to be strengthened, and that this issue must be made a top national security priority by both the President and Congress. The 9/11 Public Discourse Project's last report card issued in December 2005, gave a grade of "D" to U.S. nonproliferation efforts, stating insufficient progress in this area. Many experts say the most effective means of protecting against nuclear terrorism would be to secure or eliminate bomb-making - or fissile – material before it falls into terrorists' hands.

Senator Gorton, I would like to know if you agree that the Mixed-oxide (MOX) program is consistent with the 9/11 Commission's recommendation to strengthen nonproliferation efforts, and whether it should be part of the "maximum effort" you recommend the US Government should be taking to prevent terrorists from acquiring nuclear materials.

Answer: The Mixed-Oxide (MOX) program, a plutonium disposition program, is certainly consistent with the 9/11 Commission's recommendations on non-proliferation.

In a world with a total of 68 tons of U.S. and Russian plutonium, the MOX program offers a way to generate energy from plutonium, and the spent fuel is far more proliferation-resistant than plutonium itself. Therefore, the MOX program strengthens non-proliferation efforts.

2. If you agree that the Energy Department's MOX program is consistent with the 9/11 Commission's report, shouldn't this program be part of the "maximum effort" you recommend the US Government should be taking to prevent terrorist from acquiring nuclear materials?

Answer: The physical security of nuclear materials must be the first step of a "maximum effort" on non-proliferation. The next step must be the safe disposition of nuclear materials, and the MOX program should be part of that effort.

Post-Hearing Questions for the Record
Submitted to the Honorable Slade Gorton
From Senator George V. Voinovich

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. Has the Director of National Intelligence been given sufficient authority to effectively manage and integrate the intelligence community?

Answer: The Intelligence Reform and Terrorism Prevention Act of 2004 created a Director of National Intelligence with substantial authorities over the constituent agencies of the Intelligence Community. Because of compromises in the legislative process (relating to the authorities of the Secretary of Defense) the authorities of the Director of National Intelligence are not complete.

The original 2004 Senate bill was markedly superior to the final product.

2. As you know, one of our most effective counterterrorism tools is intelligence. Good intelligence is our first line of defense in the War on Terrorism, and helps us to determine where danger lies. From your perspective in monitoring the various reforms under way in the intelligence and law enforcement communities, has intelligence gathering and analysis has improved significantly since 9/11? How would you characterize relationships between federal agencies with intersecting intelligence missions, including DHS, FBI, CIA, and the DNI? How effectively is the federal government sharing actionable intelligence and critical information with state, local, and private sector entities?

Answer: The Director of National Intelligence has certainly improved intelligence sharing across the intelligence community and across the federal government.

Yet we continue to hear about turf fights about who is in charge of information-sharing with state and local governments. We continue to hear complaints from state and local officials about the quality of the information they receive. Suffice it to say, many questions remain. The problem of information sharing across all levels of government is far from resolved.

Intelligence analysis is better today. There is more cross-fertilization of thinking. A greater diversity of views is making its way to the President and senior policymakers. But the politicization of intelligence is a problem that no structural reform can solve. Good judgment and the courage to speak up are the only solution we know.

3. In March 2001, I chaired a Subcommittee hearing entitled, "National Security Implications of the Human Capital Crisis." The panel of distinguished witnesses that day included former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century. Secretary Schlesinger concluded:

> "As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in government. The maintenance of American power in the world depends on the quality of U.S. government

> personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the United States can meet future challenges...it is the Commission's view that fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy."

Similarly, the 9/11 Commission concluded:

> "We know that the quality of the people is more important than the quality of the wiring diagrams. Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individual officials straining, often without success, against the boundaries of the possible. Good people can overcome bad structures. They should not have to."

It has been my continued observation that federal government reorganizations championed by Congress tend to emphasize changes to organizational structure while at times neglecting crucial personnel and managerial reforms.

Does the Director of National Intelligence have sufficient authority to reform the personnel policies within the various federal agencies to develop a more cohesive intelligence community?

Answer: It is my impression that the Director of National Intelligence has sufficient authority to reform personnel policies in the Intelligence Community, if he uses those authorities vigorously and fully.

It is the responsibility of the Director to create unity of effort within the Intelligence Community and build a strong and capable workforce for the future. It is the responsibility of the Director to inform the Congress if he believes he lacks sufficient authority to accomplish that mission.

4. During the 109th Congress, I chaired several hearings on the federal government's security clearance process. The cumbersome, lengthy process delays the timely hire of highly-skilled individuals for sensitive positions within the federal government, hampering the ability of our national security agencies to meet their heightened missions.

The *Intelligence Reform and Terrorism Prevention Act of 2004* required that within five years, all determinations of clearance are to be made within 60 days. To advance this requirement, the law necessitates reciprocity of all security clearance background investigations completed by an authorized agency.

While the Public Discourse Project's final scorecard gave a passing grade to security clearance reform, it noted "All the hard work is ahead."

How would you rate agencies' continued progress in standardizing the security clearance process? What additional actions should Congress consider to ensure further reform in this critical area?

Answer: Understand that the Office of Management and Budget will soon report to the Congress considerable progress on security clearance reform, pursuant to the requirements of the Intelligence Reform and Terrorism Prevention Act of 2004.

The Homeland Security and Government Affairs Subcommittee that you chaired, performed the best detailed oversight of this topic in the 109th Congress. Detailed congressional oversight, especially the continuation of hearings on this topic, are the most important actions to ensure further reform in this critical area.

5. The House of Representatives recently approved legislation that would require regular updating of a list of critical infrastructure and national assets. However, it is not clear that the database will be protected from public disclosure. I firmly believe that the vulnerabilities and security of our nation's critical infrastructure should be protected information. Failure to protect vulnerabilities and site security plans could provide the terrorist with a blueprint of the nation's vulnerabilities.

What is your view of the level of information protection that should be afforded to information pertaining to the nation's critical infrastructure?

Answer: There needs to be a balance between public information and the necessary protection of security-related details related to infrastructure protection. For example, the public and its elected officials need to be aware of, and participate in, the debate on what resources to allocate to protect what types of infrastructure. The allocation of resources is a public policy decision. How assets are protected and what level of protection is provided to any single national asset (such as a site security plan), should be privileged information.

6. I believe that the ability of first responders and public safety officials to communicate with each other during an emergency is a critical element of preparedness and response. As Governor of Ohio, I made funding interoperable communications capabilities a top priority. I am pleased that the Department of Homeland Security recently released a scorecard assessing the baseline communications operability and interoperability of regions across the country and has provided technical guidance and recommendations for improvement.

Since September 11, 2001, the federal government has distributed more than $12 billion dollars in direct grants for state and local preparedness, including interoperable communications. As the Committee continues to consider the most effective way of allocating grant funding, what is your opinion of the appropriate cost share between federal, state, and local governments to fund interoperability?

Answer: The Commission took no view on the question of appropriate levels of cost-sharing for interoperability. The Commission took the view that the federal share of such funding should be based strictly on an assessment of risks and vulnerabilities. Federal funding should supplement state and local resources based on the risks or vulnerabilities that merit additional support.

7. In December of 2005, the 9/11 Public Discourse Project identified the need to better address critical infrastructure risks and vulnerabilities. Since that time, the Department of Homeland Security has introduced the National Infrastructure Protection Plan (NIPP), which is

intended to coordinate and prioritize protection initiatives and investments across the public and private sector. DHS has also developed a classified list of the most nationally critical assets and created the Buffer Zone Protection Program, which awards grants aimed at protecting these assets. Additionally, Congress recently passed legislation to strengthen security at our ports and chemical facilities.

What is your view of the progress made in lessening the vulnerabilities of our nation's critical infrastructure? I would also like your view of how we can best allocate our limited resources in minimizing the risk to our nation's infrastructure.

Answer: We have made some progress in protecting our nation's critical infrastructure, but not enough and not quickly enough.

Our leaders need to make difficult but necessary decisions about priorities for the protection of the infrastructure. If you try to protect everything, you protect nothing.

Priorities needs to be established based on assessments of risks and vulnerabilities. Limited resources need to be allocated on this basis.

Post-Hearing Questions for the Record
Submitted to James Thomas
From Senator Susan M. Collins

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. **Prevention of terrorism is paramount. The National Governors Association wrote to me that "[t]o effectively protect our states and territories from potential terrorist events, all sectors of government must be part of an integrated plan to prevent, deter, and respond to and recover from a terrorist act. For the plan to work, it is essential that it be funded through a predictable and sustainable mechanism both during its development, and in its implementation." Do you agree with the notion that every community must be afforded resources needed to perform basic terrorism prevention activities?**

Yes. Every community must be afforded resources to sustain basic anti-terrorism prevention programs. There is evidence that the threat of terrorism is not just international, but a growing number of individuals who are dissatisfied with local, state and federal government, have the strong potential and have in fact committed domestic terrorism crimes.

Mayor Bloomberg indicated that New York is the prime target and I would agree that international terrorists would target a larger metropolitan city such as New York. However, there is strong evidence that indicates that the terrorists plan, train and exercise in small jurisdictions before moving to the final target such as New York.

It is imperative that all communities participate with terrorist prevention activities on a day-to-day basis. It is there that we can be the most effective in preventing another attack anywhere in the United States.

2. **When we talk about the significance of preventing the next terrorist attack, it is important to note that terrorists often use staging areas away from the most obvious targets. This is why we must provide local agencies with the tools and funds they need in order to keep our country secure. This also illustrates that every state has some vulnerability, even if they don't have great risk. How do you reconcile this nationwide vulnerability and need for resources with a strict risk-based approach to homeland security funding?**

Every state does have both vulnerability and risk for acts of terrorism. Some states are more likely to suffer at the hands of international terrorist who target large cities such as New York, Los Angeles, etc. However, individuals who are upset with the local, state and/or federal government are likely to be responsible for acts of domestic terrorism anywhere in this great country. For example, Timothy McVeigh obtained and planned the material for his attack in Oklahoma in a rural setting, yet the consequences of his action had a significant impact.

Again, I believe that we must be prepared for both domestic and international terrorist acts of violence and the only way we can be prepared for the domestic terrorism events is by making sure that all states continue strong anti-terrorism efforts. I do support the fact that the primary targets should receive larger amounts of Homeland Security funding based upon the fact that they would be a more likely target for international terrorism activities. However, all states are at risk for domestic acts of terrorism.

Post-Hearing Questions for the Record
Submitted to the Honorable James M. Thomas
From Senator George V. Voinovich

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. **Several years ago this Committee heard testimony from state and local law enforcement representatives who observed poor information sharing between the federal, state and local government. Since that time, the Committee has heard testimony indicating that the federal government has considerably improved its counterterrorism information sharing with state and local law enforcement agencies, but that there is a need for continued reform.**

I'm interested in learning more about specific initiatives in your respective states that have led to improved information sharing. For example, in my home state, the Ohio Strategic Analysis and Information Center, which partners with DHS and the FBI, has been positively regarded as a "one stop shop" for terrorism-related law enforcement information. Do you have similar fusion centers in your states, and have they been effective?

Second, could you please elaborate on specific ways the federal government can improve its information sharing activities, and if possible, provide examples of instances in which pertinent information known by the federal government was not adequately shared locally?

The State of Connecticut does have a very successful terrorism related information sharing system called, "The Connecticut Intelligence Center or CTIC." It's success is due to the fact that the partnership came from the bottom up and involves local law enforcement, state law enforcement and federal authorities. In addition, the United States Coast Guard and Department of Corrections have provided personnel to work at this center. The key is there is "one" source of information that is being given to all law enforcement in Connecticut versus the previous system which resulted in "information overload" often contradicting information itself.

In regard to the second part of your questions, the federal government needs to coordinate its response and have one agency be responsible for working with state and local agencies. In our state the Federal Bureau of Investigations (FBI) has done and excellent job at the CTIC and has developed a true partnership with the state and local authorities.

DHS has now visited our CTIC and wants to put an analyst on site, which will be greatly appreciated. However, the national office of DHS seems reluctant to pass information out to the local community in a timely and efficient manner.

2. Commissioner Thomas, as you know, the ability of first responders and public safety officials to communicate with each other during an emergency is a critical element of preparedness and response. As Governor of Ohio, I made funding interoperable communications capabilities a top priority. More recently, during the 109th Congress, I chaired several hearings on the National Capital Region, focusing on the interoperability of the region.

Last week, the Department of Homeland Security released a scorecard assessing the baseline communications operability and interoperability of regions across the country.

Would you provide the Committee with your opinion of the recent scorecard process and results?

In your respective states, what have been some of the key barriers to achieving interoperability, and how can these obstacles be overcome?

The scorecard process for statewide interoperability could have been improved. All states are working with their local partners to achieve interoperability for first responders. Some consider the scorecard process extremely bureaucratic and not helpful to the states, but rather a means for DHS to report back to Congress on how DHS thinks each state or UASI is. These assessments may not be accurate and I think DHS would do better in continuing to offer technical assistance to the states that are requesting assistance in this very complex issue.

In regards to the second part of the question, one of the key barriers is the radio spectrum issue. It is imperative that the 700 MHz be expedited as soon as possible. As we heard from New York City not all issues can be resolved through the 700 or 800 spectrum. Flexibility should be the key for allowing the local, county and state first responders in regards to their interoperability communications planning and equipment. The key would be to have all states having to certify that they have achieved a level of interoperability by the end of FFY 2008.

Post-Hearing Questions for the Record
Submitted to the Honorable Michael R. Bloomberg
From Senator Daniel K. Akaka

January 9, 2007
From Senator Akaka
"Ensuring Full Implementation of the 9/11 Commission Recommendations"

1. Major U.S. cities are beginning to stand up state and local intelligence fusion centers instead of relying on the federal government for all intelligence analysis. Based on your experience in New York, a city that has developed advanced capabilities in intelligence analysis, how important is it to have this capability at the state or local level?

2. You testified that the New York Police Department has numerous individuals with language skills, including Arabic. What suggestions do you have for the federal government as it tries to recruit and retain language proficient individuals?

1. One of the most effective ways to utilize Homeland Security funding is the creation and operation of State and Local intelligence fusion centers. There is no single, universal, format for an intelligence fusion center. Each state or local center must be targeted for that particular region's needs. It is imperative that state and local governments take the lead in establishing a regional fusion center tailored to the particular needs of the region without delay.

Since the attacks of 9/11, it has been shown that human intelligence has disrupted terrorist planning. The ability to properly gather, develop and analyze this intelligence is one of the core functions of the fusion center concept. This intelligence analysis and sharing capability must be efficient and readily available to the local law enforcement agencies.

The federal government is under investing in the sort of capabilities needed to combat the most dynamic element in the spectrum of terrorist threats, the "homegrown" element. In combating these threats, the burden shifts almost entirely to local law enforcement. Such threats are most likely to be detected by investigators with intimate knowledge of the local population and familiarity with developed intelligence backed by the power and resources of the local law enforcement agency.

The right model of intergovernmental information sharing is a massive interconnected network. State and local agencies with investments in intelligence collection and analytic capabilities should be able to access existing federal classified information networks. A pipeline approach, with federal control over what state and local centers can access and share has proven to be the wrong model. Intelligence fusion centers, tailored to the particular needs of a region, under the control of the state or locality, have been shown to be an effective tool in the development of counter terrorism effectiveness. It is imperative that the federal government continue to contribute resources for the operation of these centers which ultimately is a national responsibility.

2. In this age of multi-lingual populations throughout our country, it is imperative that the federal government recruit and retain language proficient individuals. The New York City Police Department has successfully reached out to the communities it serves. Effective recruiting, going out and meeting with local community, religious and cultural organizations and their leaders, is an essential tool in making government service attractive to many in these communities. The NYPD also reaches out to communities beyond the City. The Department's Recruitment Unit visits and targets specific communities on military bases, college campuses and specific language speaking communities nationwide.

Although the NYPD does not offer salary differentials for personnel with language proficiency skills, the Police Department's Language Program affords its certified members an accelerated venue towards various specialized and elite units within the Department. We have found that there are many individuals with desirable skills willing to become members of the Police Department, and elsewhere in City government simply by being actively recruited in their communities.

Post-Hearing Questions for the Record
Submitted to Mayor Michael Bloomberg
From Senator Susan M. Collins

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. Mayor Bloomberg, the Department of Homeland Security's responsibility for national preparedness does not end with the government. The department is also responsible for working with the private sector to ensure that its assets, which include more than 85 percent of all critical infrastructure nationwide, are adequately prepared for a terrorist attack or other catastrophic event. Does New York City have a program in place to engage the private sector in homeland security preparedness?

The New York City Police Department has established a number of partnerships with the business community to enhance homeland security.

Operation Nexus is a nationwide network of businesses and enterprises joined in an effort to prevent another terrorist attack. Through this program, the NYPD actively encourages business owners, operators and their employees to apply their particular business and industry knowledge and experience against each customer transaction or encounter to discern anything unusual or suspicious and to report such instances to authorities.

Operation Shield is an umbrella program for a series of Police Department initiatives that pertain to private sector security and counter-terrorism. This is a public private partnership based on information sharing. It is established as a central destination for private sector security managers to obtain information and engage Police Department resources. Through this program the NYPD is able to keep their private sector partners informed of developing situations in the City, preparations for upcoming events and new intelligence and threat information.

The New York City Department of Information Technology and Telecommunications has a number of initiatives in the area of involving the private sector in homeland security preparedness:

800 MHz System: To address *secondary responder* requirements for interagency communications during major incidents, the City has implemented specialized talk groups on its Citywide 800 MHz system. The City's main 800 MHz public safety talk group is known as the ALERT channel. The City's key focus has been to ensure the availability of the interoperable ALERT channel to potential responders in City agencies, and to hospitals and regional entities. The participating entities include: 56 City, State and regional agencies; 78 hospitals and healthcare facilities; utility companies and the commissioners of 44 City agencies.

The ALERT channel is dedicated to the City's Office of Emergency Management, which conducts daily roll calls among the dozens of public safety entities with access to the channel. Daily OEM roll calls ensure that participants are prepared for immediate utilization in case of an emergency. In the event of an emergency, designated personnel in these agencies switch to the ALERT channel for information and coordination.

New York City Metropolitan Region Mutual Aid and Restoration Consortium (MARC): Another example of public private coordination is the New York City Metropolitan Region Mutual Aid and Restoration Consortium (MARC). Originally established in 1992 and updated in the spring of 2004, MARC facilitates the carriage of voice and data traffic by alternative carriers in case of a telecom-related emergency. Every high-capacity franchisee in the City (i.e., every carrier with fiber in the City's streets) is a MARC member, and every major wireless carrier in the City is a MARC participant. MARC was successfully used in the aftermath of the September 11 attacks and during the 2003 power outage to assist in restoring telecommunications services. The City has been invited to present MARC to senior representatives of the FCC's Homeland Security Policy Council, to senior officials from the U.S. Department of Homeland Security and to the U.S. Senate.

The New York City Office of Emergency Management also has created several programs to engage the private sector and the public in homeland security preparedness:

Ready New York: Emergency Planning for Small & Mid-Sized Companies
This program is designed to help businesses protect their employees, communities, and the environment and enhance a company's ability to recover from financial loss resulting from business interruption or damage to facilities and inventory. It can be accessed via http://nyc.gov/readynewyork. It is in the process of being updated; the new version will be available in five languages (English, Spanish, Russian, Chinese and Korean).

CorpNet Information Sharing Program
In partnership with the City's business community, OEM offers the CorpNet information service. CorpNet aims to provide business partners current, accurate information about emergencies to enhance awareness and aid decision-making should their businesses be affected. OEM monitors public safety radio and information networks, news media, and commercial and proprietary weather systems through its Watch Command - a 24-hour intelligence unit charged with maintaining agency awareness about emergencies. Watch Command uses the OEM paging system to forward relevant messages to CorpNet subscribers. When an incident reaches a specified emergency threshold, OEM dispatches a "responder" to verify the event and facilitate interagency coordination onsite. This process enhances CorpNet's accuracy, as information comes directly from the scene via the OEM responder. Subscribers - who are typically crisis management, business continuity and security executives - may also receive information regarding incidents OEM monitors but does not necessarily respond to. If you do business in New York City, you may be eligible to receive CorpNet notifications.

Corporate Emergency Access System (CEAS)
The New York City Office of Emergency Management (OEM), in conjunction with the not-for-profit Business Network of Emergency Resources (BNet), have teamed up to introduce the Corporate Emergency Access System (CEAS), a credentialing program designed to help business owners mitigate potential damage and financial losses resulting from an unforeseen emergency. CEAS provides select employees with a credential that identifies them as "essential" to the viability of their employers' business. If deemed appropriate by public safety officials, this credential will allow employer-designated cardholders to gain access to areas restricted to the public following an emergency. The primary role of CEAS credential holders is to secure their facilities, shut down systems as needed, sustain core business functions, and meet regulatory obligations for the business until "normal" conditions return. In a global business center like New York City, it is critical that both government and business be well prepared to quickly respond to and recover from an emergency. The resumption of business activity is not only crucial to the City's economy, but to the national and world economies as well. Recognizing this crucial relationship, OEM and BNet, in cooperation with New York City's public safety agencies and in partnership with the City's business leaders, have joined to develop CEAS as part of the City's overall economic development plan. This program truly sets New York City apart from other major metropolitan areas by taking pro-active measures to ensure the City maintains its economic strength in the wake of business disruption.

Ready NY - Employee Preparedness
Launched in July 2003, OEM's Ready New York preparedness campaign is designed to help New Yorkers better prepare for all types of emergencies. Ready New York includes several hazard-specific brochures, public service announcements for radio and television, a speakers' bureau, print and outdoor advertising, corporate partnerships and community programs. OEM has a speakers' bureau that will travel to companies and organizations to educate employees on how they can prepare themselves and their families for the emergencies that we all face as New Yorkers.

Private Assets Logistics Management System (PALMS)
When disaster strikes, businesses are often among the first to provide support. To ensure donations are used and distributed effectively in the wake of an emergency, OEM created the **Private Asset and Logistics Management System (PALMS)** — a registry of private sector resources. PALMS aims to maximize public-private partnerships in future emergencies and enhance the City Asset and Logistics Management System (CALMS). Through PALMS, businesses list goods and services they may have available for use by the City in an emergency. The City's most-needed assets during emergencies include personnel, equipment and supplies, and facilities. If the need arises, City response agencies will call on PALMS participants to supply assets listed in the registry.

Post-Hearing Questions for the Record
Submitted to Mayor Michael Bloomberg
From Senator George Voinovich

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. I believe that the ability of first responders and public safety officials to communicate with each other during an emergency is a critical element of preparedness and response. As Governor of Ohio, I made funding interoperable communications capabilities a top priority. I am pleased that the Department of Homeland Security recently released a scorecard assessing the baseline communications operability and interoperability of regions across the country and has provided technical guidance and recommendations for improvement.

Since September 11, 2001, the federal government has distributed more than $12 billion dollars in direct grants for state and local preparedness, including interoperable communications. As the Committee continues to consider the most effective way of allocating grant funding, what is your opinion of the appropriate cost share between federal, state, and local governments to fund interoperability?

2. In December of 2005, the 9/11 Public Discourse Project identified the need to better address critical infrastructure risks and vulnerabilities. Since that time, the Department of Homeland Security has introduced the National Infrastructure Protection Plan (NIPP), which is intended to coordinate and prioritize protection initiatives and investments across the public and private sector. DHS has also developed a classified list of the most nationally critical assets and created the Buffer Zone Protection Program, which awards grants aimed at protecting these assets. Additionally, Congress recently passed legislation to strengthen security at our ports and chemical facilities.

What is your view of the progress made in lessening the vulnerabilities of our nation's critical infrastructure? I would also like your view of how we can best allocate our limited resources in minimizing the risk to our nation's infrastructure.

1. New York City has recognized the need for a modern, efficient and reliable interoperable communications system for our first responders that will continue to operate not only in times of emergency but also day to day. To that end, we have invested over a billion dollars since the tragic events of 9/11 to improve and modernize our interoperable communications system. We have worked with New York State and the Federal government to create a network that will serve our needs today and into the future. As New York City has demonstrated our commitment by investing our own funds into this system, so should other state and local entities step up and show they are committed to establishing interoperable communications systems by investing their own funds. We believe there should be a match requirement as in several grant programs which require a 20% match for federal funds received.

2. I can confidently report that we have accomplished much in New York City. We have reduced the vulnerabilities of our critical infrastructure since September 11, 2001. However, ours is an on-going process; we have more to do. New York remains the prime target for al-Qaeda and al-Qaeda associated and inspired terrorist groups. It's a daunting reality – but it presents challenges we are determined to meet. Together, the Counterterrorism Bureau and the Intelligence Division, which employ about one thousand officers and intelligence analysts, have become models for other big city police departments around the nation. They are crucial weapons in the fight against terrorism and are primary assets in our critical infrastructure, threat-reduction activities.

Our coordinated counterterrorism system includes: the Critical Infrastructure Protection Section (CIPS), whose teams conduct physical reconnaissance and recommend security enhancements; the Transportation Security Section (TSS), charged with assessing and improving rail, maritime and city bus security; the Chemical, Biological, Radiological, Nuclear and Explosives (CBRNE) team; and the Terrorism Threat Analysis Group (TTAG), whose analysts collect and analyze intelligence information, and report on the world-wide activities of terrorist groups and the implications for New York City. These sub-units of the Counterterrorism Bureau sit under one roof, under one command structure. They do not merely share information with each other, but actively provide the essential expertise that supports each other's endeavors.

Based upon shared raw data and in-depth analysis, our Counterterrorism Bureau and Intelligence Division also direct the successful Critical Response (CR) program. The CR program protects the city's landmarks and critical infrastructure through carefully orchestrated, rapid deployments of specially-trained police units, including our heavily-armed "Hercules" patrol teams.

As I testified, the effectiveness of this infrastructure protection program was demonstrated in 2003. After repeated reconnaissance, Iyman Ferris – an avowed member of al-Qaeda – called off the attempted bombing of the Brooklyn Bridge, telling his handler, Khalid Sheik Mohammed, that "the weather is too hot" – a coded reference to the intense security on the bridge and in the waters of the East River.

You asked how we can best allocate limited resources in minimizing the risk to our nation's infrastructure, and my answer is simple: Arm DHS with complete flexibility in administering Homeland Security grant funds, but with the directive that 100% of those funds be distributed based upon risk, threat, and return on investment.

Flexibility means that New York City would be permitted to utilize our fund allocation as necessary with minimal restrictions to support the activities of the one thousand New York City police officers and intelligence analysts who are dedicated to our counterterrorism and intelligence units. We've always believed that one of the strongest defenses against terrorism is good old-fashioned "boots on the ground." Therefore, flexibility would allow us the ability to sustain our normal resource levels while also raising those levels to increase our strength in times of need.

Flexibility means removing restrictions on using grant funds for construction. Target hardening is a vital part of infrastructure protection and in many cases requires construction, such as installation of sally ports or other physical barriers. Grant funding must permit construction when necessary.

Finally, flexibility means authorizing DHS to permit state and local governments to spend grant funds on vital programs crafted by, and unique to, that locality, state or region. One size does not fit all.

I look forward to continue working with Congress and the Administration to improve the security of our cities, our states and our nation.

Post-Hearing Questions for the Record
Submitted to Chief Joseph Carter
From Senator Susan M. Collins

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. Prevention of terrorism is paramount. The National Governors Association wrote to me that "[t]o effectively protect our states and territories from potential terrorist events, all sectors of government must be part of an integrated plan to prevent, deter, and respond to and recover from a terrorist act. For the plan to work, it is essential that it be funded through a predictable and sustainable mechanism both during its development, and in its implementation." Do you agree with the notion that every community must be afforded resources needed to perform basic terrorism prevention activities?

The IACP has long advocated for a broad based funding approach. While the IACP realizes that there are localities that have a higher threat level, all communities must be protected. As we have learned in the past few years, terrorism can occur in any community, not just the larger cities.

2. When we talk about the significance of preventing the next terrorist attack, it is important to note that terrorists often use staging areas away from the most obvious targets. This is why we must provide local agencies with the tools and funds they need in order to keep our country secure. This also illustrates that every state has some vulnerability, even if they don't have great risk. How do you reconcile this nationwide vulnerability and need for resources with a strict risk-based approach to homeland security funding?

A strict risk-based approach to homeland security funding is not realistic. Every state should get a minimum amount of funding to thwart and prevent terrorism activities. A broad based funding approach realizes that fact—giving every state a minimum amount while also taking into consideration high threat areas.

Post-Hearing Questions for the Record
Submitted to the Chief Joseph C. Carter
From Senator George V. Voinovich

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. Chief Carter, in your testimony you noted that the majority of federal homeland security resources have been devoted to response and recovery capabilities. You indicated the view of the International Association of Chiefs of Police that response and recovery capabilities, while important, are secondary to the need for prevention. I agree with you that law enforcement and intelligence activities devoted to detection, prevention, and disruption should be prioritized and can provide the greatest return on investment.

First, from your observation over the past few years, how have state and local law enforcement agencies improved their knowledge and skills relating to terrorism prevention activities? What are the key areas needing improvement?

Second, do you have specific recommendations on how the federal government can better assist state and local law enforcement agencies in terrorism prevention activities?

Coordination and cooperation within federal, state, tribal and local authorities has improved greatly over the last several years—as times have changed, law enforcement has adapted. Communication and interoperability still remain issues of concern.

The federal government can ensure that state, tribal and local law enforcement agencies have the resources they need to perform homeland security duties. The federal government can also continue to promote and facilitate information and intelligence sharing with state, tribal and local entities.

2. Several years ago this Committee heard testimony from state and local law enforcement representatives who observed poor information sharing between the federal, state and local government. Since that time, the Committee has heard testimony indicating that the federal government has considerably improved its counterterrorism information sharing with state and local law enforcement agencies, but that there is a need for continued reform.

I'm interested in learning more about specific initiatives in your respective states that have led to improved information sharing. For example, in my home state, the Ohio Strategic Analysis and Information Center, which partners with DHS and the FBI, has been positively regarded as a "one stop shop" for terrorism-related law enforcement information. Do you have similar fusion centers in your states, and have they been effective?

Second, could you please elaborate on specific ways the federal government can improve its information sharing activities, and if possible, provide examples of instances in which pertinent information known by the federal government was not adequately shared locally?

Many states have established fusion centers that have been extremely successful in taking an "all covered" approach. Resources—including the ability for all sized agencies to send a representative to their state's fusion center—still remain an issue.

It has long been the IACP's belief that the safety of our hometowns and homeland is ensured by effective information sharing. If state, tribal, and local law enforcement officers are adequately equipped, trained, and fully integrated into an information and intelligence sharing network, they can be invaluable assets in efforts to identify and apprehend suspected terrorists before they strike.

Two pertinent programs that the IACP has supported are the Information Sharing Environment (ISE) Implementation plan written by the office of Ambassador Thomas E. McNamara, Program Manager for the Information Sharing Environment in the Office of the Director of National Intelligence and the Vertical Intelligence Terrorism Analysis Link (VITAL) Program as proposed by the House of Representatives Committee on Homeland Security.

Programs like these will help ensure that law enforcement agencies at all levels of government are equal partners. It will also incorporate the experience and capabilities of all parties by allowing state, tribal, and local law enforcement to participate more actively in the intelligence gathering and sharing process.

3. Chief Carter, as you know, the ability of first responders and public safety officials to communicate with each other during an emergency is a critical element of preparedness and response. As Governor of Ohio, I made funding interoperable communications capabilities a top priority. More recently, during the 109th Congress, I chaired several hearings on the National Capital Region, focusing on the interoperability of the region.

Last week, the Department of Homeland Security released a scorecard assessing the baseline communications operability and interoperability of regions across the country.

Would you provide the Committee with your opinion of the recent scorecard process and results?

In your respective states, what have been some of the key barriers to achieving interoperability, and how can these obstacles be overcome?

Spectrum and funding issues continue to be a problem in interoperable communications. In recent years, the IACP has advocated for interoperable grants—such as a recent $100 interoperable communications grant offered by Sens. Lieberman and Collins—and other initiatives like the creation of a Public Safety Broadband Trust (PSBT) and the allocation of 30 MHz of additional public safety radio spectrum in the 700 MHz band for development of a national public safety broadband network to be administered by the PSBT. This network would allow for nationwide connectivity of existing public safety radio systems and would facilitate interoperability between all public safety agencies in a way not before possible. This is a time sensitive matter because if the Congress does not pass the necessary legislation prior to the spectrum being auctioned for commercial purposes (auction required no later than January 2008) the opportunity for public safety will be lost forever.

Post-Hearing Questions for the Record
Submitted to the Honorable Lee H. Hamilton
From Senator Daniel K. Akaka

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. The 9-11 Commission called for the creation of a Director of National Intelligence (DNI) with the task of eliminating stovepipes, driving reform, and creating a unity of effort. The Commission's final report noted that the success of the DNI would require active Congressional oversight. I share the Commission's concern. That is s why I reintroduced the Intelligence Community Audit Act of 2007 last week, which reaffirms the authority of the Government Accountability Office (GAO) to audit the financial transactions and evaluate the programs and activities of the intelligence community. The legislation does not interfere with the clear responsibility of the intelligence committees for intelligence sources and methods or covert activities. Rather, my bill clarifies GAO's authority to conduct audits and evaluations relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, and change management - on behalf of other relevant Congressional committees.

   Do you believe that Congressional oversight committees would benefit from the ability to task GAO to conduct audits and evaluations of the intelligence community?

   Answer: It has long been my view that that GAO should have the same authorities with respect to the Intelligence Community as it does with respect to other agencies of the federal government. In short, the GAO should have the authority to audit financial transactions and evaluate the programs and activities of the intelligence community.

   The intent of the Intelligence Community Audit Act of 2007 (S.82), is a very good one. Congressional oversight committees would benefit from the ability to task GAO to conduct audits and evaluations of the intelligence community. The Intelligence Community, in turn, would benefit from its agencies being held to the same high standards of performance as other agencies of the Federal Government.

2. As a result of the Consolidated Appropriations Act of 2005, each agency is required to have a Chief Privacy Officer assume primary responsibility for privacy and data protection policy. Successful implementation of this requirement is essential since, in 2005, GAO reported that federal agencies are not following all privacy and data security requirements. This trend is troubling in light of the increasing use of personal information by intelligence and law enforcement agencies.

A. What recommendations do you have to strengthen Chief Privacy Officers at federal agencies, particularly those agencies with intelligence and law enforcement functions?

B. What do you believe the relationship should be between the Privacy and Civil Liberties Oversight Board and agency privacy officials?

Answer: (A) The best way to strengthen Chief Privacy Officers at federal agencies is for agency heads to include them fully in the decision making process. The best way to encourage agency heads to follow this course is through robust oversight by the congressional committees of jurisdiction.

(B) The relationship between agency privacy officials and the Privacy and Civil Liberties Oversight Board should be a close and cooperative one. Agency privacy officials should stay in close touch with the Board on both emerging problems and best practices as solutions. Agency privacy officials should serve as an early warning mechanism for the Board as to the issues that require the Board's attention. An important part of the Board's work, in turn, should be to address itself to real-world problems as identified by privacy officials from the agencies.

Post-Hearing Questions for the Record
Submitted to the Honorable Lee Hamilton
From Senator Susan M. Collins

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. The 9/11 Commission report stated that one of the most important recommendations was the strengthening congressional oversight, and it specifically noted that at that time Department of Homeland Security witnesses sometimes appear before 88 committees and subcommittees. Even after some Congressional reforms, oversight of homeland security issues is still spread across several committees and subcommittees. As a point of reference, approximately how many committees have you and your 9/11 Commission colleagues appeared before to discuss the Commission's recommendations?

Answer: 9/11 Commissioners have testified over 25 times in support of the Commission's recommendations, before 12 different Committees and subcommittees in the House of Representatives, and 8 Committees and subcommittees in the United States Senate.

2. Security experts continue to predict that the terrorists are committed to attacking the homeland with a nuclear device. Such an attack would have a devastating psychological impact in addition to the destruction directly caused by such an attack. What should we be doing right now to prevent such an attack or at least mitigate its effects?

Answer: Multiple layers of defense are necessary to protect the homeland against attack with a nuclear device. They include: a strong intelligence capability, both international and domestic; and strong border security, including the radiological inspection of cargo and vehicles.

The 9/11 Commission stated: "Preventing the proliferation of weapons [of mass destruction] warrants a maximum effort – by strengthening counterproliferation efforts, expanding the Proliferation Security Initiative, and supporting the Cooperative Threat Reduction program.

The single most important step we can take to protect the homeland is to secure nuclear materials at sites outside of the United States. If those sites are secure, the terrorists cannot get nuclear materials. If the terrorists cannot get nuclear materials, they cannot build nuclear bombs.

The President should request the personnel and resources, and provide the domestic and international leadership, to secure all weapons grade nuclear material as soon as possible – in the former Soviet Union and the rest of the world. There is simply no higher priority on the national security agenda.

Post-Hearing Questions for the Record
Submitted to the Honorable Lee H. Hamilton
From Senator George V. Voinovich

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
January 9, 2007

1. Has the Director of National Intelligence been given sufficient authority to effectively manage and integrate the intelligence community?

Answer: The Intelligence Reform and Terrorism Prevention Act of 2004 created a Director of National Intelligence with substantial authorities over the constituent agencies of the Intelligence Community. Because of compromises in the legislative process (relating to the authorities of the Secretary of Defense) the authorities of the Director of National Intelligence are not complete.

It is my view that the Director's authorities over budget and personnel, and the authority to transfer resources between agencies, are sufficient if the Director exercises those authorities vigorously and fully. Steps to strengthen the DNI's authorities would be beneficial; the practicality of such a legislative effort has to be assessed carefully.

2. As you know, one of our most effective counterterrorism tools is intelligence. Good intelligence is our first line of defense in the War on Terrorism, and helps us to determine where danger lies. From your perspective in monitoring the various reforms under way in the intelligence and law enforcement communities, has intelligence gathering and analysis has improved significantly since 9/11? How would you characterize relationships between federal agencies with intersecting intelligence missions, including DHS, FBI, CIA, and the DNI? How effectively is the federal government sharing actionable intelligence and critical information with state, local, and private sector entities?

Answer: The Director of National Intelligence has certainly improved intelligence sharing across the intelligence community and across the federal government.

Yet we continue to hear about turf fights about who is in charge of information-sharing with state and local governments. We continue to hear complaints from state and local officials about the quality of the information they receive. Suffice it to say, many questions remain. The problem of information sharing across all levels of government is far from resolved.

Intelligence analysis is better today. There is more cross-fertilization of thinking. A greater diversity of views is making its way to the President and senior policymakers. But the politicization of intelligence is a problem that no structural reform can solve. Good judgment and the courage to speak up are the only solution we know.

3. In March 2001, I chaired a Subcommittee hearing entitled, "National Security Implications of the Human Capital Crisis." The panel of distinguished witnesses that day included former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century. Secretary Schlesinger concluded:

> "As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in government. The maintenance of American power in the world depends on the quality of U.S. government personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the United States can meet future challenges...it is the Commission's view that fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy."

Similarly, the 9/11 Commission concluded:

> "We know that the quality of the people is more important than the quality of the wiring diagrams. Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individual officials straining, often without success, against the boundaries of the possible. Good people can overcome bad structures. They should not have to."

It has been my continued observation that federal government reorganizations championed by Congress tend to emphasize changes to organizational structure while at times neglecting crucial personnel and managerial reforms.

Does the Director of National Intelligence have sufficient authority to reform the personnel policies within the various federal agencies to develop a more cohesive intelligence community?

Answer: It is my impression that the Director of National Intelligence has sufficient authority to reform personnel policies in the Intelligence Community, if he uses those authorities vigorously and fully.

It is the responsibility of the Director to create unity of effort within the Intelligence Community and build a strong and capable workforce for the future. It is the responsibility of the Director to inform the Congress if he believes he lacks sufficient authority to accomplish that mission.

4. During the 109th Congress, I chaired several hearings on the federal government's security clearance process. The cumbersome, lengthy process delays the timely hire of highly-skilled individuals for sensitive positions within the federal government, hampering the ability of our national security agencies to meet their heightened missions.

The *Intelligence Reform and Terrorism Prevention Act of 2004* required that within five years, all determinations of clearance are to be made within 60 days. To advance this requirement, the law necessitates reciprocity of all security clearance background investigations completed by an authorized agency.

While the Public Discourse Project's final scorecard gave a passing grade to security clearance reform, it noted "All the hard work is ahead."

How would you rate agencies' continued progress in standardizing the security clearance process? What additional actions should Congress consider to ensure further reform in this critical area?

Answer: It is our understanding that the Office of Management and Budget will soon report to the Congress considerable progress on security clearance reform, pursuant to the requirements of the Intelligence Reform and Terrorism Prevention Act of 2004.

The Homeland Security and Government Affairs Subcommittee chaired by Senator Voinovich performed the best detailed oversight of this topic in the 109th Congress. Detailed congressional oversight, especially the continuation of hearings on this topic, are the most important actions to ensure further reform in this critical area.

5. The House of Representatives recently approved legislation that would require regular updating of a list of critical infrastructure and national assets. However, it is not clear that the database will be protected from public disclosure. I firmly believe that the vulnerabilities and security of our nation's critical infrastructure should be protected information. Failure to protect vulnerabilities and site security plans could provide the terrorist with a blueprint of the nation's vulnerabilities.

What is your view of the level of information protection that should be afforded to information pertaining to the nation's critical infrastructure?

Answer: There needs to be a balance between public information and the necessary protection of security-related details related to infrastructure protection. For example, the public and its elected officials need to be aware of, and participate in, the debate on what resources to allocate to protect what types of infrastructure. The allocation of resources is a public policy decision. How assets are protected and what level of protection is provided to any single national asset (such as a site security plan), should be privileged information.

6. I believe that the ability of first responders and public safety officials to communicate with each other during an emergency is a critical element of preparedness and response. As Governor of Ohio, I made funding interoperable communications capabilities a top priority. I am pleased that the Department of Homeland Security recently released a scorecard assessing the baseline communications operability and interoperability of regions across the country and has provided technical guidance and recommendations for improvement.

Since September 11, 2001, the federal government has distributed more than $12 billion dollars in direct grants for state and local preparedness, including interoperable communications. As the Committee continues to consider the most effective way of allocating grant funding, what is your opinion of the appropriate cost share between federal, state, and local governments to fund interoperability?

Answer: The Commission took no view on the question of appropriate levels of cost-sharing for interoperability. The Commission took the view that the federal share of such funding should be based strictly on an assessment of risks and vulnerabilities. Federal funding should supplement state and local resources based on the risks or vulnerabilities that merit additional support.

7. In December of 2005, the 9/11 Public Discourse Project identified the need to better address critical infrastructure risks and vulnerabilities. Since that time, the Department of Homeland Security has introduced the National Infrastructure Protection Plan (NIPP), which is intended to coordinate and prioritize protection initiatives and investments across the public and private sector. DHS has also developed a classified list of the most nationally critical assets and created the Buffer Zone Protection Program, which awards grants aimed at protecting these assets. Additionally, Congress recently passed legislation to strengthen security at our ports and chemical facilities.

What is your view of the progress made in lessening the vulnerabilities of our nation's critical infrastructure? I would also like your view of how we can best allocate our limited resources in minimizing the risk to our nation's infrastructure.

Answer: We have made some progress in protecting our nation's critical infrastructure, but not enough and not quickly enough.

Our leaders need to make difficult but necessary decisions about priorities for the protection of infrastructure. If you try to protect everything, you protect nothing.

Priorities needs to be established based on assessments of risks and vulnerabilities. Limited resources need to be allocated on this same basis.

AUDIT REPORT

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY

From The Office Of State Auditor
Claire McCaskill

Report No. 2004-37
May 7, 2004
www.auditor.mo.gov

Office Of The
State Auditor Of Missouri
Claire McCaskill

May 2004

YELLOW SHEET

The following problems were discovered as a result of an audit conducted by our office of the Department of Public Safety, State Emergency Management Agency.

Since fiscal year 1999, the State Emergency Management Agency (SEMA) has received federal grant awards for the State Domestic Preparedness Equipment Support Program. The program's objective is to enhance state and local response to a Weapons of Mass Destruction (WMD) terrorism incident involving chemical, biological, nuclear, radiological, incendiary, and explosive devices. From fiscal year 1999 through February 2004, over $13.6 million has been spent by SEMA on the program, including funds to equip and train twenty-two Homeland Security Response Teams and six Forward Regional Response Teams located throughout the state.

A lack of clear, written minimum staffing level requirements has resulted in understaffing on some teams. SEMA officials indicated the amount of equipment provided correlates to the level of staffing; thus, indicating minimum staffing level requirements. Despite the existence of implied staffing level requirements, SEMA did not obtain, nor require information regarding the teams staffing levels. As a result of this lack of information, SEMA accepted several teams into the program that did not meet the minimum staffing level requirements. Such understaffing could effect team performance in the event of an incident. In addition, because SEMA equips teams based on the Basic Equipment List, the understaffed teams have more equipment than is necessary.

SEMA does not know how much equipment each team has in total or if the equipment is adequately insured. Although SEMA indicated they monitor equipment resources through use of tracking spreadsheets, these spreadsheets do not reflect team equipment resources on a cumulative, perpetual basis. In addition, the spreadsheets were incomplete and inaccurate. Also, SEMA has not conducted site visits or obtained and reviewed inventory and insurance records to ensure compliance.

All reports are available on our website: www.auditor.mo.gov

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY

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STATE AUDITOR'S REPORT

CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Bob Holden, Governor
and
Charles R. Jackson, Director
Department of Public Safety
and
Jerry B. Uhlmann, Director
State Emergency Management Agency
Jefferson City, MO 65102

We have audited the Department of Public Safety, State Emergency Management Agency. The scope of this audit included, but was not necessarily limited to, the years ended June 30, 2003 and 2002. The objectives of this audit were to:

1. Review internal controls over significant management and financial functions.

2. Review compliance with certain legal provisions.

3. Evaluate the economy and efficiency of certain management practices and operations.

Our methodology to accomplish these objectives included reviewing written policies, financial records, and other pertinent documents; interviewing various personnel of the agency; and testing selected transactions.

In addition, we obtained an understanding of internal controls significant to the audit objectives and considered whether specific controls have been properly designed and placed in operation. We also performed tests of certain controls to obtain evidence regarding the effectiveness of their design and operation. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We also obtained an understanding of legal provisions significant to the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting significant instances of

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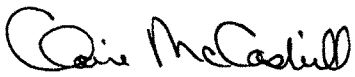
noncompliance with the provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the agency's management and was not subjected to the procedures applied in the audit of the agency.

The accompanying Management Advisory Report presents our finding arising from our audit of the Department of Public Safety, State Emergency Management Agency.



Claire McCaskill
State Auditor

February 20, 2004 (fieldwork completion date)

The following auditors participated in the preparation of this report:

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MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDING

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDING

State Domestic Preparedness Equipment Support Program

Since fiscal year 1999, the State Emergency Management Agency (SEMA) has received federal grant awards for the State Domestic Preparedness Equipment Support Program. The program's objective is to enhance the capacity of state and local first responders to respond to a Weapons of Mass Destruction (WMD) terrorism incident involving chemical, biological, nuclear, radiological, incendiary, and explosive devices. Program funding may be used to conduct comprehensive threat and needs assessments and to develop and implement a Statewide Domestic Preparedness Strategy. In addition, program funding may be used to purchase equipment for state and local first responders, and support the planning and conduct of exercises. From fiscal year 1999 through February 2004, over $13.6 million has been spent by SEMA on the program. SEMA has expended the funds to equip and train twenty-two Homeland Security Response Teams (HSRT's) and six Forward Regional Response Teams (FRRT's) located throughout the state. The results of our audit indicate a need to better manage and monitor the equipment support program.

A. A lack of clear, written minimum staffing level requirements has resulted in understaffing on some teams. SEMA personnel indicated that staffing requirements were implied by the Basic Equipment List contained in the contract signed by each team. The Basic Equipment List outlines the specific amount and types of equipment to be provided to the teams upon their acceptance into the program. SEMA officials indicated the amount of equipment to be provided correlates to the level of staffing; thus, indicating minimum staffing level requirements. According to the list, HSRT's are to consist of at least twelve hazardous materials personnel, twenty law enforcement personnel, and twelve emergency medical service (EMS) personnel. FRRT's are to consist of at least twelve hazardous materials personnel, ten law enforcement personnel, and eight EMS personnel.

However, despite the existence of implied staffing level requirements, SEMA did not obtain, nor require of the teams at the time of their application, information regarding their staffing levels. As a result of this lack of information, SEMA accepted several teams into the program that did not meet the minimum staffing level requirements. As of February 2004, six of the twenty-two (27 percent) HSRT's and two of the six (33 percent) FRRT's are understaffed in at least one of the disciplines. One team has only eight, instead of twelve hazardous materials personnel. The teams are understaffed on law enforcement from three to fifteen personnel and on EMS from two to eight personnel. Such understaffing could effect team performance in the event of an incident. In addition, because SEMA

equips teams based on the Basic Equipment List, the understaffed teams have more equipment than is necessary. Over time, this excess equipment may suffer from a lack of use or become obsolete.

SEMA should establish clear, written minimum staffing level requirements for the teams. Such requirements should be enforced when additional teams apply for inclusion in the program. In addition, SEMA should take the necessary steps to ensure existing teams meet minimum staffing level requirements.

B. SEMA has not established an adequate monitoring system for the State Domestic Preparedness Program. Currently, SEMA does not possess complete or accurate information regarding team equipment and personnel resources. As a result, the state has a reduced ability to coordinate and direct activities of the teams in the event of an incident. In addition to providing information needed to coordinate the teams, federal grant requirements require subrecipient monitoring.

1. SEMA does not know how much equipment each team has in total or if the equipment is adequately insured, as required by the contract. Although SEMA indicated they monitor equipment resources through use of tracking spreadsheets indicating budget and actual purchases by the teams, these spreadsheets do not reflect team equipment resources on a cumulative, perpetual basis. Therefore, SEMA has no single record reflecting a team's cumulative equipment resources. In addition, our testing revealed the spreadsheets were incomplete and inaccurate. Three of ten purchases tested (30 percent) were recorded at the wrong amount, and three of thirteen purchases tested (23 percent) were not recorded as a purchase.

   Although teams are responsible for maintaining equipment inventory records and contracts with the teams require insurance coverage on team equipment, SEMA has not conducted site visits or obtained and reviewed such inventory and insurance records to ensure compliance.

2. Although SEMA has recently begun efforts to obtain certain statistical information about team personnel, the information currently on hand is incomplete and appears inaccurate. Four of the twenty-eight teams have yet to submit their statistical information, virtually all teams submitted incomplete reports, and some inaccuracies appear to exist on other reports. For example, one team report indicated it had more personnel with certifications than personnel on the team.

SEMA should continue to work on establishing an adequate system of monitoring the program to include the development of equipment and personnel resource listings. Not knowing the statewide personnel and equipment resources available and overall abilities of the teams could hamper SEMA's ability to perform one of

its basic functions, coordinating and directing activities of the state and teams in the event of a significant incident.

WE RECOMMEND the SEMA:

A. Establish and enforce clear, written minimum staffing level requirements for the teams. In addition, the SEMA should take the necessary steps to ensure existing teams meet minimum staffing level requirements.

B. Continue to work on establishing an adequate system of monitoring the program to include the development of equipment and personnel resource listings and ensuring compliance with team contract provisions.

AUDITEE'S RESPONSE

A. We agree with this recommendation and will implement. Staffing levels and equipment standards are addressed in our amended memorandum of agreement. We are in the process of evaluating the teams for compliance. Once the equipment is purchased and distributed, the vendors or training contractors provide training for the assigned personnel.

B. We agree with the recommendation. We are in the process of evaluating each team. The prior year grants are being closed out, and as this happens, each recipient will be audited for compliance. A contractor will be selected in the near future to do an evaluation and review of staffing levels, equipment, training, and conduct exercises to evaluate team capability and make recommendations for any corrective action as needed.

HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY
HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

The State Emergency Management Agency (SEMA) was created by statute in 1951 as a division of the executive branch of state government. The agency was transferred to the Office of the Adjutant General by executive order on October 1, 1966. The 74th General Assembly confirmed the transfer in 1967. The State Omnibus Reorganization Act of 1974 transferred the Office of the Adjutant General to the Department of Public Safety. Chapter 44, RSMo 1978, gives detailed provisions as to the organization and function of SEMA.

SEMA, in cooperation with local, state, and federal governments, is responsible for developing statewide all hazard plans, hazard mitigation plans, and administering state and federal programs. In the event of a Presidential Disaster Declaration, and after the signing of a federal-state disaster agreement, SEMA coordinates and serves as a liaison between the Federal Emergency Management Agency (FEMA) and victims of natural disasters for the payments of disaster assistance claims ranging from temporary housing to mitigation. When damages occur to publicly owned property, SEMA in cooperation with FEMA conducts damage assessments, writes project scope of work, administers federal funds to local communities, and conducts closeout project audits.

In the event of a major statewide natural or man-made disaster, the governor, state officials and support staff coordinate state agency response from the State Emergency Operations Center (SEOC). The SEOC is located 18-feet underground at the Adjutant General's Headquarters of the Missouri National Guard, ISTS (Ike Skelton Training Site) on Militia Drive in Jefferson City. The SEOC is designed and built to provide protection from radioactive fallout and earthquakes. The SEOC has back up generators, an independent water system, a communications center and a computer system for continuity of government for disaster response. The SEOC is occupied and used on a daily basis as the regular offices of SEMA to assure operational readiness in the event of an emergency.

The executive officials of local political subdivisions appoint the county and city directors of emergency management. About 90 percent of all local emergency management directors are volunteers or are paid on a part-time basis. SEMA provides training, guidance, and assistance to the local organizations but does not command or control their activities.

The SEMA Director supervises the day-to-day operations of the agency. During normal working conditions, he reports to the Adjutant General and coordinates certain activities with the Director of Public Safety, the Director of Homeland Security, and the Governor's Office.

During a disaster, the SEMA Director reports directly to the Governor's Office. The Governor has the responsibility of carrying out all or any part of the emergency response functions within the state.

The following describes the organization and functions of SEMA's branches:

Executive Branch:
Direction and control of state response
Emergency public information
Information technology
Statewide Disaster Coordinator (Citizen Corps Coordinator)
Missouri Emergency Response Commission (MERC)
- Tier II forms
- SARA Title II grants to Local Emergency Planning Committees
- Hazardous materials training to local fire, law and EMS

Fiscal Branch:
Department of Homeland Security FEMA Emergency Management Preparedness Grants (85 local communities and state office)
Personnel
Procurement
Grants Management
Legislation
Audits
Office Support

Operations Branch:
Department of Homeland Security Office of Domestic Preparedness Grants (28 regional HS response teams, terrorism and all hazard planning, terrorism exercises and weapons of mass destruction training, CERT program)
Radiological emergency planning
Communications
Training and exercises
911 Coordinating Board

Planning and Disaster Response Branch:
Area coordinator program
All hazard plans (state plan and 169 local emergency operations plans – 114 counties and 45 communities with population over 5,000)
Damage assessments (individual assistance, public assistance)
Disaster recovery efforts

Floodplain and Mitigation Branch:
Floodplain management, community visits
All hazard mitigation planning
Buyout program
Earthquake program
Missouri Seismic Safety Commission
SAVE Coalition (Structural Assessment Visual Evaluation of post EQ damaged buildings)

Jerry B. Uhlmann has served as Director since March 20, 1993. The agency has 65 full-time employees.

Appendix A

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY
COMPARATIVE STATEMENT OF APPROPRIATIONS AND EXPENDITURES

	Year Ended June 30,					
	2003			2002		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
GENERAL REVENUE FUND						
Administration and Emergency Operations -						
Personal Service	$ 1,521,486	1,460,216	61,270	1,521,486	1,396,218	125,268
Expense and Equipment	252,970	190,613	62,357	267,970	218,435	49,535
All allotments, grants, and contributions from federal and other sources that are deposited in the State Treasury for administrative and training expenses of the State Emergency Management Agency	3,826,001	3,825,990	11	1,141,264	1,062,795	78,469
Implementing homeland security measures	343,351	202,343	141,008	0	0	0
Total General Revenue Fund	5,943,808	5,679,162	264,646	2,930,720	2,677,448	253,272
FACILITIES MAINTENANCE RESERVE FUND						
Unprogrammed requirements for facilities statewide	0	0	0	58,405	58,405	0
Repairs to the Route C tower site	3,750	0	3,750	13,502	9,752	3,750 *
Total Facilities Maintenance Reserve Fund	3,750	0	3,750	71,907	68,157	3,750
STATE EMERGENCY MANAGEMENT FUND						
The Community Right-to-Know Act	350,000	286,184	63,816	350,000	283,817	66,183
To provide matching funds for federal grants received under Public Law 93-288 and for emergency assistance expenses of the State Emergency Management Agency as provided in Section 44.032, RSMo.	7,500,000	5,265,255	2,234,745	2,250,000	2,095,570	154,430
Local hazard mitigation projects under the Flood Mitigation Assistance Program -						
Personal Service	974,756	784,394	190,362	874,756	787,914	86,842
Expense and Equipment	216,023	204,628	11,395	216,023	215,678	345
Total State Emergency Management Fund	9,040,779	6,540,461	2,500,318	3,690,779	3,382,979	307,800

Appendix A

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY
COMPARATIVE STATEMENT OF APPROPRIATIONS AND EXPENDITURES

	Year Ended June 30,					
	2003			2002		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
HOMELAND SECURITY FUND						
For the purposes of funding homeland security initiatives to be administered by the State Emergency Management Agency -						
To the Department of Agriculture	376,341	260,279	116,062	0	0	0
To the Department of Natural Resources	432,401	74,504	357,897	0	0	0
Implementing homeland security measures	1,054,927	629,233	425,694	0	0	0
Total Homeland Security Fund	1,863,669	964,016	899,653	0	0	0
CHEMICAL EMERGENCY PREPAREDNES FUND						
Local hazard mitigation projects under the Flood Mitigation Assistance Program -						
Personal Service	161,988	110,365	51,623	161,988	149,716	12,272
Expense and Equipment	68,884	29,906	38,978	68,884	68,658	226
Distribution of funds to local emergency planning commissions to implement the federal Hazardous Materials Transportation Uniform Safety Act of 1990	650,000	406,329	243,671	650,000	439,580	210,420
Total Chemical Emergency Preparednes Fund	880,872	546,600	334,272	880,872	657,954	222,918

Appendix A

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY
COMPARATIVE STATEMENT OF APPROPRIATIONS AND EXPENDITURES

	Year Ended June 30,					
	2003			2002		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
MISSOURI DISASTER FUND						
Allotments, grants, and contributions from federal and other sources that are deposited in the State Treasury for the use of the State Emergency Management Agency for alleviating distress from disasters	59,400,000	59,350,548	49,452	21,200,000	20,862,772	337,228
Total Missouri Disaster Fund	59,400,000	59,350,548	49,452	21,200,000	20,862,772	337,228
Total All Funds	$ 77,132,878	73,080,787	4,052,091	28,774,278	27,649,310	1,124,968

* Biennial appropriations set up in fiscal year 2002 are re-appropriations to fiscal year 2003. After the fiscal year-end processing has been completed, the unexpended fiscal year 2002 appropriation balance for a biennial appropriation is established in fiscal year 2003. Therefore, there is no lapsed balance for a biennial appropriation at the end of fiscal year 2002.

The lapsed balances include the following withholdings made at the Governor's request:

	Year Ended June 30,	
	2003	2002
Administration and Emergency Operations -		
Personal Service	$ 61,041	125,040
Expense and Equipment	61,472	49,474
Implementing homeland security measures	138,708	0
Repairs to the Route C tower site	3,750	0
Total Withholdings	$ 264,971	174,514

Appendix B

DEPARTMENT OF PUBLIC SAFETY
STATE EMERGENCY MANAGEMENT AGENCY
COMPARATIVE STATEMENT OF EXPENDITURES (FROM APPROPRIATIONS)

		Year Ended June 30,	
		2003	2002
Salaries and wages	$	2,941,052	2,350,869
Travel		447,098	297,935
Supplies		224,795	192,457
Professional development		60,167	78,011
Communication services and supplies		112,092	97,636
Services:			
Professional		409,770	237,320
Housekeeping and janitorial		645	0
Maintenance and repair		82,673	63,989
Equipment:			
Computer		172,335	93,444
Motorized		38,000	0
Office		41,893	38,472
Other		99,937	73,917
Property and improvements		0	67,553
Real property rentals and leases		4,470	16,614
Equipment rental and leases		3,552	7,925
Miscellaneous expenses		122,039	57,665
Refunds		21,989	0
Program distributions		68,298,280	23,975,503
Total Expenditures	$	73,080,787	27,649,310

Claire McCaskill
Missouri State Auditor

May 2006

PUBLIC SAFETY

Homeland Security Program

Office Of The
State Auditor Of Missouri
Claire McCaskill

May 2006

YELLOW SHEET

The following findings were included in our audit report on the Department of Public Safety, Homeland Security Program.

Missouri has lagged behind several neighboring states in establishing an intelligence fusion center and may have increased the state's vulnerability to acts of terrorism. An intelligence fusion center is needed to provide resources, expertise, and information to help detect, prevent, and monitor terrorism within the state. This center will be threat-driven, operational 24 hours a day, 7 days a week. Future federal funding may be contingent on the establishment of such a center. The idea of an intelligence fusion center has been discussed since January 2003 with various projected costs and funding sources. Finally, in December 2005, staffing began on a Missouri fusion center and it was officially named the Missouri Information Analysis Center (MIAC). Department personnel indicated that it may take another two years to fully staff the MIAC.

The state distributed almost 19,000 individual personal protective equipment (PPE) complements to emergency medical services (EMS) and law enforcement agencies (LEA) statewide. The PPE included breathing masks, chemical suits, gloves, boots, and related accessories. PPE was distributed to some local agencies that did not need or want the equipment. We visited 43 EMS, fire, and LEA agencies and noted several different levels of effective use of the PPE. Some agencies claimed they were waiting to obtain training. One agency supervisor indicated he and his staff did not even know how to assemble the PPE components. At the police departments for the cities of Kansas City and St. Louis, as well as other locations, PPE remained unopened and stored in its original boxes. Furthermore, SEMA did not adequately monitor the distribution of the PPE and does not have accurate records of the various agencies that received equipment.

Also, a lack of information exists regarding the proper storage and/or issuance of the PPE. We noted that some local agencies required that PPE be stored, ready for use, in official vehicles, while other local agencies stored the PPE at their headquarters to be issued in the event of an emergency. In addition, there are no statewide use restrictions to guide local agencies. Personnel at some agencies that we visited claimed they did not know usage requirements and limitations for the PPE. The lack of such restrictions may result in improper usage occurring. One local official informed us that part of the PPE may be used for personal hunting.

Missouri's progress has been slow towards achieving its goal of communications interoperability. Communications interoperability enables responders to effectively communicate with one another through a common language and a common system during an emergency. In 2004, a contractor hired to review the state's interoperability reported

that Missouri had not achieved interoperability across many areas of the state, emergency responders were not properly trained or equipped to communicate in a unified environment, and that communications equipment was old and costly to maintain. The same contractor was again hired the next year to assess and monitor Missouri's 28 Homeland Security Response Teams (HSRT's). In their monitoring report, the contractor found communications interoperability problems, along with several other response weaknesses, existed with 46 percent of teams, including the HSRT's in the high risk areas of the cities of St. Louis and Kansas City. Common issues reported by the contractor included a lack of radios and cellular telephones, age of the equipment, and a lack of towers and repeaters.

As of July 2005, statewide expenditures for communications interoperability had accumulated to $2.05 million, or approximately 26 percent of the amount budgeted to accomplish this goal. The contractor's initial communications interoperability study found no formal leadership authority for communication issues in Missouri and that the state needed coordinated and integrated planning to shape its communications future. Also, SEMA did not conduct a formal needs assessment prior to contracting for the communications interoperability study and it appears state officials were already aware of the statewide interoperability problems. As a result, the state may have unnecessarily paid approximately $247,000 for the 2004 study.

Also included in the report are recommendations related to the strategic plan, program monitoring and oversight, federal compliance issues, and response team issues.

All reports are available on our website: www.auditor.mo.gov

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STATE AUDITOR'S REPORT

CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Matt Blunt, Governor
and
Mark James, Director
Department of Public Safety
Jefferson City, MO 65102
and
Ronald M. Reynolds, Director
State Emergency Management Agency
2302 Militia Drive
Jefferson City, MO 65101

We have audited the Homeland Security Program administered by the Department of Public Safety, State Emergency Management Agency. The scope of this audit included, but was not necessarily limited to, the years ended June 30, 2005 and 2004. The scope of this audit did not include bioterrorism funds received by the Department of Health and Senior Services from the Centers for Disease Controls, or funds spent by the departments of Agriculture and Natural Resources in their efforts against terrorism. These programs may be the subject of a future audit. The objectives of this audit were to:

1. Review the receipt and expenditure of federal Department of Homeland Security monies by the Department of Public Safety.

2. Review internal controls over significant management and financial functions related to the state's Homeland Security Program.

3. Review compliance with certain legal provisions, including compliance with federal grant and contract requirements related to funds received from the federal Department of Homeland Security.

4. Evaluate the economy and efficiency of certain management practices and operations related to the state's Homeland Security Program.

Our methodology to accomplish these objectives included reviewing minutes of meetings, written policies, financial records, and other pertinent documents; interviewing various

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personnel of the department, as well as certain external parties; and testing selected transactions. We also conducted site visits to various program subrecipients of the State Emergency Management Agency.

In addition, we obtained an understanding of internal controls significant to the audit objectives and considered whether specific controls have been properly designed and placed in operation. We also performed tests of certain controls to obtain evidence regarding the effectiveness of their design and operation. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We also obtained an understanding of legal provisions significant to the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting significant instances of noncompliance with the provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in the audit of the program.

The accompanying Management Advisory Report presents our findings arising from our audit of the Homeland Security Program administered by the Department of Public Safety, State Emergency Management Agency.

Claire McCaskill
State Auditor

December 1, 2005 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Kenneth W. Kuster, CPA
Audit Manager:	Alice M. Fast, CPA
In-Charge Auditor:	Dan Vandersteen, CPA
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	Jennifer Martin
	Jonathan Edwards

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

HOMELAND SECURITY PROGRAM
DEPARTMENT OF PUBLIC SAFETY
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1.	**Intelligence Fusion Center**

Missouri lagged behind several neighboring states in establishing an intelligence fusion center. Of the seven neighboring states that responded to our inquiry, we noted that Iowa, Illinois, Kansas, and Tennessee all currently had working intelligence fusion centers. Missouri began staffing an intelligence fusion center in December 2005.

Missouri's intelligence fusion center is planned to be a cooperative effort of several agencies who provide resources, expertise, and information for the ability to detect, prevent, and monitor terrorism within the state of Missouri. The intelligence fusion center will be operational 24 hours a day, 7 days a week.

The Missouri State Highway Patrol (MSHP) has maintained an intelligence center, currently known as the Homeland Security Information Network (HSIN), since prior to September 11, 2001. The HSIN is only monitored five days a week from 7 a.m. to 7 p.m. and thus, is not monitored nights and weekends. Missouri also has a State Emergency Operations Center (SEOC) and several local emergency operations centers to deal with responses to all disasters. Once implemented, the intelligence fusion center will differ from the HSIN and other emergency centers as intelligence fusion centers are threat-driven and act as a prevention method. The HSIN is generally specific to investigative case support and the emergency centers focus on disaster recovery efforts. Currently, it is planned to eventually incorporate the HSIN into the intelligence fusion center.

Since January 2003, the idea of an intelligence fusion center has been discussed with various projected costs and names. The state's former Homeland Security Director initially estimated a $10 million start-up cost, with an estimated $2 to $3 million annual cost. The initial goal was to have the center operational by October 1, 2004. By May 2004, costs over the next four years were projected to be $50 million with a workforce of 33 personnel. Due to the high projected cost, the state's former Homeland Security Director sought, but was unable to obtain, federal Department of Justice (DOJ) funding. Progress on the fusion center stalled as no funding sources could be identified. In July 2005, the new state Homeland Security Director renewed planning discussions for the fusion center. In December 2005, staffing began on the fusion center and it was officially named the Missouri Information Analysis Center (MIAC). State Emergency Management Agency (SEMA) personnel have indicated that it may take another two years for full staffing of the MIAC. The state's slow pace toward implementation of an intelligence fusion center may have increased Missouri's vulnerability.

According to a 2005 federal Department of Justice report entitled Recommended Fusion Center Standards – *Recommended Minimum Standards for Establishing and Operating*

the Intelligence Component of Fusion Centers for Local, State, Tribal, and Federal Law Enforcement, "HSPD-5 (Homeland Security Presidential Directive #5), requires the Department of Homeland Security (DHS) to coordinate with other federal departments and state, local, and tribal governments to establish a National Response Plan (NRP) and a National Incident Management System (NIMS). Each of these items plays a role in the establishment of fusion centers and lays a foundation for enhanced information and intelligence sharing among all levels of law enforcement, public safety, and the private sector." SEMA personnel have indicated they believe that Missouri's future federal funding may be contingent on the establishment of a working intelligence fusion center. To increase Missouri's ability to detect, prevent, and monitor terrorism within the state, and to ensure Missouri remains eligible for future federal homeland security funding, efforts should continue towards implementing an intelligence fusion center.

WE RECOMMEND the Department of Public Safety implement a working intelligence fusion center.

AUDITEE'S RESPONSE

We agree with the auditor's recommendation. The Missouri Department of Public Safety established an intelligence fusion center, hereafter called the Missouri Information Analysis Center (MIAC), in September 2005. The MIAC was established by the newly formed Homeland Security Advisory Council (HSAC). This administration identified that as a priority which was overlooked by the previous administration. Additionally, it was determined the location of the present staff, that was located at an adjunct Missouri Highway State Highway (MSHP) facility, was not compliant with the newly enacted National Incident Management System (NIMS) that suggests a Fusion Center (MIAC) would be more appropriately co-located with the State Emergency Operations Center. This resulted with the core group analysts being transferred to the Ike Skelton Training Center in a work center adjacent to SEMA. We are committed to ensuring MIAC will be adequately staffed to meet public safety needs.

Anticipated completion date: *July 2007*

2.	**Communications Interoperability**

Missouri has not achieved its goal of communications interoperability. Communications interoperability enables responders to effectively communicate with one another through a common language and a common system during an emergency. Incidents such as the 9/11 terrorist attacks and various natural disasters have repeatedly demonstrated the vital importance of communications interoperability.

The Missouri State Homeland Security Strategy Plan contained an objective to establish statewide interoperable communications plans by August 2005; however, this date has been revised to May 2006. The Statewide Interoperability Executive Committee (SIEC) is currently working on writing a state-wide communications plan. Once the state-wide

plan is written, the state's individual highway patrol regions will write plans specific to their region.

A. Missouri's progress has been slow towards achieving its goal of communications interoperability. In 2004, a contractor hired to review the states interoperability reported that Missouri had not achieved interoperability across many areas of the state, emergency responders were not properly trained or equipped to communicate in a unified environment, and that communications equipment was old and costly to maintain. The same contractor was again hired the next year to assess and monitor Missouri's 28 Homeland Security Response Teams (HSRT's). In their monitoring report, the contractor found communications interoperability problems existed with 13 of the 28 (46.4 percent) teams, including the HSRT's in the high risk areas of the cities of St. Louis and Kansas City. Common issues reported by the contractor included a lack of radios and cellular telephones, age of the equipment, and a lack of towers and repeaters, all of which limit interoperability at the first responder level. The contractor also found a need for some teams to choose one universal system for all their participating disciplines to respond at the highest, most effective level.

State officials have known since before the 2004 contractor report that communications interoperability problems existed throughout the state and progress remains ongoing towards achieving communications interoperability. However, it is a long and costly process. As of July 2005, statewide expenditures for communications interoperability had accumulated to $2.05 million out of the $7.83 million budgeted, or approximately 26 percent. This relatively slow rate of progress may have resulted from conditions pointed out in the contractors initial communications interoperability study. The contractor found there was no formal leadership authority for communication issues in Missouri and that the state needed coordinated and integrated planning to shape its communications future.

It is imperative for the state to continue working towards achieving its goal of communications interoperability. Communications interoperability is essential for all of Missouri's responders to function safely and effectively in their efforts to reduce risks to people's lives and property.

B. The SEMA did not conduct a formal needs assessment prior to contracting for the communications interoperability study and it appears state officials were already aware of the statewide interoperability problems. As a result, the state may have unnecessarily paid approximately $247,000 for the 2004 study.

Prior to the 2004 report, there already existed similar findings and recommendations in After Action Reports resulting from HSRT exercises. Also, some SEMA and MSHP officials indicated the contractor's study was unnecessary because the state was already aware of the conditions noted in the report and that the issue had been studied before. Therefore, they believed it was considered common knowledge by state public safety officials that communications

interoperability was a problem. Other SEMA officials we spoke with indicated the reason for hiring the contractor was a perceived need for an independent, credible source to persuade some local jurisdictions and state agencies that interoperability was a problem.

A formal needs assessment should be conducted prior to authorizing consulting contracts to evaluate the issues discussed above and the costs and benefits that may arise from such a contract.

WE RECOMMEND the Department of Public Safety:

A. Continue working towards achieving the goal of communications interoperability.

B. Conduct formal needs assessments prior to entering into consulting contracts.

AUDITEE'S RESPONSE

A. We agree with the auditor's recommendation. The Department of Public Safety and SEMA under the direction of the Missouri Homeland Security Advisory Council will continue to address all issues related to statewide communications interoperability. Additionally, the state is addressing potential public/private partnerships through the State Interoperable Communications Executive Committee (SIEC). The membership of the SIEC includes state agencies, local jurisdictions and private enterprises.

B. We agree with the auditor's recommendation relating to the decision of the prior administration to contract for a communication interoperability study costing $247,000. The Department of Public Safety and SEMA will ensure formal needs assessments be conducted prior to entering into any future consulting contracts if it is determined that outside assistance is needed.

Anticipated completion date: *Ongoing*

3.	**Personal Protective Equipment Purchases**

The state distributed over $9.2 million [approximately $1.8 million to emergency medical services (EMS) and $7.4 million to law enforcement agencies (LEAs)] of personal protective equipment (PPE) to first responders statewide without adequate planning, coordination, or training. The state distributed almost 19,000 individual PPE complements statewide including breathing masks, chemical suits, gloves, boots, and related accessories. We reviewed the PPE expenditures and conducted site visits to various local agencies and noted the following:

A. The state may have purchased more PPE than necessary. PPE was distributed to some local agencies that did not need or want the equipment. Some local agency officials indicated they already owned similar equipment and the PPE provided by

the state may never be used. While state officials conducted a general survey of the PPE needs of the state's EMS, fire, and LEA agencies, the survey apparently did not address the individual needs of all local agencies. Local agencies indicated to us they were merely required to report their number of personnel to indicate how many sets of PPE they could receive.

To avoid the possibility of over purchasing, the state should conduct detailed needs assessments prior to any future statewide homeland security equipment purchases.

B. The state did not adequately assess the training needs and requirements of the local responders regarding their PPE. As a result, some local responders may not have received sufficient training to properly use their PPE and some PPE remains unopened and stored in its original boxes.

1. Local responders may not have received sufficient training to properly use their PPE. We visited 43 EMS, fire, and LEA agencies and noted several EMS and LEA agencies that had never opened their shipment of PPE or did not plan to use the PPE. Some agencies claim they never opened the shipment because they were waiting to obtain training related to the PPE. Other agencies claimed they did not plan to use the PPE because they had received no training and did not know usage requirements and limitations for the PPE. One agency supervisor indicated he and his staff did not even know how to assemble the PPE components. Some agencies had at least one staff person with appropriate training for the PPE; however, this was not always shared amongst the entire staff.

   There also exists a lack of information regarding the proper storage and/or issuance of the PPE that should be addressed by state. We noted that some local agencies required that PPE be stored, ready for use, in official vehicles. Other local agencies stored the PPE at their headquarters to be issued in the event of an emergency. Some of these local agencies indicated they would not require that PPE be stored in official vehicles because they believed exposure to temperature variations could be damaging to the PPE. We were told by other agencies that temperature variations would not effect the PPE.

   State agencies such as the SEMA and the Department of Health and Senior Services (DHSS), along with the University of Missouri and other entities, do offer the various types of training necessary; however, some local agencies claimed they did not know about such training. SEMA staff also indicated that some local agencies may pay for staff training required for maintaining certification within a discipline, but do not always pay for additional training such as that relating to the PPE. Therefore, it is possible some local personnel may not have been able to

obtain the additional PPE related training due to local budgetary constraints.

To ensure responders possess the knowledge and qualifications to safely and effectively use their PPE in response situations, the state should take steps to ensure local responders acquire the training necessary to properly use their PPE.

2. The PPE at some locations remained unopened and stored in its original boxes. The two largest agencies at which this was observed were the cities of Kansas City and St. Louis Police Departments (PD). These agencies stored the PPE in their respective warehouses. If PPE are not issued to officers, or at least stored at the various police stations, it will not be ready for use in the event of an emergency. This condition was also observed at some other smaller local agencies during our site visits.

   The Kansas City PD received 1,359 PPE complements over a period of time beginning as early as May 2004. According to a PD official, the PPE has been sitting at the warehouse because personnel in-charge of administering the PPE did not follow through with its distribution. The official also indicated the PD did not have a specific plan for distributing the PPE, although he expected the equipment to be distributed by the first part of 2006.

   The city of St. Louis PD received 1,438 PPE complements beginning as early as May 2004. Approximately 200 of the PPE had been issued and the remaining PPE remained stored unopened in their warehouse. According to a PD official, the bulk of the PPE remains warehoused due to the fact that they have not received training on the equipment. Only the new officers of the department, and a few others, have been trained on the PPE. According to the PD official, the PD follows OSHA requirements and will not issue the PPE until each officer has been trained properly. The PD is currently working on a policy regarding sizing, training, and use restrictions for the PPE.

   To aid in the safety and effectiveness of responders, the state should require all PPE be distributed to responders or at least maintained in a state of readiness in the event of a disaster.

C. There exists no statewide use restrictions to guide local agencies on the proper use of the PPE. While the federal Office of Management and Budget (OMB) Circular A-102 Common Rule generally requires that federal equipment be used in the program for which it was acquired, the lack of more specific statewide use restrictions may result in improper usage to occur with some of the PPE. One local official informed us that part of the PPE may be used by personnel for personal hunting use.

To help ensure homeland security equipment is used only for authorized purposes, the state should establish and maintain use restrictions to guide local agencies on the proper use of their equipment.

D. The SEMA did not adequately monitor the contractor that distributed PPE to local LEAs. As a result, some local LEAs did not receive their allotted PPE, due apparently to communication misunderstandings. In addition, the lack of adequate monitoring has resulted in SEMA's records not accurately reflecting the location of the distributed PPE.

The SEMA contracted with the Missouri Police Chiefs' Association to distribute the PPE to the LEAs. The LEAs were notified by SEMA that they could request a drop shipment to their location or obtain the PPE at the Missouri Police Chiefs' Association's warehouse in Jefferson City. During our site visits, LEAs that had not received PPE claimed they had never received notices about the PPE's availability. Others incorrectly assumed their County Sheriff had obtained their PPE for them. Our subsequent visit to the Missouri Police Chiefs' Association revealed that the unclaimed items had already been distributed to other LEAs who requested additional items. Thus, there remained little or no supply of PPE to distribute to the LEAs who had never received their PPE. Additionally, due to the lack of adequate monitoring, SEMA's records inaccurately reflected PPE going to some LEAs who never actually received PPE while also not reflecting the additional PPE obtained at a later date by other LEAs.

To ensure the propriety of any future equipment distributions and the accuracy of recordkeeping thereon, the SEMA should appropriately monitor any contractors it uses.

WE RECOMMEND the Department of Public Safety:

A. Conduct detailed needs assessments prior to any future statewide homeland security equipment purchases. Subsequent equipment distribution should then be based upon the identified need.

B.1. Take steps to ensure local responders acquire the training and knowledge necessary to properly use and store their PPE.

2. Require all PPE be distributed to responders or at least maintained in a state of readiness in the event of a disaster.

C. Establish and maintain use restrictions to guide local agencies on the proper use of their equipment.

D. Appropriately monitor contractors to ensure the propriety of any future equipment distributions.

AUDITEE'S RESPONSE

A. The previous administration failed to conduct a detailed needs assessment. The present administration, realizing these shortcomings, directed that the State Homeland Security Program be streamlined to remove the current inefficiencies. The Governor directed that all Homeland Security responsibilities would be merged into the existing Department of Public Safety. This will allow the Director to coordinate efforts, maintain better organization, and implement more timely and effective planning, response, recovery and mitigation at the state level.

B.1. We agree with the auditor's recommendation. We have taken steps to implement this recommendation. As part of the program, jurisdictions are required to sign a statement that they agree to maintain the equipment and ensure personnel are trained on its use and care. The Missouri Police Chiefs' Association conducts training in all jurisdictions.

B.2 We agree with the auditor's recommendation. Local jurisdictions determine the issue of PPE to first responders and SEMA will reemphasize the proper storage of PPE in the bi-monthly bulletins. It is not the state's responsibility to maintain the purchased equipment; however, SEMA has taken proactive measures to provide additional training whenever requested by local first responders.

C. We agree with the auditor's recommendation. SEMA will reemphasize the proper use and restrictions to the use of PPE in the bi-monthly bulletins. It is not the state's responsibility to maintain the purchased equipment; however, SEMA has taken proactive measures to provide additional training whenever requested by local first responders.

D. We agree with the auditor's recommendation. We have taken steps to implement this recommendation.

Anticipated completion date: *Ongoing*

4.	Strategic Plan

Although the Missouri Homeland Security Strategy Plan dated November 17, 2004, met the requirements of the Office of Domestic Preparedness (ODP), some elements of a strategic plan were missing. There were no long-term goals or budgeted dollar amounts for most plan objectives. There were no plans for a public/private cooperative for homeland security research and development challenges in Missouri. Also, there has been no discussion on how to protect citizens' civil liberties in homeland security activities.

A. The Strategy Plan contains short and mid-term goals, objectives, and completion dates. These goals, objectives, and completion dates cover the plan up until October 2006. However, the Strategy Plan does not contain any long-term goals, objectives, or completion dates. For example, the Strategy Plan did not contain a

long-term goal relating to the future funding of equipment replacement. Such a goal is necessary to ensure the state is prepared to handle future equipment replacement needs. In addition, the plan did not contain estimated costs for all of its goals, and estimated costs for some goals were not up-to-date and reflective of changes occurring in the estimates.

Establishing longer range goals, objectives, and completion dates would provide guidance to the state and allow for efficient and practical long range homeland security planning. This would also allow the state to measure progress towards its long range strategic goals, ensuring the strategic plan remains an effective planning and management tool. In addition, establishing and maintaining current cost estimates for all strategic plan goals would assist the state in allocating resources in the most effective manner. Establishing and monitoring cost estimates for the state's long range goals is also necessary due to the unpredictability regarding types and levels of future federal assistance that may or may not be available.

B. We obtained and reviewed homeland security strategic plans from four nearby states and compared them with Missouri's plan. We noted that Missouri's plan had no objective for a public/private homeland security cooperative nor an objective ensuring that the state did not infringe upon the civil liberties of its citizens.

1) The Missouri strategy did not contain any goals or objectives that relate to developing a public/private cooperative to provide Missouri and the nation with research, development, science, technology, and testing capabilities to assist in identifying and resolving homeland security challenges. Such a goal may be used by the state for both near and long term solutions to homeland security challenges and may help set national standards.

2) The Missouri strategy did not contain any goals or objectives ensuring that it did not infringe upon the civil liberties of its citizens. We found no discussion in the minutes of the Missouri Homeland Security Council that any consideration was given as to how or if the state's homeland security strategy might infringe upon the civil liberties of its citizens. In addition, there was no documentation of a review of the implementation strategy steps by the Attorney General's Office or other appropriate legal counsel. The state should consider measures to ensure that its Homeland Security Strategy Plan does not infringe upon the civil rights of its citizens.

WE RECOMMEND the Department of Public Safety:

A. Establish and monitor within the Homeland Security Strategy Plan long-term goals and objectives, including a long-term goal of funding future equipment replacement costs. Both long and short-term goals should have corresponding

cost estimates to provide assistance in allocating resources in the most effective manner.

B.1. Establish goals and objectives within the Homeland Security Strategy Plan that relate to developing a public/private cooperative to provide Missouri and the nation with research, development, science, technology, and testing capabilities to assist in identifying and resolving homeland security challenges.

2. Establish goals and objectives to ensure the state's homeland security strategy does not infringe upon the civil liberties of its citizens. In addition, the council should require the State Attorney General's Office or other appropriate legal counsel review the implementation of the Homeland Security strategy steps annually to further ensure that the state is not infringing upon the civil liberties of its citizens.

AUDITEE'S RESPONSE

A. We agree with the auditor's recommendation. The Department of Public Safety through the Missouri Homeland Security Advisory Council has established the long-term goals and objectives.

The current plan was reviewed, updated and submitted to the U.S. Department of Homeland Security on October 31, 2005, after the completion of the audit. The former plan was created by the prior administration on November 17, 2004. Although a completely new plan was not required by the issuance of the Executive Order creating the HSAC, U.S. DHS required a complete review of the plan to include information on compliance with the NIMS and the National Response Plan. Based on federal grant guidelines, funding issues and concerns will be addressed and revised.

B1. We agree with the auditor's recommendation. The original format for the strategy from the DHS did not require the establishment of goals and objectives within the Strategy or address the development of public/private cooperatives efforts, this was intentional on the part of the DHS. Federal grant funds cannot be used to finance public/private cooperatives; however, the new guidance coming from DHS, DPS, and SEMA will address this issue.

The current plan was reviewed, updated and submitted to the U.S. Department of Homeland Security on October 31, 2005, after the completion of the audit. After the issuance of the Executive Order creating the HSAC, U.S. DHS required a complete review of the plan to include information on compliance with the NIMS and the National Response Plan.

B2. We agree with the auditor's recommendation. The original format for the strategy from the DHS did not require the establishment of goals and objectives within the Strategy or address the infringement of the civil liberties of the citizens of the State; however, the new guidance coming from DHS, DPS, and SEMA will address this issue.

The current plan was reviewed, updated and submitted to the U.S. Department of Homeland Security on October 31, 2005, after the completion of the audit. After the issuance of the Executive Order creating the HSAC, U.S. DHS required a complete review of the plan to include information on compliance with the NIMS and the National Response Plan. Although not required, the DPS has determined that this plan will be reviewed by legal counsel.

Anticipated completion date: *December 31, 2006*

5.	**Response Team Issues**

Response teams may not be adequately prepared to effectively respond to Chemical, Biological, Radiological, Nuclear, or Explosive (CBRNE) incidents due to inadequate staffing levels, a lack of operational planning, a lack of sufficient training, problems with communications interoperability, insufficiency of the amount of equipment provided or on hand, and/or a need for improvement on equipment inventory and/or maintenance records.

Since fiscal year 1999, the SEMA has received federal grant awards for the Homeland Security Grant Program (HSGP). The program's objective is to continue to protect and defend the security of the United States of America against the threat posed by terrorism. Program funding may be used to conduct comprehensive threat and needs assessments, and to develop and implement a Statewide Domestic Preparedness Strategy. The SEMA has expended a portion of the HSGP funds to equip and train 23 Homeland Security Response Teams (HSRT's) and seven Forward Regional Response Teams (FRRT's) located throughout the state. The results of our audit indicate a need to better manage and monitor the resources provided to the response teams. From fiscal year 1999 through September 2005, over $30 million has been spent by the SEMA on the response teams.

The SEMA hired a contractor to evaluate all of the state's HSRT's and FRRT's. The contractor conducted evaluations during January through April 2005 and produced 28 reports, one apiece for 26 teams plus two reports combining the results for the four remaining response teams. The contractor assessed each team's preparedness in five areas: team composition, planning, training, equipment, and communications interoperability. We obtained and reviewed the contractor's reports, noting the following conditions:

A. Understaffing was noted on 8 of the 28 (28.6 percent) response team reports. This resulted from the SEMA not establishing clear, written minimum staffing level requirements for the teams. In addition, a lack of an adequate team roster was noted on 11 of the 28 (39.3 percent) response team reports. SEMA officials indicated the amount of equipment to be provided correlated to the level of staffing; thus, indicating minimum staffing level requirements. Since the SEMA did not obtain, nor require information regarding the teams' staffing levels, several teams were accepted into the program that did not meet the minimum

staffing level requirements. An understaffed team would not be able to respond as effectively to a CBRNE incident as a fully staffed team. In addition, an understaffed team would have been provided more equipment than was necessary. Further, requiring teams to maintain current rosters of all members may prove to aid with organizing for both trainings and actual responses.

The SEMA should establish clear, written minimum staffing level requirements for the teams. Such requirements should be enforced when additional teams apply for inclusion in the program. In addition, the SEMA should take the necessary steps to ensure existing teams meet minimum staffing level requirements, as documented by current rosters of all members, and that equipment levels are proportional to team size.

B. A lack of operational plans was noted on 5 of the 28 (17.9 percent) response team reports. The contractor's report noted "an operational plan that covers all disciplines' roles, responsibilities, and hazards will enable response efforts to occur in a more efficient and coordinated manner." The SEMA should take steps to ensure all teams establish and maintain proper operational plans.

C. Inadequate training or a lack of adequate training records was noted on 6 of the 28 (21.4 percent) response team reports. The monitoring report indicated that on one team, many members had never received the training needed to operate the response equipment. For another team, the monitoring report indicated that only the hazmat team members were trained to the majority of the standards set by the SEMA. Maintaining and improving readiness through adequate training is essential for a response team to function safely, efficiently, and effectively. The SEMA should take steps to ensure all teams are participating in adequate training and maintaining proper records of such training.

D. Inadequate communications interoperability was noted on 13 of the 28 (46.4 percent) response team reports. As noted above in MAR No. 2, establishing and maintaining communications interoperability is essential for the state's response teams to function safely and effectively in their efforts to reduce risks to people's lives and property.

E. An insufficient amount of response equipment was found on hand and reported on 4 of the 28 (14.3 percent) response team reports. The monitoring report indicated that even though equipment funding was available through the SEMA, some teams were not adequately equipped to respond to a CBRNE incident. The monitoring report also indicated that another team believed they were inadequately equipped, and until additional equipment was received, they would not distribute the equipment already in their possession. Ensuring response teams maintain an adequate amount and type of equipment would help to ensure safer, efficient, and effective responses to incidents.

F. Improvement was needed on equipment inventory and/or maintenance records on 10 of the 28 (35.7 percent) response team reports. Adequate equipment inventory records are necessary to aid the teams and the SEMA in knowing how much equipment is available at given locations. This knowledge may be helpful during a response to an incident. In addition, such records are necessary to aid in ensuring valuable equipment is adequately insured. Maintaining proper equipment maintenance records will help ensure all equipment is kept at peak operating condition in the event of an incident.

The SEMA should continue to work on establishing an adequate system to monitor the response teams, including the development of clear, written minimum staffing level requirements, and ensuring teams have proper operational plans, adequate training, communications interoperability, and sufficient levels of equipment along with equipment inventory and maintenance records. Not knowing the resources available and overall abilities of the response teams could hamper the SEMA's ability to perform one of its basic functions, coordinating and directing activities of the state and teams in the event of a significant incident.

WE RECOMMEND the Department of Public Safety, through the State Emergency Management Agency:

A. Establish and enforce clear, written minimum staffing level requirements for the teams. Such requirements should be enforced when additional teams apply for inclusion in the program. In addition, SEMA should take the necessary steps to ensure existing teams meet minimum staffing level requirements, as documented by current rosters of all members, and that equipment levels are proportional to team size.

B. Require all response teams to establish and maintain adequate operational plans.

C. Require and ensure all response teams participate in sufficient and adequate training and that the teams maintain records of such training.

D. Continue working towards the goals of establishing and maintaining adequate communications interoperability at all response teams.

E. Ensure response teams maintain an adequate amount and type of equipment.

F. Ensure response teams maintain adequate equipment inventory and maintenance records.

AUDITEE'S RESPONSE

A,B,C, E&F. *We agree with the auditor's recommendation. To implement the recommended corrective action, SEMA established a working group made up representatives of each team. This*

working group is jointly developing a Standard Operating Guide (SOG) that addresses all the issues identified.

D. *We agree with the auditor's recommendation. The Department of Public Safety and SEMA, under the direction of the Missouri Homeland Security Advisory Council, will continue to explore potential options relating to statewide communications interoperability.*

Anticipated completion date: *A/B/C/E/F: December 31, 2006*
D: Ongoing

6.	**Program Monitoring and Oversight**

There is a lack of monitoring controls by the SEMA to ensure state agencies and local jurisdictions improve weaknesses identified during homeland security exercises. Further, we noted the SEMA should determine the feasibility of retaining a larger portion of the 3 percent Urban Area Security Initiative (UASI) management and administration allocation to improve UASI program monitoring.

A. There is a lack of monitoring controls by the SEMA to ensure state agencies and local jurisdictions improve weaknesses identified during homeland security exercises. As a result, the SEMA cannot be certain the benefits of the exercises were fully realized by the state nor whether improvements were made by the response teams to correct identified weaknesses.

The SEMA used HSGP funding to conduct exercises for the Homeland Security Response Teams (HSRT) and Forward Regional Response Teams (FRRT) during 2005 and 2004. Upon completion of the 2005 exercises, a contractor prepared after-action reports (AAR's) documenting an evaluation of each response team's exercise. The AAR's identified various implementation steps for each response team to improve upon. Upon completion of the 2004 exercises, each response team completed a self-evaluation regarding the functional areas exercised, lessons learned, and corrective actions needed for improvement. Both the AAR's and self evaluations were obtained by the SEMA. However, the SEMA conducted no documented follow-up monitoring on the teams to ensure action was being taken as noted in the post-exercise reports. As a result of the lack of follow-up, we noted that one HSRT reported on their 2005 exercise similar findings as noted on a previous exercise. Had the SEMA followed up on the previous exercise and required corrective action be taken, the HSRT may have already corrected these deficiencies prior to their 2005 exercise.

The SEMA also used HSGP funding to hire a contractor to support SEMA's state Continuity of Operations – Continuity of Government (COOP-COG) exercise during 2004. The contractor prepared an AAR that identified weaknesses with the state's COOP-COG plan. SEMA conducted no documented follow-up or

monitoring of the weaknesses contained in the AAR to ensure corrective action was being taken.

SEMA personnel indicated they did not have adequate staffing to monitor all of the weaknesses identified during homeland security exercises and to ensure that all weaknesses were improved upon. Because of this, SEMA requests that the agencies and local jurisdictions formally notify SEMA when improvement plans are complete; however, SEMA personnel indicated that SEMA does not have the leverage to make agencies and local jurisdictions prioritize their improvement plans. Although the SEMA currently tracks the status of implementation plans when such information is reported to SEMA, the lack of proactive, ongoing monitoring can result in ongoing preventable weaknesses in Missouri's response plans during homeland security incidents.

B. Beginning with the federal fiscal year 2005 HSGP, the SEMA is allowed to use 3 percent of Urban Area Security Initiative (UASI) funding for grant management and administration. The SEMA has decided to keep only 1.5 percent of the UASI funding for management and administration at the state level as SEMA contends that as much of the UASI management is performed at the local level, the local administrative agencies are entitled to a larger share of the grant funding. Since the SEMA has cited lack of staff as a factor limiting monitoring of the UASI program, keeping a larger portion of the 3 percent UASI management and administration allocation could allow the SEMA to improve its program monitoring.

WE RECOMMEND the Department of Public Safety, through the State Emergency Management Agency:

A. Establish and maintain procedures to follow-up on and monitor the weaknesses identified during exercises.

B. Determine the feasibility of retaining a larger portion of the 3 percent UASI management and administration allocation to improve UASI program monitoring.

AUDITEE'S RESPONSE

A. We agree with the auditor's recommendation. This has already been implemented. SEMA is moving forward to establish and maintains procedures to follow-up on and monitor the identified exercise weaknesses.

B. We agree with the auditor's recommendation. SEMA will explore retaining a larger percent of the 3 percent of the authorized Management and Administration allocation beginning with FY2006. We are committed to ensuring that funds are used effectively and distributed in a manner that is responsive to potential terror threats in Missouri. It is our goal to get as much money to the locals as possible, because they will be the first responders in a crisis.

Anticipated completion date: *December 31, 2006*

7.	**Federal Compliance Issues**

In March 2006, the State Auditor's Office issued audit report No. 2006-18, ***State of Missouri Single Audit.*** (A copy of the complete audit report can be obtained from: Missouri State Auditor's Office, P.O. Box 869, Jefferson City, MO 65102-0869, or on the internet at www.auditor.mo.gov.) The report included the following findings related to the Homeland Security Program:

A. The SEMA has not established a tracking system to monitor and ensure program subrecipients obtain and submit audits to the SEMA, when applicable. As a result, the SEMA did not obtain and review audits from applicable subrecipients, such as the city of Kansas City, the city of Saint Louis, East-West Gateway Council, Mid America Regional Council, and St. Louis County, all of which expended over $500,000 in a one-year period.

   U.S. Office of Management and Budget (OMB) *Circular A-133 Compliance Supplement* requires grant recipients to ensure that subrecipients obtain an A-133 audit when grant expenditures exceed $500,000 in a fiscal year.

B. The SEMA has not established adequate procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement. Adequate supervisory review of the SEMA's grant tracking spreadsheets could have ensured that the time elapsing between transfer and disbursement was minimized. The OMB *Circular A-133 Compliance Supplement* requires that when funds are advanced, recipients must follow procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement.

   We reviewed transfers of funds from the U.S. Treasury for the State Homeland Security Grant Program, the Homeland Security Grant Program, and the Urban Areas Security Initiative during the year ended June 30, 2005, and noted 18 instances in which the SEMA received transfers of funds from the U.S. Treasury and had not completely disbursed the balance of the transfers within a period of at least three days. These undisbursed balances ranged from $325 to $499,024 and took up to 90 days to completely disburse. These instances included one in which the SEMA mistakenly drew down $517,400 twice. The second of these drawdowns resulted in an undisbursed balance of $465,934 which took 90 days to completely disburse. The SEMA should implement adequate procedures, including supervisory review of grant tracking spreadsheets, to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement.

C. Unallowable costs were charged to the State Homeland Security Grant Program.

1) Costs totaling $33,320 for the 2004 Governor's Meth Summit were improperly charged to the Federal Fiscal Year 2003 State Homeland Security Grant Program (SHSGP) Part II – Critical Infrastructure Protection (CIP) allocation during the year ended June 30, 2005. The stated goal of the summit was to provide valuable training for the fight against "meth." SEMA officials indicated the costs were charged to the grant program because portions of the seminar were related to homeland security. Although the summit did provide some sessions that addressed homeland security in general, the summit did not provide specific CIP training.

   DHS – Office of Domestic Preparedness (ODP) Information Bulletin No. 84 states that "CIP training must be designed to enhance the capabilities to protect and secure critical infrastructure."

   We question the $33,320 for 2004 Governor's Meth Summit costs improperly charged to the SHSGP – (CIP) allocation.

2) Cellular phone, wireless personal digital assistant, and satellite phone monthly service fees totaling $38,684 were improperly charged to the Federal Fiscal Year 2003 SHSGP Part II during the year ended June 30, 2005 by the city of Saint Louis. SEMA officials indicated they allowed these costs to be charged to the grant because they believed grant guidelines were not clear on this issue. The DHS – ODP program guidelines for the Federal Fiscal Year 2003 SHSGP Part II do not authorize expenditures for cellular phone, wireless personal digital assistant, and satellite phone monthly service fees.

   We question the $38,684 for monthly service fees improperly charged to the SHSGP Part II.

WE RECOMMEND the Department of Public Safety, through the State Emergency Management Agency:

A. Ensure all subrecipients submit an A-133 audit, when applicable.

B. Implement adequate procedures, including supervisory review of grant tracking spreadsheets, to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement.

C. Resolve the questioned costs with the grantor agency. In addition, the SEMA should comply with the DHS – ODP program guidelines.

AUDITEE'S RESPONSE

A. We agree with the auditor's recommendation. Procedures to ensure all subrecipients submit an A-133 audit receiving Homeland Security funds are as follows:

1. *Applicants are informed of audit requirements at Applicant Briefing conducted by SEMA upon approval of application for Homeland Security funding.*
2. *Audit requirements are continually provided to subrecipients as funds are advanced and closeout procedures are accomplished.*
3. *The receipt of audit reports are logged and entered into a computer database by the Fiscal Section's Internal Auditor.*
4. *Where audits indicate or identify questionable costs, appropriate actions are taken with the subrecipient contacted by SEMA and the matter rectified.*
5. *As recommended, SEMA staff will ensure that all audits will be reviewed and corrective action initiated within six months.*

B. We agree with the auditor's recommendation. The Fiscal Section has implemented a new procedure to initiate drawdowns of funds. A spreadsheet is used to record all expenditures for Homeland Security grants as the expenditures are made, showing the balance of cash on hand. Funds will be drawn down as the request for checks is made to the state accounting department or at least weekly to replenish our revolving fund. The spreadsheet is reconciled with the State of Missouri accounting system on monthly basis.

C. We agree with the auditor's recommendation. The prior administration incorrectly charged expenses for the 2004 Governor's Meth Summit. Steps have been taken to appropriately change the cost. The city of St. Louis has been notified that monthly service fees are no longer authorized relating to authorized equipment. In the future, under this administration SEMA will comply with DHS-ODP program guidelines.

Anticipated completion date: *The correction has been made.*

HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

HOMELAND SECURITY PROGRAM
DEPARTMENT OF PUBLIC SAFETY
HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

Governor Bob Holden created the Missouri Office of Homeland Security on September 26, 2001. Missouri was the first state in the nation to create an office reporting directly to the governor and charged to assist the governor in leading Missouri's response to the disaster of September 11, 2001. Governor Holden appointed Colonel Tim Daniel, US Army (Retired), to this cabinet level position. Colonel Daniel's job was to assess the readiness of the state and its communities to deter, prevent, and appropriately respond to acts of terrorism in Missouri.

In November of 2001, Governor Holden appointed the Missouri Security Panel, charging it with the task of examining security within Missouri and submitting their findings to the governor. The Panel consisted of leaders representing state and local government, state and local law, fire, and emergency planning officials, private citizens, and other relevant officials. The results of the Panel were briefed to Governor Holden on January 25, 2002, and these results served as signposts in the homeland security programs of Missouri.

On September 11, 2002, Governor Holden created by Executive Order the Missouri Security Council. The Council made recommendations to the governor regarding homeland security issues that were significant and interdepartmental in nature. The Council served as the Board of Directors for the Office of Homeland Security. Finally, the Council recommended the level of state participation and leadership in issues that must be coordinated regionally, statewide, or that involved local government and the private sector.

Upon taking office in 2005, Governor Matt Blunt proposed moving the state Office of Homeland Security into the Department of Public Safety (DPS) to streamline the operations of offices involved in protecting Missourians and to maximize both state and federal resources. In February 2005, Governor Blunt appointed Michael Chapman as Deputy Director of the DPS. In that role, Mr. Chapman also oversaw the state's homeland security efforts, thus effectively merging Homeland Security functions into the DPS. Mr. Chapman resigned in September 2005 and Mark James, Director of the DPS, assumed all responsibility and duties previously held by Mr. Chapman.

On July 21, 2005, Governor Blunt created by Executive Order the Missouri Homeland Security Advisory Council, replacing the Missouri Security Council. The Missouri Homeland Security Advisory Council was charged to examine current state and local homeland security plans to ensure that proper plans are in place while also examining how homeland security grant funds can best be coordinated and expedited. This council will prepare an emergency preparedness plan for the governor's review including recommendations for structural changes, developing polices and procedures to implement up-to-date response capabilities, and improving the homeland security grant reimbursement process.

The State Emergency Management Agency (SEMA) was created by statute in 1951 as a division of the executive branch of state government. The agency was transferred to the Office of the

Adjutant General by executive order on October 1, 1966. The 74th General Assembly confirmed the transfer in 1967. The State Omnibus Reorganization Act of 1974 transferred the Office of the Adjutant General to the Department of Public Safety. Chapter 44, RSMo, gives detailed provisions as to the organization and function of SEMA.

SEMA, in cooperation with local, state, and federal governments, is responsible for developing statewide all hazard plans, hazard mitigation plans, and administering state and federal programs. In the event of a Presidential Disaster Declaration, and after the signing of a federal-state disaster agreement, SEMA coordinates and serves as a liaison between the Federal Emergency Management Agency (FEMA) and victims of natural disasters for the payments of disaster assistance claims ranging from temporary housing to mitigation. When damages occur to publicly owned property, SEMA in cooperation with FEMA conducts damage assessments, writes project scope of work, administers federal funds to local communities, and conducts closeout project audits.

In the event of a major statewide natural or man-made disaster, the governor, state officials, and support staff coordinate state agency response from the State Emergency Operations Center (SEOC). The SEOC is located 18-feet underground at the Adjutant General's Headquarters of the Missouri National Guard, ISTS (Ike Skelton Training Site) on Militia Drive in Jefferson City. The SEOC is designed and built to provide protection from radioactive fallout and earthquakes. The SEOC has back-up generators, an independent water system, a communications center, and a computer system for continuity of government for disaster response. The SEOC is occupied and used on a daily basis as the regular offices of SEMA to assure operational readiness in the event of an emergency.

The SEMA Director supervises the day-to-day operations of the agency. During normal working conditions, he reports to the Adjutant General and coordinates certain activities with the Director of Public Safety and the Governor's Office.

During a disaster, the SEMA Director reports directly to the Governor's Office. The Governor has the responsibility of carrying out all or any part of the emergency response functions within the state.

The SEMA has received grants for the Domestic Preparedness Equipment Program since fiscal year 1999. The program's objective is to enhance the capacity of state and local first responders to respond to a Weapons of Mass Destruction (WMD) terrorism incident involving chemical, biological, nuclear, radiological, incendiary, and explosive devices. Program funding has been used to conduct comprehensive threat and needs assessments and to develop and implement a Statewide Domestic Preparedness Strategy. In addition, program funding is used to purchase equipment for state and local first responders and support the planning and conduct of exercises.

The SEMA has indicated there were no major homeland security efforts funded by federal grants passed through to the state or by state funds prior to state fiscal year 1999. However, for federal fiscal years 1997 through 1999, the following direct awards (not passed through the state) of homeland security funds were made from the Federal Department of Justice under the Nunn-Luger-Domenici Act:

	TOTAL	Fed FY 1999	Fed FY 1998	Fed FY 1997
Kansas City (KC)	$ 600,000	100,000	-0-	500,000
St. Louis (STL)	904,599	404,599	-0-	500,000
Jackson County (JC)	200,000	200,000	-0-	-0-
JC / KC	250,000	-0-	250,000	-0-
STL County	793,963	300,000	493,963	-0-
Totals	$2,748,562	1,004,599	743,963	1,000,000

The 1997 grant was intended to fund training, equipment, and exercises. The 1998 and 1999 grants were intended to fund equipment purchases only. The state (SEMA) had no obligation to monitor or account for these funds and thus, is unaware of the status.

Beginning with federal fiscal year 2003 grant awards, the equipment program was included under the broader State Homeland Security Grant Program (HSGP). This grant had two parts. Part 1 was used for equipment, exercise, training, and planning/administration. Part 2 was used for equipment purchase, training, planning/administration, and critical infrastructure protection. Part 2 resulted from the President signing into law the Wartime Supplemental Appropriations Act of 2003, which provides state and local governments with additional funding to participate in the national effort to combat terrorism. This financial assistance was provided to address the unique equipment, training, planning, and exercise needs of state and local emergency responders, as well as to pay for costs associated with increased security measures at critical infrastructure sites during the period of hostilities with Iraq and for future periods of heightened threat. Part 2 was a much larger grant that also allowed monies to be spent to mitigate the costs of enhanced security at critical infrastructure sites.

Also beginning in federal fiscal year 2003 was the Urban Areas Security Initiative (UASI). This grant is allocated between St. Louis and Kansas City and their metropolitan areas, including areas in the neighboring states of Illinois and Kansas. The program provides financial assistance to address the planning, equipment, training, and exercise needs of large urban areas, and to assist them in building an enhanced and sustainable capacity to prevent, respond to, and recover from threats or acts of terrorism.

The following represents the status, as of September 30, 2005, of SEMA's various homeland security grants, according to SEMA grant tracking records:

Program Name	Award Amount	Expenditures Through September, 2005	Unexpended	Unexpended Percentage	Grant Termination Date
Domestic Preparedness Equipment Program					
'99 Award	$1,044,000	1,044,000	0	0.00%	9/30/2002
'00 Award	1,402,000	1,402,000	0	0.00%	2/1/2005
'01 Award	1,474,000	1,474,000	0	0.00%	2/1/2005
'02 Award	6,079,000	6,074,884	4,116	0.07%	7/31/2005
State Homeland Security Grant Program Part 1					
'03 Award	10,834,000	9,545,450	1,288,550	11.89%	3/31/2006
State Homeland Security Grant Program Part 2					
'03 Award	28,697,000	20,946,985	7,750,015	27.01%	4/30/2006
Urban Areas Security Initiative (UASI)					
'03 Award	19,548,603	7,516,900	12,031,703	61.55%	6/30/2006
'04 Award	23,938,622	2,873,663	21,064,959	88.00%	5/31/2006
'05 Award	15,253,865	441,245	14,812,620	97.11%	3/31/2007
State Homeland Security Grant Program FY '04					
Equipment	32,046,000	13,871,929	18,174,071	56.71%	5/31/2006
Law Enforcement Terrorist Prevention	9,509,000	4,485,365	5,023,635	52.83%	5/31/2006
Citizen Council	666,000	135,071	530,929	79.72%	5/31/2006
Total FY '04 Homeland Security Grant Program	42,221,000	18,492,365	23,728,635	56.20%	
State Homeland Security Grant Program FY '05					
Equipment	20,288,866	0	20,288,866	100.00%	3/31/2007
Law Enforcement Terrorist Prevention	7,377,769	0	7,377,769	100.00%	3/31/2007
Citizen Council	257,567	0	257,567	100.00%	3/31/2007
Emergency Management Performance Grant	3,318,388	2,695,933	622,455	18.76%	3/31/2007
Metropolitan Medical Response System	455,184	0	455,184	100.00%	3/31/2007
Total FY '05 Homeland Security Grant Program	31,697,774	2,695,933	29,001,841	91.49%	
TOTALS for ALL GRANTS	$182,189,864	72,507,425	109,682,439	60.20%	

The following schedule shows SEMA's expenditures from their federal homeland security grants beginning with state fiscal year 2001 through September 30, 2005:

Grant Program	Award Amount	Expenditures, Year Ended June 30, 2006 *	2005	2004	2003	2002	2001	TOTALS
2005 Homeland Security Grant Program	$31,697,774	696,195	1,999,738	0	0	0	0	2,695,933
2004 Homeland Security Grant Program	42,221,000	4,130,572	14,350,376	11,417	0	0	0	18,492,365
2003 Homeland Security Grant Program - Part I	10,834,000	541,691	4,595,510	4,408,249	0	0	0	9,545,450
2003 Homeland Security Grant Program - Part II	28,697,000	3,158,635	10,083,343	7,705,007	0	0	0	20,946,985
2002 Domestic Preparedness Equipment Program	6,079,000	35	1,010,259	3,466,520	1,598,070	0	0	6,074,884
2000 / 2001 Domestic Preparedness Equipment Program	2,876,000	0	125,157	947,628	1,803,215	0	0	2,876,000
1999 Domestic Preparedness Equipment Program	1,044,000	0	0	0	5,492	194,388	844,120	1,044,000
2005 UASI	15,253,865	4,590	436,655	0	0	0	0	441,245
2004 UASI	23,938,622	1,498,565	1,375,098	0	0	0	0	2,873,663
2003 UASI	19,548,603	1,495,854	4,881,979	1,139,067	0	0	0	7,516,900
TOTALS	$182,189,864	11,526,137	38,858,115	17,677,888	3,406,777	194,388	844,120	72,507,425

* State fiscal year 2006 expenditures through September 30, 2005

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January 3, 2005

The Honorable Tom Kean, Chair
The Honorable Lee Hamilton, Vice Chair
Board of Directors
9/11 Public Discourse Project
One DuPont Circle, NW, Suite 700
Washington, DC 20036

Dear Mr. Kean and Mr. Hamilton:

Thank you both for your service to the nation on the 9/11 Commission. I hope you are pleased that Congress has passed legislation to establish a Director of National Intelligence and a National Counterterrorism Center in response to the findings and recommendations of the Commission's July 2004 report. This achievement was accomplished in large part due to your tireless advocacy for reform of our national security institutions.

Unfortunately, Congress has not yet acted to reform the manner in which it authorizes the national security operations and structures of the executive branch. Specifically, the U.S. Senate failed to establish a single authorizing committee for the Department of Homeland Security (DHS), which was one of the Commission's recommendations. Rather, Senate Resolution 445 maintains authorizing jurisdiction over significant elements of DHS with at least three different committees. The renamed Committee on Homeland Security and Governmental Affairs (HSGA) will have jurisdiction over less than 10 percent of the DHS workforce and less than 40 percent of its budget. A memorandum prepared by my staff on the HSGA jurisdiction over DHS is enclosed for your review. Similarly, the Senate did not reform our oversight and authorization of intelligence matters as recommended by the Commission.

I was disappointed that the Senate did not embrace the Commission's recommendations to reform its committee structure. I would appreciate if you would respond to me in writing with your opinion of the Senate action and if you would be willing to continue your advocacy on these necessary congressional reforms in the coming months.

Thank you again for your service and your response to my request.

Sincerely,

George V. Voinovich

George V. Voinovich
United States Senator

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"Ensuring Full Implementation of the 9/11 Commission's Recommendations"
Statement of Steven Jones – Executive Director, First Response Coalition
Senate Committee on Homeland Security & Governmental Affairs
January 9, 2006

:hairman Lieberman and Distinguished Members of the Committee,

:he First Response Coalition (FRC) is pleased to offer its comments on first responder :ommunications interoperability, and applauds the Committee's efforts to address the :ommunications woes that continue to put both the lives of first responders and the :ommunities they protect at risk. It is imperative that this hearing lead to substantive policy :ctions that will help first responders across the country achieve interoperable :ommunications before another disaster occurs, and the FRC looks forward to further liscussing these critical issues with Committee members and staff.

:he FRC is a 501(c)(3) non-profit organization promoting the needs of America's first esponders in the areas of communications interoperability and data/information ›reparedness. The FRC represents the broad spectrum of first responders and their "friends nd family" – the communities and individuals served by first responders everyday. The First Response Coalition's supporters consist of tens of thousands of concerned citizens and first esponders, as well as numerous advocacy groups, who have joined our campaign because hey understand that when we protect first responders we protect ourselves.

›ince the tragic events of September 11th demonstrated that when first responders cannot ommunicate lives may be lost, numerous calls for action to solve the communications nteroperability crisis have been made. Over five years after the 9/11 terrorist attacks and nother reminder of public safety communications problems in the aftermath of Hurricane Katrina, the rhetoric about this national crisis has been followed by a lack of action, broken ›romises, and no clear strategy for fixing the problem. The absence of a national strategy has esulted in disjointed efforts to solve the problem at all levels of government. This "bottom-ıp" approach is not working, leaving firefighters, police officers and emergency medical ›ersonnel throughout the country still unable to talk to one another because their ommunications systems are incompatible.

:he FRC therefore urges the Congress to work with the Administration to address this ritically-important problem by setting a "target date" by which to achieve nationwide ommunications interoperability within a decade. Once the commitment to establishing a target date" is announced, a National Interoperability Summit should be convened to best etermine the appropriate date and begin developing a comprehensive interoperability nplementation plan.

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A declarative national statement and directive from the highest levels of government is needed to mobilize and organize interoperability efforts. Only by setting a "target date" for interoperability can the nation achieve this fundamental public safety goal, which provides for the common good. By harnessing the good work that already exists in the numerous interoperability programs and focusing on the common target of full interoperability, real progress can be made.

America has a proud history of its leaders committing the nation to attain ambitious goals. Perhaps most notably, in 1961 President John F. Kennedy issued a national challenge to land a man on the moon and return him safely to earth before the end of the decade. Just eight years later, Neil Armstrong was walking on the moon.

On January 14, 2004 President George W. Bush issued a similar challenge, calling on NASA and the nation to repeat a goal it had already attained: a return to the moon by 2020. Ensuring the safety of America's first responders and the communities they protect is no less important than sending Americans into space. In fact, the FRC believes it is more important to ensure the safety of Americans now and into the future.

Citizens in communities across the nation expect and deserve to be protected by rescue workers equipped with the resources they need to save lives. Through strong leadership, ingenuity, and commitment, resolution of the communications crisis can be achieved within a decade.

WHY A TARGET DATE?

Each and every government report in the aftermath of recent national disasters has showcased the interoperability problems faced by first responders:

- The 9/11 Commission called upon Congress to expedite the assignment of additional radio spectrum for public safety purposes so that emergency responders can better communicate with each other. The successor organization to the Commission, the 9/11 Discourse Project, gave the Federal government a **failing grade on emergency communications**, calling the lack of spectrum available for public safety "scandalous."

- The U.S. House of Representative's report on the failed response to Hurricane Katrina, "A Failure of Initiative," notes that **communications breakdowns** among first responders, a shortage of qualified emergency personnel, inadequate training and insufficient funding all conspired to doom an effective emergency response.

- The Senate's report, "Hurricane Katrina: A Nation Still Unprepared," notes that the **systems on which officials relied to support their response efforts failed**, and government officials at all levels failed to provide effective leadership.

- The White House's "Lessons Learned" report issued after Hurricane Katrina stated that "equipment interoperability problems further hindered an integrated response. [The] lack of interoperable communications was apparent at the tactical level, resulting from the fact that emergency responders, National Guard, and active duty military use different equipment."

- The Department of Homeland Security's Office of the Inspector General released a report concluding that, among other things, FEMA's response to Hurricane Katrina was hampered by untrained staff, **unreliable communication systems** and poor coordination.

- And just last week, the Department of Homeland Security released its "Nationwide Interoperable Communications Assessment," which confirmed that **progress continues to be thwarted by inadequate planning, insufficient resources, and a lack of coordination**.

After each disaster, elected officials and other policymakers renew their commitments for new funds, new programs, and new initiatives to resolve the communications crisis. Potential and well-intentioned solutions abound, but many interoperability initiatives with the potential to improve communications have fallen victim to bureaucracy and inefficiency. Although 24 megahertz of spectrum from the digital television transition has been allocated for first responders, it will not be fully available until 2009.

A national "target date" for achieving interoperability within a decade, coupled with meaningful action and national leadership, will help to align the many disparate programs and competing programs so that they work together towards a common solution.

REACHING THE INTEROPERABILITY GOAL

Establishing a "target date" by itself will take extraordinary leadership. Achieving the ultimate goal of communications interoperability will require unprecedented collaboration, determination, and commitment. Nonetheless, it is imperative that we commit to this national goal in the interest of our common safety. Once a "target date" has been established, there are several actions that should be undertaken to begin the process of achieving nationwide interoperability:

1. A National Interoperability Summit should be held, bringing together participants from the first response community, telecommunications and technology industries, scholars and experts, and policymakers to develop a roadmap for achieving interoperability by the "target date."

2. The federal interoperability grant process must be streamlined to provide greater transparency and accountability. Currently, there are numerous agencies and sub-agencies that offer grants to first responders, and though we now know nearly $3 billion has been allocated for interoperability efforts, it too often remains unclear where the money is actually going and how effectively it is being put to use. In order for the funds to find their way into programs designed to fix the interoperability problem, Congress needs to designate funds specifically for interoperability projects in the states. States and localities must also work together to identify how interoperability funds are being spent at the local level and develop some mechanism to measure how effectively those funds are being put to use.

3. A clear and effective process for state and local collaboration, as well as between government and industry, needs to be developed. Not only do localities often use different equipment, they have needs that are altogether different from state and federal emergency

workers. Reports of political in-fighting and turf tussles are discouraging and only further delay resolution of the communications crisis. National coordination and a set of interoperability standards will help put all the affected parties on the path to seamless nationwide communications systems.

The First Response Coalition does not believe that a full plan for achieving interoperability is necessary prior to setting a goal for interoperability. A commitment by a creative and dedicated nation is the right place to start. The "target date" will provide a sense of urgency and efforts at all levels can be dedicated to meeting the goal within a decade. No longer will interoperability solutions be piecemeal and funding can be dedicated toward the plan, rather than spread across numerous entities.

President Kennedy did not lay out a detailed plan when he called for a mission to the moon. He committed the nation to this ambitious goal, provided the leadership and the resources for attaining it, and the nation's most innovative and creative thinkers accomplished a moon landing in just a few short years. America can and must follow a similar path to achieve communications interoperability for our heroic first responders.

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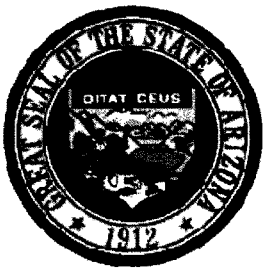

Testimony of Janet Napolitano, Governor of Arizona

Submitted to the Committee on Homeland Security and Governmental Affairs,
United States Senate
Tuesday, January 9, 2007

"Ensuring Full Implementation of the 9/11 Commission's Recommendations"

Chairman Lieberman, Ranking Member Collins and Committee Members, thank you for the opportunity to testify on the impact that the recommendations of the 9/11 Commission have had on the ability of states to protect their citizens.

I testify before you today wearing two hats, one as the Governor of Arizona and one as the elected chair of the National Governors Association, a bi-partisan organization representing the nation's governors. My testimony today, while informed by the experiences of my fellow governors, is given not as NGA chair but as Governor of Arizona.

Nearly five and a half years have passed since the tragic events of September 11, 2001. This is an appropriate time to take a hard look at what really has been accomplished - at local, state and the federal levels - to halt terrorist attacks, and what dangerous gaps in prevention and protection remain. 9/11 was a pivotal date and we must sustain the momentum and resolve that began that day. And since the U.S. Department of Homeland Security now takes an all-hazards approach to preparedness, we must also review the current status of response and recovery capabilities, especially in the wake of the devastation that ensued from Hurricanes Katrina and Rita.

Of the 41 recommendations in the 9/11 Commission's final report, 15 focus on preventing the spread of terrorism in the world, 11 focus on intelligence, legislative and executive level reforms, and 15 focus on better preparing for the day we pray will never come - another attack on our home soil – through screening, security and national preparedness measures.

However, even the boldest proposals and strategies amount to nothing unless they include clear deadlines, detailed lines of responsibility and sufficient funding.

As a former U.S. attorney, state attorney general and now governor, I am in a unique position to focus my testimony today on those segments of the report dealing with security here at home, which can be considered to fall into categories including border security, intelligence sharing, transportation security and effective screening, national preparedness, interoperability and the role of the private sector.

Border Security

At a minimum, three specific border recommendations of the 9/11 Recommendations Implementation Act of 2004 must be fully funded. Further, the State Criminal Alien Assistance Program must be federally funded at the authorized level.

As governor of a state with a 377-mile international border, I have seen firsthand the harsh realities and dangers that emerge when an effective federal security program doesn't exist. Arizona has more undocumented immigrants entering the country across its border than any other state in the nation. In fact, more than half of our nation's illegal border crossings occur in Arizona. Every day 1,500 illegal immigrants are apprehended while crossing into my state. Last year, the illegal border crossers apprehended along the southwest border represented more than 125 distinct countries.

Is everyone who crosses the border out to do harm? No. But some may be and we cannot afford to take that risk. It's impossible to know the intent of illegal crossers unless appropriate screening and security measures are in place.

First and foremost, securing the U.S. border is a federal responsibility. I have contended for some time that the federal government has lost operational control of the U.S.-Mexico border and must redouble its efforts to return safety and security to this region. The federal government must secure the international border. Anything less is inadequate and a failure.

While I appreciate the recent attention that has been directed toward the border it has been a slow, late response. As a result, my fellow border governors and I have often stepped in to fill the security gap. Because the circumstances were dire, I declared a state of emergency in Arizona's border counties so I could use state funds to increase local law enforcement patrols along the Arizona border, to help the federal government do its job. Through my Fraudulent ID Task Force, Arizona has dismantled manufacturers and vendors of the fake IDs that are used to facilitate violent human trafficking and other crimes associated with illegal immigration.

As the first governor in the nation to call for deployment of the National Guard at the border, I commend President Bush for agreeing to fund the placement of the Guard along the southern border through Operation Jump Start, where they have supported the Border Patrol in surveillance efforts and infrastructure construction. Additionally, over the past few years, Operation Stonegarden has worked successfully along the southern border states to dissuade illegal crossers through increased local law enforcement patrols.

But to focus on these actions is to focus on temporary fixes, stopgap measures powered primarily by state and local efforts. These are not the solution to the border crisis.

The Intelligence Reform and Terrorism Prevention Act of 2004 includes a five-year border security plan based on the 9/11 Report's recommendations. Although it is encouraging to see a hard timeline and proposed legislation attached to the recommendations, a worrisome discrepancy remains between the actions called for in the recommendations and the allotted funding. The 9/11 Commission's stinging assessment of the progress made in the five years since September 2001 showed a sobering shortage of Border Patrol agents, ICE investigators and federal detention centers needed to adequately protect the border.

Protecting the border from illegal human and drug trafficking is a federal responsibility, yet border states and border communities have borne an unfair share of these costs. One direct byproduct of an unsecured federal border is the illegal immigrants imprisoned in state correctional facilities. I, along with ten other governors, have called on President Bush to include in the FY2008 budget the $950 million that has been authorized by Congress to reimburse states for funds spent on imprisoning these federal criminals to date. Arizona's SCAAP invoices alone totals nearly $300 million. States should be spending this money on improving the lives of their citizens, not to cover expenses that are a federal responsibility. The federal government must fully fund SCAAP.

We all share the common goal of protecting our nation but states simply cannot afford to pay the bills to police and incarcerate federal criminals.

It is important to recognize that enhanced border security cannot be divorced from the pressing need for comprehensive immigration reform. A safer, modern immigration system must combine border and workplace enforcement with mechanisms to regulate future flows of immigrants into our country and allow the 12 million undocumented already here to emerge from the shadows with appropriate sanctions. Comprehensive reform will make America safer and our borders more secure by allowing us to focus resources on the fraction of foreigners who may seek to enter the United States with evil intentions. Reform will give us an opportunity to perform terrorism and criminal background checks on the undocumented who wish to seek to earn the right to stay in the United States. It will also get the Border Patrol back to the job of focusing on threats to our security.

Intelligence Sharing

The 9/11 Commission's recommendations also include the establishment of a National Counterterrorism Center (NCTC). After establishing the Arizona Counter-Terrorism Information Center (ACTIC) in 2004, I experienced firsthand the difference that a consolidated intelligence fusion center can make in identifying, tracking and monitoring threats. When Ambassador McNamara of the Office of the Director of National Intelligence recently visited ACTIC, he commended it as both a national model in fusion centers and as an example of excellence in collaborative intelligence efforts among its 41 local, state and federal partners. Pooling intelligence and joint planning can stop threats so I was pleased to see NCTC become a reality.

A next big challenge for these fusion centers is to increase the pace and consistency of intelligence sharing among federal intelligence liaisons, state fusion center analysts and the cops on the street. Timely and actionable information allows the local law enforcement to appropriately react. As a start, the four southern border states – Arizona, California, New Mexico and Texas – have formalized an intelligence-sharing agreement to strengthen our regional homeland security efforts. It is time to broaden and extend this cooperation to the federal level.

The benefits of sharing homeland security information helped drive the formation last year of two new groups within the National Governors Association: the NGA's Homeland Security Advisors Council and the NGA's Public Safety Task Force. The Council brings together state and territory homeland security advisors to develop strategies for managing homeland security threats. I'm pleased that the Council has had meetings with Secretary Chertoff, the Office of Management and Budget and on the Hill, and I certainly hope that this group becomes an integral part of national homeland security planning efforts. The Task Force, which I formed in September 2006, will increase collaboration among states in homeland security and emergency response planning.

Governors recognize the need to coordinate programs among federal agencies, and we hope to see greater clarification of the currently fragmented structure of federal responsibilities and more cooperation among federal agencies to better enable state and territories to create and implement

their statewide homeland security strategies. Specifically, coordinating between state and federal agencies can be improved by: establishing and fully funding state fusion centers, expediting a standardized security clearance process that is reciprocal between agencies and levels of government, as well as establishing liaison officers within federal intelligence agencies to ensure that critical information is shared with states in a timely fashion.

Transportation and Screening: The Role of REAL ID

There is no doubt that we must strengthen the documents used for identification in our nation. Although the REAL ID provisions of the 9/11 Recommendations Implementation Act represent an admirable stride towards addressing the security threat posed by fraudulent identification, it is important to recognize the undue burden posed on states when such laws constitute an unfunded mandate.

Governors are dedicated to enhancing the security and integrity of identification but I am concerned that the challenges of implementing REAL ID as it currently stands are too high to overcome without the necessary funding. States have estimated that requirements of this congressional mandate will cost ***more than $11 billion*** over five years – significantly higher than the Congressional Budget Office's $100 million estimate – and cannot realistically be met by the law's May 2008 deadline.

Because REAL ID so significantly alters long-standing state laws, regulations and practices, its implementation poses considerable operational challenges. These might be addressed through steps such as extending the compliance deadline and granting the Secretary of Homeland Security the flexibility to consider accepting some of the innovative state practices that accomplish the goals of REAL ID.

Any and all federal action relating to homeland security must be fully funded and supported by the federal government in order to fulfill its intended impact while respecting the constitutional relationship between the states and the federal government. I encourage Congress to work with states to fix REAL ID and assist in making our citizens more secure.

Homeland Security and Emergency Preparedness Funding

The U.S. Department of Homeland Security has developed and issued federal directives aimed at ensuring that states and local jurisdictions are prepared for emergencies. It seems logical that the federal government should provide the funding necessary for these states and localities to comply with the directives.

The simple fact is that state preparedness efforts depend to a large degree on federal homeland security funding. One continuing source of frustration I have heard both within my state and in my interactions as NGA chair is the federal government's continued lack of transparency in how allocation decisions are made with the DHS State Homeland Security Grant Program. States are greatly concerned about the process by which these funding decisions have been made and I share this concern. In fact, requests by multiple states to the DHS for details on how funding allocations were determined have been ignored or rebuffed. How are factors such as the

southern border, the presence of ports and federally-controlled national security facilities in major population centers weighted in relation to risk calculations?

Despite being the nation's fastest growing state, Arizona has experienced a fifty percent drop in federal homeland security funding in the last year, and a two-thirds drop since 2004. We've always planned for an eventual decrease in federal funding and in fact a few years ago Arizona adopted a regional approach to homeland security to encourage resource sharing and collaboration. Our success with this program has led DHS to describe regionalization a "vital step" in establishing layered prevention, protection, response and recovery capabilities. Nevertheless, these unexplained dramatic funding cuts – for Arizona and for states across the nation – were disturbing.

It is tough not to wonder whether Arizona is viewed within DHS as nothing but a small western outpost, instead of home to the nation's largest nuclear power plant, fifth largest city, sixth busiest airport, and our country's only training ground for F-16 pilots, not to mention its most porous international border. It's worth noting that Phoenix, whose population grows by one hundred thousand annually, saw a sixty percent reduction in federal homeland security funding in the last year alone.

Arizona's funding frustrations are mirrored closely in states across the nation. It is challenging and frustrating to plan a long-term state homeland security program when funding levels are so uncertain. In addition to shedding light on how these decisions are made, I recommend strongly that states be provided with funding plans for more than a one-year outlook. The NGA's Homeland Security Advisors Council has recommended to Secretary Chertoff that DHS build out a multi-year grant program similar to the multi-year funding methods employed by the Department of Defense. This is a good idea. It's impossible to plan a comprehensive and realistic state homeland security strategy without a clear understanding of funding beyond the current year.

Although I agree with need for a risk-based formula – one that includes increased transparency – I also believe that each state and territory should receive at least a minimum amount of funding to ensure they can achieve and maintain a base capacity for preparedness and response.

My comments on funding have focused on federal allocations. However, states are not sitting back and depending fully on the federal government to fund homeland security and emergency preparedness measures. In Arizona we successfully released more than $1.5 million in state Border Emergency Declaration funds to pay for measures that included increasing local law enforcement patrols along the most highly-trafficked sections of the Arizona-Mexico border. Through Arizona anti-gang squads called Gang Intelligence and Immigration Team Enforcement Missions (GIITEMs), we have seen how cooperative efforts among law enforcement serves as a force multiplier in bringing down violent gangs and border-related crime. Just last year, I secured $17 million in state funding for GIITEM. I'm also proud that Arizona's Department of Public Safety has pioneered the use of advanced License Plate Reader technology that vastly improves our ability to detect the stolen vehicles used by human smugglers – and arrest the criminal who are driving them, often preventing additional crimes in the process. I know other states have funded additional measures at their own expense to enhance security and preparedness.

Interoperability

Improving the nation's emergency communications capacity is an ongoing challenge raised in the recommendations of the 9/11 Commission and Hurricane Katrina after-action reports. We all remember the chaos and tragedies that ensued on 9/11 when the first responders at the scene couldn't communicate with one another. There were also challenges resulting from Katrina, including in New Orleans where Arizona sent a Mobile Communications Van to provide much needed additional communications capacity.

These events have repeatedly demonstrated the need for a national funding program to upgrade our nation's public safety systems and achieve true interoperability among all first responders. The nationwide cost to meet this need has been conservatively estimated at $15 billion. Due to the extreme costs of true statewide interoperability, most states currently use a band-aid approach with patching technologies instead of a true, long-term solution.

First responders risk their lives for us everyday, and we owe them the tools that they need to keep us – and them – safe. I'd like to ask that Congress reevaluate the overall effectiveness of current funding mechanisms used to address interoperability. States continue to make considerable investments in communications capacity, but more needs to be done. A comprehensive, coordinated system of interoperable communications is vital to saving lives during emergency response. Dedicated funding for robust statewide and regional interoperability must remain a national priority as Congress moves into its 110th session.

The NGA's Homeland Security Advisors Council has recommended to Secretary Chertoff that an office be appointed within DHS to focus on the nationwide interoperability implementation, while taking into account individual states' unique situations and addressing the realities of the funding requirements.

National Guard

Although at the start of my testimony I said I would focus on national homeland security issues, I would be remiss if I did not also mention my concerns about the strain on the National Guard caused by deployment abroad and the resulting diminished capacity to lead response and recovery efforts here at home.

We must make sure that the National Guard is adequately equipped to serve its important mission at home. With a significant portion of the National Guard force currently deployed overseas, and the average deployment currently nearing 18 months, states have had to depend on the Emergency Management Assistance Compact (EMAC) to provide a force for responding to emergencies such as Hurricane Katrina. In fact, some 50,000 National Guardsmen and women from every state across the country responded to that hurricane, demonstrating not only the effectiveness of the Guard in domestic emergencies, but also how the governors can assist one another in times of need.

Although the National Guard can respond to major emergencies through EMAC, many states and territories are currently experiencing equipment shortages in critical mission areas such as tactical fixed wing airlift, motorized vehicles, radios and other communications equipment, and utility helicopters. Such shortages could critically affect our readiness, both for domestic and overseas missions. In addition, attention must be paid to the Army and Air National Guard units returning from active duty without equipment, as most of their equipment that could be used in domestic emergencies is left on the battlefield. It is especially critical for these units to be re-equipped to ensure that they can effectively train and prepare for their redeployment or domestic missions.

If we are going to call on the Guard to assist significantly in both long-term overseas and domestic missions, we owe it to them to ensure they are properly trained and equipped.

Private Sector

A national standard for private sector preparedness must be established. As you are aware, fully 85 percent of our nation's critical infrastructure is owed by the private sector, including utilities, financial institutions and transportation industries. In Arizona, we've found that engaging this sector in planning – through active involvement in training and exercises – and safeguarding this critical infrastructure through Threat and Vulnerability Assessments is something they welcome. In addition to states continuing as a resource and a partner in these efforts, the adoption of a national standard for private preparedness is essential.

Thank you for permitting me the opportunity to testify about this issue that is so critical to the future of our states and our nation. I also invite and urge you to work closely with the nation's governors through the National Governors Association to ensure that you have the valuable input from all of our states.

Only when the federal government works together with the states will we be able to fully integrate and coordinate our public safety programs, which will maximize both the efficient use of taxpayer dollars and the security of all Americans. Including the governors in the homeland security dialogue is important, as each of us can offer a unique perspective and expertise. As initiatives such as Operation Jump Start demonstrate, the governors have creative ideas about how to can make our communities safer without unfairly burdening our businesses and citizens.

Great strides have been made at local, state and federal levels in identifying, preventing, preparing for and recovering to terrorist attacks and natural disasters, but this is no time to slow down preparations. If we were to rank the top issues that Americans today are concerned about they likely include many of the security issues raised in the report's recommendations and discussed in hearings like this in Congress. However, this commitment to continued progress must go hand-in-hand with the necessary funding and realistic timelines.

National Fire Protection Association

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January 21, 2007

Senator Joseph Lieberman
Chairman
Senate Committee on Homeland Security and
Government Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Lieberman:

I am writing in reference to the recent hearing held by the Committee on Homeland Security and Government Affairs titled *Ensuring Full Implementation of the 9/11 Commission's Recommendations*. In particular, I ask your support for Senate legislation that addresses the Commission's recommendations for the participation of private sector organizations in emergency preparedness and response activities with the language contained in HR 1, section *1101*.

This portion of the bill would require the Department of Homeland Security to use the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs, which establishes a check-list of best practices for disaster and emergency preparedness and response, and was endorsed and recommended by the 9/11 Commission.

Not only must our public first responders be well prepared to protect themselves and all of us in ordinary and extraordinary circumstances but the private sector must also play a key role. It is essential we work together to provide the necessary and latest tools to assist them in preparing for any emergency.

NFPA 1600 was developed by NFPA under an American National Standards Institute (ANSI) accredited voluntary open consensus standards development process. It was referenced in the 2004 Amendments to the Homeland Security Act. First published in 1995, NFPA 1600 is currently in its third edition with the fourth edition scheduled to be published this year. Today NFPA 1600 is widely considered to be the gold standard with regard to emergency preparedness. In addition to its use in the US, it is expected to become the Canadian standard for emergency preparedness this year. It is also generating additional interest internationally including in the International Standards Organization (ISO) system where it is being considered as part of a new set of standards addressing Societal Security.

NFPA offers this standard to the public at no cost and we have recorded over 115,000 free downloads of NFPA 1600 from our website since its posting. DHS has supported training by NFPA and others in applying NFPA 1600 to private sector enterprises and communities throughout the US. This legislative requirement, if passed, would further enhance the private sector's ability to prepare for and respond to emergencies.

Thank you for your efforts to implement the recommendations of the 911 Commission which is of utmost importance to our homeland security. Please contact me if I can be of further assistance.

Sincerely,

James M. Shannon
President and CEO
National Fire Protection Association

The Unfinished Business of Business Preparedness:
Don't Forget the 9/11 Commission's Recommendations for the Private Sector

Testimony to the United States Senate
Committee on Homeland Security & Government Affairs
January 24, 2007

Submitted by
William G. Raisch, Director, International Center for Enterprise Preparedness (InterCEP), New York University
Matt Statler, Associate Director, International Center for Enterprise Preparedness (InterCEP), New York University
Rich Cooper, Principal, Olive, Edwards & Cooper

In its current urgency to address the changes in government called for by the 9/11 Commission, Congress should not forget to forward those critical Commission recommendations that address where most of us live and work – the private sector. To quote the 9/11 Commission, "Private-sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security."

Recently, Hurricanes Wilma, Katrina, and Rita underscored for us all the fact that terrorism is not the only risk that we face as a nation. In an increasingly risky world of fires, black-outs, workplace violence, technology breakdowns as well as natural catastrophes and other hazards, emergency preparedness is vital for both businesses and employees.

The Commission's recommendations addressed two key issues: "what" is appropriate preparedness for the businesses and "why" businesses should prepare.

The 9/11 Commission helped identify "what" preparedness is by endorsing an existing preparedness program standard that was developed cooperatively by business and government. This standard, ANSI - NFPA 1600, has been termed the National Preparedness Standard, and it provides a fundamental listing of the basic elements which should be included in any organization's emergency preparedness program. It includes such elements as a clear way to communicate with employees in crisis, life safety and evacuation procedures and a plan to resume the business if it is impacted by a disaster of any kind. The standard reflects an "all-hazards" approach which simplifies emergency planning to a focus on the basic functions common to any emergency.

The 9/11 Commission acknowledged the economic nature of business enterprises and sought to promote market-based incentives to promote a compelling "why" for businesses to invest in preparedness. Specifically, the Commission recommended incentives in the areas of insurance, legal liability and rating agency acknowledgement.

In the words of the final report of the Commission, "We...encourage the insurance and credit-rating industries to look closely at a company's compliance with the ANSI Standard in assessing its insurability and creditworthiness. We believe that a company's compliance with the standard should define the standard of care owned by a company to its employees and the public for legal purposes."

Since the recommendations were released in July, 2004, there has been some movement in these areas on a market basis, but there is a long way to go. In addition, while the U.S. Department of Homeland Security did endorse the standard and has taken some important moves in the right direction, much remains to be done on the governmental side as well.

Congress can take action to concretely advance these important 9/11 Commission recommendations on several fronts.

- With regard to insurance incentives, there are two opportunities. First, regulatory proscriptions need to be modified to allow for industry-wide action to make a closer connection between corporate preparedness and benefits in insurance. Currently, anti-trust regulations, which prohibit discussions among insurance companies on issues related to pricing, have hindered efforts to develop multi-company initiatives to promote business preparedness. The U.S. Department of Homeland Security, working with the Treasury, Justice and other related federal departments should be empowered to shepherd this process and facilitate regulatory modifications where necessary

- The second opportunity to promote preparedness through insurance is TRIA, the Terrorism Risk Insurance Act, which provides a federal backstop to cap insurance losses in the event of a terrorist attack. With potential federal funding ranging up to the hundreds of millions, the federal government should require compliance with the standard by all of those companies which benefit from this federal coverage. This would not only work to protect the people and operations of the companies themselves but would also mitigate the potential financial claims payable by the government. It would be a win-win and a reasonable requirement given the substantial government funding of the program.

- Legal incentives to promote business preparedness must also be pursued. For example, the National Preparedness Standard recommends that businesses coordinate their preparedness actions with government and also provide assistance - mutual aid - to other organizations as necessary including government. Currently, concerns about legal liability impede many companies from making the arrangements to provide that assistance and inhibit working closer with government on other emergency management issues. The Good Samaritan Laws, which currently only protect individuals attempting to do good in crisis, must be extended to include corporations as well. Federal initiative, in coordination with the states, needs to be taken to promote this logical expansion.

- Additionally, let's let the concern for legal liability promote something productive for a change. Let's create an incentive for companies to effectively prepare by establishing a partial or complete "safe harbor" from related post-crisis liability claims for those companies that voluntarily comply with the national standard.

- Rating agency acknowledgement of corporate preparedness is still in its early stages of development, but debt and equity markets have both begun to recognize that effective preparedness can affect corporate performance post-crisis. Indeed, the Council on Competitiveness has recently identified "corporate resiliency" (preparedness) as a key potential competitive advantage for American corporations.

  Clearly the goal of the Commission with regard to rating agency acknowledgement was to increase the general acknowledgement of corporate preparedness in business and market environments. While there is little Congress can do to accelerate the activity of rating agencies, Congress can promote acknowledgement in other ways.

  The federal government can and should use market dynamics and its extensive purchasing power to promote business preparedness. Voluntary conformity with the basic criteria of the National Preparedness Standard should be a factor in selecting government suppliers, especially those that have substantial sales to the U.S. Department of Homeland Security, which of all governmental departments clearly should have prepared companies in its supply chain and supporting its overall operations.

- In addition, corporate leaders need to step forward and champion private-sector preparedness. A national recognition program acknowledging effective business preparedness should be established to spotlight companies that have developed effective preparedness programs in accordance with the standard. The program could be modeled on the very successful Malcolm Baldridge Award which acknowledges quality management. This award program should be funded by the Department of Homeland Security with the Secretary presenting its top awards. NYU's International Center for Enterprise Preparedness (InterCEP) has already completed the initial research.

- To achieve these incentives, businesses need a simple and cost-effective way to assess conformity with the basic preparedness standard. A voluntary accreditation program should be established to support both self-assessment and third party assessment. The program should be established outside of government with participation by both public and private sector representatives. Such programs have been effectively developed around conformity to other standards, including those related to quality and the environment (i.e., the ISO 9000 and ISO 14000 series). Progress has already been made in this regard by an accreditation task force convened this past September at NYU, including representatives from Fortune 500 corporations already using the standard, the Government Accountability Office, the Department of Homeland Security and the American National Standards Institute (ANSI) which is the U.S. standards body. An ANSI-compliant accreditation program involving these

and other relevant stakeholders should be developed with seed funding from the federal government.

- The most effective lever to promote significant change in the business sector is a solid economic rationale. Therefore, in addition to the above initiatives, the overall business case for preparedness must be more fully defined and widely communicated to the business community. Such an effort should be championed by and financially supported by the U.S. Department of Homeland Security which has taken important steps in this regard, some of them here at the International Center for Enterprise Preparedness. But it should also be heralded and encouraged by Wall Street and other leading business communities to reinforce the fact that preparedness is a good investment in any enterprise.

With joint public-private efforts, including Congressional leadership in support of the 9/11 Commission's private sector recommendations, we can make America both safer and more competitive.

William G. Raisch served as an advisor to the 9/11 Commission on private sector preparedness and currently serves as the Director of the International Center for Enterprise Preparedness (InterCEP) at New York University, a program of the university-wide Center for Catastrophe Preparedness & Response.

Matt Statler serves as the Associate Director of the International Center for Enterprise Preparedness. His latest book, co-authored with Johan Roos, Everyday Strategic Preparedness: The Role of Practical Wisdom in Organizations *(Palgrave MacMillan UK) is scheduled for release in April 2007.*

Rich Cooper served as Business Liaison Director for Preparedness and Science & Technology with the US Department of Homeland Security from 2003-2006. He is a principal in the firm, Olive, Edwards & Cooper of Washington, DC.

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