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PRESIDENT BUSH'S PROPOSAL TO CREATE A DEPARTMENT OF HOMELAND SECURITY

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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SECOND SESSION

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PRESIDENT BUSH'S PROPOSAL TO CREATE A DEPARTMENT OF HOMELAND SECURITY

THURSDAY, JUNE 20, 2002

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in room SD–106, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Levin, Akaka, Durbin, Cleland, Carper, Carnahan, Dayton, Thompson, Stevens, Collins, Voinovich, Cochran, Bennett, Bunning, and Fitzgerald.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. The Committee will come to order.

Good morning. This morning, the Committee returns to its consideration of the creation of a new Department of Homeland Security—a focused domestic defense agency which would guard our great country against those who seek to suppress our values and destroy our way of life by terrorizing our people.

Our challenge and our responsibility, after September 11, is to adapt, respond, and reform to protect the American people from future terrorist attacks. There should be no contention on this matter. We have so much more strength, wealth, talent, and technology than our enemies have, and we have our enduring faith, unity, and patriotism to guide us in our work.

If you look at American history, you see two remarkable realities, which is that no matter how much we change to meet the challenges of each succeeding generation, we have stayed, in essence, the same people with the same values. Now we have got to change again to become not just safer, but better. In part, this is a matter of executive reorganization, but it is also more broadly a test of whether we can transform the people's government at a time of crisis against the friction of entrenched interests while protecting our fundamental freedoms.

The urgency of our circumstances after the terrorist attacks of September 11, requires us to proceed with a singular focus on swiftly creating a new department of our government that has an unequivocal mission, broad jurisdiction, defined lines of authority, and adequate resources to get the job of homeland security done.

In our work here, we have strong foundations to build on—the excellent work done by the Hart-Rudman Commission, whose co-chairs we will hear from today. The proposal reported out of this

Committee last month, and the President's proposal of 2 weeks ago, all call for a Cabinet-level Homeland Security Department.

I am very grateful that the President's plan is, in many respects, similar to our Committee's proposal. That will certainly make our work here more manageable, but there are differences between the two plans, and we will have to reconcile them.

We must also be open to construct the additions of ideas not included in either proposal or adequately covered in either proposal. Remember, we are not trying to create the biggest department here possible, but we are determined to build a structure that will give the American people the best protection we can give them.

With all due respect to some who will criticize this reorganization, this is not about rearranging the deck chairs on a sinking ship; this is about building a stronger ship of state that is better equipped to carry the American people safely through the rough waters ahead.

Now among the unsettled questions we face in our work are the following:

First, we have to improve the collection of domestic terrorism intelligence, and decide how best to redress the awful lack of coordination and information sharing among key agencies of our government. The FBI and the CIA, now appears to have been the most glaring failure of our government leading up to September 11.

The Committee's legislation would create a statutory office for combatting terrorism within the White House to oversee such coordination. The President's proposal would create an Information Analysis Center in the Department of Homeland Security which would collect and analyze intelligence.

Neither proposals may be adequate to meet terrorist threats. Others have suggested, for instance, that we should take an even bolder step by creating a domestic intelligence agency similar to those in Britain and other European countries, perhaps within the Department of Homeland Security, perhaps outside it. We should consider those alternatives and others as well.

Second, we must determine how best to integrate the resources and expertise of our military into this effort. The Department of Defense itself is in the process of being refocused to meet the challenges of asymmetrical, high-tech terrorist threats. A new modern command headquartered in Colorado Springs, Colorado, is being created, which will take on the responsibility of homeland defense for the Pentagon. So a Department of Homeland Security that ignores these evolving plans of our military will be the weaker for it.

Third, we must optimize coordination between the new Department of Homeland Security and the hundreds of thousands of local police officers, fire fighters, emergency response workers, and public health officials on the front lines in our States, counties and municipalities. Those professionals, those public servants can be critically important, not just as first responders, but as intelligence gatherers. They must be in the mix, not on the sidelines, as we formulate this new agency. They will need to receive significant additional funds to do the job that we are asking them to do.

I know there are likely to be other important areas that will need resolution and clarification, but I feel very strongly that this cannot

be a leisurely process. Slowly, but surely, will not do it in this case. We must proceed swiftly and surely because our terrorist enemies have clearly not abandoned their intention to do the American people terrible harm.

So I hope to move this legislation through the Committee and to the Senate floor by mid-July. I hope we can pass it and send it to the President by September 11, at best, or by the end of the session, at least.

After September 11, the meaning of security has changed in America. The painful fact is that we allowed ourselves to become vulnerable, but as we rebuild and raise our defenses, we must not grow fearful, we must not begin to believe that future successful terrorist attacks are inevitable or that future loss of American life must be accepted as a necessary casualty of freedom. That is why we need to raise our guard and organize our strength quickly and surely in this new department.

A long time ago, in 1777, William Pitt, the elder, advised the British, with regard to the feisty colonies that had broken away from the Crown that by securing their freedom, America cannot be conquered. Two hundred and twenty-five years later, we will prove Pitt right again.

Creating a Department of Homeland Security now is, in fact, a direct fulfillment of the mission that those feisty and principled Founders of ours gave us, who are privileged to serve today in our Federal Government when, they wrote the Preamble to our Constitution. "To form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

When we come together in this session of Congress to create this new department, as I am confident we will, we will have formed a more perfect union, ensure domestic tranquility, provide it for the common defense, and secure the blessings of liberty to ourselves and our posterity.

Senator Thompson.

OPENING STATEMENT OF SENATOR THOMPSON

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

The legislation we are considering today has been preceded by a national consensus that is rarely achieved. Most Americans now clearly agree that deficiencies in our homeland security must be addressed for reasons too obvious to mention.

A structural change in our Executive Branch institutions, and hopefully later on our Legislative Branch, clearly, will be part of the solution to making our country safer.

I am very pleased that Governor Ridge could be here with us today. Governor, you are, without a doubt, the Nation's foremost expert on President Bush's reorganization proposal, and I must say your leadership over the past 10 months has been outstanding. You effectively coordinated the Federal Government's response to several different crises and built from scratch the Office of Homeland Security. You have also been a reassuring presence to the American people.

We are also joined today by Senators Hart and Rudman. It took courage a year and a half ago to propose a massive reorganization of Federal Government's homeland security efforts. Prior to September 11, there seemed to be no reason to reorganize on such a grand scale, yet you were not detered. You pressed on. Today, you can say you had the right idea and can be credited as the fathers of the concepts behind the President's proposal and Senator Lieberman's bill. Gentlemen, you displayed a considerable foresight in devising your proposal, and your country owes you a debt of gratitude.

When this Committee considered Senator Lieberman's bill, I had thought that, while a new statutory framework with a head confirmable by the Senate was necessary, a coordinator of the many government agencies relating to homeland security was probably preferable to a new department. It seemed impossible to bring in all of the homeland security-related agencies into a new department. Mainly, I thought that it would be impossible to pass any legislation without the support of the administration, and that we should wait until the administration had an opportunity to make its own assessment. Well, now it has done so.

Over the past 10 months, the President's Office of Homeland Security closely examined every facet of our homeland security effort. It considered numerous homeland security organization proposals that emerged from outside studies, commissions and Members of Congress. The administration eventually came to the conclusion that reorganization on a grand scale needed to be done.

The President's proposal would not have been possible had the administration not taken the time to conduct this comprehensive review. This legislative proposal is unique in many ways. Reorganization on this scale has not occurred for 50 years. It moves 22 agencies and programs, with just 170,000 employees, in a total proposed fiscal year 2003 budget of nearly $38 billion.

While it is very bold in scope, it is very brief in detail. It gives the new Secretary broad authority to organize his new department without telling him how to do it, unlike other reorganization proposals of the past. While I think that this is a good thing for the most part, it will surely engender much discussion, as it should. We should not shy away from the fact that while some bureaucracies will be reduced or eliminated, we are creating a large new bureaucracy with new leadership, a new culture, and a new mission. It is going to be complex and difficult.

However, even advocates of smaller government realize that it is a mission vital to the security of this Nation. Protecting the citizens of this country is the most important responsibility of this government. This new department must improve communication between our border agencies, protect our critical infrastructure, provide up-to-date analysis of the threats facing our Nation, and improve and streamline coordination of the Federal Government's emergency response efforts.

Moreover, it will also have to work to ensure that the new department has a clear mission understood by all of its employees, sufficient research and development capacity, as well as adequate talent for its new Intelligence Analysis Unit.

Now, during this process, we should also consider what tools that we must give the administration and the Secretary for this new department. The President has requested that the Secretary be given great latitude in redeploying resources, both human and financial. I believe the Secretary will need as much flexibility as possible. The ability to develop its own acquisition system, for example, would be an invaluable tool for this new department.

Information technology is not something that the Federal Government does very well, but in this new department, information technology must serve as a key backbone by tying different offices together and allowing the department to share and analyze critical information.

Moreover, the department should have significant flexibility in hiring processes and compensation systems and practices. Homeland security is too important not to have a high-performance, accountable workforce. Creating a results-based framework of clear strategic and annual goals linking day-to-day operations to these goals and understanding results being achieved should be guiding principles for this new organization.

But while considering what this new department must, and should, do, let us be clear about what creating this new department will not do. It does not address what I consider to be the most immediate and troubling deficiencies in our country's intelligence and counterintelligence/counterterrorist capabilities.

The areas of most immediate concern, quite frankly, even more than reorganization in our battle against terrorism, have to do with the collection, analysis and dissemination of intelligence information. Clearly, the FBI, the CIA and other intelligence-related agencies are in need of substantial reform, a different mind-set and a different way of doing business. Reform must be done, not as a part of homeland security legislation, but within those agencies themselves.

Finally, Mr. Chairman, I know that we are going to work long and work hard under your leadership and the initiatives that you have already taken in this area. Because of the scope of what we are doing, the importance of what we are doing, and the fact that once passed into law, this new framework will be a part of the American fabric forever, let us take the time necessary to carefully consider all of the issues presented by this legislation. Then we can move forward together with the confidence that we have truly taken a major step toward enhancing our Nation's security.

Thank you very much.

Chairman LIEBERMAN. Thank you, Senator Thompson, for the very thoughtful statement. I look forward to working with you on this with the same sense of purpose, and shared purpose, that you and I have had in so many other matters we have worked on together.

Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Mr. Chairman. Thank you for your leadership in this area. The bill that you have introduced, and which we have now passed in this Committee and is now on the calendar, is going to be the bill that we will use as the beginning

point, the starting point for what has to be done and has to be done quickly.

I want to join you in welcoming Governor Ridge and our witnesses. He has done an outstanding job in the few months that he has been on the job, and we want to thank him for that. As we look forward to changes that have to be brought about, we do not want to overlook the work that he has done.

We should not kid ourselves or the public about the complexities involved in developing this major reorganization. We know you have to crack some eggs to make an omelette. We have to make sure that when we crack the eggs, we don't end up with scrambled eggs.

For example, the agencies that are being proposed to move to a new department are, in many cases, agencies that are currently broken—the INS, to name just one. We have to make every effort to reform agencies that need reform as we move them to a new department, rather than simply transferring a broken agency, and that is going to take some time and some real effort.

Of particular concern to most of us is whether or not this department is going to improve the coordination and the analysis of intelligence information. As important as the restructuring of our agencies and functions is, it pales in significance when compared to the need to change and reform the way in which we do not adequately analyze and utilize intelligence information. I am going to come back to that in a moment, but first a word of history.

We have been around this block before many times in the last 15 years. Starting in 1986, when the Director of the CIA created the DCI Counterterrorist Center, or the CTC, for the CIA to defeat terrorism, a major responsibility of the CTC was to coordinate the intelligence community's counterterrorist activities and the sharing of information. When one goes to the Central Intelligence Agency's website and reads the functions of the Counterterrorist Center, it sounds exactly like what still needs to be done.

The CTC's mission is to assist the Director in coordinating the counterterrorist efforts of the intelligence community. And now I am reading the website of the Counterterrorist Center. "By implementing a comprehensive counterterrorist operations program to collect intelligence on, and minimize the capabilities of, international terrorist groups and State sponsors; exploiting all source intelligence to produce in-depth analyses of the groups and States responsible for international terrorism; coordinating the intelligence community's counterterrorist activities."

Sound familiar? It is what still needs to be done and what has not been done.

In 1989, with the explosion of the Pan Am jet over Lockerbie, the Counterterrorist Center was showcased as the promising innovation to respond to that terrorist act in a coordinated and effective way.

In 1994, President Clinton issued a presidential decision directive to foster increased cooperation, coordination and accountability among all U.S. counterintelligence agencies. That directive created a new structure under the National Security Council, a new National Counterintelligence Center, led by a senior executive in the FBI, and it required the exchange of senior managers between the

CIA and the FBI to ensure close and timely coordination between the two agencies. That directive was issued after a review of intelligence operations following the Aldrich Ames espionage investigation and highlighted the need for improvements in the coordination of our counterintelligence activities, and on and on.

After the terrorist embassy attacks in Nairobi and Tanzania, the general counsel of the CIA was quoted as saying that the CIA and the FBI had to confront their lack of cooperation, but that they were making some headway in the investigation.

In September 1998, after a meeting of more than 200 officials from across the country in Washington to discuss emergency preparedness, in light of the growing fear of terrorism, the domestic preparedness coordinator in Atlanta was quoted as saying, "even we often do not know who to talk to at the Federal level."

Addressing the failures of coordination, both within agencies and between agencies, is not just a question of coordination between our agencies, it is a question of coordination within agencies, which we have found does not exist in our intelligence hearings which are going on right now.

So, as important as the shifting of functions is from one agency to another so that we have a much greater Homeland Security Agency with responsibility and accountability—it pales in significance when compared to the need to get our intelligence act together, to put together the information in one place, where it can be assessed, where it can then be acted upon, and most importantly, where somebody can be held accountable. That accountability does not exist now. We must make sure that it is created, and I consider that to be our greatest chore.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Levin.

Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman, for convening this hearing.

Our purpose, which is to begin examining President Bush's proposal to create a new Department of Homeland Security is of utmost importance. The decisions that Congress will make over the next several weeks on reorganizing the Executive Branch will have both near- and long-term consequences for the preservation of our democratic institutions, our national security, and the success of the war against terrorism.

Two of our distinguished witnesses this morning, former Senators Warren Rudman and Gary Hart, have noted that we face a threat that is neither conventional war, nor traditional crime, and combatting it requires new government structures, new policies, and new thinking. They are absolutely right.

The President has recognized that reality by proposing a bold and unprecedented reorganization of the Executive Branch to bolster homeland security. Since September 11, much has been done to make our Nation more secure. Congress has approved billions of dollars to help beef up security. The administration has created an Office of Homeland Security and proposed tens of billions of dollars

in additional spending to secure our borders, protect critical infrastructure and train first responders.

The President has also recently signed into law legislation to help us deter, detect and respond to a bioterrorism attack. There is still much work that remains to be done, including reorganizing the Federal Government to provide the best possible structure to deal with the current and future threats to our security.

One must improve coordination among Federal, State and local governments, as well as the private sector. We must have adequate funding. We must avoid wasteful duplication. We must have realistic plans and effective training and exercises. We also must ensure that information about the presence of terrorists and potential threats is shared among Federal agencies so that the Berlin Walls that have impeded communication and cooperation are taken down once and for all.

As many as 100 Federal agencies, with hundreds of thousands of Federal employees, now share responsibility for homeland security. When that many entities are responsible, nobody is really accountable, and turf wars and bureaucratic barriers are inevitable. The President's plan may not be perfect and there are many questions, but it certainly represents an excellent beginning. It will remedy many of the weaknesses in our current structure, including a patchwork of agencies and the resulting lack of focus, poor communication, myriad jurisdictional rivalries, and the inadequate sharing of intelligence and information generally.

The magnitude and complexity of the tasks before us are daunting. The implications of our decisions are great. While we cannot afford to rush to a judgment that we will later regret, we also cannot afford to delay. We must get this one right, for our future may well depend on it.

Chairman LIEBERMAN. Thank you very much, Senator Collins. Senator Carnahan.

OPENING STATEMENT OF SENATOR CARNAHAN

Senator CARNAHAN. Thank you, Mr. Chairman.

Governor Ridge, I want to thank you for answering your country's call to duty during such perilous times. Our Nation is very grateful.

In one of Shakespeare's plays, two people meet who have not seen each other for some time, and one does not recognize the other. The one that is unrecognized explains: "Grief hath changed me since you saw me last." Well, grief, and fear, and insecurity have changed the face of America, and we are now having to think about things that we did not even dream as being imaginable many years ago. During this time of uncertainty, the American people are looking to their government for leadership.

Since September 11, under the guidance of Senator Lieberman, this Committee has been laying the groundwork to develop a national strategy to secure our homeland. We learned from our hearings that our government is currently not structured to meet the new threats that we face. We responded by reporting an excellent bill that would create a Department of Homeland Security, and now we will be perfecting that bill in light of the President's proposal.

I commend President Bush for his decision to support the creation of a Homeland Security Agency, and I pledge to work with him to create a strong, effective, and well-equipped agency, one that is robust and ready. The American people rightly demand that the first duty of the Federal Government is to provide security. So we should give this department the personnel and the resources it needs to get the job done. I think it would be a mistake to set arbitrary limits at the beginning of the process; rather, we should establish a clear mission for the department, then dedicate the resources needed to accomplish that mission.

As we set about the task of creating the new agency, I want to raise a couple of general thoughts about the capabilities that we will need.

First, this agency, more than most, will have to coordinate with State and local governments. Homeland security is a joint responsibility, requiring a partnership of effort. We need to do a better job of making sure that States and localities have the resources they need. I have heard repeatedly from responders in Missouri that they lack the funds for basic equipment to respond to national security threats. Remarkably, despite the clear intentions of Congress, very little funding has made its way down to the local level since September 11. I hope that improving this situation will be among the new agency's priorities.

Second, coming from the Heartland, I believe it is important for the administration to focus on developing a strategy to avoid agroterrorism. Because our farmers feed the world, we need a comprehensive effort to protect our food supply, and we need to implement it right away.

Finally, I would like to learn more about the President's proposal to create a division dedicated to protecting Americans from bioterrorism and weapons of mass destruction. I have been focusing on the issue of dirty bombs. The DOD authorization bill that is on the floor contains requirements for the Department of Energy to develop plans for securing radiological materials around the world.

Of course, in light of the recent detention of Jose Padilla, we need to increase our vigilance in protecting radiological materials right here in the United States. I will be interested to learn about the administration's plans to do this.

I want to thank Governor Ridge, Senator Hart, and Senator Rudman for testifying today. As I said, Senator Lieberman, you have led well, and I know you will continue to point the way in this new effort.

I want to close by saying that during the past 9 months, we have heard a great deal about threats, and plots, and dangers, and they certainly do exist, and because they do we must be vigilant, but we must not be fearful. I take solace in the words written by the late Jack Buck, whose passing we mourn this week. Just after the attacks on September 11 he wrote, "With one voice we say, as our fathers did before, we shall win this unwanted war, and our children will enjoy the future we will be giving."

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Carnahan.

Senator Voinovich.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you, Mr. Chairman. I commend you for being one of the Senate's first responders to the President's proposal to create a new Department of Homeland Security by scheduling this hearing so expeditiously.

I extend a warm welcome to our distinguished witnesses, including Homeland Security Director Tom Ridge, who I have had the pleasure of working with in the National Governors' Association and the Council of Great Lakes Governors. It is comforting, Tom, to know that you have been working on this issue for quite some time. I also welcome Senator Hart and Senator Rudman.

On June 6, the President announced his proposal to the Nation for the largest government restructuring in over 50 years. The last restructuring of this magnitude resulted in the creation of the Department of Defense, the CIA and the National Security Council in 1947. The creation of a new Department of Homeland Security shows that we are in this fight for the long haul, and it will require a commitment from all of us to win this war on terrorism at home and abroad.

As a Federalist, I do not, as a rule, advocate increasing the size or scope of the Federal Government, but this is a necessary strategic reorganization that will coordinate and oversee the full range of domestic security resources to more effectively address the new threats and challenges that we face.

Securing our homelands against enemies who have neither territory nor government means we have to be more creative and proactive. Our critical assets include transportation, information network, cyber and telecommunications, energy and power plants, financial markets, our public health system, and most importantly, our people.

Protecting Americans from further acts of terrorism is our top national priority. It is an enormous job that involves the cooperations of hundreds of thousands of dedicated local, State and Federal employees who guard the entrances and borders of our country, gather and analyze intelligence, protect our citizens and investigate leads, make arrests, and respond to assist the victims of terrorist attacks.

These brave Americans are our Nation's fire fighters, first responders, Federal investigators, ambulance drivers, health care providers, analysts, scientists, and men and women in uniform who work around the clock and around the world.

Fifteen short months ago, in February 2001, the Hart-Rudman Commission released its final report on the status of U.S. security in the 21st Century. At the time of the release of that report, I suspect that no one realized how urgently needed the recommendations of that report would be to our national security.

One of the Commission's findings was, "Attacks against American citizens on American soil, possibly causing heavy casualties, are likely over the next quarter century." The Commission further stated that, "The United States finds itself on the brink of an unprecedented crisis of competence in government," and that "the maintenance of American power in the world depends on the quality of the U.S. Government personnel, civil, military, and at all levels."

Based on my past experiences, I did not support the initial push in Congress to create a new Homeland Defense Agency. As a former governor and mayor, I do not believe Congress should force a management structure on an administration without its input and agreement, and the administration originally did not favor the creation of a Cabinet-level department.

The President's new proposal follows months of analysis, and Congress should now work closely with the President to expedite the creation and operation of the new agency. Mr. Chairman, we must set aside partisan differences to ensure that the new Department of Homeland Security has the people, the process, and technology to complete its vital mission.

Many have questioned whether it will work, however, citing as examples the past failures of Federal agencies to cooperate, communicate and operate with a level of effectiveness that is needed to get the job done. I hope that because the administration has been so deliberate, and I assume there is strong support within the Executive Branch to create the new department, that the executives in those departments will rise to the occasion and demonstrate the leadership necessary to motivate their employees. The interpersonal skills of those executives and their commitment are going to be very, very important if this reorganization is going to succeed.

This new agency is a needed step forward, but without also making it easier to recruit and retain good people, the agency's effectiveness is threatened. Rearranging the furniture will accomplish little without the people to sit on it. We have a real opportunity with this new department to do it right the first time and provide the tools needed for success, including the ability to hire, train and retain the right people. The war on terrorism has been successful so far. At the same time, however, we are losing the war for talent.

I would conclude that unless you address the personnel problem, as so well enunciated in the Hart-Rudman report, this reorganization is not going to be successful. Governor Ridge, about a third of the people in five large agencies of this new department are going to retire by the year 2004 or 2005. So we have a critical problem that needs to be addressed.

I think you know that we have introduced legislation that represents a broad consensus on some of the things that we need to do across the board to give the government the flexibility to attract and retain the best and brightest people in government. I would hope that that is a major emphasis of reorganization.

I know that there are some broad flexibilities that you are asking for the new department. I would like to see exactly what those flexibilities are and how they fit into this legislation that I have been working on for the last couple of years and see if they can be harmonized.

Thank you, Mr. Chairman.

[The prepared statement of Senator Voinovich follows:]

PREPARED STATEMENT OF SENATOR VOINOVICH

Thank you, Mr. Chairman. I commend you for being one of the Senate's "First Responders" to the President's proposal to create a new Department of Homeland Security by scheduling this hearing so expeditiously. I extend a warm welcome to

all of our distinguished witnesses, including Homeland Security Director Tom Ridge and former Senators Hart and Rudman.

On June 6, President Bush announced his proposal to the Nation for the largest government restructuring in over 50 years. The last restructuring of this magnitude resulted in the creation of the Department of Defense, the CIA and the National Security Council in 1947. The creation of a new Department of Homeland Security shows that we are in this fight for the long haul, and it will require a commitment from all us to win this war on terrorism at home and abroad. As a Federalist, I do not, as a rule, advocate increasing the size or scope of the federal government, but this is a necessary strategic reorganization that will coordinate and oversee the full range of domestic security resources to more effectively address the new threats and challenges we face.

Securing our homeland against enemies who have neither territory nor government means we have to be more creative and proactive. Our critical assets include transportation, information networks (cyber and telecommunications), energy and power plants, financial markets, our public health system, and most importantly, our people. Protecting Americans from further acts of terrorism is a top national priority. It is an enormous job that involves the cooperation of hundreds of thousands of dedicated local, state, and federal employees who guard the entrances and borders of our country, gather and analyze intelligence, protect our citizens and investigate leads, make arrests, and respond to assist the victims of terrorist attacks. These brave Americans are our nation's firefighters and first responders, federal investigators, ambulance drivers and health care providers, analysts, scientists and men and women in uniform who work around the clock, around the world.

Fifteen short months ago (in February 2001) the Hart-Rudman Commission released its final report on the status of our national security. One of the Commission's findings was that "Attacks against American citizens on American soil, possibly causing heavy casualties, are likely over the next quarter century." The Commission stated further that, "The United States finds itself on the brink of an unprecedented crisis of competence in Government," and that "The maintenance of American power in the world depends on the quality of U.S. Government personnel, civil, military, and at all levels."

Based on my past experiences, I did not support the initial push in Congress to create a new homeland defense agency. As a former governor and mayor, I do not believe Congress should force a management structure on an Administration without its input and agreement and the Administration originally did not favor creation of a cabinet level Department. The President's new proposal follows months of analysis and Congress should now work closely with the President to expedite the creation and operation of this new agency.

Mr. Chairman, we must set aside our partisan differences to ensure that the new Department of Homeland Security has the people, the process, and the technology to complete its vital mission. Many have questioned whether it will work, however, citing as examples, the past failures of federal agencies to cooperate, communicate and operate with the level of effectiveness and reliability that is needed to get the job done. Because the Administration has been so deliberate, I assume that there is strong support within the Executive Branch to create the new Department and that the executives will rise to the occasion and demonstrate the leadership necessary to motivate their employees.

This new agency is a needed step forward, but without also making it easier to recruit and retain good people, the agency's effectiveness is threatened. Rearranging the furniture will accomplish little without the people to sit on it. We have a real opportunity with this new department–to do it right the first time and provide the tools needed for success: including the ability to hire, train and retain the right people.

The war on terrorism has been successful so far. At the same time, however, we are losing the war for talent. In May, I met with representatives from the FBI Agents' Association to discuss the human capital challenges facing their Special Agents. The problems confronting their workforce were similar to the ones I have heard about from almost every federal department and agency: an aging workforce, outdated personnel systems, and not enough new talent coming in the door. The meeting solidified my belief that we must conduct a thorough examination of the federal government's classification and compensation system to assess what is needed by the federal workforce in the 21st century. This is more than a human capital management problem; it's a matter of national security.

Classification and compensation reform are only two pieces of the human capital puzzle. According to recent findings from the Partnership for Public Service, nearly one-third of the employees in the five major agencies forming the Department of Homeland Security will be eligible to retire in the next five years. Mr. Chairman,

I hope that you find these statistics as troubling as I do. It is imperative that we provide the Administration with new tools to shape and manage a 21st Century federal workforce.

To provide the Executive Branch with a foundation for the necessary system, I am pleased to announce that today I am introducing the Federal Workforce Improvement Act of 2002. I developed this legislation after extensive collaboration and cooperation from key stakeholders, including officials from the Bush Administration, former Clinton Administration, our federal employee unions and private and non-profit sector management experts. It is not the 100% solution to our personnel problems, but it provides agencies, managers, and employees with enhanced flexibilities and training needed to accomplish their mission.

We must also consider the human resource proposal submitted by the President in his Homeland Security bill. This proposal calls for the creation of a Department with significant flexibility in hiring processes, compensation systems and practices, and a performance management system to recruit, retain, and develop a motivated, high-performance and accountable workforce. It may be the right solution for this agency.

Mr. Chairman, thank you for your efforts on this issue, and I look forward to a lively and engaging discussion with our witnesses.

Chairman LIEBERMAN. Thank you, Senator Voinovich. Senator Durbin.

OPENING STATEMENT OF SENATOR DURBIN

Senator DURBIN. Thank you, Mr. Chairman. Governor Ridge, thank you for being here. Thank you for your service to our country. I believe all of us have said, and it bears repeating, that the President made an excellent choice in asking you to take on this historic responsibility. You have handled it well, we have enjoyed working with you, and I look forward to this experience.

I want to thank Senators Hart and Rudman for their continued service to this country. Your recommendations are the backbone for this hearing and for many of the proposals for genuine reform, and thank you for that.

Governor Ridge, let me follow up with Senator Voinovich's question because, under his leadership, our Subcommittee has focused on this question of resources in the Federal Government. There has been no greater leader on the issue than Senator Voinovich, who has really reminded us that, as good as the ideas may be, we need the very best men and women in America prepared to serve our country and to make them work. I hope that becomes an important part of this conversation.

Second, and I think equally important, is to consider the technical capacity of the Federal Government today to meet this challenge. Several weeks ago, the Attorney General suggested that we might initiate a program of photographing and fingerprinting many of the millions of visa holders who come into the United States each year. Certainly, you can argue that that is a valuable law-enforcement tool and that we want to protect our Nation and its inhabitants from anyone who comes to this country seeking to do something which is evil or wrong. But we have to put it in the context of technical reality, and the context of technical reality tells us that today we are physically incapable of even considering a program of this magnitude.

We were told by the Inspector General at the Department of Justice that 6 years ago Congress mandated the Immigration and Naturalization Service to keep track of all exit visas in the United States. We told them get your act together. We want to know who

is leaving this country, who had a visa. Six years later, they still have not done it, and according to the Inspector General, they are years away.

Three years ago, we told the INS and the FBI, you each are collecting fingerprint databases. Merge them into one so you can work cooperatively together. Three years ago we gave them that mandate. It still has not happened. According to the Inspector General, we are still a long way from seeing it achieved. So the idea of expanding the collection of this data, in a dramatic fashion, to include 100,000, a half-million or 5 million more pieces of information is certainly an interesting goal, but one that is currently unachievable with our current technical capacity and level of cooperation between agencies. I think this has to be a critical part of this conversation.

The second thing I would like to point out to you is the whole question of food security. It is something we have talked about, I have discussed with Secretary Thompson and the President, I think that this departmental proposal gets close to considering with the transfer of APHIS into this new Department of Homeland Security. This is a major vulnerability in America that we cannot ignore. The possibility that the next attack is going to be against our food supply is sad reality, but it is a reality, and we have to focus on it. I hope that we can consider, within this new department, some authority to bring together the 12 different Federal agencies responsible for food safety into one scientific, coordinated effort. I hope that can be part of it.

The final point I will make is this: There was a recommendation made by Senators Hart and Rudman, also made by General McCaffrey when he testified before this Committee in October of last year, which is not part of either Senator Lieberman's proposal or the President's, that I would commend to all of the Members of the Committee, and that is the suggestion of the role of the National Guard in this conversation.

We have an enormous asset in America in our National Guard. We spend about $15 billion a year on the National Guard. We have men and women who are dedicated to the country and show it with the sacrifice that they make, but we clearly can use them, I think, more effectively as part of homeland security. That was suggested by Senators Hart and Rudman, that they would be the front-line force for the defense of America. It was suggested by General McCaffrey as well.

I hope that, as we consider the President's proposal, we will go beyond talking of coordination with the National Guard and start actively engaging them in being the front line of defense in every State of the Nation. This is a role they were originally intended to accomplish. It is one that I think they can handle extremely well, and I hope that we can utilize their great resources and talent to make it happen.

Thank you for being here today.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Durbin. Senator Bennett.

OPENING STATEMENT OF SENATOR BENNETT

Senator BENNETT. Thank you very much, Mr. Chairman. Governor Ridge, welcome. Sometime this morning we will give you an opportunity to talk, but not very soon. [Laughter.]

Chairman LIEBERMAN. We are getting there.

Senator BENNETT. I have two themes, neither one of which will come as a surprise to Members of this Committee. I have discovered there is no such thing as repetition in the Senate, and so I will launch on both my themes again.

First, the recognition that, in today's world, as a result of the Information Revolution, a revolution as fundamental as the Industrial Revolution was—everything is connected, and it is connected by computers, it is connected to cyber activity—and I commend you, Governor Ridge and the administration, for recognizing that in your basic proposal and talking about the importance of information sharing and protection of our critical infrastructure, as represented by computers and high-tech connections.

A terrorist who wishes this country ill could bring us to our knees economically without setting off a single bomb. If he could get into the telecommunications system, shut down the Fedwire, there would be no financial transactions of any kind take place in this country. The devastation would be more far-reaching, admittedly not more deadly in terms of human life, but more far-reaching on the economy than a nuclear device set off on Manhattan Island.

Your proposal recognizes this. I want to underscore, once again, how important I feel this is. I have a bill that deals with it. We have had a hearing on it in this Committee. We have had hearings on this issue before the Joint Economic Committee, and I want to underscore the fact that you recognize the importance of this, you realize that we are in a brand-new world, that the private sector that owns 85 to 90 percent of the critical infrastructure will not share information about cyber attacks with the government unless they can be sure that that information, when it is shared, is secure.

Members on this Committee have heard me on this subject many times, but I do not want to let the opportunity pass without underscoring it once again and making it clear that I am prepared to work with you in any way to see to it that this portion of our protection is given the proper significance and attention.

Now the other theme that I have stems from my own experience—and, once again, Members of the Committee have heard this—I was almost present at the creation of the Department of Transportation, which comes closest, I think, to being a parallel to what we are doing here. The FAA was a separate administration, reporting directly to the President; the Highway Administration was in the Commerce Department; the Coast Guard was in the Treasury Department—the Coast Guard seems to be a nomad, being picked up and moved around all over the government here; the Urban Mass Transit Administration was in HUD, and all of these agencies, pulled from a variety of existing departments and circumstances into a central group.

When the Nixon Administration took office, and I joined the staff of Secretary Volpe, another distinguished New England governor who came down to try to pull something together, the Department

was 18 months old and all over the lot. There was little or no cohesion after 18 months.

And I will not bore you with the details of what I went through trying to bring my office together. I was in charge of all congressional liaison. Every single one of the groups I have described, plus several more, had their own congressional liaison operation, and pulling them all together into a single operation that was reporting to and, more important, loyal to the Secretary, was one of the most significant organizational challenges I have had in my young life.

Now the point I want to make is do not put your initial proposals as to how the department will be structured or functioned into concrete too soon. We were still making adjustments 10 years later, and Congress thought they gave us flexibility to do that for a long period of time, and when that period of flexibility ran out, we still wished we had it.

I say to you, Governor Ridge, and to you, Chairman Lieberman, let us structure this in such a way that the Cabinet officer has as much flexibility as possible, for as long as possible, to move boxes around if, after you discover that putting one thing here makes eminent good sense the first time you do it, and after 9 months or 12 months or 20 months, you say, no, it really belongs over here. Let us leave the CEO of this giant new corporation that we are creating with the flexibility to make those kind of changes on into the further, rather than lock him up on the basis of our wisdom between now and the end of this year.

That is the other theme that I feel very strongly about, having lived through a similar kind of experience, and I will burden the Committee with my expertise again and again on this subject because I feel so strongly about it.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Bennett.

Senator Dayton.

OPENING STATEMENT OF SENATOR DAYTON

Senator DAYTON. Thank you, Mr. Chairman.

I will echo your remarks, Senator Bennett, with regard, when you are hung up through seniority as I am, avoiding the futility of repetition or the futility becomes readily apparent. As my freshman colleague, Senator Nelson, once observed in the Senate, if it has not been said by everyone, it has not been said. I will proceed on that basis to, first of all, say to you, Governor Ridge, as others have, thank you for your very distinguished service to our country at this critical time. Senators Hart and Rudman, I say the same to you.

Mr. Chairman, I thank you for your leadership in this area. I also thank you for your initiative with the legislation that we are now integrating along with the President's proposals. Your foresight in this has already been demonstrated to have been quite prescient. Thank you.

I hope and trust that we can proceed in a good, bipartisan way to bring forth this entity that must serve the entire Nation and must do so very swiftly. My experience parallels Senator Bennett's from the Executive Branch of State Government. There, the reorganization of agencies which I participated in were in the single digit, rather than in the triple digit, and the number of employees in-

volved were in the thousands, rather than the hundreds of thousands. I am sure that you, as the Governor of Pennsylvania, had similar experiences with the perils and pitfalls of reorganization of agencies.

Unavoidably, they involve some measure of short-term pain and the hope of long-term gain. In this situation we do not have that luxury of time. We need the short-term gain and the benefits of this coordination, and we need to sustain those benefits over the long-term.

I would agree with Senator Bennett. I think one of the keys is to give maximum flexibility to the new Secretary to shape this agency in a way that involves more than just rearranging old administrative boxes. That can enable him or her to eliminate the redundancies and to create the new synergies that are necessary. I also think the problems that the new Secretary and management team will face within the new agency may be less than without the agency. This is because the major intelligence-gathering agencies, such as the CIA, are still outside of this entity, as are the major law-enforcement agencies, such as the FBI.

I, in my questioning, would like to inquire as to the reasons, the rationale for excluding the major players in the creation of this other new major player. I would like to ask how it is that it can gain this new entity, the necessary co-equal working status, the access to information and the parallel coordination of activities with these other major intelligence and law-enforcement players.

We have seen the lack of effective communication, between the FBI and the CIA. We have seen the lack of effective communication within the FBI itself. So how is this new agency going to gain the necessary status? How will they create the imperative and the willingness of these major agencies to communicate and share information?

Then, in addition to instilling the will to communicate, we must provide the way to communicate. I assume that the computers and the communications systems within these 100-plus different entities that are going to be brought together in this new agency are going to be different from one another. In many cases, they are going to be incompatible, as evidently the FBI's are with the CIA's.

We have got to provide the necessary funding up front for completely new, state-of-the-art computer communications systems for this agency. If it is appropriate, for the CIA, the FBI hooking up with the National Security Council. We have to bring all of us into the modern era. We can afford to have no less than whatever is called for in this situation to allow these agencies to have as much seamless communication among themselves and within themselves, as they can possibly have.

In that regard, I will just say that, in addition to the supreme importance of the selection of the new Secretary of this department, is the importance of the selection of a Deputy Secretary or someone from the private sector who has the experience and expertise with large-scale corporate mergers. This person needs to have dealt with these problems on a hands-on basis so they can provide the maximum amount of expertise and coordination so we can avoid the kind of delays that others have identified that would be, I think, just crucially important in this situation to maximize the

expertise we have throughout this country, and much of that is in the private sector, how we can do this as quickly and as efficiently as possible.

I trust we will pass this legislation very soon so you can get started immediately. I think that is very important. Come back then and tell us what more is needed, but let us get started.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Dayton. Senator Cochran.

OPENING STATEMENT OF SENATOR COCHRAN

Senator COCHRAN. Mr. Chairman, thank you for convening today this hearing to examine, first of all, your legislation for creating a Department of National Homeland Security along with the President's initiative in establishing the Office of Homeland Security and now his proposed legislation to reorganize existing agencies under a new department of government. I think all taken together are very important contributions to enhancing our national security.

It is clear that winning the war against terrorism and defending the American people from terrorist attack will require a major reorganization of the government. While reorganization by itself will not be sufficient to secure our Nation from terrorism, it is a very important step. Reorganizing our national security agencies is something that has not been done since 1947, and I think we should learn from that fact that the product we produce, as a Committee, may very well have the same long-lasting effect on our Federal Government, as did the reorganization of 1947.

The proposal before us is very important and deserves our very best efforts. I am encouraged, because we are off to a genuine, bipartisan beginning in this effort, that we will be successful in doing something very positive and important for our Nation when we report out legislation to create this new department.

Chairman LIEBERMAN. Thanks, Senator Cochran. Senator Cleland.

OPENING STATEMENT OF SENATOR CLELAND

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

Governor Ridge, good morning, sir. I am proud to be with you. I feel a certain kinship with you, having served in Vietnam and having fought that war. I think that you and I grew up in an era where those of us who served in the military felt that we were doing our country a service and, in effect, defending our homeland by serving abroad because we felt that the enemy was over there and better to fight them over there than here.

Quite frankly, I am sure, from time-to-time, that you are like me in that you never dreamed that you would be using the phrase "homeland defense" in this particular context. Literally, you are trying to figure out not only how the military can go on the strategic offensive against the bad guys somewhere else in the world over there, but how we can go on the strategic defensive over here and organize ourselves in a better way that protects ourselves and defend ourselves.

You may feel, and I have thought about this about your position, you may feel like that drunk who was arrested for the hotel fire, and he told the police officer that, yes, he was drunk, but that bed was on fire when he got in it. [Laughter.]

In many ways, I am sure you feel that somewhat. This bed was on fire when you got in it. We would like to help you put that fire out and get better organized in defending our country.

A couple of things that have really come to my mind bear on the Armed Services Committee. I have the seat that was formerly held by Senator Nunn. He came to our Committee and talked about his experience in a mock exercise defending our homeland put on by Johns Hopkins last June called "Dark Winter," a mock smallpox attack, and he played the role of the President. He said a few days into it he got very frustrated with bureaucracy. What he was really trying to say was the myriad of the different agencies that seem to be unorganized and have no clear line of communication or general authority.

I, also, am reminded of Senator Pat Roberts on the committee about 3 years ago was Chairman of the Emerging Threat Subcommittee of the Armed Services Committee, and he had a wonderful sense of humor. So at one point he called in about 20 or 30 agencies engaged in so-called homeland defense or bioterrorism preparedness and so forth and told them just to sit in the chairs in the order that they were organized, and of course it was just musical chairs.

After September 11, we are all in this boat together, and we have to figure out a way to better organize ourselves. I think, for me, the guideposts for our meeting this challenge are, first, does the new organization or the new proposal help improve communication, coordination and cooperation—the three "C's." They seem to be things we have difficulty with, whether it is at the intelligence community level or at our homeland security level.

Second, I do feel that the acid test is it must work for our hometowns. If homeland defense does not work for our hometowns, something is missing, and that is a tremendous challenge.

Third, again, building on the Armed Services Committee, I do have some legitimate questions about how the Homeland Security Agency, which I will support and was the original co-sponsor of the legislation that came out of this Committee, how that entity interacts with, shall we say, the Coast Guard and the National Guard and also the new CINC that will be put in charge of military operations in North America and Canada.

So there are a lot of questions out there, but I just want to welcome you to the "burning bed" here. We are all in it together, and I look forward to putting out the fire.

Thank you very much.

Chairman LIEBERMAN. Thank you, Senator Cleland. Senator Stevens.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Thank you, Mr. Chairman.

I want to tell you, at the beginning, that Senator Byrd and I are working on a response to your letter concerning the impact of this legislation on the appropriations process.

Chairman LIEBERMAN. Thank you.

Senator STEVENS. We do hope that you and other Members of the Committee will consider our comments. As a former Chairman of this Committee, I intend to be deeply involved in this process, if possible, because, as my comments will indicate, I have some real problems with it, and I have discussed these previously with Governor Ridge.

Last October, the subcommittee of the Commerce Committee dealing with Oceans and Fisheries held a hearing on the role of the Coast Guard and NOAA in strengthening security against marine threats. Following September 11, the Coast Guard diverted numerous cutters to secure ports and began missions of patrolling waters that approach critical infrastructure, such as nuclear power plants, water treatment plant intakes and oil refineries. That was appropriate and necessary in that emergency, and the Coast Guard performed extraordinarily.

However, even at that time, the Coast Guard expressed concerns that it could not actively patrol the fishing grounds, could not enforce the Nation's exclusive economic zone from foreign intrusion, and it could not perform other priority missions such as search and rescue, narcotics interdiction, and its role in terms of maintaining the blockade against Iraq.

This situation has been attenuated somewhat by resuming the normal activities of the Coast Guard, but having watched those events, I am really concerned about the role and the mission of the Coast Guard in this new department. There are missions that are absolutely vital to our total Nation, particularly vital to our State of Alaska, which has half the coastline of the United States, and the waters off our shores produce half of the fish consumed by the United States. When you look at that and have the total abandonment of that mission by the Coast Guard, as is implied by the concept in this bill, I think that concept requires refinement and deep consideration.

We are entirely in support of the concepts of homeland security. The Coast Guard has primarily had a role of external security, not internal security. I know, for political reasons, we are not going to call this the Department of Internal Security, but that is what it will be. To abandon the concept of the Coast Guard, in terms of maintaining the safety of ships off our shore, particularly the small boat safety in the areas of our enormous population centers of the country, would be wrong.

To abandon the role of the Coast Guard in the area of maintaining not only the protection of the fisheries, but the safety of our fishing fleets, I think if you look at a place like Dutch Harbor, and, Governor Ridge, I looked at it for a long time because my son used to be captain of one of those king crab boats, three times he went out with three other boats and came back alone. They were 2,000 miles from the Coast Guard. The only thing to save them was the search and rescue capabilities of those Coast Guard helicopters. They were not available because the Coast Guard had been sent on a new Bluewater Mission, in terms of the narcotics interdiction and the patrolling of Iraq.

Now we have tried our best to increase the facilities of the Coast Guard to meet their needs, and we have tried to ensure that the

country understands what it means to the coastline, what it means to external security which, from my point of view includes the protection of our fisheries. It took us 20 years to get the foreign nations out of our waters and to restore the capability of protecting the reproductivity of the fisheries off our shore. We have done a marvelous job. The major fish—pollock—has increased in its biomass 5 to 10 times since we started managing it correctly and kept the foreigners off of it.

If the result of this legislation is to take the Coast Guard off of that mission, it denies the ability to maintain the boats that are necessary to assure the fisheries are patroled, we would lose the largest biomass of fish that has the greatest productivity for the future of the world.

I hope that the administration will listen to those of us who represent Alaska. It is unfortunate there are just three of us who represent half the coastline of the United States, but I have been here long enough to think that I can find a way to do that, and I hope that you will give us the cooperation to see to it that we can do that.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Stevens. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman. I wish to welcome our witnesses. Governor Ridge, it is good to have you here. I also want to say good morning to our former colleague, Senator Hart and Senator Rudman, and thank you all very much for the part you have been playing in our national security and for being a springboard for our discussion today.

I join with the themes and concerns expressed by my colleagues. I want to speak about an integral part of the responsibility of this Homeland Security Department that hasn't been discussed. As we review the administration's proposal for Department of Homeland Security, we must not forget the 170,000 Federal employees who will staff this new agency. I look upon this as the hands that will drive and make this new department successful.

It is vital that as we seek to protect America by reorganizing the government we do not overlook the fundamental rights of our Federal employees. The creation of this new department should not be used as a vehicle to advance broad changes to existing laws that erode the rights now accorded to these Federal employees. These rights do not pose a threat to our national security and should not be used as a litmus test for the patriotism of the Federal workforce.

The administration's proposal calls for enhanced management flexibilities in hiring, compensation and workforce management. Many of the workforce challenges that these flexibilities propose to address are not new. I find it interesting to note that the Comptroller General convincingly argues that agencies already have 90 percent of the tools needed to manage more effectively.

Rather than doing away with what has worked, we should ask why agencies are not using the flexibilities they have now. Real solutions for civil service reform require strong leadership from the top down. There must be a commitment to the Federal merit system and the employees it protects.

The Federal service is a model, fair employer. This comes from a long tradition of Congress and the Executive Branch working with employee unions and management associations to enhance the principles of accountability, openness and procedural justice in government. Throughout our Nation's history, Federal employees' rights have been compatible with national security.

The right to collective bargaining, a fair grievance system, equitable pay and protection from retaliation from disclosing waste, fraud and abuse are consistent with homeland security. It is important to note that Federal employees are prohibited by statute from striking. Their right to union representation does not constitute a national security risk nor are union members less loyal than other Americans.

As Chairman of the International Security, Proliferation and Federal Services Subcommittee, I will continue to work with my colleagues to ensure that our homeland security is strengthened and the rights of our Federal employees are preserved. These objectives are complementary.

On September 11, the Federal workforce responded with courage, loyalty and sacrifice, reminding us that we are all soldiers in the war against terrorism. As we begin the difficult task of reorganizing broad segments of the Federal workforce into this new department, let us recognize the valuable contributions Federal employees make to their government and their Nation.

Thank you very much, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Akaka. Senator Bunning.

OPENING STATEMENT OF SENATOR BUNNING

Senator BUNNING. Thank you, Mr. Chairman, and I would especially like to thank Governor Ridge, my former colleague on the House Banking Committee and the former governor of my adopted State, for being here today. I, also, would like to thank Senators Hart and Rudman for their fine report.

September 11 has forever changed the way this country thinks about its safety and security. President Bush's proposal to create a new Department of Homeland Security is just one more step this administration is taking to protect the American people. I would also like to mention the fact that Senator Lieberman's bill that came out of this Committee also can help both sides merge their ideas in a bipartisan manner.

The President's proposal is an aggressive plan that will affect, as Senator Akaka just said, 170,000 Federal employees and will combine everything from FEMA to INS to the Transportation Security Administration. Creating this department will be one of the biggest endeavors Congress has ever undertaken, and it will require a truly bipartisan effort on behalf of all of our members, not only on this Committee, but on the floor of the U.S. Senate.

Just like in the forties, when Congress created the Defense Department, we need to put our differences aside and do what is best for the country. In many respects, the department's success and the security of this country will depend on how willing we are to do this and to work together. We cannot let the American people down. Everybody on this Committee will try very hard not to do

that. This important issue is too critical to the defense of our country.

We also should not lose sight of the fact that this new department will only be one component of homeland security. We will continue to rely on the Department of Defense, the FBI, the CIA, and other intelligence agencies to do their jobs and provide us with critical information. Unfortunately, we were completely caught off-guard on September 11, and these agencies must make necessary reforms to ensure that we are never in that position again.

I look forward to working with the administration, and the Members of this Committee on creating this new department and I appreciate the time Governor Ridge and our other witnesses have taken today to be with us. Thank you.

Chairman LIEBERMAN. Thank you, Senator Bunning. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks, Mr. Chairman, and I will say to my friend and former colleague, dear colleague, welcome, and we are delighted that you are here today.

I want to lead off my comments, Mr. Chairman, simply by extending to Governor Ridge our thanks, our thanks for his continued service to our country, our thanks for his willingness to step down as governor in mid-term, and as an old governor, I know how hard that is. I thank you for his willingness to endure extended separation from your family, and as one who knows his family, I know that is difficult.

Thank you, governor, for your willingness to work long hours. Thank you for your willingness to put up with a lot of second guessing from guys like me and others, not only in government, but outside of government as well. I am grateful—we are all grateful for what you do every day.

I have a lot of respect for the judgment of Senators Hart and Rudman, who we are going to hear from in a few minutes. I certainly have a lot of respect for Senator Lieberman, who has authored legislation to redraft/redraw the way we run homeland security in this country. There is a lot of expertise on this Committee, not only in the Members, but in the staff as well.

I feel a whole lot better about our chances of crafting a plan that will work because you are going to be involved, Governor Ridge, and because those with whom we work, and the President and full administration are going to be involved to try to figure out not only what will sound good, what meets the common-sense test, but what will truly enhance not just our sense of security in this country, but will actually make us safer.

We will get to a point here in a few minutes where we can ask some questions, and one of the questions I will be asking—and I know others will, as well, and I think you are addressing it in your testimony—is this issue of sharing information, not just sharing information across intelligence-collecting agency lines, but acting on the information that we have received.

The other thing I would say, as governors, from time-to-time, we actually reorganize our State Governments. I am trying to think of how the size of this undertaking might compare to reorganizing a

part of a State Government. We have about 25,000 State employees in Delaware, when you add in all of the educators and police officers. My guess is, in the Commonwealth of Pennsylvania, it would probably be between 150,000 and 200,000 people.

So this job is about the size, I think, of reorganizing the whole government of the State that you once led, and I feel encouraged that we are going to do a better job because you are going to be involved in working with us, rather than sitting on the sidelines.

Finally, I would just say, Mr. Chairman, heretofore, the success of this position, the ability of a person in the position of Governor Ridge to be successful depends, in large part, on his relationship with the President and the willingness of the President to listen to him and to act on the advice that he receives from Governor Ridge. His ability to serve well in this capacity also draws from the great respect that a bunch of us have for him.

My guess is his family will not let him serve in this capacity forever, and at some point in time they are going to pull him back home and reclaim him as their own, and when that happens, whoever is going to take his seat and fill his role might not have the kind of relationship that he enjoys and, frankly, may not have the kind of stature and respect that Governor Ridge enjoys within this body, and throughout the government, and I think throughout the country.

So it is a big day for us. It is an important undertaking for us, and it is one that we approach with that in mind. Frankly, again, I am just so pleased that we are going to be working on this one together, rather than at cross purposes.

Thank you very much.

Chairman LIEBERMAN. Thank you, Senator Carper. Senator Fitzgerald.

OPENING STATEMENT OF SENATOR FITZGERALD

Senator FITZGERALD. Thank you, Mr. Chairman, and welcome, Governor Ridge.

I want to dispense with an opening statement so that we can finally get to Governor Ridge's testimony. It has been almost 2 hours. I just want to welcome you to the Committee. I want to emphasize that I hope Congress can move quickly to enact the necessary legislation to put the new department in place. We do not have that much time. We really have a few weeks in July and September to work on this.

I hope that this Committee, and I appreciate the Chairman promptly convening this hearing, that we can work to merge this Committee's bill, the Chairman's bill that is already on the Senate floor, with the President's proposal. This is very important. It is more important than anything else we do, I think, because it is about protecting our people here at home, and so I look forward to working with Governor Ridge.

I compliment you for your hard work in protecting our Nation thus far and for your solid proposal. I also want to thank Senators Hart and Rudman for their important contribution.

So thank you very much, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Fitzgerald.

I thank all of my colleagues for their opening statements. Sometimes Senator Thompson and I only do the opening statements, but this is a matter of such importance that I wanted to give each Member of the Committee of both parties a chance to speak, and I think it was well worth it. I appreciate your patience in sitting through it, Governor Ridge.

I thank my colleagues for their thoughtfulness. Some of them have raised some very reasonable questions. I thank them for their sense of urgency because, unlike some of the other great reorganizations, creation of the Department of Energy or Department of Education or Department of Transportation or even the Department of Defense in 1947, in this case, the enemy really is at our door. I mean, the enemy has really struck us here at home, and there is a great sense of urgency in doing this work together.

My impression from the opening statements is exactly what I think all of us would want. We are on the same team, and we are on the same team with you, Governor Ridge, and with the President. I hope that the Committee can go to the floor united on a proposal. If, per chance, we do not, I am confident that the divisions between us will not be partisan. That is exactly the way it should be.

I thank you, Governor Ridge, for being here. We are honored. I believe this is your first official testimony before the Committee of the Congress.

Governor RIDGE. Yes, it is.

Chairman LIEBERMAN. Long awaited, much pursued, greatly anticipated, and I thank you for honoring this Committee by being here.

Obviously, you had a distinguished history and record of public service and private life, as a Member of Congress, in public service, and Governor of Pennsylvania. It has been a pleasure to work with you, and I know that we will work very closely together to get this job done.

I am pleased to call on you now. I think the least we can do for you, after having you sit through this, is to tell you to go on and speak for as long as you want to make your points. [Laughter.]

TESTIMONY OF HON. TOM RIDGE,[1] DIRECTOR, OFFICE OF HOMELAND SECURITY

Governor RIDGE. Well, first of all, Chairman Lieberman, let me thank you for the extraordinary courtesy that you, and Senator Thompson, and your Committee have shown to me, even prior to this day, when I testify publicly.

I, frankly, felt it was very appropriate that I sit, and listen, and learn and catch a glimpse of some of the legitimate concerns that your colleagues have. I think there is unanimity, there is a shared sense of urgency, there is a shared commitment to getting it done. We know there may be some differences of opinion as to how we accomplish the goal, but I share the same optimistic tone that you do that we will get it done. As everyone on the Committee has talked about, we must get it done.

[1] The prepared statement of Governor Ridge appears in the Appendix on page 77.

So I have prepared a fairly lengthy testimony, and I would like to share with you an abbreviated version and then get into the questions and answers.

Chairman LIEBERMAN. Good.

Governor RIDGE. Thank you.

To all of the Committee Members, I want to thank you very much for the opportunity to testify today in support of the President's historic proposal to create a new Department of Homeland Security. I am here in keeping with the President's very specific directive to me to appear before you to present and to explain this legislative proposal.

The President has given me an additional responsibility, by virtue of Executive Order, to lead a Transition Planning Office in the Office of OMB, as we work with the Congress of the United States toward the goal of securing a Cabinet-level Department of Homeland Security. It is certainly in that capacity that I am prepared to testify not only before this Committee, but as you pointed out, Senator Lieberman, there has been some pent-up interest in my testimony, and we are going to do our best to respond to other requests as well.

I want to reiterate personally the President's desire to work with Members of Congress in a bicameral, bipartisan way, and to thank all of you for the bipartisan support you have already expressed and the commitment to act on this proposal by the end of this session. There are other more optimistic time frames, and the President's instruction to us is that the Congress will work its will according to the schedule that it deems appropriate and your job is to work with them according to their schedule to get it done.

As I mentioned before, lengthier testimony has been submitted for the record, so I would just like to make a few preliminary remarks.

First of all, I wanted to assure Members of the Committee and Members of Congress that this proposal was the result of a deliberative planning process that really began with an effort led by Vice President Cheney a year ago in May 2001 and continued as a part of the mission of the Office of Homeland Security when it was created on October 8, 2001.

My staff and I have met with thousands of government officials at the Federal, State, and local levels, with hundreds of experts and many private citizens. Throughout these discussions, we have constantly examined ways to organize the government better.

The President's proposal also draws from the conclusions of many recent reports on terrorism, reports by blue-ribbon commissions, and you have identified the two primary authors of one that was a focal point of not only your proposal, I believe, Senator Lieberman, but obviously it is reflected in the President's proposal as well, that of Senators Hart and Rudman, the Bremer Commission, the Gilmore Commission, and as you can well imagine there have been a variety of reports from different think tanks around the country that we took a look at as well.

It also drew on the legislative proposals of Members of Congress. We have had many discussions with them about various details of their individual proposals. I remember very distinctly a conversa-

tion I had with you, Senator Lieberman, about your proposal some time ago.

This historic proposal would be the most significant transformation of the U.S. Government since 1947. The creation of this department would transform the current, and occasionally very confusing, patchwork of government activities related to homeland security into a single department whose primary mission is to protect our homeland. Responsibility for homeland security, as Members of Congress know, is currently dispersed among more than 100 different government organizations.

I think we all agree we need a single department whose primary mission is to protect our way of life and to protect our citizens, a single department to secure our borders, to integrate and analyze intelligence, to combat bioterrorism and prepare for weapons of mass destruction, and to direct emergency response activities. With the creation of this department, we will put more security officers in the field working to stop terrorists and, hopefully, managed right, pool our resources in Washington managing duplicative and redundant activities that drain away critical homeland security resources.

The proposal to create a Department of Homeland Security is one more key step in the President's national strategy for homeland security. Like the national security strategy, the national strategy for homeland security will form the intellectual underpinning to guide the decisionmaking of planners, budgeters, and policymakers for years to come.

I will tell you there are really no surprises in the remainder of the national strategy to be released later this summer. From securing our borders, to combatting bioterrorism, to protecting the food supply, the majority of the initiatives the Federal Government is pursuing as part of our strategy to secure the homeland have already been discussed publicly.

The strategy will pull together all of the major ongoing activities and new initiatives that the President believes are essential to a longer term effort to secure the homeland.

I would like to just turn to the details of the President's plan, if I might, for a moment. I did not keep an accurate count. My sense it is just about every one of your colleagues, along with you, Senator Lieberman, have highlighted the need to do a better job with intelligence gathering, fusion, dissemination and action, and that goes to the heart of the highest priority of homeland security, and that is prevention.

Prevention of future terrorist attacks must be our No. 1 priority. It is a shared goal. Because terrorism is a global threat, we must have complete control over who and what enters the United States. We must prevent foreign terrorists from entering and bringing instruments of terror, while at the same time facilitate the legal flow of people and goods on which our economy depends. Protecting our borders and controlling entry to the United States has always been the responsibility of the Federal Government, yet this responsibility is currently dispersed among more than five major government organizations in five different departments.

The new department would unify authority over the Coast Guard, Customs Service, Immigration and Naturalization Service

and Border Patrol, the Animal and Plant Health Inspection Service of the Department of Agriculture, and the recently created Transportation Security Administration. All aspects of border control, including the issuing of visas, would be not only informed, but improved, by a central information sharing clearinghouse and compatible databases.

Preventing the terrorists from using our transportation systems to deliver attacks is closely related to border control and the primary reason that we would ask the Congress of the United States to take the newly created Transportation Security Administration and graft it onto, in part, to Senator Lieberman's bill.

Our international airports, seaports, borders, and transportation are inseparable. The new department would unify our government's efforts to secure our borders and the transportation systems that move people from our borders to anywhere within our country within hours.

While our top priority is preventing future attacks, we cannot assume that we will always succeed. Therefore, we must also prepare to recover as quickly as possible from attacks that do occur. I had some experience with the Federal Emergency Management Agency as a Member of Congress, both in terms of their response to natural disasters that struck my congressional district, along with working with Senator Stafford on the revision of the Federal Emergency Management Agency back in the eighties. I am well aware of the core competencies that they have and the primary responsibilities that they have within this country.

The Department of Homeland Security will build upon this agency as one of its key components. It would build upon its core competencies, and the relationship that it has established over years, if not decades, with the first responders as they turn out to respond to the natural disasters that normally brings FEMA to your community.

The new department would assume authority over Federal grant programs for local and State first responders, such as the fire fighters, the police, the emergency medical personnel, the humble heroes that we kind of took for granted in our communities before September 11 and suddenly now are at the forefront of our efforts, as so many of your colleagues have indicated by their brief opening remarks, that we need to integrate into any national capacity that we develop to combat terrorism.

This new department would build a comprehensive National Incident Management System that would consolidate existing Federal Government emergency response plans into one generally all-hazard plan. We enhance the capability of this department, we enhance the capability of FEMA. It will be not only better equipped to deal with a terrorist event, but, frankly, better equipped to deal with any other event to which they have historically responded.

The department would ensure that response personnel have the equipment and systems that allow them to respond more effectively, more quickly and, frankly, to communicate with each other a lot better than they have been able to do so in the past.

As the President made clear in his State of the Union Address, the war against terrorism is also a war against the most deadly weapons known to mankind—chemical, biological, radiological, and

nuclear weapons. I do not think there is any doubt in anyone's mind, at least from my point of view there should not be, if our enemies acquire these weapons, they will use them, with the consequences far more devastating than those we suffered on September 11.

Currently, efforts to counter the threat of these weapons are too few and too fragmented. We must launch a systematic national effort against these weapons that is equal in size to the threat that they pose. We believe the President's proposal does just that. The new department would implement a national strategy to prepare for and respond to the full range of terrorist threats involving weapons of mass destruction.

The Department of Homeland Security would set national policy and establish guidelines for State, and local governments to plan for the unthinkable and direct exercises and drills for Federal, State and local officials, as well as integrating the Federal capacity and the response teams that we have in various agencies throughout the Federal Government. Again, several Members of this Committee have highlighted the critical nature of this reorganization around the need to establish even stronger partnerships, stronger relationships with State, local government, and the private sector. That is at the heart and is one of the primary reasons the President has proposed the reorganization in this fashion.

The Department of Homeland Security would provide direction and establish priorities for national research and development for related tests and evaluations and for the development and procurement of new technology and equipment.

Additionally, the new department would incorporate and focus the intellectual power of several very important scientific institutions, our national labs, on this mission as well.

Finally, and certainly I think at the heart of most of the comments that Members of the Committee have made, this Committee would look at the new Department of Homeland Security and the unit that deals with information analysis and integration and infrastructure protection as perhaps the most critical component of this effort.

Preventing future terrorist attacks requires good information in advance, actionable information that people can act upon. The President's proposal recognizes this, and it would develop the new organization with the authority and with the capacity to generate and provide that critical information. The new department would fuse intelligence and other information pertaining to threats to the homeland from multiple sources, not just the CIA and the FBI, but NSA, INS, Customs, and you are very much familiar with the other information-gathering capacity and organizations we have within the Federal Government.

It would also comprehensively evaluate the vulnerabilities of America's critical infrastructure and map pertinent intelligence. Take the threat assessment and match the threat assessment against the vulnerabilities, and once that is done, make recommendations or direct that certain protective measures or protective conditions are put in place. You get the information, you analyze it, and for the first time it would all be integrated in one place, and you map that information against the potential vulnerabilities,

and if it calls for action, then the Federal Government directs the action that must be taken. We have never done that before. I am pretty confident that is something both the President and the Congress of the United States want to empower the new department to do.

There is no question that the literally thousands of men and women who work for the organizations tapped by President Bush for the new Department of Homeland Security are among our most capable in government, and we must view them as not only capable public servants, but as patriots as well.

We are proud of what they are doing to secure our homeland and call upon them to continue their crucial work while the new department is created. It is kind of interesting over the past couple of months, when I stepped in the new position, there was still a notion within the public, generally, that there were just a few people working on homeland security issues.

But Members of Congress know and members of these organizations and departments know that many have been working for years, if not decades, on issues relating to homeland security. So, in fact, we have a capable group of people who have been working for quite some time on securing the homeland, and obviously we need them to continue to bring the same focus and the same commitment to their mission, as we go about reorganizing their agencies in a new department.

This consolidation of the government's homeland security efforts can achieve greater efficiencies and free up additional resources for the fight against terrorism. These men and women should rest assured that their efforts will all be improved by the government reorganization proposed by the President. To achieve these efficiencies, the new Secretary will require considerable flexibility in procurement, integration of information technology systems and personnel issues.

Even with the creation of the Department of Homeland Security, there will remain a strong need for the White House Office of Homeland Security. Homeland security will continue to be a multidepartmental issue, and it will require, continue to require interagency collaboration. Additionally, the President will continue to require the confidential advice of a close assistant. Therefore, the President's proposal intends for the Office of Homeland Security to maintain a strong role. The President believes this will be critical for the future success of the newly created Department of Homeland Security.

In this transition period, the Office of Homeland Security will maintain vigilance and continue to coordinate the other Federal agencies involved in homeland security efforts. The President appreciates the enthusiastic response from Congress and is gratified by the many expressions of optimism about how quickly this bill might be passed. He is ready to work together with you in partnership to get the job done.

As I mentioned today, earlier he signed that Executive Order to help match your accelerated pace by creating a Transition Planning Office, led by me and lodged within OMB to tap its expertise. One of the principal missions will be to ensure that we get you the information you need as you consider the new Department of Home-

land Security. Until that department becomes fully operational, the proposed department's designated components will continue their mandate to help ensure the security of this country.

During his June 6 address to the Nation, the President asked Congress to join him in establishing a sole, permanent department with an overriding and urgent mission, a mission I believe every single Member of Congress believes is their priority as well: Securing the homeland of America and protecting the American people.

Extraordinary times call for extraordinary measures. We know the threats are real, we know the need is urgent, and we must succeed working together in this endeavor.

President Truman did not live to see the end of the Cold War, but that war did end, and historians agree that the consolidation of Federal resources was critical to our ultimate success. Ladies and gentlemen, we too have that opportunity for leadership and for the same kind of legacy. I look forward to working with you and your leadership to establish that legacy.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Governor Ridge, for an excellent statement.

Let me focus in the beginning of my questioning here on this matter that, as you said, engages all of us. This is: How do we improve the collection, analysis, and sharing of intelligence information, all of it obviously, to try to prevent terrorist acts before they occur?

I wonder if I might approach this by asking you what other alternatives the administration considered before adopting the recommendation in the bill for the section on information analysis within the Department of Homeland Security as this may help us as well. I think there is a genuine concern in Congress about this matter and not yet a clear consensus at all about how best to deal with it. So I think we might be helped if we had some sense of the path down which the administration went before coming to the recommendation it has.

Governor RIDGE. Senator, the President believes that the CIA, as a foreign intelligence-gathering agency, must continue to report directly to the President of the United States and that the FBI must continue to remain an integral part of the chief law enforcement agency of this country; that is, the Office of the Attorney General.

Upon that predicate, we took a look at some of the public concerns expressed by the Congress of the United States, some of the concerns expressed by Senators Hart, Rudman, and others with regard to the lack of a single point, a single venue where all of the information, all intelligence analysis is available for integration and a lack of a place where, once the information and intelligence is aggregated and analyzed, to match that threat and the potential threat against the critical infrastructure of this country and then to match that with the potential need, depending on the credibility of that threat, to give specific direction for protective measures.

So the President's belief, again, that the CIA and the FBI should provide reports, assessments and their analytical work to the new Department of Homeland Security, but in addition to that information, that the new Secretary be in a position to aggregate all of that information in one place and then, if required, act upon it.

Chairman LIEBERMAN. Am I correct in understanding that in the administration's proposal, that the Information Analysis Section of the new department would not be involved in the collection of intelligence?

Governor RIDGE. Your assessment is correct, Senator.

Chairman LIEBERMAN. But it would be involved in analysis of intelligence information sent to it by the various intelligence agencies.

Governor RIDGE. That is correct.

Chairman LIEBERMAN. So that it would develop its own analytical capacity and analytical team.

Governor RIDGE. Correct, Senator. As you can recall, in my brief remarks, one of the reasons we are looking for some flexibility, generally, in the new department is to avoid some redundancies, but the President believes, and I suspect Members of Congress believe, having competitive analysis, have another set of experienced people looking at the same information, but perhaps from a different perspective would—this is one area where redundancy adds value. Again, I think that is at the heart of the President's idea. This could very well be a competitive analysis. But, again, this will be the only venue where all of the information gathered from all of the intelligence-gathering agencies and departments within the Federal Government could be reviewed.

In addition to that—and I cannot underscore the importance of this enough—this is also the same agency that is going to have to do the critical infrastructure analysis and then make recommendations for people to act.

Chairman LIEBERMAN. Is it the intention of the administration and the bill to create, within the Information Analysis Section of the new department, the power to request data from the intelligence agencies, including raw data. In other words, that it is not just going to be a passive recipient of whatever the CIA or FBI decide to send it, but it is an aggressive customer?

Governor RIDGE. It is the intention of the department at the heart of this is if, after separate analysis, that there is need for additional information, if they choose to go back and look at the raw data that led to the report or the assessment or the analysis, that this could be secured. If there is any dispute, obviously, it could be resolved by the President of the United States, but there is the potential of that tasking back to the Agency that would be preserved in this legislation.

Chairman LIEBERMAN. As you know, in the bill that the Committee reported out, we set up a National Office for Combating Terrorism in the White House, and its purview was going to be larger than homeland security. It would include homeland security because that is part of the fight against terrorism, but it would also be the place where all of the other agencies of the Federal Government working to combat terrorism would have their efforts coordinated. That would include the Department of Defense, the Department of State, and intelligence and law enforcement agencies.

I appreciated what you said. I was going to ask you a question about this because, obviously, if and when, we create the Department of Homeland Security, the office that you now hold will have responsibilities that will presumably diminish. So I wanted to ask

you to talk a little bit more about how you see the White House office, post creation of that new department, and also whether the administration would be willing to consider broadening its jurisdiction to go beyond just homeland security, and to be a coordinator for the President, as an adviser to the President, of the government's total antiterrorism efforts?

Governor RIDGE. Senator, the consolidation of some of these departments and agencies will, actually, I think, be a very enabling turn of events for the Office of Homeland Security within the White House. One of the major challenges that I have experienced over the past several months is that you have so many agencies that are focused on homeland security. Now that you have one whose primary focus is homeland security, I think it will be actually an enabler. It will add value to the work that this individual performs.

I do think that the initiatives that the CIA have undertaken over the past several months, and the reorganization that Bob Mueller has proposed within the FBI, and the information sharing and the collaboration that they have undertaken, and I suspect will continue to improve in the months and years ahead, go a long way toward addressing the concerns that you have with regard to integrating our effort to combat terrorism.

For that reason, obviously, we are going to work with you on this legislation, but I think the enhanced capacity of both those agencies, coupled with the new Department of Homeland Security, would suggest to me that the result you seek to achieve will be done once those are completed.

Chairman LIEBERMAN. My time is up. Obviously, we will continue that particular discussion.

Governor RIDGE. Yes, sir, we will.

Chairman LIEBERMAN. Thanks, Governor Ridge. Senator Thompson.

Senator THOMPSON. Thank you, Mr. Chairman, and thank you, Governor Ridge.

Governor, I want to follow up on the Chairman's opening line of question with regard to the analysis function and the access to information, specifically, Section 203, in the bill.

I was reading your summary of what the bill did, and you broke it down into three categories of information that this new team of analysts would be receiving. One—and I am paraphrasing—reports an analysis, not raw material, that would come to the Secretary without request. Is that correct, the first category?

Governor RIDGE. That is correct.

Senator THOMPSON. That essentially would be the Secretary's people analyzing the analyzers or analyzing the analysis. In other words, these would be summaries, analyses, or reports that the intelligence agencies did, and they would come in that form to the Secretary.

The second category has to do with information concerning vulnerabilities to our infrastructure, and that might include raw materials.

The third category, as I understand it, is the one I want to focus in on because I am a little bit unclear about it. It would include raw materials that your analyzers would have access to with regard to matters other than vulnerabilities to the infrastructure if

the President provides. If the President makes the determination that the Secretary should have access to that information, the Secretary does not even have to ask for it, it is supposed to come to him.

I guess I am trying to try to figure out exactly what kind of material that would be. Because there you are really getting down to the raw data, the reports and so forth, that would provide your entity, really for the first time in this set-up, to make their own analysis, their own independent analysis, in addition to the analysis that they have reviewed that the other agencies have made.

Can you identify for the Committee, when it refers to matters other than vulnerabilities, the kinds of information that the President could give the Secretary access to with regard to this raw material?

Governor RIDGE. Senator, let me see if I can respond to the very important question you have asked. There are several dimensions to it.

First of all, the President believes that the new Department of Homeland Security should be tasked with its own information integration and analysis, but not collection. As you can well imagine, there is some very unique privacy and civil liberty concerns associated with that process. It is well-defined with regard to the CIA's activity and well-defined with regard to the FBI activity, and for that reason the President feels very strongly that the collection activity should remain in those institutions who are now guided by law, with oversight of the Congress, to collect material.

Second, the concern that you raised—it has been raised by others with regard to the new department—simply doing analysis of analysis. The fact is that, by statute, they would be required not only to give the new department the analytical work that they had done, but the reports and the assessments upon which the analytical conclusions were drawn. I mean, here is a piece of potentially competitive analysis that might lead these men and women in the new department to come to a different conclusion or at least to say that this investigation or the tasking or the work of these agencies should move in addition to where they were moving or perhaps in an entirely different direction or task them to do both.

So I think the fact that they are going to be provided not the raw data, I mean, there is a clear distinction there, for obvious reasons, and as you know—because so many Members of this Committee are also, I believe, on the Intelligence Committee—at some point in time there has to be a filter because there are literally thousands and thousands of pieces of information, data that come across desks and tables in the intelligence community every single day.

So we start with the filter of collection, but task back the possibility of getting additional information to these agencies by virtue of the statute.

The vulnerability assessment, Senator, is one that the President feels very strongly about because his predecessor, President Clinton, I think back in 1998, directed about a dozen Federal agencies to take a look at critical infrastructure and come up with a comprehensive plan by January 2003.

In our research, while we understood and lauded the direction of the Presidential directive, like a couple of other things that some

of the other Senators have referred to today, it just did not get done. So this will accelerate the fusion of the work that these other agencies have done and the work that the new agency will do, so that as we take a look at telecommunications, we take a look at energy, we take a look at our food supply, we take a look at financial institutions, we have some sense of what the vulnerabilities are, and then make an assessment as to what needs to be done to protect them.

So, again, Senator, in a long response to a very appropriate question, the capacity to fuse and integrate intelligence, match it against vulnerabilities, and then ultimately, if the need arises, to give specific direction either to a department of the Federal Government, to an economic sector that appears to be in peril because of the threat assessment and the vulnerability to a company, to a city, then for this department to issue the warnings to give the specific direction.

Senator THOMPSON. But there are circumstances here where the President can provide that the department have access to raw material, also.

Governor RIDGE. Correct.

Senator THOMPSON. It has to do—and we will have to come back to this in a minute, I suppose. Another point I wanted to ask you about and ask your consideration is the threats of terrorism in the United States.

In the statute, it talks about terrorist threat to the American homeland, threats of terrorism within the United States. I presume that is a deliberate delineation between terrorist threats to the United States and terrorist threats to our interest abroad. Obviously, most of the attacks that we have suffered have not been in the American homeland.

Governor RIDGE. Correct.

Senator THOMPSON. And whether or not this department should have access to information that might constitute a terrorist threat to our embassies, a terrorist threat to our military personnel overseas is undefined. How do we determine, when this data is being collected by our agencies, which category it falls in?

As you know, with regard to September 11, in looking back at it, we had a lot of information from a lot of different places abroad that turned out to relate very directly to our American homeland. It could have just as easily been discovered—we knew about a threat. We knew some of the personalities involved, some kind of a general threat, but we did not know where it was. So, presumably, our new department does not want to shut itself off from that kind of information until that the time where there is definitely a threat to the homeland itself.

I would ask you, perhaps, to consider whether or not you might want to broaden this language a little bit so you could get access, whether it be in summary form or I assume the President would make a delineation as to when raw material should kick in, to a terrorist threat not only to the American homeland, but possibly to our other interests. Unfortunately, this delineation could come very late in the game and sometimes not until after the fact.

Governor RIDGE. Senator, I would suggest to you that, within the foreign intelligence-gathering community, within the CIA, there is,

to your point, even greater sensitivity to that notion that there is a nexus between foreign terrorist information and potential domestic incidents. There has been for quite some time. In that context, that information is shared, on a daily basis, with me, and I suspect that that would continue to be part of the kind of information, again, very discreet and appropriate. You cannot burden—this is a Homeland Security Agency. There are volumes and volumes of information about foreign terrorist threats, but again the clear understanding that George Tenet has, and the President has, and the FBI Director has, and the Congress has that, from time to time, there are connections between that kind of information and a potential domestic attack. We are pretty confident it can be done.

Senator THOMPSON. My time is up. I would just ask you to consider the possibility that someone from an agency, sometime down the road, might come to the Secretary and say, "We had all of this information, but there was no indication that the threat pertained to the homeland," and it would have been information that you would like to have seen.

Thank you very much.

Chairman LIEBERMAN. Thank you, Senator Thompson. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman. My questions relate to that same area that Senator Thompson and the Chairman addressed.

The provision in your proposed bill says that the Secretary would receive promptly all information relating to significant and credible threats of terrorism in the United States, whether or not such information has been analyzed if the President has provided that the Secretary shall have access to such information. That is the provision which you have just described.

Why would the President not provide that the new Secretary of this new agency would have all information made available to his agency for assessment when it is information that relates to a credible threat of terrorism in the United States?

Governor RIDGE. Senator, I think the President has demonstrated his commitment and his focus on getting the intelligence-gathering community to work together more closely than they have ever worked before. He presides over the daily briefings, gives very specific direction, and there is a legitimate concern, I believe, on behalf of the administration that the new department not be viewed, and I think very appropriately so, by this country as an intelligence-gathering agency with regard to citizens of this country, and we should not be involved in the collection.

Senator LEVIN. We are not talking about gathering intelligence. That is clear. We are talking about analyzing intelligence that has been gathered properly. Why would not the President provide that the new agency have access to all of such properly gathered information?

Governor RIDGE. Senator, we will. I mean, the new Cabinet Secretary, if he or she seeks additional information, can make the request——

Senator LEVIN. I am not talking about that, Governor. I want to be very precise, and I think this is troubling a number of us.

Governor RIDGE. Let me get a copy of the language to which you are referring.

Senator LEVIN. It says here that all information would be provided relating to credible threats of terrorism, whether or not the information has been analyzed, if—and I presume only if—the President provides that the Secretary has access to it.

My question is the same as others are driving at here. Why would not all properly gathered information go to the new agency for analysis? Otherwise you are going to be splintering this process. You are going to have analysis continuing in the CIA. You are going to have analysis in the FBI.

The new agency that we are talking about presumably is aimed, in your words, at fusing and integrating intelligence. I am talking about properly gathered intelligence. I do not see why that is not an automatic.

Governor RIDGE. There are pieces of information, analysis, that are unique to the presidency itself, that the President gets on a day-to-day basis. And this would preserve the presidential option to share that information with a new Cabinet Secretary.

Senator LEVIN. You mean the information, instead of coming to the President from a Cabinet Secretary that is integrated at all, would go from the President to the Cabinet Secretary? I mean why would the Cabinet Secretary not have all of this information and have analyzed it and then present it to the President?

Governor RIDGE. There will be several people involved and several agencies involved in providing information to the President of the United States. Clearly the CIA does and they give this President, as they have given past Presidents, a daily report based on information that they have. They also share other information that they have gathered within the FBI, and in that process will be sharing additional information with the new Department of Homeland Security. The FBI, along with the CIA, give to the new department the reports, the assessments and the analysis. They will get raw data from the other intelligence gathering agencies with the Federal Government potentially. We can get raw data from the local and State police hopefully as we would build up the capacity to make sure that the information shared is going in at both directions. But the function, the primary function of this office is to integrate all of the information that is received from these agencies initially without the raw data. If they choose to go back based on their assessment, unanswered questions, or believe that perhaps the assessment was inaccurate or should be different, they have the capacity to go back and request the raw data.

There is a tear line here, Senator between this agency becoming a collection agency and the access on a day-to-day basis to raw data——

Senator LEVIN. I am sorry to interrupt you, but we are not talking about collection. We are talking about assessment of data.

Governor RIDGE. Well, they get that, Senator.

Senator LEVIN. No, only, according to these words, if the President provides that the Secretary has access to the information, and it seems to me that it leaves the problem, the gaps, the cracks unanswered because right now we have a situation where the CIA and the FBI and other agencies do not share data. It is not inte-

grated. The dots are not connected. What you are saying is your agency is not going to connect the dots, the dots being properly gathered intelligence. The new agency is not going to connect the dots. That would be done by an analysis inside the CIA. That will be done by an analysis inside the FBI. The trouble is they do not connect the dots as we have recently seen. So I would suggest that this issue, if it is unresolved in this way, that the President would have to provide that there be access to properly-gathered information, does not solve the problem that has not yet been solved despite efforts during the 1980's and the 1990's to save it. I mean we have been through this before, so I am still troubled by the failure to connect the dots, the information dots, in any one entity because it leaves unaccountable—there is no accountability here. If the FBI doesn't share the information with you, you do not know about it. If the CIA does not share information with the FBI, the FBI does not know about it. Where is all the relevant information properly gathered about threats, terrorist threats, going to be coordinated, fused, as you put it? I do not see that this language does it.

Governor RIDGE. Senator, perhaps then we need to work on the language, but the intent, specific direction from the President of the United States is to see to it—and I believe the language in the President's proposal assures that this department gets the series of reports, the work product of the intelligence community, and they have the capacity to perform or provide their own competitive analysis. They have the capacity to connect the dots the same way or potentially connect the dots in a different way. And if their reach would reach this department and those in charge of this integration and analysis would reach a different conclusion based on the same reports the CIA shared with the FBI, the FBI shares with the CIA, and both those agencies share with the new department. And that is the kind of redundancy, based upon the statutory requirement to these agencies to share that information with our department, it is the kind of competitive analysis the President believes will enhance our ability as a country to identify threats and be prepared to act on them. This is another opportunity to connect the dots, but unlike the CIA and the FBI, we will also be the repository of it, potential information from the State and local government, from the private sector, as well as access to the information and raw data it may see fit, from the INS, the Customs, the Coast Guard, the DEA, and other intelligence gathering agencies within the government.

So, Senator I would just respectfully share with you, I think they do connect the dots. There is redundancy there, and apparently I need to sit down—we need to sit down with you to make sure that the language satisfies you, because the President intends for this agency, based on the reports, the assessments, and the analysis, to do their own independent effort in connecting those dots.

Senator LEVIN. My time is up, thank you.

Chairman LIEBERMAN. Thanks.

Governor, I think Senator Levin is on to something, or at least from my point of view. It troubled me as I read the proposal, which is why the additional condition that the President has to give approval for certain information to be shared with the department? In other words, if we go in this direction and we decide that all this

consolidation should occur within an information analysis section, why not just spell it out in the statute? In other words, why would the President not want to have that information shared with his Secretary of Homeland Security? That I think is a question that we have to keep talking about.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Governor Ridge, I, too, find that language to be somewhat puzzling, and I am glad that you have committed to work with us, but I want to switch to a different issue.

The INS has been plagued with problems for many years. The revelation that the Service sent extensions of visas to the two dead hijackers 6 months after the attacks on our Nation was only further confirmation of how dysfunctional this agency is. The House of Representatives recently passed legislation completely overhauling the INS, separating it into two entities, one of which would have a very clear enforcement focus. Yet as I read the plan put forth by the President, the INS would be moved into the new department, without reform. Are there additional plans to reform the INS? Because if all we are doing is moving an agency, that clearly has failed in performing its essential mission, to a new department, we are not really going to produce the kind of reforms that are so desperately needed.

Governor RIDGE. Well, Senator, as you recall, the President supported INS reform during the course of the campaign and the administration worked with the members of the House to work their will on the INS reform package that passed several weeks ago in the House of Representatives. One of the opportunities that this department will have to continue that reform effort will rely heavily upon, not exclusively, but heavily upon the ability or the willingness of Congress to give the new department some flexibility as it relates to personnel and resources.

And so I think there are many ways we can go about changing the INS and reforming the INS. It is clearly the intent of Congress that it be done. I think one could also argue that trying to effect change of culture in the old agency with the old relationships may be more difficult than effecting a change of culture if you literally pick up the entity and put in a new department, with a new mission, new leadership and greater flexibility.

Senator COLLINS. Thank you. I want to explore with you the administration's decisions not to move parts of the FBI and the CIA into the new department. Our government structure has long drawn a distinction between foreign intelligence gathering and domestic law enforcement with its web of procedural safeguards. Was that the reason that those two agencies were not moved into the new department? Our country has always been leery of blurring the lines between foreign intelligence gathering and domestic law enforcement. Is the administration's decision intended that those lines are preserved?

Governor RIDGE. Senator, I believe that is in part one of the reasons that the President's proposal does not include the CIA and the FBI as part of its Intelligence Integration and Infrastructure Protection Unit. It also is based upon the President's belief that the person in the Executive Branch to whom the CIA and the Director

of the CIA should be reporting is not to a member of the Cabinet, that they should be reporting directly to the President of the United States. It is also predicated upon the President's belief that the FBI is very much at the heart of the chief law enforcement agency in this country, the Attorney General's Office, and it should not be removed from there.

But he also recognized that much of the work they do, not all of the work they do, but much of the work they do is relevant and germane to enhancing the security of the homeland, and it is for that reason that there is very specific statutory language in the legislation that directs those agencies to provide certain kinds of information, analytical documents and reports, to the new department.

Senator COLLINS. I want to follow up also on an issue that Senator Stevens raised in his opening remarks about the Coast Guard. I have talked to Coast Guard officials in my State who are expending enormous time, resources and energy to patrol harbors much more frequently, and to check foreign vessels that are coming into the port in Portland, Maine. They have expressed to me a great deal of concern about whether the reorganization and the movement of the Coast Guard into the new department, which on one level makes a great deal of sense, will undermine the more traditional mission of the Coast Guard and the important role that it plays, for example, in search and rescue operations. Such operations are extremely important to a State like mine with its strong tradition of fishing and the maritime industry. Could you please comment on how the traditional missions of the Coast Guard will be preserved despite the new priority of homeland defense?

Governor RIDGE. Senator, like you, I share enormous admiration for the Coast Guard. They had a unit in Northwestern Pennsylvania that I visited many times when I was a Member of Congress, and boater safety was at the heart of the mission on the Great Lakes, among other things. I have had the opportunity to visit with them and with the former Commandant Admiral Loy, and now Commandant Collins in the past several months. And you and I understand that this is a department of government that is probably underappreciated because the value is enormous. Historically, they have many missions. They do them all very well. They are cross trained to use their equipment and personnel to perform a variety of tasks, and I would say to you that is not unlike the challenge that other departments or agencies are going to be pulled into the Department of Homeland Security. It is not unlike the challenge that they will have. But inasmuch as the tasks exist because of congressional mandate, I mean they are obliged to perform those functions because Congress wants them to perform those functions. So in a sense the President has realized since September 11 that in addition to their traditional functions, they have an enhanced responsibility for homeland security. That is the reason in the 2003 budget proposal he gives the Coast Guard the largest single increase that they have ever received before so they can begin to build up the additional capacity they need because their mission base has been expanded.

But I am confident with the continued oversight and support of the Congress, and clearly the recognition by the new Secretary that

they are multi-tasked, but the same folks who do the maritime work and the boat safety work, we also may want them to do port security or intercept the unknown vessel or the vessel with the manifest that raises some questions, either on the Great Lakes or in the ocean. So it is very difficult to pull out specifically personnel and equipment and platforms that could be assigned to one task and not the other.

So I think they can perform both well. They have done it in the past. They have done it in the Department of Transportation. And I think the President's recognition that we need to build additional capacity because of the enhanced requirement with regard to homeland security, goes a long way in addressing the concerns, the legitimate concerns you have.

Senator COLLINS. Thank you.

Senator THOMPSON. Mr. Chairman, 30 seconds.

Chairman LIEBERMAN. Yes.

Senator THOMPSON. You made a very good comment concerning Senator Levin's point. Before the issue gets cold, with regard to the Presidential prerogative issue, it occurs to me that besides the sensitivity of raw data and the fact the President might not want additional people seeing certain raw data because of the nature of sensitivity, it is possibile that the new agency would be inundated with truckloads of additional information every day. It would be in the same position that some of our other intelligence agencies are already in in trying to separate the dots if they received everything. And there probably needs to be some kind of a firewall or break there to make a determination as to which raw data.

I am not sure if Section 203 gives the Secretary access to enough raw data, but I can see where the President might want to step in there and make that determination. So that is the good thing about these hearings. I think we have quickly identified an area where we need on the one hand that additional set of eyes to oversee something that is broken and on the other hand we do not want it to be so that we are so inundated that it becomes meaningless. I think it is going to require some good consultation and work with Mr. Ridge here. I think that balance can be struck, and I appreciate you for highlighting that issue.

Chairman LIEBERMAN. Thanks, Senator Thompson. And your comment demonstrates how complicated this problem is because while it is true if you dump truckloads of information every day at the Department of Homeland Security, it is a problem, but if you do not guarantee in some sense that all the information is coming together somewhere, then there is a danger that pieces of it will be overlooked. That is the challenge we have. How do we filter and understand the immensity of the information?

I mean we have a story in the paper today about the National Security Agency intercepting the two communications on September 10 which were not translated or made available until September 12. This is out of the kind of cacophony of conversations that they are overhearing worldwide. This is a serious challenge for us to make this work.

Governor RIDGE. Again, Senator, I appreciate the recognition that there may be occasions when the new Secretary of the Department of Homeland Security should have access to that raw data,

and again the legislation can provide for a tasking, but as Senator Thompson pointed out, at some point in time there has to be a filter. At some point in time you need the ability to get back and ask additional questions. But to inundate the new Secretary within this particular unit with reviewing and assessing all the raw data again after the CIA has done it, oftentimes in conjunction with the FBI, is just, the President believes, not the most effective use of the new analytical unit that would be set up in the Department of Homeland Security.

Chairman LIEBERMAN. Thanks. Senator Dayton, you are next.

Senator DAYTON. Thank you, Mr. Chairman.

Governor, the saying goes that halfway measures avail us nothing. In this instance you would define the primary mission of the new agency to protect our homeland. There are agencies, like the Coast Guard, which are not in performance of that mission, yet they are included in this new agency that the President is proposing. Then there are others, such as most prominently the CIA and the FBI, where their primary mission does seem to be very much in conformance with the primary mission you have outlined, yet they are not included in the new agency, If we start from the side of complete inclusion of everything in the Federal Government that performs the primary mission of this new agency, give some rationale for why entities such as the CIA, the FBI and the other primary intelligence gathering and law enforcement entities were not included in this new agency. What was the tradeoff involved and why would we not be better off discussing all these coordination problems and not having everything assumed under one agency or department?

Governor RIDGE. Senator, the President is mindful, as we all are, that the concern about the relationship between the CIA and the FBI, the information shared, the information communicated, is an ongoing concern, and frankly, you have got hearings that are going on at this time relative to that. Whatever reform you may believe is necessary, if you conclude that additional reforms are necessary with regard to the CIA and the FBI is a matter yet to be determined, and Congress will work its way through those hearings and draw some conclusions and then take some actions.

Regardless of that, the President feels very strongly, one, that that is certainly the congressional prerogative and he knows obviously the content of the hearings remains to be seen if it will lead to any demand or legislative reform. But any reforms—and there have been some done unilaterally within both the CIA and the FBI, would only go to enhance the quality of the work product we believe that will ultimately get to the new Secretary of the Department of Homeland Security. There is a distinction between collection and analysis. There needs to be a filter, so it is not another agency dealing with raw data from the entire intelligence community. It gives the administration, this President and future Presidents and this Congress and future congresses, a sense that there is a competitive, analytical unit out there that can take a look at most of the information—I mean from raw data to report is not—obviously it is a work product after somebody has secured some additional information, and I can understand the need from time to time and protect the option of the new Secretary to go back and

take a look at the raw data depending on their analysis, that the President feels strongly on collection. It is a very appropriate filter that can be the case to go back and take a look at the raw data if their competitive analysis takes them in a different direction, and you build in, I think, institutionally a significant enhancement of our ability to identify the threat, but I cannot underscore again the importance of this particular unit within the Department of Homeland Security.

It is important to have the redundancy in terms of the analytical capability, but you are going to take that and map it for the first time, which has never been done, with a vulnerability assessment. And depending on that mapping and the conclusions you draw, it is this agency that then says to somebody in your State, or says to another member of the Cabinet, or points to a sector of the economy, "The threat is real. It is predicated upon this information. The vulnerability exists. We think you ought to do these things in order to prepare for it." That integration has never occurred anywhere in the Federal Government before.

Senator DAYTON. It has not, and I wonder if it has ever occurred anywhere on the planet, given the contradictions that you are establishing here. On the one hand you say that you want this new agency to be a customer for information generated by these other entities. Next you say that you want a competitive analysis to be done with the information they are provided. I am not aware, private sector, public sector or anywhere else, of anyone who could find a willing provider of information on product or anything else that is going to be used by the purchaser in a way that is competitive and has whatever effects that competition, if successful on this new entity, will have negatively on the other. I mean, one of the reasons it seems to me we have this difficulty in sharing information and this bureaucratic protectiveness of it, is that it is seen as having value. It is seen that sharing that with somebody else who might upstage or prove wrong or whatever else the fears are, is part of this mentality which results in nothing being provided unless it is extracted.

And I go back to what Senator Levin said: How is this new agency to know what it is it does not know, what is not being provided to it. It seems to me you are setting up an inherent contradiction in these two parallel cooperative versus competitive tracks that is going to be inherently self defeating.

Governor RIDGE. Senator, first of all, Members of the Committee who have been working within the intelligence community for years and years, I think, appreciate the fact that competitive analysis is something that people who deal with this information do not view as an impediment or an obstacle or in any way denigrating the work that other agencies do. The fact that you have another group of trained professionals, based on experience, based on archives, based on intuition, based on a lot of things, it would take a look at the information that has been compiled. Then to take a second look or a third look is not in any way underlying the need for reform that the CIA Director has recognized and has moved himself to task within his agency. Bob Mueller has begun reform and been discussing the measures he would like to do with regard to creating an intelligence unit in the FBI and the reconfiguration

of those assets. The fact that they are organizing internally, today as we speak, themselves to add value to their work product which would be shared with the new Department of Homeland Security, which would be again reviewed along with a host of other information that is provided by a variety of other agencies including down the road, State and local police, and I cannot emphasize again, the private sector, would give us I think a flow, a relationship between information, vulnerability and action that we need in this country.

Senator DAYTON. Governor, my time is up. I will just take a line from President Reagan, "I do not know whether the competitive analysis is part of the problem or part of the solution." If we look back on September 11, I am not convinced that competitive analysis has served our shared desire to protect our homeland and to maximize that protection.

And I just would leave this with you. I think you are adding another player into this equation, and I think you are going to compound the difficulties of getting that information provided to everybody. I hope you are certain that the cooperative goal of protecting our country would be better achieved than it has been heretofore by competitive analysis.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks very much, Senator Dayton. Senator Voinovich.

Senator VOINOVICH. I would like to make some big picture observations and get your reaction to them. Last year when Jim Schlessinger and Admiral Train testified before my Subcommittee on behalf of the U.S. Commission on National Security in the 21st Century, their statement said that a precondition to fixing everything that needs to be repaired in the U.S. national security edifice was addressing the government's personnel problems. We used to have a coach at Ohio State by the name of Woody Hayes who said, "You win with people."

If you look at the deficit that we have in the Federal Government today—we are borrowing $300 billion this year. I can see red ink all the way out. You have limited resources. You have been through this as a Governor. The Chairman held hearings last year about securing post offices, trains, metro stations, water systems—you name it. All of this requires more money. How do you prioritize all of this?

Another vital issue is intelligence and the sharing of intelligence. It is the people and technology in those intelligence agencies. What are we doing now to address the inadequacies of these intelligence agencies?

Then there is the issue of retirements and the "the right size of agencies." The Partnership for Public Service says that one-third of the employees from five of the major agencies being merged into the new department are going to be eligible for retirement in 5 years.

Former General Barry McCaffrey was before this Committee last year, and he said the Border Patrol needs 40,000 agents to properly do its job. I was with the Coast Guard this past week in Cleveland, and our new admiral said he cannot do the job with the people he has. In fact, the Coast Guard has cut a public service announce-

ment for a new program called "Eyes on the Water," enlisting private citizens to help them with their task.

What I would like to know from you is what are you doing to address the issues of retirement and right-sizing the agencies that are going to be part of this new department?

Governor RIDGE. Senator, you have highlighted a challenge to the Federal Government generally, because these men and women in those agencies that would be merged into the new Department of Homeland Security will be retiring in that time period whether or not they become part of this new agency. And that, as you well know, is system wide. That is government wide. And frankly, one of the reasons that the President seeks additional flexibility as the administration would go about setting up this new agency with regard to procurement reform, personnel issues and the like, is to make the agency a lot more agile, and give it some of the tools that it may need to deal with the personnel challenges you are talking about.

But we cannot do anything now because we do not have a department. I am sure that is an issue that Members of Congress and the leaders of these agencies have been looking at for quite some time, but it is a government-wide challenge that we are going to have to deal with in the Department of Homeland Security but every other department and agency as well.

Senator VOINOVICH. Do you not agree that in some of these agencies you are going to need more people to get the job done if they are going to continue to do the missions that Congress is already expecting them to do? For example, the Coast Guard, does it need additional resources now that we have given them additional homeland security responsibilities?

Governor RIDGE. Senator, I think, from our review of the existing agencies that would be merged in here, there are probably people that could be redeployed to enhance homeland security, but I think the President has recognized in his budget in 2003, because of the vulnerability at the ports and the enhanced mission of the Coast Guard, and frankly, under funding over the past couple of years, he has requested the largest single increase they have ever received. So I think once you get the agency tasked and set up, once you give the new Cabinet Secretary an opportunity to reorganize the government, reorganize these agencies on the basis that we have to do it in a way that enhances the protection of this country. Once you give him a chance to reduce some redundancies, once you give him a chance to take a look at all the IT contracts, and there are some on that that are pending.

Senator VOINOVICH. In terms of IT, I know there was a bill that passed the House, and I have introduced it in the Senate, that establishes an exchange program with the private sector to help the government develop its information technology capability. Since 1991 we have failed to fully implement the Pay Comparability Act. Roughly 75 percent of the people in the Senior Executive Service get paid the same amount of money. The FBI Agents Association tells me that their locational pay is inadequate for high cost of living areas such as San Francisco. Agents there have to go 60 miles outside the city to find an affordable apartment. There are some realities that the administration and Congress are going to have to

face up to if we are going to deal with the personnel crisis we have confronting the Federal Government. I think the more we invest in people, the better off we are going to be.

Governor RIDGE. Senator, I am sure that the new Cabinet Secretary wants to attract and retain the best people possible in order to enhance what the President and Congress feels is their most important responsibility, that is to protect America and our way of life. It is for that reason that the President has requested, in this legislation that has gone to the Hill, some flexibility to deal with personnel and procurement issues to enhance that capacity.

Senator VOINOVICH. Thank you.

Chairman LIEBERMAN. Thanks, Senator Voinovich.

After Senator Specter and I introduced the legislation last fall to create the Department of Homeland Security, I was greatly encouraged that the first colleague to come on as an original cosponsor was Senator Cleland. I was encouraged for a lot of reasons, not the least of which is all he has done to protect the security of the American people over his lifetime. So I am proud to call on you now, Max.

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

And in that legislation, as I understand it, the head of the Homeland Security Agency sits on the National Security Council, which may be one way to solve this problem of access to intelligence and what role the intelligence communities play. I agree with you, Governor, I do not think that the Homeland Security Agency ought to be in the intelligence collection business, but certainly the intelligence analysis business except in the context of the National Security Council and what is threatening the national security. So I think the head of the Homeland Security Agency ought to have access to whatever intelligence members of the National Security Council have. And in the Lieberman bill, that I am a proud cosponsor of, that is the case. Do you have a comment on that?

Governor RIDGE. It does point to one of the ways that the bill addresses the concerns that the Members of Congress have with regard to giving that Secretary access to as much information as possible. So I mean we are in agreement there, Senator.

Senator CLELAND. Thank you, sir.

Mr. Chairman, I request that the remainder of my questions be entered into the hearing record.

Chairman LIEBERMAN. Without objection.

Senator CLELAND. I would like to just focus for a moment on the CDC. I understand that in the proposal by the administration the head of Homeland Security relates to the agencies within the Department of Health and Human Services basically in a contractual relationship. In other words, if you need services from HHS you deal with the Secretary of HHS and may provide funds accordingly and so forth, that the CDC under your proposal is left intact in HHS.

What I would like you to think about is an idea that I had that might help. In 1995 the President indicated that the FBI would be the lead agency in terms of a terrorist attack. About 2 or 3 years later, 1998, the Congress said that the CDC should be the lead agency in terms of a bioterrorist attack. And when the anthrax attack happened, both agencies converged. The CDC identified, down

in Boca Raton, Florida, the substance as anthrax. Then the FBI went in, declared it a crime scene, and in effect, muzzled the CDC somewhat. Both of those agencies competed thereafter. So we do not need competition. We need coordination, cooperation, communication as we mentioned earlier.

One of the ways to solve this dilemma I have put forward, and that is that in the case of a terrorist attack, yes, the FBI is a lead agent, or in this case the Secretary of Homeland Defense could be the lead agent. But there may be a point at which someone concludes—in my view it was the HHS Secretary or it may be the head of the Homeland Security Agency—concludes that a threat to the public safety is occurring. Therefore, automatically, by a stroke of the pen, all of a sudden the CDC becomes the lead agent. In other words, sorting out the protocol on a public—not just a terrorist attack but when a public health emergency occurs.

Interestingly enough, I understand the Pentagon has put forth some 50 different pathogens out there, only about 15 of which we have vaccinations for. So the threat of a biological attack, surely in the wake of the anthrax attacks, is a real potential threat. Sorting out the protocol though ahead of time I think is very important.

I wanted to throw that concept out, that at some point, either with the head of the Homeland Security Agency or the HHS Secretary, have that authority to all of a sudden, boom, by the stroke of the pen, declare a national public health emergency, and all of a sudden then the CDC is triggered with its 8,500 employees who are the world's greatest experts in detecting and identifying pathogens. A little concept I would like you to think about in regard to the CDC.

Most of that agency has to do with about seven or eight different centers, focused on one thing or the other, but about 34 percent of the total agency's mission now has to do with bioterrorism. I am looking at the question of whether or not we ought to have a center there in the CDC for bioterrorism, and whether it answers to the homeland defense secretary, or HHS, is not a big challenge to me, but I do think that the synergy that happens between those centers and with those professionals there is a big plus.

So as we walk down this road, attempting to get a handle and establish protocol dealing with a bioterrorist attack and the run on the CDC, I would like for you to just keep those thoughts in mind. We do not have to have civil and internal turmoil between agencies every time we have a biological, bioterrorist attack. We can sort it out through some established protocol. And I think that is one of the contributions that you can make, and one of the contributions that legislation can make, that we work these kind of things out before the next biological attack hits the country.

Do you have a response or a reaction?

Governor RIDGE. Yes. Senator, since you live with the CDC as part of your constituency every day, you more than most appreciate the talent and the expertise and the professionalism of the men and women that are there. I have had the chance to visit a couple of times. And the reason that they are specifically included in the legislation referred to through the Secretary of Health and Human Services is because there is a dual infrastructure here. That infrastructure should remain part of Health and Human Services. It has

been tasked historically with dealing with public health issues, but now the new threat and the permanent condition we see on the horizon is the enhanced threat of a bioterrorist attack, so they can do the kinds of research we need that improves our knowledge in both arenas.

So the notion that we would work through multiple agencies to establish a protocol in advance of an incident, I think is very consistent with putting several of these agencies together, having a strategic focus—remember, this is one of the four units of the President's proposal. There is a strategic focus to set priorities in conjunction with other Cabinet agencies and the other talent that we have in the Federal Government as it relates to countermeasures to weapons of mass destruction. Clearly, CDC is going to be a part of that, the NIH is going to be a part of that.

So the notion that you have an intergovernmental memorandum of understanding based on future contingencies makes a great deal of sense, and I think, frankly, having a Department of Homeland Security will make it much easier to affect that kind of working relationship in anticipation of an event.

Senator CLELAND. I agree, and thank you very much for that opinion.

Thank you very much, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Cleland.

Senator BENNETT. I probably should indicate, to give hope to both Governor Ridge and Senators Hart and Rudman, whose patience I appreciate, that I know Governor Ridge has to testify on the House side at 1 o'clock, so we are certainly not going to do any additional questions after we finish this round. And your reward for your superb testimony today will be that we will call you back to the Committee again.

Governor RIDGE. Good.

Senator BENNETT. You mean I have only 45 minutes?

Chairman LIEBERMAN. Well, I was thinking more along the lines of 7 minutes, actually. Senator Bennett.

Senator BENNETT. I detected there may be some issues we may have to——

Chairman LIEBERMAN. Yes, there is a lot here.

Senator BENNETT. Both in public and in private.

Chairman LIEBERMAN. We may want, next time, just to have all of us sit together around a table and talk out these issues.

Governor RIDGE. Good. Thank you, Senator.

Senator BENNETT. Thank you, Mr. Chairman.

Back to my theme. Ninety percent of the critical infrastructure in this country is owned in private hands. All of the conversation we have had in this hearing so far about intelligence assumes intelligence that is gathered by the government from foreign sources, or if not foreign sources, at least domestic terrorist sources. And all of that information, all of that intelligence, rather, is classified because it is gathered by the FBI or the CIA or the NSA or whoever all else, the DIA. And it is classified information because if we disclose the information, in some cases we would be jeopardizing the source. In many cases with the CIA, you would be compromising, perhaps jeopardizing the life of some individual who shares that information with you. That is not the dynamic when we are dealing

with information from the private sector, information that the private sector is very nervous about sharing with the government, and frankly, has every reason about sharing with the government because of past experience.

I will give you an example. The EPA asked people in the chemical industry, "Tell us where all of your chemical plants are that may have the potential of causing some kind of public health problem." They said, "We are reluctant to share that information with you." The EPA said, "It is essential for us to do our job to know that."

So the industry shared that information with the EPA, which then put it on its website, so that any potential terrorist would know the location of every single sensitive vulnerability in that industry, which is why the industry said, "This is why we did not want to tell you. It is not that we do not trust you with the information. We do not want this information to be public and create a road map for attack on us."

We are having this debate right now about Yucca Mountain. And the argument is being made by the Senators from Nevada that there will be a great terrorist opportunity with the shipment of nuclear waste, high-level nuclear waste across the country. You want to know when that stuff is being shipped, but do you want everybody in the world to know when that stuff is being shipped? That is not intelligence information. That is regular business information. But when we are dealing with this new world of vulnerability—and again, 90 percent of the critical infrastructure in this country that is vulnerable is in private hands. We have to address the question of how private industry can share information with the government and not have that information be translated into terms that a terrorist can use.

Now, I am shilling shamelessly for my bill that says—I understand that the administration has endorsed it—that says that this information, voluntarily given to the government—you can see how I am doing this here—voluntarily given to the government, is not subject to a FOIA request. FOIA anticipates that, says that such information need not be reported, but the FOIA definitions are vague. All my bill does is sharpen that. I am on this crusade because I do not want us to get away from the understanding of the private sector vulnerabilities that we have as we get tied up in legitimate conversations about intelligence gathered by our intelligence agencies.

The private sector has created their own form of information sharing in ISACs, Information Sharing and Analysis Centers, but they keep that to themselves. If the new department is going to do its job, it is going to have to create cooperative relationships, not only with these ISACs, but with industry generally. Where the information can be shared, analyzed by government, the analysis shared back with the private sector, but in a way that does not provide information for those who wish this country ill.

So again, that is my enthusiasm. I would like your reaction to it and any contribution you might have.

Governor RIDGE. Senator, the concerns that you have raised with regard to the necessity, one of the private sector sharing some very sensitive proprietary information to the Federal Government as we

assess critical infrastructure vulnerabilities, is a concern that we have had based on our conversations with the private sector as we prepare—we are in the process of preparing a national strategy for the President, which is one of the tasks assigned to the Office Homeland Security. So, I want to be as supportive as I can with your efforts. As someone who believes that we need this kind of confidentiality and we need this kind of information, because the nature of the new threat involves terrorists taking advantage and targeting really economic assets and turning them into weapons. And you and I know, and I think we see potential weapons of catastrophic impact in States and communities around this country. So we need to know that kind of very confidential, sensitive vulnerability information. But some of it has a proprietary interest. They do not necessarily want their competitors to know that is what they are doing or that is what they have.

And so we do need to come up with a mechanism so this becomes sensitive only as security information that we can use in the government, can be accessible to the Department of Homeland Security, because depending on assessment, depending on the credibility of the threat and how real it is, it might be the private sector that is the target. But we do not know it. We will not be able to assess the vulnerability unless we have that information, so I am encouraging you to continue to be such an aggressive and successful advocate for the change. And I might add, some of the companies are concerned about antitrust as well, as they have conversations with the Federal Government.

Senator BENNETT. Sure. That is part of my legislation. The image I want people to keep in mind, if this is a battlefield to protect the homeland, 90 percent of the battlefield is outside the government ownership and purview. Do you want to be the general that goes into battle with 90 percent of the battlefield being blind to you in terms of intelligence gathering? Because the CIA, the NSA, the FBI, and so on, are not involved in gathering this information. It must be voluntarily given and we have got to create the channels that make it possible for it to be voluntarily given, and in this battlefield, we are not necessarily talking about weapons of mass destruction, but we are talking about tools and weapons of mass disruption, which in terms of the impact on the economy can be just as great.

Thank you very much.

Chairman LIEBERMAN. Thanks, Senator Bennett. Senator Akaka.

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

My concern is with the workforce. Senator Voinovich said earlier that we must have an adequate workforce. And, I want to ask you why the President's proposal does not include recommendations for additional staff or resources.

Let me give you an example. It was reported by the FBI unit to be transferred to the new department, and the FBI has a shortage of trained intelligence analysts. This is the same unit that would be expected to provide many of the intelligence analysts for the new department. Moreover, GAO found that this unit lacked the staff and technical expertise to fulfill its mission.

Using this one example, my question is why do you believe the White House came to the conclusion that new staff and resources

would not be required. Wouldn't the lack of resources impact the department's need for intelligence in a timely fashion?

Governor RIDGE. Senator, the President believes that if the new Secretary of Homeland Security is given the kind of flexibility he or she needs to reorganize this department in such a way that it significantly improves our capability of preventing a terrorist attack and protecting citizens and our way of life. If he or she is given the flexibility to reprogram dollars, to transfer dollars on an annual basis, to reorganize the department, in the short term, clearly they believe that out of that 170,000 people, qualified people, people who have been working very hard on homeland security issues for a long, long time, that ability to move personnel about, we should be able to fill any short-term needs that would exist.

I think obviously if you take—and again, it will be up to the new Cabinet Secretary—depending on what Congress allows for purposes of the reorganization, what consolidation is permitted and what kind of flexibility the new Secretary is given with regard to that consolidation. There are a lot of critical decisions that will be made about personnel at a later date, but presently, as constituted for at least a short-term, the President very much believes that out of 170,000 extraordinarily talented people, if we have some flexibility we can move them around.

I do recognize the particularly innate challenge that you have addressed, however, with regard to analysts. And obviously that is a capacity that Bob Mueller looks to enhance, and I think he is looking to add another 500 or 600 analysts in his Central Intelligence Unit. I think George Tenet is looking to increase the number of analysts, and obviously, the new Department of Homeland Security will be looking to enhance their analytical capacity, building an analytical capacity. Some have been looking to the other agencies potentially to bring some people over, going to get some retired analysts potentially, but looking for flexibility to hire on a personal services basis some people out there perhaps in the academic community or others that have had experience.

So you have highlighted a concern that Congress has, the President has and all of us. We want to enhance our analytical capacity, and for that purpose, I think giving this new Secretary some flexibility with regard to personnel decisions will enhance that interest, will enable him or her to do so.

Senator AKAKA. Thank you. You have referred to the movement of personnel from one department or agency to another. And that is why in my opening statement I was urging us to be careful about how we do this so we protect the rights of the workforce.

You also alluded to the budget and your hope that we will not require additional resources to carry out the intent of homeland security.

In addition to September 11, which was a great disaster for our country, there were lethal attacks on the U.S. Postal Service. The lethal attacks on the U.S. Postal Service caused death and illness to postal employees and customers from anthrax. The use of a bioweapon severely impacted the Nation's $9 billion mailing industry as well, and this is the kind of problem that I am highlighting.

My question to you is how will the new agency work with agencies like the Postal Service, that play such a major role in our economy, and to protect that agency's mission and the people it serves?

Governor RIDGE. Senator, I believe it was the day after the President appointed me the head the Office of Homeland Security within the White House. Within 24 to 48 hours we had the first anthrax incident, first anthrax murder. And it was at a very early stage that I began to work with Jack Potter and the leadership of the unions that provide postal services in this country, and it was because of their leadership and their courage and their tenacity during a series of very, very difficult events, that I think we worked our way, as best we could, based on the knowledge that we had at the time, through a very terrible period for this country and for the men and women of the Post Office.

The one thought that I would share with you immediately as to how this new agency would help postal employees and customers, is the strategic focus that the Department of Homeland Security will give to research and development as it relates to homeland security issues.

The first impulse for the Postmaster General and for the Post Office was to purchase billions of dollars worth of irradiation equipment. They pulled back and said, that is dealing with the problem after it occurs. Why do we not take some of the hundreds of millions of dollars—and the Congress very appropriately, in the supplemental, gave them, I think, last year $500 million more, and I think there is another $89 or $100 million in this year's supplemental. They pulled back and said, "Let us explore the universe of bio-detection equipment that we could deploy to determine whether or not we have got a problem to start with."

So with this notion that working with government agencies based on what they need to serve not only the employees, but their customers, the people of the United States, that I could very much see the interaction between the Postal Service and the Department of Homeland Security, setting a priority for bio-detection equipment or protection equipment based on the kinds of threat that exists and the needs that they have.

So I think that is the most immediate example of how I think they can, would and should work together.

Senator AKAKA. Thank you very much for your responses.

Chairman LIEBERMAN. Thanks, Senator Akaka.

Senator AKAKA. I have some additional questions that I will submit.

Chairman LIEBERMAN. Thanks, Senator Akaka. We will leave the record open for additional questions to be submitted. Senator Carper.

Senator CARPER. Thank you, Mr. Chairman.

Governor, how long have you been in your new post?

Governor RIDGE. Senator, ever since October 8. I cannot tell you I have counted the days. I do not know, it seems like yesterday—9 months.

Senator CARPER. If we had in place the kind of structure that the administration is proposing in revamping our Federal Government to deal with the issue of homeland security, if we had it in place

prior to September 11, how would this proposal have helped us to avoid that catastrophe?

Governor RIDGE. Senator, I think that is a difficult if not almost an impossible question to answer right now, because we do not know exactly how the new department would be set up. We do know that there is an affirmative obligation that I try to underscore that the CIA and the FBI would have to give their reports and assessments and analytical work to the new agency, whether or not another set of eyes or experiences would have been interpreted differently, if there would have been any enhanced capacity to connect the dots, I think, at this point, is the worst kind of speculation.

I do think, however, that prospectively the notion that we will be able to integrate information and match it against vulnerabilities and take action, that there will be a strategic focus on the billions of research dollars that we have spent well and wisely in the past, but more on an ad hoc basis rather than based on an assessment of threat. These are unprecedented times. This is an enduring vulnerability. This is a condition that we are going to confront for a long, long time. And finally, we are going to have a strategic focus on where we place some of the public's money to come up with countermeasures of weapons of mass destruction. The Congress of the United States has been talking for a long, long time about an exit system. I think Senator Durbin pointed out in his opening remarks, 6 years ago the INS was tasked with developing one. And someone else talked about several years ago the INS was tasked to develop a database with the FBI based on fingerprints, so you have had all these ideas very relevant to homeland security in one measure or another, just kind of lingering out there. There is no command structure. There is no accountability structure, that the Congress of the United States calls in somebody and says, "Look, you were tasked 2 or 3 years ago. Plenty of time has elapsed. Explain to us why you haven't done this."

And so I cannot talk to you about how it could have been done in the past, but I do know the President likes to align responsibility and accountability. But it is not all good for the President. Might say it would be good for the Congress of United States. The Secretary of Homeland Security, I presume, will pick up those responsibilities to get that job done, hopefully given a reasonable period of time to do it, and if it is not accomplished, be accountable not only to the President but also accountable to you.

Senator CARPER. When you look back at the months since last October 8 and you think of the challenges that you faced in taking on this new responsibility, can you pick a single challenge that has just been especially difficult to face? How does the proposal of the administration better equip the next leader, the next Secretary, to address that challenge?

Governor RIDGE. The existence of an agency within the Federal Government, whose primary purpose is to meet the goal of the President and that is shared by the Congress of the United States, to protect American citizens and our way of life, substantially, I believe from the get-go, improves our ability because there is now a consolidated structure and a command structure, an accountability in place that did not exist before.

But in addition to relying on the Federal Government to get the job done, the additional advantage—and I think Senator Lieberman felt this way in his proposal; other senators have alluded to it. This task is complex. It is monumental. It is unprecedented. And as well intentioned as we are in the Federal Government in all the programs in the Federal Government, we have to have partners, and the partners have to be in the private sector, and the partners have to be the States and the partners have to be the mayors. So not only does this structure, does this department enhance our ability to protect the homeland with regard to the deployment of Federal resources and people, but I think it is the best way to develop the kind of national partnerships that we need to protect ourselves as well.

Senator CARPER. In the questioning today, some of our colleagues have talked about areas where we need to invest more dollars, maybe in additional people to patrol our borders, resources at the INS. In the last administration, when they sought to reinvent government, they tried largely to do so in a way that shrunk the size of government, not grew it, in a way that allowed them to provide better services more efficiently. In the end they invested more money in a number of places, but they tried to find ways to spend less and achieve greater efficiencies in others.

I think we are going to be real tempted, both in the Congress and in the administration, to invest more money, to invest more dollars in areas that logically make sense. I just hope that as we go through this we will also be mindful of the need to try to find those efficiencies, find ways to look for economies of scale, large or small, to even spend a bit less money in other ways. I think it was Senator Voinovich who talked about how a country which for the last couple of years was able to balance its budget for the first time in ages is now finding itself back in the tank. He said our deficit was $300 billion. It is $300 billion, and we just raised the debt ceiling by another $450 billion. So I just hope that we will be mindful of the need to, while we are trying to save real lives here, we are also spending real money here, and we have to be smart about both of those.

I do not know if you have a comment you would like to make on that or not.

Governor RIDGE. Senator, I think the notion of bringing efficiency to government is something that you and I felt as governors we had the responsibility to do, and not necessarily for saving it, putting it back into necessarily government's pocket, but if you can save it in one area and use those resources in another area, you have enhanced the capacity of government without increasing the size of the budget. We both share that point of view——

Senator CARPER. I hope as we go through this process and fashion this legislation, hopefully put on the desk of the President a bill he can sign, that you will feel free in sharing with us how to save money as well as to spend it.

Governor RIDGE. I think we are going to clearly find at least a preliminary look at the interoperability of the technology that is available to these departments is rather remarkable. I think based on our experience as governors—I know we have talked about this a great deal—you can empower people and make them far more ef-

ficient, if you equip them with 21st Century technology, but you cannot layer it, you have to integrate it. And I think as we took a look just at the first quick blush at the IT contracts that may be let with some of these other agencies going out, we would not want them to let those contracts in and of themselves. We would want to design a system so that you can fuse the data and the information from the INS and the Customs and the Coast Guard and everybody else. So I think there are quite a few places we can bring some efficiencies, and if you can save a few dollars there, then of course the new Secretary with the transfer authority can then deploy those resources someplace else, more personnel, more research and development. It creates more options for the new Secretary, and more importantly, more options for this country.

Senator CARPER. Mr. Chairman, my time has expired. Governor Ridge's time has not. And we look forward to continue to work with him for a good long while. Thank you.

Chairman LIEBERMAN. After this morning, I am grateful that Governor Ridge has not expired. [Laughter.]

I have informed Senator Durbin that his questions are all that stand between you and the House, and even the possibility of getting lunch. And I always feel that no one should be asked to face the House on an empty stomach. [Laughter.]

So Senator Durbin has said that he would try to keep his questions short.

Governor RIDGE. My former colleague from the House.

Chairman LIEBERMAN. I do not know whether he would care to comment on that.

Senator DURBIN. Thank you, Governor Ridge. As I reflect on the fact that you and Senator Carper and I got into this business at the same time 20 years ago in the House, I am gratified that you are where you are today. You were the right choice by the President, and I think you have done an excellent job.

Let me follow through on the last question that relates to my opening statement.

Governor RIDGE. Yes.

Senator DURBIN. I talked about the glaring deficiencies when it comes to information technology, particularly at the FBI and the INS. To think that the FBI, 2 years ago on its computers, did not have access to the Internet, did not have E-mail, still today does not have word search, which for $750 at a Radio Shack in Peoria or Pittsburgh you can buy; they still don't have it. To think that they still use teletype machines to transfer information between different offices, stone age technology that is still part of the premier law enforcement agency in America. It draws me to a conclusion that if we are going to do this and do it right, we ought to take a lesson from history. The Manhattan Project, 60 years ago, summoned the best scientific minds in America to come up with a device to end the war, and it did it effectively.

And we have the same challenge today, a Manhattan project challenge, to get the best scientific computer/IT minds together, to put not only the Department of Homeland Security at the cutting edge, but also the FBI, the CIA, and related agencies, so that they can interface, they can communicate, and they can be effective. What do you see as part of this? I mean it seems to be kind of an

adjunct to this discussion. We have talked about Departments of Homeland Security, but how are we going to do this Manhattan Project-type approach that really brings us up to date with all the technology currently available?

Governor RIDGE. Well, Senator, I believe that your goal of creating a 21st Century Department of Homeland Security that is empowered with the best technology on the market, every conceivable application being deployed within the new Office of Homeland Security is at the heart of what I believe the President hopes to work with Congress to create. It is pretty clear that some of the stove pipes that have been created among the agencies initially were created because of particular mandates given to them by Congress, but then once they were told to share information, they never adapted technology to do that. And the fact of the matter is, if we are to maximize our effort collectively to protect America, whether it is the unit that is dealing with intelligence sharing and infrastructure protection or it is the border unit, or it is the FEMA unit, this new Department of Homeland Security gives this Congress an opportunity to design, for the first time, a new department empowered with the best technology available, that once we determine what the policy is and what our mission is—we know what the general mission is, but again we have some other decisions to make with regard to the particulars of the agency—but once we decide what that mission is, getting together the best group of technology minds to look for solutions, not sell products—we will get to the products later—but to come up with a technological solution to empower this is something that we would welcome the opportunity to work with you and similar-minded members of——

Senator DURBIN. Take me up the organization chart. Assuming we have a Department of Homeland Security, a CIA, a FBI, and the need for the NSA, and all of these to communicate at certain IT levels, where do I go? Which box in the chart do I go to to make sure all of these are coordinated?

Governor RIDGE. Well, you will see in the recommendation, as part of the organizational structure we will have an information officer, a technology officer, but the——

Senator DURBIN. That is in the Department of Homeland Security. But what about these other agencies; who is going to bring all of these agencies into communication?

Governor RIDGE. Well, you have begun that process, as I understand it, with regard to the FBI. You have given Director Mueller, I think, the Congress has given Director Mueller several hundred million dollars, so that he can finally create an infrastructure where they can begin sharing information within the agency itself. It is one thing to look to them to share information externally. The Director recognized shortly after he arrived, that they were not even equipped technologically to share information with each other. So again, Congress has taken a leadership role in trying to bring some of these agencies into the 21st Century with new technology. I just think that real aggressive oversight and partnership between the new Department of Homeland Security with partnership with Congress will see to it that from the get-go, this agency is equipped with a kind of technology that is needed to meet the mission that you gave them perhaps even as long as 6 years ago.

Senator DURBIN. I have two questions and not enough time for both. I would, just for the record, indicate that if we are successful in creating this Department of Homeland Security as envisioned, we will also be creating the 13th Federal agency responsible for food safety. We currently have 12. Now we are going to add the Department of Homeland Security. I think that is mindless. I think we ought to get it together in terms of where we are going.

But I really want to ask my question. Did you consider the Hart-Rudman approach suggested, the use of the National Guard as the front line of defense in homeland security, preserving it as a State-run entity, but meeting some national training goals, developing resources, really kind of redefining—or I should say returning to our origins for the National Guard as our homeland defense? Did you think about using that as part of this approach in the Department of Homeland Security?

Governor RIDGE. We read the Hart-Rudman report thoroughly, as evidenced by the President's initiative and grafted onto his initiative many of their recommendations. I would tell you, Senator, that it is the belief of the administration that the new unified command plan setting up a North American Command under the reconfiguration proposed by the Department of Defense will add value to the new Department of Homeland Security, because there will be a much more direct relationship from secretary to secretary with regard to the deployment of the National Guard.

In response to an earlier question that one of your colleagues raised, this is another opportunity and responsibility for the two secretaries to plan in advance of an emergency as to how to deploy and under what conditions to deploy those assets.

So clearly my experience with the men and women of the National Guard as Governor of Pennsylvania was as good and as positive as I believe most governors have felt and experienced, the ultimate citizen soldier who responds to the challenge at a moment's notice, and configuring them in the future, configuring their future deployment under certain circumstances on behalf of the Department of Homeland Security would be one of the most important and one of the first missions that the new secretary should undertake with the Secretary of Defense.

Senator DURBIN. Thank you, Governor Ridge.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Durbin.

Governor Ridge, thanks very much. It has been a very helpful morning. We have covered a lot of ground. There is obviously some we have not covered. I know our staffs are in close contact. You and I, Senator Thompson and other Members will be. There have been important questions, some of those are—I have not heard anything today that tells me that we cannot or will not get this job done this session of Congress, so thank you very much.

Do you need a note for Congressman Shays on the House side or—— [Laughter.]

Governor RIDGE. Well, you know, I think your note would do just fine, Senator. I appreciate spending some time with you today. Thank you very much.

Chairman LIEBERMAN. Thank you. Well done.

Senator Hart and Senator Rudman, thank you very much for your patience, and for your presence here. As a measure of the high regard in which you are held and the fact that people are interested in what you have to say that at least the four Ranking Members of the Committee are still here at this hour to hear you.

It struck me that Hart and Rudman may be competing with McCain and Feingold as the most sought-after tag team here in Washington.

Gary, I said to the hearing on the House side last week, when Warren Rudman was there, that in the new age of security that we entered in on September 11, as we look back, you two are going to be the Paul Reveres of this age, in effect, your work and report—we are seeing that the terrorists are coming, unfortunately. We did not respond and organize quickly enough and well enough.

We thank you for being here. We are interested in hearing anything you have to say, most particularly your reactions to the President's proposal.

Senator RUDMAN. Let Gary go first.

Chairman LIEBERMAN. Is he the older, more senior of the two?

Senator RUDMAN. Smarter.

Senator HART. I just look older.

Chairman LIEBERMAN. Senator Hart.

TESTIMONY OF HON. GARY HART, CO-CHAIR, U.S. COMMISSION ON NATIONAL SECURITY FOR THE 21ST CENTURY

Senator HART. Mr. Chairman, Senator Thompson, Members of the Committee, thank you very much for letting us come.

To the end we can presume to speak for the 12 distinguished Americans who served on this Committee with us, and with whom we were honored to serve, I think it is safe to say that all of us our deeply gratified that the President has endorsed the proposal that we made to him very early in his administration, and has indeed gone well beyond the structural suggestions that we were able to make. It was beyond our capacity and our mandate to design a new National Homeland Security Agency, but we certainly tried to lay out the framework and the implementation for that.

Objections have been raised. Each of them is answerable very quickly. The suggestion is that this is going to be too costly. That decision has already been made. I think the Congress and the President have concurred that something in the range of $37 or $38 billion will be spent on Homeland Security, and that will of course continue and increase as time goes on. The issue is whether it will be spent under a single coordinated command by one Cabinet officer accountable to the President, the Congress and the American people, or whether it will be disbursed among several dozen existing Federal agencies. The same is true of the allegation of scale, this new agency will be too large. It is already large. Whether it is too large remains to be seen. The fact of the matter is, all the pieces, 98 percent of this new agency is in existence. Again the question is, will they be reorganized and consolidated under a single command, or will they be disorganized and spread throughout the national government?

The allegation is made that there will be "bureaucratic resistance." I cannot imagine. I simply cannot imagine. The congres-

sional committee chairperson or subcommittee chairperson or the head of an office in this government, standing before the American people and saying, "It is more important that I maintain my personal, political prerogative than that 280 million Americans are secured." And that is the issue.

So if somebody wants to stand up and say, "Let us keep things the way they are because I have my committee or I have my office, and that is more important," I think they will be and should be too embarrassed to make that argument.

On the issue of intelligence that we have spent a good deal of time on this morning, it seems to me, and to our Commission, fundamentally apparent that intelligence collection and analysis is one function, operational organization of the Homeland Security is yet another. In 1947, the appropriate analogy, I do not think anyone really seriously suggested that the new Central Intelligence Agency should be in the Department of Defense. And likewise, the existing intelligence assets of this government should not be in this new operational Homeland Security Agency.

Now, can an argument be made, and a strong argument, for reorganization of intelligence, the intelligence network in this government? Absolutely. That is a separate issue. The CIA and the FBI were designed or came to be designed to fight the Cold War. The Cold War is over. And yet they persist on as existing bureaucracies. I think serious thought ought to be given, by this Committee particularly, about what to do about that, but that seems to me to be a totally separate issue from the new Homeland Security Agency.

One thing that interests me—and I cannot speak for my Co-Chair person, Warren Rudman or the other Commission members—is the issue whether traditional functions such as collection of Customs duties can be maintained in the traditional agency, Treasury, and law enforcement aspects of Customs be moved to the new agency. In other words, should the new Homeland Security Agency be in the business of collecting customs? I think not. Should it be in the business of protecting fishermen? I think not. There are functions that can be left where they are and the law enforcement aspects of all those agencies consolidated. That is one person's opinion.

I do want to emphasize, as Senator Durbin did earlier, the importance of the National Guard. This is not contained in the new legislation, but this Committee and indeed all the Congress ought to be thinking about the three arguments for the preeminence of the National Guard in this capacity. One is constitutional. The National Guard exists today as the heirs of the original constitutional State militias for the specific constitutional purpose of protecting the homeland. That is why we have two armies in this country. Second, statute prohibits the use of regular forces to enforce the laws of this country, the Posse Comitatus Act, and I for one think it ought to stay that way, and I think the military thinks it ought to stay that way. And third, the practical issue. 2,700 National Guard units are forward deployed around this country and, properly trained and equipped, they are best prepared to be the front line, the first responders.

Finally, Mr. Chairman, the nature of conflict is changing. A couple of Members of the Committee have said that. I am not sure the

political leadership in this country had adapted to the notion that what we are dealing with here is not quite war and it is not quite crime. A lot of the confusion about how to deal with the detainees is because of this blurring of distinctions and the changing nature of conflict.

I would hope that this Committee as the oversight, or the future oversight committee for this new department, and the new department itself, indeed the entire government, will begin to understand the fact that conflict in the 21st Century is not going to look like conflict in the 20th Century, and declaring war on criminal conduct is probably going to end up, as some people believe with drugs, as the ultimate in folly.

My closing thought is that 50 years ago or more, then-President Dwight Eisenhower thought about shifting elements of the national government to the center of the Nation, particularly Colorado, and I thought he had a very good idea at that time. I have noticed that there is some talk about this new agency being housed somewhere outside Washington. Given my own considerable experience on this matter, I think if that happens there is probably a very good chance it will be West Virginia. [Laughter.]

Senator HART. But on behalf of my own State, I would like to say we would welcome this new agency. Thank you.

Chairman LIEBERMAN. We will take your recommendation under advisement, Senator Hart. Thank you. Thanks for those excellent thoughts.

Senator Rudman, I say it at almost every—also I should say it in your presence: The bill that the Committee reported out is largely a legislative expression of your superb report. So I cannot thank you enough.

Senator Rudman.

TESTIMONY OF HON. WARREN B. RUDMAN, CO-CHAIR, U.S. COMMISSION ON NATIONAL SECURITY FOR THE 21ST CENTURY

Senator RUDMAN. Mr. Chairman and Senator Thompson, and my other friends on the Committee I served on for many years, thanks for inviting us. I join Gary in expressing our appreciation for what you did originally when you responded to our testimony long before September 11.

This may be the single most important piece of legislation you will act on in your careers. I happen to believe that as I look back at 1947 or 1948, George Marshall created the Department of Defense, the Joint Chiefs of Staff and the things that got us through the last 50 years of the last century. It is important to note this is only a beginning. It is hardly the end.

The structure the President proposes, your bill, our recommendation are very similar, identical in many ways. It may need to be changed here and there. My experience up here was usually you would take a bill like this, whatever it is, and when it comes out of the Congress generally it is better than it was originally submitted, and I think that is what will happen here.

But then the implementation is so important, and I think the comments of Senator Voinovich and others about personnel are so important. I recognize, but you have got to be very careful not to

take on too many fights that you could sink the entire proposal, and there are those who would like to use this as a vehicle to reform and change civil service. Whether you can do that, I do not know, but I do know that our report talks about human capital.

I want to just make two comments because Gary has really expressed our collective thoughts of our group, and then take your questions. First, in our recommendation—by the way, there are seven recommendations in the report on Homeland Security and there are 43 in the whole thing. The Secretary of Defense has looked at it very carefully, and obviously adopted two or three of the key recommendations. The CINC North Bureau is in this proposal. The establishment of an Assistant Secretary of Defense for Homeland Security, I understand may well happen. Senator Levin may have a more current view than I have, but we recommended that. And of course the National Guard we said should maintain its dual role. It should keep its current role of being combat support. It is part of the integrated plan of the Joint Chiefs for deployment under various scenarios. We do not want to take that away. But the chances are that some of those things will never happen. The chances are that further acts of terrorism well may happen, and thus we recommend they be dually trained. My understanding is that is under serious consideration.

Finally, be very careful about confusing what this new agency will do with the traditional roles of the FBI and the CIA. I have heard many of the same questions when I served on the Intelligence Committee. I chaired the President's Foreign Intelligence Advisory Board for 4 years and served on it for 8 years. The majority of the work the agency does is not homeland security. The great majority of what it does deals with support for military operations, supporting the State Department, supporting strategic policy, and nuclear proliferation. It belongs where it belongs, and the President is absolutely right, the Director of the CIA ought to report to him.

The FBI is traditionally a law enforcement agency. If you look at its history during World War II it did an extraordinary job in counterespionage. The war ended. It continued to work as an anti-KGB function within this country, and had some great success. Now it has to shift its focus into a whole new area. And Senator Hart raised it, others have raised it, something not for today, not for this legislation, do we want an MI5 in America? Go back and read the history. There was a very interesting collection that opposed it. It was J. Edgar Hoover and the American Civil Liberties Union, who together did not want to give the CIA an MI5 function for reasons that we could understand even today. Has that changed? I think that rather than debate that issue, which my sense is will not occur, you ought to look long and hard at what you have been looking at during the hearing. How is this analytic agency going to be set up within the department? What access will it have to what information? How will it operate? What kind of technology will they have? Those are the implementation questions.

I have said for a long time that the problem with U.S. intelligence is not collection. We collect a lot. It is not analysis. We have too much to analyze. It is dissemination and how we do that, and that is a key role that you are going to have to sit around the table

with a lot of smart people and figure out how it is going to look here. It has got to be spelled out in my opinion.

So let me take your questions.

Chairman LIEBERMAN. Great, thank you. Let me begin with this question that has been the focus of a lot of our attention today. Senator Hart, let me ask you to build on a statement you made which is that we should not create a domestic intelligence agency, if you will, or division, within the new Department of Homeland Security, Senator Rudman has developed it a little more in terms of an MI5 type of operation, either outside of the new department or inside it. Why not, just to get your thoughts on the record? In other words, I am going to make the argument for it, though I have not reached any conclusion on it—if the FBI is now developing to meet the new terrorist threat, a new capacity for domestic intelligence to prevent terrorism, why not put it under the new department?

Senator HART. My study of the Cold War is that separate intelligence collection and analysis guaranteed objectivity. When the producer is also the consumer, conflicts of interest arise. People begin to tilt their judgments because they are on a different career path. If their career is moving up through the agency that is also consuming what they are producing, they may be inclined to say different things for their own personal or bureaucratic reasons. I think the history of intelligence, the intelligence profession, if you will, in this country, which you can date from the mid-20th Century; clearly there were predecessors, but it really began in the 1947 period as a serious professional enterprise—basically support the notion that the collection and analysis is one function, putting that information to use is a separate one, and they ought to be kept separate.

Beyond that I can give you more philosophical reasons.

Senator RUDMAN. Can I just comment on that? Is the Chairman's question that the part of the FBI that will deal with counter-terrorism—ought to go into the agency?

Chairman LIEBERMAN. Yes. Here is the argument. In other words, obviously traditional post-crime law enforcement that the FBI does: Investigating a crime that has occurred, apprehending the alleged criminal, will be kept where it is. But now if we are going to develop a whole new domestic intelligence counter-terrorism in the FBI, like stuff they have done before but bigger, should that not be outside of the——

Senator RUDMAN. No, it should not, emphatically. I am going to give you the most important reason why it should not. You will then separate it from its collection. The collection of the FBI is not in a "counter-terrorism unit." It is in every FBI office in every hamlet and city of this country. We saw it with the reports from Minneapolis and Phoenix. These are agents working on general FBI investigations who had it called to their attention that something funny is going on. They report that back to headquarters. Their collection comes from the field. The FBI has no independent collection, so you cannot separate it. If you did you would cause chaos in my view.

Chairman LIEBERMAN. OK. One of the questions that I did not get to ask Governor Ridge is about the way in which the Hart-Rud-

man Commission, our Committee and the President handles the INS. In the end I think this may be one of the more controversial parts of the President's proposal in a political congressional context. The Commission, as I recall——

Senator RUDMAN. We did not.

Chairman LIEBERMAN. I think you might have taken the Border Patrol but that is all.

Senator RUDMAN. Right.

Chairman LIEBERMAN. We ended up taking some of the other law enforcement functions from INS, putting them in a new department, but we left all the so-called traditional immigration functions in the Justice Department. The President has taken all of INS—and you know the argument here, which is if you take all of INS and put it in a security agency, then the INS and the country, if I can put it that way, are not going to be as traditionally open and welcome to immigration as we have been.

So I wonder if you have a comment on what the President's proposal is here?

Senator RUDMAN. Well, we debated it, and we had quite a debate during the last year of our deliberations, and if you will look at the proposal and you look at the seven, that clearly is not there. The reason it was not there is we could not develop consensus on separating those very parts that you have just captioned from their home agency, Justice in that case, and moving them into this particular unit.

However, in conversations I've had since the President's proposal was developed, with various people within the government, people make a strong case that there is more connectivity between these various parts of these individual agencies than we staked, and that we believed at the time we did this. That is one of the reasons that we did not. We thought that there was not that much connectivity.

I will give you a good example. The head of the U.S. Customs service is someone I have known for a long time, have a lot of respect for, Bob Bonner, who called the other day and had a long chat about our proposal versus the President's proposal. He pointed out, as he will to you I am sure, that there is so much reliance on one part of that agency with the other, that to separate them starts to really impinge on their effectiveness. Now, he will have to make that case, but I know Gary and I have talked about separating fund raising, called tax collection, from law enforcement. He would say that is the wrong thing to do and he would give you some strong reasons for it. So I think my most important point is you have got a tough job. You have got to sit down with these people. You have got to listen to their arguments and decide whether they are turf arguments or whether they are policy arguments.

Chairman LIEBERMAN. Right. Last question for me in the time that I have. Since you made your report and since the developments of September 11 have occurred, as you pointed out, Department of Defense has now established the Northern Command, incidentally in Colorado Springs, and there is possible talk of an Assistant Secretary. Would you fit something into the new Department of Homeland Security statute that guarantees some kind of links or cooperation with——

Senator RUDMAN. We did.

Chairman LIEBERMAN. You did?

Senator RUDMAN. Yes, that is in our report, and I expect they will. We have a very strong connection between DOD and this department in terms of liaison because, Mr. Chairman, in the final analysis, if there was a weapon of mass destruction visited upon an American city, the only organization in America that can respond to it is the United States military. There is no one else. We all know that.

Chairman LIEBERMAN. Senator Hart, you have done a lot of thinking about national security policy. Do you want to add anything in this regard?

Senator HART. Yes, I am just perhaps more concerned than Warren is about the two-army principle, and the resistance in the regular military itself to performing a law enforcement function. There is a notion among some Americans that the Defense Department wants to run America. This is not true. Career military officers are the first people to tell you, "We do not want a law enforcement function." Now, the scenario that Warren has cited, a catastrophic attack of some kind, obviously every asset of this country is going to come into play. Nobody is going to be worrying about the niceties of the Posse Comitatus Act.

But short of that, we have an army, we have citizen soldiers for this purpose. They must be trained and equipped for this mission of response to an attack. But they can be there first. Under the statutes they should be there first. And then if additional help is needed, our vast military network is available.

Now, I happen to think if the attack is on Denver, the Colorado National Guard is going to get there faster than the 82nd Airborne Division in any case.

Chairman LIEBERMAN. That is right. Thank you very much for all you have contributed here. You set a high standard of public service after Senate service for Senator Thompson, who will most immediately confront this opportunity.

Senator RUDMAN. Before Senator Thompson questions, I would like to refer the Chairman to page 17 and 21 of the final report, which diagrams the linkage between DOD and the new department as we envisioned it.

Chairman LIEBERMAN. Thank you. Senator Thompson.

Senator THOMPSON. Mr. Chairman, thank you very much. These gentlemen do remind me that there is life after the Senate.

Gentlemen, I think the reason why we are hearing so much today about the intelligence gathering activities is because so many of us feel that while what we are doing today is something we can go ahead and do and must do and should do. It is a broader problem and really more pressing, and maybe one that we cannot solve. It seems to me that one of the jobs that we have got here is to make sure we do not do anything in this Homeland Security endeavor that complicates that problem.

And I can certainly see the logic of the Chairman's suggestion. We are now moving the FBI into a different category. The three top goals of the FBI now are things that probably would not have even been on a chart a short time ago, much less being the top three priorities. They have to do with before-the-fact activities, instead of after-the-fact solving the crime activities, and there is a logical dis-

tinction there. We have got to make sure that we do not do anything with regard to that in this process. It complicates the problem because the Congress and the President have to address these problems inherent in the FBI and intelligence gathering activities that have been on the public record for years. We have all known the difficulties and the transition the CIA has made from the Cold War to the current threat. We have all known that we have lost so many good people at a time when our requirements are much more sophisticated in terms of language skills and things of that nature than ever before. And, of course, these are problems that we have seen with the FBI over the past several years. So we welcome your comments and your help and assistance in that balance as we go forward.

One of the things I would appreciate your view on is with regard to the President's proposal and the set up pertaining to the analysis of these reports. I think we have clearly got a lot of discussion as to exactly what they are going to get, when they are going to get it, and what the impetus for the provider of that information is going to be.

My question is, getting back to the personnel issue that you have raised so many times, where are they going to get these analysts?

Senator RUDMAN. That is the question of the hour. There is a shortage of analysts at all of the defense agencies. The FBI has extraordinary shortages. There are language issues involved, translation issues involved. You can pull all these blocks down, but unless there is some sort of a system that is going to give some incentive for language education—by the way, one of the recommendations in this report, as I know you know because we have talked about them, Senator Thompson, have to do with education. That is also a national security. We have got to do some things to influence people's careers to go into this kind of work.

Senator THOMPSON. While we have got an immediate problem, we have got to create these analysts ourselves in the meantime.

Senator RUDMAN. America's colleges and universities are turning out a lot of struggling bright young men and women, who I think would enjoy the opportunity to serve their country in what is a very challenging profession. But we are not doing a great deal on that, outside of what the CIA does with its recruiting, to educate people to the fact that here are those opportunities. I would commend that to someone to take a look at.

Senator THOMPSON. And I would imagine we marry that with new information technology capabilities that are out there in the corporate world. It would allow you to determine certain trend lines and probabilities and things of that nature. There seems to me an awful lot in terms of personnel and information technology together that we are not using. Is this correct, Senator Hart?

Senator HART. I think we can turn this problem into an opportunity, and I concur completely with Warren on this. I have spent a good deal of time on campuses, including in Senator Lieberman's State, in the last few months, and the overwhelming reaction of young people in this country, very bright, intelligent young people, was they want to do something for their country, and we have not heard that for 10, 15, or 20 years. So they need to be sought out, and what also is needed in the institutions is fresh thinking. So we

can use a generational change here, bring in a new generation of people into the intelligence services, into this new department, and challenge them to think differently. What worries me about the new—very frankly, about the new FBI unit, whatever this is going to be, is if they put old timers in there, if they put people who are the heirs of the Cold War and who are used to chasing KGB agents in there, they are going to be thinking exactly the same way. And we are in a totally new age, and what is lacking is leapfrog generational thinking, that is, not Cold War, not traditional crime behavior, it is something totally new here. So the recruitment of a new generation of young people can be of benefit.

Senator THOMPSON. And unfortunately, that is going to take some time, is it not?

Senator HART. It is.

Senator THOMPSON. But you are right, if we get the analysts, if we get the right kind of people from these other agencies, what were they doing all this time anyway, I mean before these problems all became so apparent?

Briefly on another subject, as I looked at this bill—well first of all, I looked at some of the comments some corporate leaders have made with regard to this effort, and they are pretty bleak. They talk about the odds of it succeeding as being pretty bleak. The new head of this thing is not going to have the dictatorial powers that a lot of people have when dealing with a board. They have got to deal with us and everyone else, and they give all these reasons why the difficulties. These reasons seem overpowering.

And then I look at this bill. It is a rather short, brief piece of legislation which got my attention. Then I got to thinking that perhaps that is exactly what it has got to be because it seems to give the leadership of this new department the maximum flexibility. Flexibility with regard to management issues, flexibility with regard to personnel, procurement, things of that nature, might be necessary. It is very briefly dealt with in the legislation. But it allows, through regulation, the notification of Congress, and gives the Secretary the ability to do a lot of things that perhaps we should have been doing in other parts of government. Senator Lieberman and I have tried to do some of these things in the procurement area and in some other areas. In order to overcome these hurdles that all these corporate merger experts who have been through all of this before in much smaller versions, we have got to do something unusual ourselves. Perhaps that means that we give the Secretary maximum flexibility. We allow the new head to do some things that we perhaps not allowed before. Do you agree with that?

Senator RUDMAN. I do and I want to make one comment. In the course of our deliberations, we discussed this very issue when we talked about the consolidation, and we did have people like Norm Ohrenstein on our group. I mean this was a group of extraordinary people with a lot of various knowledge. There is a reason we used two words, as I recall from one of our meetings, and I want to read it to you, which responds to your point precisely, and if you do not do this, then you are going to have a serious problem. We said, under recommendation No. 3, the President should propose to Congress the transfer of the Customs Service, the Border Patrol and

the Coast Guard to the National Homeland Security Agency, while preserving them as distinct entities.

Now, this is what these corporate people do not understand. I have read their comments, and with all due respect, most of them do not know what they are talking about because they do not understand this reorganization, as opposed to corporate mergers, which I am also very familiar with. We are trying to merge a whole bunch of different cultures into the same building. We said separate entities for a reason. The Coast Guard ought to be the Coast Guard. They ought to wear the same uniforms and the same line of command as true with Customs and so forth. Now, after a year or two, if the new department, though there were ways to do this more efficiently and the Congress agrees, then you can do that, but right now to do anything but transfer them as entities that are separate would be to invite disaster. I would make that point.

Senator THOMPSON. Thank you very much.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Thompson. These were very good exchanges, particularly on that question of the talent pool to draw on for analysts. In the 1950's some of the most exceptional people were coming out of colleges and going into the CIA. We need information age kids today doing this stuff.

Senator RUDMAN. We sure do.

Chairman LIEBERMAN. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

Let me add my welcome to two dear friends, former colleagues. You guys were great Senators, and you are great ex-Senators. I just want to thank you for your contribution here. You showed tremendous foresight in your report.

I want to go back to the intelligence coordination function. Senator Hart, I listened carefully to what you said, that you thought that this issue should be totally separate from the reorganization proposal that you have made, and I do not think it will be or can be or should be. In the proposal that the administration has given us, it clearly is part of their proposal. I do not know if you had a chance to study their proposal or not, but Section 203 clearly deeply involves this new agency in having access to all reports, assessments, analytical information, all information concerning infrastructure, whether or not the information has been analyzed, that may be collected, possessed, or prepared.

And then again, regardless of whether the Secretary has made a request to enter into arrangements, Executive agencies will provide all reports, assessments, and analytical information to the new Secretary. The Secretary will receive all information relating to significant and credible threats of terrorism in the United States, whether or not such information has been analyzed if the President has provided that the Secretary shall have access—it is hard to imagine that a President would not provide for that access.

Senator RUDMAN. I listened to that exchange between you and Governor Ridge, and it was like ships passing in the night there. I do not think you were connecting, either one.

I think I understand the reason that language was written that way from my last 8 years on the——

Senator LEVIN. We welcome your comment, but it is clear that the agency is going to be involved in a coordination function and an analysis function, and my struggle is to figure out where the buck should stop relative to the analysis of information of intelligence that comes in relative to terrorist threats. Right now we have a FBI Counter-terrorism Unit. They do analysis and assessment of the information that comes to them. They get that information through their own sources from the field, they get information through their Counter-terrorism Center in the CIA that they are a part of. We then have the Counter-terrorism Center in the CIA, which is supposed to now put together all of the information from whatever source. That is what exists. You folks are experts on this subject, and I think I am accurate, and when I read their website and understand what they do, as a member of the Intelligence Committee, they have got this function of putting together all of the raw information, trying to connect those dots. And now we are going to have another entity that has got a coordinating purpose and an analysis purpose, quite clearly. Governor Ridge talked about redundancy of analysis as being good. Maybe it is good. Basically though, I would like to know where the buck should stop, where should all the raw information come, providing it is properly collected. I do not want the CIA snooping on American citizens. I want their information about terrorism collected subject to the restrictions that are on the CIA relative to American citizens in the Constitution. I want the FBI to collect properly.

But when you get information about a terrorist threat or activity that is in various places, somehow or other it has got to get to one place where dots can be connected, and that did not happen, and it has not happened. Where is that place? Is it going to be the new agency? You are both shaking your head no? It has not been the CIA's CTC. They have not successfully done that. And tell me where that one place is where we can hold accountable an agency head for that kind of analysis. So either one of you or both?

Senator RUDMAN. Well, I will lead off here. In the first place, I think your question has to be answered in two ways, first, over the next 2 or 3 years, and then thereafter. I would say, Senator Levin, that there is no way that this thing can get up and running that they are talking about, and if you were to start to put all of those various dots into that place and ask that place to connect them, I think you are putting yourself at great risk for the next 2 or 3 years. You have got a steep learning curve for those people. You may not be able to get the people. I was here when we worked on a counter-terrorism center. Frankly, if I was still on the Intelligence Committee, I would be spending a great deal of time finding out why it did not work better. And I assume you are.

Senator LEVIN. We are.

Senator RUDMAN. That is why it has to be for the immediate future, because they are taking the raw data, as you know, they prioritize it based on sources and methods, they decide on its reliability, they find out between themselves theoretically all the information through joint collection from both the agency and from the Bureau should be coming in there, as it pertains to terrorism. Of course we have to recognize—the public does not understand this—terrorism information is what, 5 or 10 percent of the information

that is collected. It comes in in a mass of information. It has to be separated. It ought to go there, and then it ought to go to this new organization that at the beginning will have a fledgling analytical unit to look at this.

What you do 2 or 3 years later, I do not know. You know, some would suggest to take the whole CTC and put it over in the new agency. I would not recommend that. It disconnects it from its collection again. So that would be my answer.

Senator HART. I think the only solution to that problem would be if the President were to appoint a kind of mini version of our Commission, half a dozen people, very bright people with experience to go away for 6 months and come back and with the mandate to pretend we have no intelligence services today: What should we have for the 21st Century? And come back with a blueprint for 21st Century intelligence analysis, collection, distribution, and dissemination.

The problem we are facing and you are facing is that we are trying to adapt on the run these Cold War institutions, namely CIA and pre-Cold War FBI, to this totally new world. I keep coming back to that same theme. But if you think linearly that the 21st Century is just a continuation of the 20th Century, you are making a very, very big mistake. It is not. With globalization, with the information revolution, with the changing nature and sovereignty of the Nation and State, the changing nature of conflict, we are in a totally new and different world, and we are using old institutions to try to adapt to this world.

Finally, I do not think there is ever going to be a central keyhole through which everything passes for a simple reason: Different intelligence is needed for different purposes. We need economic intelligence for diplomacy. We need law enforcement intelligence to catch criminals. We need homeland security intelligence to protect our homeland. The military needs intelligence to conduct operations in Afghanistan. So to force all of that different kind of analysis through a single funnel is probably going to make a big mistake.

Senator LEVIN. I think it was intelligence relative to terrorist activities which was the focus though, not the economic intelligence.

Senator HART. Well, then that is this agency.

Senator LEVIN. Well, what Governor Ridge said is that this agency is a place—and I think I am quoting him here exactly, I tried to—"Where all information about terrorist threats will be available for integration, where it will be aggregated and analyzed." I think those were his words this morning. That surely is not what you two have in mind.

Senator RUDMAN. My sense is, from listening to his testimony, from briefly looking at the legislation, which obviously needs to be fleshed out a bit—and that is what this is all about, what you are doing. It is one thing to say that all the raw data is going to be sent to the agency and analyzed, and something quite different to say that they will have access to that, but the basic work will be done where it ought to be done or within the traditional places where people know how to do it, at least for the next several years. Then decide if you want to change it, but you could not possibly take all the information, put it into this new analytical unit and

expect them to come up with anything. They will come up with porridge is what they will come up with.

Senator LEVIN. Do we not expect the CTC to do exactly that? Is it not exactly the function of the CTC right now?

Senator RUDMAN. If it does not work, what makes anybody think it will work better if you put it someplace else?

Senator LEVIN. I am not suggesting we put it——

Senator RUDMAN. I know you are not, and I agree with you. I think the Committee has to bear down on the CTC. That is what we set up years ago. If it is not working, then it is going to have to be made to work, because there is no magic in changing its name or its address.

Incidentally, Senator Levin, I think the answer to their question about why the President had the authority to withhold is probably there could be some things involving sources and methods that they did not want to transfer to that department because they want to launch a covert action, it could be all kinds of things. I think that is the genesis of that language.

Senator LEVIN. That would be the exception though.

Senator RUDMAN. That would be the exception, correct.

Senator LEVIN. Thank you.

Senator RUDMAN. I do not know that. I was not in on the legislation, but reading it, it makes sense to me.

Chairman LIEBERMAN. Thanks, Senator Levin. Senator Voinovich.

Senator VOINOVICH. I tried to get across to Governor Ridge this whole issue of allocation of resources. I have sat down and tried to figure out how much it would cost us to really secure the homeland, and I have concluded that the best investment of money would be in intelligence. If we can really get that down pat, then it would eliminate the need for a lot of the investment that we are making in security. I do not know whether my colleagues know this or not, but we are entertaining applications now from local fire departments to buy fire engines to "secure the homeland." We have to look more carefully at where we put our money.

Would you agree that foremost should intelligence, including the people and the technology, as the best investment that we can make in terms of securing our homeland?

Senator RUDMAN. Senator Voinovich, it is a great investment. I want to say something. I say it every place I testify and I will say it again here today. In baseball if you bat .500, you are in the hall of fame. In intelligence if you bat .750, you lose. And we are not going to prevent all of these horrible events from happening through intelligence. I wish I thought otherwise. I have just seen it for too long. After all, these terrorist organizations are not governments that you can focus on. We do not know who some of them are. We do not know where their cells are. We do not know what they are up to. And I read in the *Washington Post* this morning, the headline story, that the NSA picked up information that was translated the day after. What did that information say that would have given anybody any indication of what was going on? Nothing. It said something bad was going to happen. It did not say where, did not say how. So try not to put too much faith in intelligence,

I think it is a false god we worship if we really believe that will do everything.

Now, I do not disagree we ought to try, and we ought to put a lot of money into it, but it is not going to prevent it from happening. It never has in our history.

Senator VOINOVICH. Well, the next issue is how far do you go to secure the homeland in terms of the dollars that we are allocating? I talked with the Director of the Office of Management and Budget, about airport security. They didn't realize how much they got themselves into, and I think they would like to come back to Congress and revisit how expensive airport security is turning out to be. You just get buried in costs.

Senator RUDMAN. It is going to be very expensive. The question is, do you dare not spend it? And that is the question.

Senator Stevens raised a very interesting issue. He talked about the Coast Guard. I mean the Coast Guard probably needs recapitalization. We said so in this report. It cannot possibly do what it is supposed to do with the current budget it has, the current equipment it has. It is a first rate service. They do a great job. They cannot do it all without new equipment and more people. To be expected to take on a whole new function in addition to all the functions they have, you cannot expect them to do it within the framework of the people and the equipment they have. That is unrealistic. And that is a decision——

Senator VOINOVICH. How do we make people in the administration and Congress understand the importance of people? Since 1991, the Federal Pay Comparability Act has never been fully implemented because it is going to cost some money. Pay compression: Roughly 75 percent of our senior career executives receive the same compensation. These are things that we need to face up to.

Senator HART. Well a lot of people scratch their heads when we included in 21st Century National Security the issue of people. And we concluded, 14 of us including seven Democrats, seven Republicans, that it was that the declining caliber and quality of people in public service was a threat to our national security. It was not a good government issue. It was a threat to our national security. And when you begin to hear that after a quarter century of saying the government is the problem and so forth and so on, that is a sea change in thinking in this country. So at least that, I think, the age of the rather anti-government rhetoric may be somewhat over, not always over, but we have got to say to the young people what a President 40 years ago said to my generation. Public service is a noble profession. And that message has not been heard for a long time.

Senator VOINOVICH. Well, one of the good things that is happening, and the Chairman knows about this, is Sam Heyman has endowed the Partnership for Public Service, and it has signed up 350 universities to showcase the opportunities that exist in the Federal Government today. But my concern is that we have a personnel system that is unresponsive to these young people when they come to go to work for us. We say we want you. Then your application is sent to some office, and then they review it and let somebody interview you, and then they send it back to the office,

and 4 months later this really bright person that we want has a job? You cannot operate under those conditions.

The last thing I want to ask you regards organization. The President's proposal includes the Homeland Security Department with a secretary. It also provides that the Office of Homeland Security in the White House will be led by an advisor, and then they are going to have a Homeland Security Council, both established by Executive Order. Senator Lieberman's proposal would establish the National Office for Combatting Terrorism in the White House, which will be led by a presidentially appointed Senate confirmed director. The director would have budget authority to ensure coordination across agencies and functions that will remain outside the new department, including intelligence agencies and the military. Are you familiar with this recommendation?

Senator RUDMAN. Only recently, but we did recommend that there be remaining in the White House, in our report, there be a function. We did not go so far as to make it a statutory function as Senator Lieberman did in the original bill, but surely as the President needs a National Security Advisor, he believes he ought to have a Homeland Security Advisor, I would not disagree with that.

By the way, I do not know whether this legislation contains it. I think it is absolutely essential that this new Cabinet officer be a part of the National Security Council. I mean with all due respect to the Homeland Security Council, I think he would have a seat at the table of the NSC. Evidently that is not contained in there. I would want to know why.

Senator VOINOVICH. Well, if you have a director inside the White House to do the coordination, and you have a chief of staff, and then you have the Director of Office of Management and Management—you have a lot of people's hands involved, and I just wonder whether it is going to stand in the way of getting something done.

Senator RUDMAN. That could well be, and certainly that is not our proposal.

Chairman LIEBERMAN. Thank you, Senator Voinovich.

Before I go to Senator Dayton for the last questions, I want to make the Chairman's journalistic wisdom and stamina award for the day to Mort Kondracke, who is still here in the fifth hour of the hearing, a remarkable accomplishment. Senator Dayton.

Senator DAYTON. Mr. Chairman, I think you deserve to share that award. You have been here throughout as well.

This is a remarkable report. I am looking here at Phase III, dated March 15, 2001, and the beginnings of one of this Commission's most important conclusions, the attacks against American citizens on American soil, possibly causing heavy casualties are likely over the next quarter century. Most commissions that make that kind of prediction have to wait a quarter century to be proven wrong.

Senator RUDMAN. We wish we had.

Senator DAYTON. Your presence and foresight has been proven correct, unfortunately. I wish we had given you a more positive topic to explore, such as full employment or rising national incomes. However, as I read through this, it is predictive as well as descriptive. The capabilities are really extraordinary.

Senator HART. It was actually delivered to the President January 31, 2001, a month before that date. And, this was a consensus report. It was very extraordinary among such commissions, all 14 commissioners endorsed all 50 recommendations, no dissenting views. So accommodation had to be made. Some of us believed that the attacks would happen sooner rather than later, and I think Warren said so. I know I gave a speech to the, oddly enough, International Air Transportation Association in Montreal, and headlined in the Montreal paper the next day was, "Hart predicts terrorist attacks on America." That was September 6, 2001.

Senator DAYTON. Senator, you said in your remarks a couple questions before, that using old institutions to respond to this new world are going to be inadequate. Are we creating this approach, a new institution, or is it just a new assemblage of old institutions?

Senator HART. I think the logic of this—and the President followed it beautifully, whomever put this together—that it is the glue that brings this new agency together is the one simple fact, and that is, of all these 22 or more institutions, in the case of every one of them their job fundamentally changed September 11, 2001, whereas it used to be collecting Customs duties, now it is protecting the shore. Whereas it used to be keeping illegals out of our southern borders, now it is protecting our shore. And the list goes one. Whereas it used to be keeping salmonella out of the food supply, now it is keeping botulism out of the food supply. So the one thing that brings all of these entities together is their jobs have fundamentally changed, and what they used to do or something in the case of Customs Service for 200 years is now secondary to this primary issue of protecting 280 million people. So there is the logic I think.

Senator DAYTON. Senator Rudman.

Senator RUDMAN. I agree totally, and of course there is something else. There is a common thread here. The thing—when we looked at this whole issue of national security—is reported in a fairly respected journal yesterday as the Hart-Rudman Anti-Terrorism Commission. Of course it was not. It was a charge of national security. And the amazing thing was within 18 months we came to the conclusion that we had a terrible problem that no one was paying attention to, and that we had an asymmetric threat to a force that could not respond to it. When we looked at this of course, the thread was if you cannot protect the border, if you cannot keep most of the people and most of the things from coming in here that should not be coming in here, you all better forget about everything else. And that is where this proposal came from, and I agree with Gary totally.

Senator DAYTON. It is interesting to me, looking through this document, that you talk about the layered approach to protection and prevention being first. In fact, you said preventing a potential attack comes first. Most broadly, the first instrument of prevention is U.S. diplomacy. Meanwhile, verifiable arms control and nonproliferation efforts must remain a top priority. The second instrument of the homeland security consists of U.S. diplomatic intelligence and military presence overseas.

I just want to note for the record that while we are focused here properly on this new Department of Homeland Security, it would

seem that in your evaluation that we really have prior strategies that are going to be essential. I wonder how you would set it up now to address those levels of protection and prevention, and if you have any recommendations for us and should that be part of this purview at all?

Senator HART. I think the earlier question had to do with intelligence collection. We did have layers, prevention, protection, and response. Intelligence is key to prevention, but to put a finer point on it, the single most important thing we could do to protect this country today is to put whatever it takes in terms of financial and human resources in to reducing former Soviet stockpiles of weapons of mass destruction, including nuclear weapons and chemical and biological weapons. A year or so ago the administration was cutting back on the funding for those programs, Nunn-Lugar and others, that is folly. There are very few cases where money alone will solve the problem, but this is one where money will go a very long way, and just letting that old Soviet stockpile of all those weapons sit there is a prescription for folly.

Senator RUDMAN. I would add to part of your question that, you know, something that is not the purview of this Committee, but certainly the purview of the U.S. Senate, why are we targeted? Why do people hate us so much? What is it that we do that brings the wrath of Islamic fundamentalists against us? Those are important questions. The answers are not easy. A lot of time is devoted in this report and the implementation report that we wrote to go with it, and it is worth somebody looking at, and we hope somebody will.

Senator DAYTON. I could not agree with you more, Senator, and I think it is not a matter of either/or, it is both and all. You are right, however, this diplomatic front is one last area to explore. I talked earlier with Governor Ridge about the—even if we have the willingness of these different entities and the people to communicate, share information, the ability to do so, we have been informed of the antiquated nature of the computer and software systems at the FBI and CIA. This new agency is going to come in with something hopefully new, state of the art, but incompatible with the others. Did your Commission look at any of those issues. And particularly, Senator Rudman, you made a comment that the private sector is ill equipped to evaluate what the public sector needs to bring these organizations. I am not sure the public sector has ever accomplished a merger of this magnitude with any degree of success. How are we going to accomplish all of this?

Senator RUDMAN. I was referring to a comment by a fairly well known private head of a major corporation about they were going to merge these all together. He did not understand the proposal. That was my point.

No, I think that the private sector has a great deal to contribute, particularly in the information technology area, and if you do not rely on them, you are not going to get it done.

Senator DAYTON. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Senator Dayton, thanks for your substantial contribution to the hearing today.

Please allow me to ask you one more question, which is this. In your report and in our bill, we created three divisions of this new

department, roughly described as prevent, protect, and respond. The President has added a fourth division, which is this Chemical Biological Radiological Nuclear Countermeasures Division. And I wanted to ask your reaction to it. I will tell you the question I have, that part of it seems to be response, how do we respond to weapons of mass destruction? So it leads me to wonder why not put it under the response division that we have already created, essentially run by FEMA. The second part seems to be an R&D Science and Technology Development Division for Countermeasures, a very good idea. Actually we have a section on science and technology in our bill to incentivize, even give grants for development of not just in the area of response to weapons of mass destruction, but prevent and protect as well.

So how do you react to this fourth division that the President's bill would establish?

Senator RUDMAN. I am not sure, having looked at it, exactly what it is going to do. I think once you know that, you would have a better idea, so I do not really understand. I would have thought it would have fit under one of the provisions you are talking about, that science and technology would be quite separate. But I assume that somebody had a reason for doing that, and I just do not think you have heard that this morning.

I daresay you are going to be very busy trying to understand and your staff to understand all of the parameters of this legislation, because—and there is no reason to think that you can't improve it.

Chairman LIEBERMAN. Sure.

Senator RUDMAN. And you probably can, because they obviously have been under pressure to get the legislation up here, but I think that there are a lot of important issues that we have discussed here today, that really have to be looked at very closely. And my sense is, from listening to Governor Ridge this morning, that they are anxious to work with the Congress to get something that will work in a bipartisan way, and I hope you do that.

Chairman LIEBERMAN. Incidentally, that has been exactly my reaction to the President's attitude and Governor Ridge's attitude since the President made the declaration about 2 weeks ago supporting the creation of a department. I do not find them to be rigid on anything yet. I hope it stays that way.

Do you have anything to add to that, Senator Hart, about that?

Senator HART. No, Mr. Chairman.

Chairman LIEBERMAN. You have been great. You have been great in the reports you did. You have been wonderful to be patient. You have been specifically helpful to me and the Committee in the questions that you have responded to. With your permission, we want very much to keep in touch with you as we develop this over the next couple of months. In the meantime, this Committee, and I would say your Nation, is grateful to you.

The hearing is adjourned.

[Whereupon, at 1:53 p.m., the Committee was adjourned.]

APPENDIX

Written Statement of Governor Tom Ridge

June 20, 2002

"The Department of Homeland Security: Making Americans Safer"

Introduction

Chairman Lieberman, Senator Thompson, Committee Members, I very much appreciate the opportunity to testify today in support of the President's historic proposal to create a new Department of Homeland Security. I am here to convey personally the President's deep desire to work with Congress on making Americans safer through this government reorganization. I look forward to responding to your questions after providing a short statement on the proposed legislation and how it would make Americans safer.

Recently, the President signed an Executive Order appointing me as Director of the Transition Planning Office for the Department of Homeland Security. This new office will reside within the Office of Management and Budget. While I will still retain the title of Assistant to the President and Homeland Security Advisor, my testimony today will be given as the Director of this new entity.

The President's Proposal

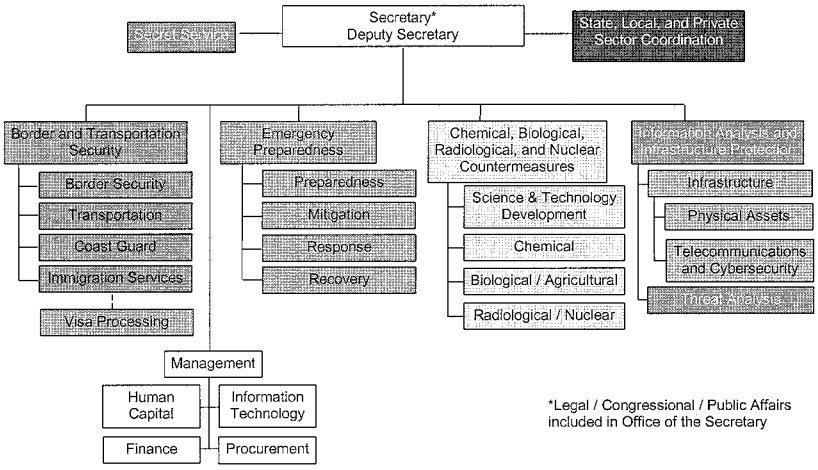
On June 6, 2002, President Bush addressed the nation and put forth his vision to create a permanent Cabinet-level Department of Homeland Security. Two days ago, on June 18, 2002, I delivered to the Congress the President's proposed legislation for establishing the new Department. This is an historic proposal. It would be the most significant transformation of the U.S. government in over a half-century. It would transform and largely realign the government's confusing patchwork of homeland security activities into a single department whose primary mission is to protect our homeland. The proposal to create a Department of Homeland Security is one more key step in the President's national strategy for homeland security.

It is crucial that we take this historic step. At the beginning of the Cold War, President Truman recognized the need to reorganize our national security institutions to meet the Soviet threat. We emerged victorious from that dangerous period thanks in part to President Truman's initiative. Today we are fighting a new war against a new enemy. President Bush recognizes that the threat we face from terrorism requires a reorganization of government similar in scale and urgency to the unification of the Defense Department and creation of the CIA and NSC.

Currently, no federal government department has homeland security as its primary mission. In fact, responsibilities for homeland security are dispersed among more than 100 different government organizations. Creating a unified homeland security structure will align the efforts of many of these organizations and ensure that this crucial mission – protecting our homeland – is the top priority and responsibility of one department and one Cabinet secretary.

Immediately after last fall's attack, the President took decisive steps to protect America – from hardening cockpits and stockpiling vaccines to tightening our borders. The President used his legal authority to establish the White House Office of Homeland Security and the Homeland Security Council to ensure that our federal response and protection efforts were coordinated and effective. The President also directed me, as Homeland Security Advisor, to study the federal government as a whole to determine if the current structure allows us to meet the threats of today while anticipating the unknown threats of tomorrow. After careful study of the current structure – coupled with the experience gained since September 11 and new information we have learned about our enemies while fighting a war – the President concluded that our nation needs a more unified homeland security structure.

The Department of Homeland Security
Proposed Organization



The Department of Homeland Security

The creation of the Department of Homeland Security would empower a single Cabinet official whose primary mission is to protect the American homeland from terrorism. The mission of the Department would be to:

- Prevent terrorist attacks within the United States;
- Reduce America's vulnerability to terrorism; and
- Minimize the damage and recover from attacks that do occur.

The Department of Homeland Security would mobilize and focus the resources of the federal government, state and local governments, the private sector, and the American people to accomplish its mission. It would have a clear, efficient organizational structure with four divisions.

- Information Analysis and Infrastructure Protection
- Chemical, Biological, Radiological, and Nuclear Countermeasures
- Border and Transportation Security
- Emergency Preparedness and Response

Information Analysis and Infrastructure Protection

The Information Analysis and Infrastructure Protection section of the Department of Homeland Security would complement the reforms on intelligence and information-sharing already underway at the FBI and the CIA. The Department would analyze information and intelligence for the purpose of understanding the terrorist threat to the American homeland and foreseeing potential terrorist threats against the homeland.

Furthermore, the Department would comprehensively assess the vulnerability of America's key assets and critical infrastructures, including food and water systems, agriculture, health systems and emergency services, information and telecommunications, banking and finance, energy (electrical, nuclear, gas and oil, dams), transportation (air, road, rail, ports, waterways), the chemical and defense industries, postal and shipping entities, and national monuments and icons. Critically, the Department would integrate its own and others' threat analyses with its comprehensive vulnerability assessment for the purpose of identifying protective priorities and supporting protective steps to be taken by the Department, other federal departments and agencies, state and local agencies, and the private sector. Working closely with state and local officials, other federal agencies, and the private sector, the Department would help ensure that proper steps are taken to protect high-risk potential targets.

In short, the Department would for the first time merge under one roof the capability to identify and assess threats to the homeland, map those threats against our vulnerabilities, issue timely warnings, and organize preventive or protective action to secure the homeland.

Chemical, Biological, Radiological and Nuclear Countermeasures

The war against terrorism is also a war against the most deadly weapons known to mankind – chemical, biological, radiological and nuclear weapons. If the terrorists acquire these weapons, they will use them with consequences that could be far more devastating than those we suffered on September 11th. Currently, our efforts to counter the threat of these weapons to the homeland are too few and too fragmented. We must launch a systematic national effort against these weapons that is equal to the threat they pose.

The President's proposed legislation would accomplish this goal. It would authorize the Department of Homeland Security to lead the federal government's efforts in preparing for and

responding to the full range of terrorist threats involving weapons of mass destruction. To do this, the Department would set national policy and establish guidelines for state and local governments. It would direct exercises and drills for federal, state, and local chemical, biological, radiological, and nuclear (CBRN) attack response teams and plans. The result of this effort would be to consolidate and synchronize the disparate efforts of multiple federal agencies currently scattered across several departments. This would create a single office whose primary mission is the critical task of protecting the United States from catastrophic terrorism.

The Department would serve as a focal point for America's premier centers of excellence in the field. It would manage national efforts to develop diagnostics, vaccines, antibodies, antidotes, and other countermeasures. It would consolidate and prioritize the disparate homeland security related research and development programs currently scattered throughout the Executive Branch. It would also assist state and local public safety agencies by evaluating equipment and setting standards.

Border and Transportation Security

Our number one priority is preventing future terrorist attacks. Because terrorism is a global threat, we must attain complete control over whom and what enters the United States in order to achieve this priority. We must prevent foreign terrorists from entering our country and bringing in instruments of terror. At the same time, we must expedite the legal flow of people and goods on which our economy depends.

Protecting our borders and controlling entry to the United States has always been the responsibility of the Federal government. Yet, this responsibility is currently dispersed among more than five major government organizations in five different departments. Therefore, under the President's proposed legislation, the Department of Homeland Security would for the first time unify authority over major federal security operations related to our borders, territorial waters, and transportation systems.

The Department would assume responsibility for operational assets of the United States Coast Guard, the United States Customs Service, the Immigration and Naturalization Service (including the Border Patrol), the Animal and Plant Health Inspection Service, and the Transportation Security Administration. The Secretary of Homeland Security would have the authority to administer and enforce all immigration and nationality laws, including, through the Secretary of State, the visa issuance functions of consular officers. As a result, the Department would have sole responsibility for managing entry into the United States and protecting our transportation infrastructure. It would ensure that all aspects of border control, including the issuing of visas, are informed by a central information-sharing clearinghouse and compatible databases.

Emergency Preparedness and Response

Although our top priority is preventing future attacks, we cannot assume that we will always succeed. Therefore, we must also prepare to minimize the damage and recover from attacks that do occur. The President's proposed legislation would require the Department of Homeland

Security to ensure the preparedness of our nation's emergency response professionals, provide the federal government's emergency response to terrorist attacks and natural disasters, and aid America's recovery.

To fulfill these missions, the Department would oversee federal government assistance in the domestic disaster preparedness training of first responders and would coordinate the government's disaster response efforts. The Federal Emergency Management Agency (FEMA) would become a central component of the Department of Homeland Security, and the new Department would administer the grant programs for firefighters, police, emergency personnel, and citizen volunteers currently managed by FEMA, the Department of Justice, and the Department of Health and Human Services. The Department would manage certain crucial elements of the federal government's emergency response assets, such as the Strategic National Stockpile. In the case of an actual or threatened terrorist attack, major disaster, or other emergency, the Secretary of Homeland Security would have the authority to call on other response assets, including Energy's and the EPA's Nuclear Incident Response teams, as organizational units of the Department. Finally, the Department would integrate the federal interagency emergency response plans into a single, comprehensive, government-wide plan, and ensure that all response personnel have the equipment and capability to communicate with each other as necessary.

State/Local Government & Private Sector Coordination

The Department of Homeland Security would consolidate and streamline relations on homeland security issues with the federal government for America's state and local governments, as well as the private sector. It would contain an intergovernmental affairs office to coordinate federal homeland security programs with state and local officials. It would give state and local officials one primary contact instead of many when it comes to matters related to training, equipment, planning, and other critical needs such as emergency response.

Secret Service

The Department of Homeland Security would incorporate the Secret Service, which would report directly to the Secretary. The Secret Service would remain intact and its primary mission will remain the protection of the President and other government leaders. The Secret Service would also continue to provide security for designated national events, as it did for the recent Olympics and the Super Bowl.

Non-Homeland Security Functions

The Department of Homeland Security would have a number of functions that are not directly related to securing the homeland against terrorism. For instance, through FEMA, it would be responsible for mitigating the effects of natural disasters. Through the Coast Guard, it would be responsible for search and rescue, navigation, and other maritime functions. Several other border functions, such as drug interdiction operations and naturalization, and would also be performed by the new Department.

White House Office of Homeland Security and Homeland Security Council

The President intends for the White House Office of Homeland Security and the Homeland Security Council to continue to play a key role, advising the President and coordinating a vastly simplified interagency process.

Making Americans Safer

The Department of Homeland Security would make Americans safer because our nation would have:

- One department whose primary mission is to protect the American homeland;
- One department to secure our borders, transportation sector, ports, and critical infrastructure;
- One department to integrate threat analyses and vulnerability assessments;
- One department to coordinate communications with state and local governments, private industry, and the American people about threats and preparedness;
- One department to coordinate our efforts to protect the American people against bioterrorism and other weapons of mass destruction;
- One department to help train and equip for first responders;
- One department to manage federal emergency response activities; and
- More security officers in the field working to stop terrorists and fewer resources in Washington managing duplicative and redundant activities that drain critical homeland security resources.

The New Department Would Improve Security Without Growing Government

The Department of Homeland Security must be an agile, fast-paced, and responsive organization that takes advantage of 21st-century technology and management techniques to meet a 21st-century threat.

The creation of a Department of Homeland Security would not "grow" government. The new Department would be funded within the total monies requested by the President in his FY 2003 budget already before Congress for the existing components. In fact, the President's FY 2003 budget will increase the resources for the component parts by $14 billion over the FY 2002 budget. We expect that the cost of the new elements (such as the threat analysis unit and the state, local, and private sector coordination functions), as well as department-wide management and administration units, can be funded from savings achieved by eliminating redundancies inherent in the current structure.

In order to respond to rapidly changing conditions, the Secretary would need to have great latitude in re-deploying resources, both human and financial. The Secretary should have broad reorganizational authority in order to enhance operational effectiveness, as needed. Moreover, the President will request for the Department significant flexibility in hiring processes, compensation systems and practices, and performance management to recruit, retain, and develop a motivated, high-performance and accountable workforce. Finally, the new Department should have flexible procurement policies to encourage innovation and rapid

development and operation of critical technologies vital to securing the homeland.

Working Together to Create the Department of Homeland Security

President Bush recognizes that only the Congress can create a new department of government. During his June 6th address to the nation, the President asked Congress to join him in establishing a single, permanent department with an overriding and urgent mission: securing the homeland of America, and protecting the American people. I am here to ask, as the President did, that we move quickly. The need is urgent. Therefore, the President has asked Congress to pass his proposal this year, before the end of the congressional session.

Preliminary planning for the new Department has already begun. The formal transition would begin once Congress acts on the President's proposed legislation and the President signs it into law. Under the President's plan, the new Department would be established by January 1, 2003, with integration of some components occurring over a longer period of time. To avoid gaps in leadership coverage, the President's proposal contemplates that appointees who have already been confirmed by the Senate would be able to transfer to new positions without a second confirmation process.

During this transition period, the Office of Homeland Security will maintain vigilance and continue to coordinate the other federal agencies involved in homeland security. Until the Department of Homeland Security becomes fully operational, the proposed Department's designated components will continue to operate under existing chains of command.

A BILL

To establish a Department of Homeland Security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this Act:

(1) 'American homeland' or 'homeland' means the United States, in a geographic sense;

(2) 'Assets' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel);

(3) 'Department' means the Department of Homeland Security;

(4) 'Emergency response providers' includes Federal, State, and local government emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities;

(5) 'Executive agency' means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code;

(6) 'Functions' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations;

(7) 'Local government' has the meaning given in section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288;

(8) 'Major disaster' has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288;

(9) 'Personnel' means officers and employees;

(10) 'Secretary' means the Secretary of Homeland Security; and

(11) 'United States', when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act, Pub. L. No. 93-288), any possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect thirty days after the date of enactment or, if enacted within thirty days before January 1, 2003, on January 1, 2003.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b)(1) The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism; and

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.

(2) In carrying out the mission described in paragraph (1), and as further

described in this Act, the Department's primary responsibilities shall include—

(A) information analysis and infrastructure protection;

(B) chemical, biological, radiological, nuclear, and related countermeasures;

(C) border and transportation security;

(D) emergency preparedness and response; and

(E) coordination (including the provision of training and equipment) with other executive agencies, with State and local government personnel, agencies, and authorities, with the private sector, and with other entities.

(3) The Department shall also be responsible for carrying out other functions of entities transferred to the Department as provided by law.

SEC. 102. SECRETARY; FUNCTIONS.

(a)(1) There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) The Secretary—

(1) may delegate any of his functions to any officer, employee, or organizational unit of the Department;

(2) may promulgate regulations hereunder; and

(3) shall have such functions, including the authority to make contracts, grants,

and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out his responsibilities under this Act or otherwise provided by law.

SEC. 103. OTHER OFFICERS.

(a) To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) a Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of chapter 33, subchapter 3, of title 5, United States Code;

(2) an Under Secretary for Information Analysis and Infrastructure Protection;

(3) an Under Secretary for Chemical, Biological, Radiological, and Nuclear Countermeasures;

(4) an Under Secretary for Border and Transportation Security;

(5) an Under Secretary for Emergency Preparedness and Response;

(6) an Under Secretary for Management; and

(7) not more than six Assistant Secretaries.

(b) To assist the Secretary in the performance of his functions, there is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) To assist the Secretary in the performance of his functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code.

(d) To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President:

(1) a General Counsel, who shall be the chief legal officer of the Department;

(2) not more than ten Assistant Secretaries;

(3) a Director of the Secret Service;

(4) a Chief Financial Officer; and

(5) a Chief Information Officer.

(e) Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for his office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

SEC. 201. UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(A), the primary responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall include—

(1) receiving and analyzing law enforcement information, intelligence, and other information in order to understand the nature and scope of the terrorist threat to the American homeland and to detect and identify potential threats of terrorism within the United States;

(2) comprehensively assessing the vulnerabilities of the key resources and critical infrastructures in the United States;

(3) integrating relevant information, intelligence analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) to identify protective priorities and support

protective measures by the Department, by other executive agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities;

(4) developing a comprehensive national plan for securing the key resources and critical infrastructures in the United States;

(5) taking or seeking to effect necessary measures to protect the key resources and critical infrastructures in the United States, in coordination with other executive agencies and in cooperation with State and local government personnel, agencies, and authorities, the private sector, and other entities;

(6) administering the Homeland Security Advisory System, exercising primary responsibility for public threat advisories, and (in coordination with other executive agencies) providing specific warning information to State and local government personnel, agencies, and authorities, the private sector, other entities, and the public, as well as advice about appropriate protective actions and countermeasures; and

(7) reviewing, analyzing, and making recommendations for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to homeland security within the Federal government and between such government and State and local government personnel, agencies, and authorities.

SEC. 202. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities---

(1) the National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including

the functions of the Attorney General relating thereto;

(2) the National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto;

(3) the Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto;

(4) the Computer Security Division of the National Institute of Standards and Technology, including the functions of the Secretary of Commerce relating thereto;

(5) the National Infrastructure Simulation and Analysis Center of the Department of Energy, including the functions of the Secretary of Energy relating thereto; and

(6) the Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

SEC. 203. ACCESS TO INFORMATION.

The Secretary shall have access to all reports, assessments, and analytical information relating to threats of terrorism in the United States and to other areas of responsibility described in section 101(b), and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any executive agency, except as otherwise directed by the President. The Secretary shall also have access to other information relating to the foregoing matters that may be collected, possessed, or prepared by an executive agency, as the President may further provide. With respect to the material to which the Secretary has access under this section—

(1) the Secretary may obtain such material by request, and may enter into

cooperative arrangements with other executive agencies to share such material on a regular or routine basis, including requests or arrangements involving broad categories of material;

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all executive agencies promptly shall provide to the Secretary—

(A) all reports, assessments, and analytical information relating to threats of terrorism in the United States and to other areas of responsibility described in section 101(b);

(B) all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed;

(C) all information relating to significant and credible threats of terrorism in the United States, whether or not such information has been analyzed, if the President has provided that the Secretary shall have access to such information; and

(D) such other material as the President may further provide; and

(3) the Secretary shall ensure that any material received pursuant to this section is protected from unauthorized disclosure and handled and used only for the performance of official duties, and that any intelligence information shared under this section shall be transmitted, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act and related procedures or, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

SEC. 204. INFORMATION VOLUNTARILY PROVIDED.

Information provided voluntarily by non-Federal entities or individuals that relates to infrastructure vulnerabilities or other vulnerabilities to terrorism and is or has been in the possession of the Department shall not be subject to section 552 of title 5, United States Code.

TITLE III—CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR COUNTERMEASURES

SEC. 301. UNDER SECRETARY FOR CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR COUNTERMEASURES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(B), the primary responsibilities of the Under Secretary for Chemical, Biological, Radiological, and Nuclear Countermeasures shall include—

(1) securing the people, infrastructures, property, resources, and systems in the United States from acts of terrorism involving chemical, biological, radiological, or nuclear weapons or other emerging threats;

(2) conducting a national scientific research and development program to support the mission of the Department, including developing national policy for and coordinating the Federal government's civilian efforts to identify, devise, and implement scientific, technological, and other countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including directing, funding, and conducting research and development relating to the same;

(3) establishing priorities for, directing, funding, and conducting national research, development, and procurement of technology and systems—

(A) for preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) for detecting, preventing, protecting against, and responding to terrorist attacks that involve such weapons or material; and

(4) establishing guidelines for State and local government efforts to develop and implement countermeasures to threats of chemical, biological, radiological, and nuclear terrorism, and other emerging terrorist threats.

SEC. 302. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities—

(1) the select agent registration enforcement programs and activities of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto;

(2) the following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) the chemical and biological national security and supporting programs and activities of the non-proliferation and verification research and development program;

(B) the nuclear smuggling programs and activities, and other programs and activities directly related to homeland security, within the proliferation detection program of the non-proliferation and verification research and development program: *provided*, That the programs and activities described in

this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy;

(C) the nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program;

(D) the energy security and assurance program and activities;

(E) such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department;

(F) the Environmental Measurements Laboratory; and

(G) the advanced scientific computing research program and activities, and the intelligence program and activities, at Lawrence Livermore National Laboratory;

(3) the National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto; and

(4) the Plum Island Animal Disease Center of the Department of Agriculture, including the functions of the Secretary of Agriculture relating thereto.

SEC. 303. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a)(1) Except as the President may otherwise direct, the Secretary shall carry out his civilian human health-related biological, biomedical, and infectious disease defense research and development (including vaccine research and development) responsibilities through the Department of Health and Human Services (including the Public Health Service), under agreements with the Secretary of Health and Human Services, and may transfer funds to him in

connection with such agreements.

(2) With respect to any responsibilities carried out through the Department of Health and Human Services under this subsection, the Secretary, in consultation with the Secretary of Health and Human Services, shall have the authority to establish the research and development program, including the setting of priorities.

(b) With respect to such other research and development responsibilities under this title, including health-related chemical, radiological, and nuclear defense research and development responsibilities, as he may elect to carry out through the Department of Health and Human Services (including the Public Health Service) (under agreements with the Secretary of Health and Human Services) or through other Federal agencies (under agreements with their respective heads), the Secretary may transfer funds to the Secretary of Health and Human Services, or to such heads, as the case may be.

SEC. 304. MILITARY ACTIVITIES.

Except as specifically provided in this Act, nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other traditional military activities.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(C), the primary responsibilities of the Under Secretary for Border and Transportation Security shall include—

(1) preventing the entry of terrorists and the instruments of terrorism into the United States;

(2) securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating governmental activities at ports of entry;

(3) administering the immigration and naturalization laws of the United States, including the establishment of rules, in accordance with section 403, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not citizens or lawful permanent residents thereof;

(4) administering the customs laws of the United States; and

(5) in carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 402. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Immigration and Naturalization Service of the Department of Justice, including the functions of the Attorney General relating thereto;

(3) the Animal and Plant Health Inspection Service of the Department of Agriculture, including the functions of the Secretary of Agriculture relating thereto;

(4) the Coast Guard of the Department of Transportation, which shall be maintained as a distinct entity within the Department, including the functions of the

Secretary of Transportation relating thereto;

(5) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto; and

(6) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

SEC. 403. VISA ISSUANCE.

(a) Notwithstanding the provisions of section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) or any other law, and except as provided in subsection (b) of this section, the Secretary shall have—

(1) exclusive authority, through the Secretary of State, to issue regulations with respect to, administer, and enforce the provisions of that Act and all other immigration and nationality laws relating to the functions of diplomatic and consular officers of the United States in connection with the granting or refusal of visas; and

(2) authority to confer or impose upon any officer or employee of the United States, with the consent of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(b) The Secretary of State may refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the interests of the United States.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(D), the primary responsibilities of the Under Secretary for Emergency Preparedness and Response shall include—

(1) helping to ensure the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as

an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 502. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities—

(1) the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto;

(2) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto;

(3) the National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto;

(4) the Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto;

(5) the Office of the Assistant Secretary for Public Health Emergency Preparedness (including the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System) of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto; and

(6) the Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 503. NUCLEAR INCIDENT RESPONSE.

(a) At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) Nothing in this title shall be understood to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 504. DEFINITION.

For purposes of this title, 'Nuclear Incident Response Team' means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear and/or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as Oak Ridge National Laboratory, radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) Except as the President may otherwise direct, the Secretary shall carry out the following responsibilities through the Department of Health and Human Services (including the Public Health Service), under agreements with the Secretary of Health and Human Services, and may transfer funds to him in connection with such agreements:

(1) all biological, chemical, radiological, and nuclear preparedness-related construction, renovation, and enhancement of security for research and development or other facilities owned or occupied by the Department of Health and Human Services; and

(2) all public health-related activities being carried out by the Department of Health and Human Services on the effective date of this Act (other than activities under functions transferred by this Act to the Department) to assist State and local government personnel, agencies, or authorities, non-Federal public and private health care facilities and providers, and public and non-profit health and educational facilities, to plan, prepare for, prevent, identify, and respond to biological, chemical, radiological, and nuclear events and public health emergencies, by means including direct services, technical

assistance, communications and surveillance, education and training activities, and grants.

(b) With respect to any responsibilities carried out through the Department of Health and Human Services under this section, the Secretary, in consultation with the Secretary of Health and Human Services, shall have the authority to establish the preparedness and response program, including the setting of priorities.

TITLE VI—MANAGEMENT

SEC. 601. UNDER SECRETARY FOR MANAGEMENT.

In assisting the Secretary with the management and administration of the Department, the primary responsibilities of the Under Secretary for Management shall include, for the Department—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 602. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the

Department, as the Secretary may direct.

SEC. 603. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 701. RESPONSIBILITIES.

In discharging his responsibilities relating to coordination (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, the responsibilities of the Secretary shall include—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public;

(3) directing and supervising grant programs of the Federal government for State

and local government emergency response providers; and

(4) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

Subtitle B—Inspector General

SEC. 710. AUTHORITY OF THE SECRETARY.

(a) Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or

from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) The Secretary shall notify the President of the Senate and the Speaker of the House of Representatives within thirty days of any exercise of his authority under this section.

Subtitle C—United States Secret Service

SEC. 720. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—General Provisions

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

Title 5, United States Code, is amended by inserting—

(1) after part III a new part as follows:

"PART IV—DEPARTMENT OF HOMELAND SECURITY

CHAPTER 100

"Sec.
"10001. Human Resources Management System.

"§ 10001. Human Resources Management System

"Notwithstanding any other provision of this title, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security, which shall be flexible, contemporary, and grounded in the public employment principles of merit and fitness."; and

(2) the following after the matter relating to part III in the analysis:

"PART IV—DEPARTMENT OF HOMELAND SECURITY

"Chapter	Section"
" 1. Human Resources Management System	10001".

SEC. 731. ADVISORY COMMITTEES.

The Secretary may establish, appoint members of, and use the services of, advisory committees, as he may deem necessary. The service of an individual as a member of an advisory committee established under this paragraph shall not be considered to be service bringing him within the provisions of sections 203, 205, or 207 of title 18, United States Code, unless his act, which by any such section is made unlawful when performed by an individual referred to therein, is with respect to any particular matter that directly involves the Department or in which the Department is directly interested. An advisory committee established under this section shall not be subject to Pub. L. No. 92-463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership.

SEC. 732. ACQUISITIONS; PROPERTY.

(a)(1) When the Secretary carries out basic, applied, and advanced research and development projects, he may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such

project is not feasible or appropriate. The annual report required under subsection (h) of such section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. No. 103-160). In applying the authorities of such section 845, subsection (c) thereof shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) Notwithstanding the time and pay limitations of section 3109 of title 5, United States Code, the Secretary may procure personal services, including the services of experts and consultants (or organizations thereof).

(c) Section 602 of the Act of June 30, 1949 (40 U.S.C. 474) is amended by replacing "; or (21)" with "; (21) the Department of Homeland Security; or (22)".

(d) Notwithstanding any other provision of law, the Secretary, in accordance with regulations prescribed jointly with the Administrator of General Services and the Director of the Office of Management and Budget—

(1) may acquire replacement real property (including interests therein)—

(A) by transfer or exchange of the Department's property with other executive agencies; or

(B) by sale to or exchange of the Department's property with non-Federal parties;

(2) by lease, permit, license, or other similar instrument, may make available to other executive agencies and to non-Federal parties, on a fair market rental value basis, the unexpired portion of any government lease for real property occupied or possessed by

the Department;

(3) may make available by outlease agreements with other executive agencies or with non-Federal parties, any unused or underused portion of or interest in any real or related personal property occupied or possessed by the Department; and

(4) may deposit the proceeds of any exercise of the authority granted by this subsection into any account in the Treasury available to him, without regard to fiscal year limitations.

(e) Upon the written request of the Secretary, the Administrator of General Services shall delegate to him all responsibilities and authorities provided by law to the Administrator for the care and handling of the Department's surplus real and related personal property, pending its disposition, and for the disposal of such property.

(f) Notwithstanding any other provision of law, the Secretary may retain, from the proceeds of the sale of personal property, amounts necessary to recover, to the extent practicable, the full costs (direct and indirect) incurred by the Secretary in disposing of such property, including but not limited to the costs of warehousing, storage, environmental services, advertising, appraisal, and transportation. Such amounts shall be deposited into an account available for such expenses without regard to fiscal year limitations.

SEC. 733. REORGANIZATION; TRANSFER.

(a) The Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational units within the Department, as he may deem necessary or appropriate, but such authority does not extend to—

(1) any entity transferred to the Department and established by statute, or any function vested by statute in such an entity or officer of such an entity, unless not less than ninety days' notice has been given to the President of the Senate and Speaker of the House of Representatives; or

(2) the abolition of any entity established or required to be maintained as a distinct entity by this Act.

(b) Except as otherwise specifically provided by law, not to exceed five percent of any appropriation available to the Secretary in any fiscal year may be transferred between such appropriations: *provided*, That not less than fifteen days' notice shall be given to the Committees on Appropriations of the Senate and House of Representatives before any such transfer is made.

SEC. 734. MISCELLANEOUS PROVISIONS.

(a) The Department shall have a seal, whose design is subject to the approval of the President.

(b) With respect to the Department, the Secretary shall have the same authorities that the Attorney General has with respect to the Department of Justice under section 524(d) of title 28, United States Code.

(c) With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(d) Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 735. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VIII—TRANSITION

SEC. 801. DEFINITIONS.

For purposes of this title—

(1) 'Agency' includes any entity, organizational unit, or function; and

(2) 'Transition period' means the twelve-month period beginning on the effective

date of this Act.

SEC. 802. TRANSFER OF AGENCIES.

The transfer of an agency to the Department shall occur when the President so directs, but in no event later than the end of the transition period. When an agency is transferred, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the agency.

SEC. 803. TRANSITIONAL AUTHORITIES.

(a) Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as he may request in preparing for the transfer and integration of the agency into the Department.

(b) During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable or nonreimbursable basis, provide services and/or detail personnel to assist with the transition.

(c) Until the transfer of an agency to the Department, the President is authorized to transfer to the Secretary not to exceed five percent of the unobligated balance of any appropriation available to such agency, to fund the purposes authorized in this Act: *provided*, That not less than fifteen days' notice shall be given to the Committees on Appropriations of the Senate and House of Representatives before any such funds transfer is made.

(d)(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act; while so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(e) Upon the transfer of an agency to the Department—

(1) the personnel, assets, and liabilities held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and notwithstanding the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

SEC. 804. SAVINGS PROVISIONS.

(a)(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term "completed administrative action" includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking,

and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e)(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions,

established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

SEC. 805. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 806. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as he may deem necessary to accomplish the purposes of this Act.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 901. INSPECTOR GENERAL ACT.

Section 11 of the Inspector General Act of 1978 (Pub. L. No. 95-452) is amended by—

(1) inserting "Homeland Security," after "Transportation," each place it appears;

(2) replacing "; and" each place it appears with ";";

(3) replacing ",," with ","; and

(4) replacing ";;" with ";".

SEC. 902. EXECUTIVE SCHEDULE.

Title 5, United States Code, is amended—

(1) in section 5312, by inserting "Secretary of Homeland Security." as a new item

after "Affairs.";

(2) in section 5313, by inserting "Deputy Secretary of Homeland Security." as a new item after "Affairs.";

(3) in section 5314, by inserting "Under Secretaries, Department of Homeland Security." as a new item after "Affairs." the third place it appears;

(4) in section 5315, by inserting "Assistant Secretaries, Department of Homeland Security.", "General Counsel, Department of Homeland Security.", "Chief Financial Officer, Department of Homeland Security.", "Chief Information Officer, Department of Homeland Security.", and "Inspector General, Department of Homeland Security." as new items after "Affairs." the first place it appears.

SEC. 903. UNITED STATES SECRET SERVICE.

(a) The United States Code is amended in sections 202 and 208 of title 3, and in section 3056 of title 18, by replacing "of the Treasury", each place it appears, with "of Homeland Security".

(b) The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 904. COAST GUARD.

(a) Title 14 of the United States Code is amended—

(1) in sections 1, 3, 53, 95, 145, 516, 666, 669, 673 (as added by Pub. L. No. 104-201), 673 (as added by Pub. L. No. 104-324), 674, 687, and 688, by replacing "of Transportation", each place it appears, with "of Homeland Security"; and

(2) after executing the other amendments required by this subsection, by redesignating the section 673 added by Pub. L. No. 104-324 as section 673a.

(b) Section 801(1) of title 10, United States Code, is amended by replacing "the General Counsel of the Department of Transportation" with "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

(c) The amendments made by this section shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended—

(1) in section 121(a)(1)—

(A) by replacing "Secretary of Health and Human Services" with "Secretary of Homeland Security";

(B) by inserting "the Secretary of Health and Human Services and" between "in coordination with" and "the Secretary of Veterans Affairs"; and

(C) by inserting "of Health and Human Services" after "as are determined by the Secretary"; and

(2) in subsections 121(a)(2) and (b), by inserting "of Health and Human Services" after "Secretary" each place it appears.

(b) The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 906. SELECT AGENT REGISTRATION.

(a) The Public Health Service Act is amended—

(1) in section 351A(a)(1)(A), by inserting "(as defined in subsection (*l*)(9))" after "Secretary";

(2) in section 351A(h)(2)(A), by inserting "Department of Homeland Security, the" before "Department of Health and Human Services";

(3) in section 351A(*l*), by inserting after paragraph (8) a new paragraph as follows:

"(9) The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services."; and

(4) in section 352A(i)—

(i) by striking "(1)" the first place it appears; and

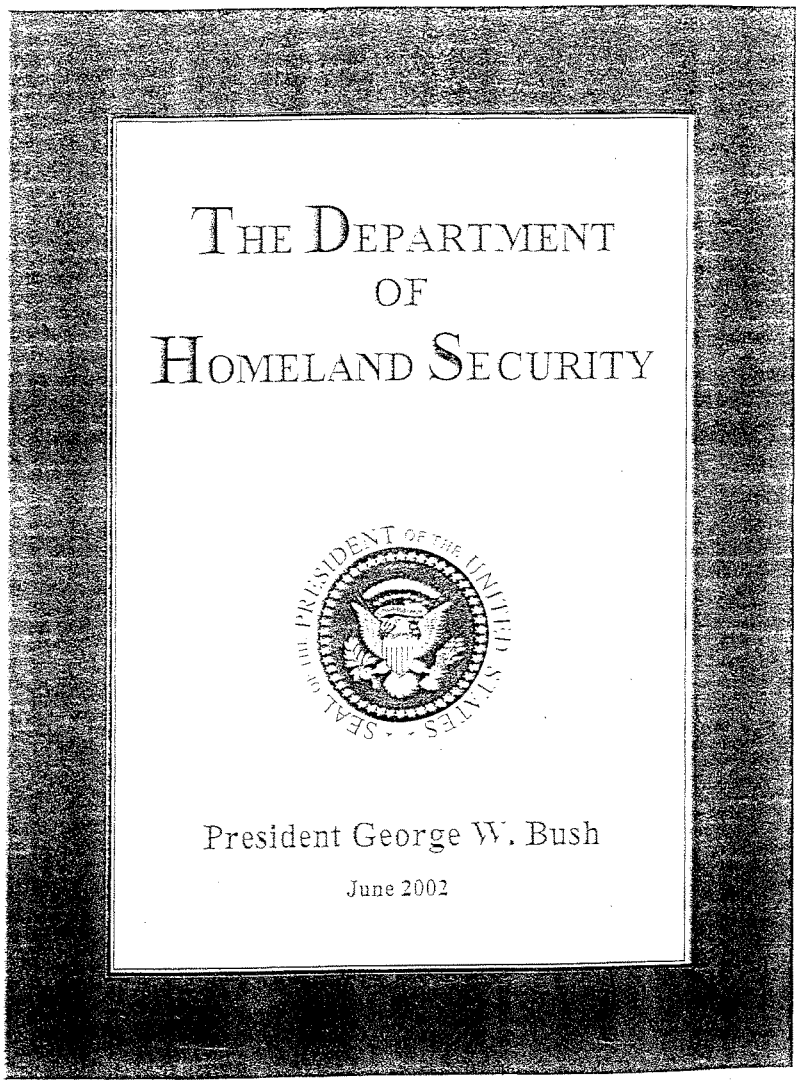
(ii) by striking paragraph (2).

(b) Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by replacing "Secretary of Health and Human Services" with "Secretary of Homeland Security".

(c) The amendments made by this section shall take effect on the date of transfer of the select agent registration enforcement programs and activities of the Department of Health and Human Services to the Department.

SEC. 907. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.


THE DEPARTMENT
OF
HOMELAND SECURITY
President George W. Bush
June 2002

THE DEPARTMENT OF HOMELAND SECURITY

The President's most important job is to protect and defend the American people. Since September 11, all levels of government have cooperated like never before to strengthen aviation and border security, stockpile more medicines to defend against bioterrorism, improve information sharing among our intelligence agencies, and deploy more resources and personnel to protect our critical infrastructure.

The changing nature of the threats facing America requires a new government structure to protect against invisible enemies that can strike with a wide variety of weapons. Today no one single government agency has homeland security as its primary mission. In fact, responsibilities for homeland security are dispersed among more than 100 different government organizations. America needs a single, unified homeland security structure that will improve protection against today's threats and be flexible enough to help meet the unknown threats of the future.

The President proposes to create a new Department of Homeland Security, the most significant transformation of the U.S. government in over a half-century by largely transforming and realigning the current confusing patchwork of government activities into a single department whose primary mission is to protect our homeland. The creation of a Department of Homeland Security is one more key step in the President's national strategy for homeland security.

Immediately after last fall's attack, the President took decisive steps to protect America – from hardening cockpits and stockpiling vaccines to tightening our borders. The President used his maximum legal authority to establish the White House Office of Homeland Security and the Homeland Security Council to ensure that our federal response and protection efforts were coordinated and effective. The President also directed Homeland Security Advisor Tom Ridge to study the federal government as a whole to determine if the current structure allows us to meet the threats of today while anticipating the unknown threats of tomorrow. After careful study of the current structure – coupled with the experience gained since September 11 and new information we have learned about our enemies while fighting a war – the President concluded that our nation needs a more unified homeland security structure. In designing the new Department, the Administration considered a number of homeland security organizational proposals that have emerged from outside studies, commissions, and Members of Congress.

The Department of Homeland Security would make Americans safer because our nation would have:

- **One department whose primary mission is to protect the American homeland;**
- **One department to secure our borders, transportation sector, ports, and critical infrastructure;**
- **One department to synthesize and analyze homeland security intelligence from multiple sources;**
- **One department to coordinate communications with state and local governments, private industry, and the American people about threats and preparedness;**
- **One department to coordinate our efforts to protect the American people against bioterrorism and other weapons of mass destruction;**
- **One department to help train and equip for first responders;**
- **One department to manage federal emergency response activities; and**
- **More security officers in the field working to stop terrorists and fewer resources in Washington managing duplicative and redundant activities that drain critical homeland security resources.**

THE ORGANIZATION OF THE DEPARTMENT OF HOMELAND SECURITY

The Department of Homeland Security would have a clear and efficient organizational structure with four divisions:

- **Border and Transportation Security**
- **Emergency Preparedness and Response**
- **Chemical, Biological, Radiological and Nuclear Countermeasures**
- **Information Analysis and Infrastructure Protection**

BORDER AND TRANSPORTATION SECURITY

The Department would unify authority over major federal security operations related to our borders, territorial waters, and transportation systems. It would assume responsibility for operational assets of the Coast Guard, Customs Service, Immigration and Naturalization Service and Border Patrol, the Animal and Plant Health Inspection Service of the Department of Agriculture, and the recently created Transportation Security Administration – allowing a single government entity to manage entry into the United States. It would ensure that all aspects of border control, including the issuing of visas, are informed by a central information-sharing clearinghouse and compatible databases.

EMERGENCY PREPAREDNESS AND RESPONSE

The Department would oversee federal government assistance in the domestic disaster preparedness training of first responders and would coordinate the government's disaster response efforts. FEMA would become a central component of the Department of Homeland Security, and the new Department would administer the grant programs for firefighters, police, and emergency personnel currently managed by FEMA, the Department of Justice, and the Department of Health and Human Services. The Department would also manage such critical response assets as the Nuclear Emergency Search Team (Department of Energy) and the National Pharmaceutical Stockpile (Health and Human Services). Finally, the Department would integrate the federal interagency emergency response plans into a single, comprehensive, government-wide plan, and ensure that all response personnel have the equipment and capability to communicate with each other as necessary.

CHEMICAL, BIOLOGICAL, RADIOLOGICAL AND NUCLEAR COUNTERMEASURES

The Department of Homeland Security would lead the federal government's efforts in preparing for and responding to the full range of terrorist threats involving weapons of mass destruction. To do this, the Department would set national policy and establish guidelines for state and local governments. It would direct exercises and drills for federal, state, and local chemical, biological, radiological, and nuclear (CBRN) attack response teams and plans. The result of this effort would be to consolidate and synchronize the disparate efforts of multiple federal agencies currently scattered across several departments. This would create a single office whose primary mission is the critical task of protecting the United States from catastrophic terrorism.

Chemical, Biological, Radiological and Nuclear Terrorism. The Department would be the lead agency preparing for and responding to chemical, biological, radiological, and nuclear terrorism, including agro-terrorism. The Department would unify three of America's premier centers of excellence in this field, including the Lawrence Livermore National Laboratory (Department of Energy). The Department would

also manage national efforts to develop diagnostics, vaccines, antibodies, antidotes, and other countermeasures.

Science and Technology. In the war against terrorism, America's vast science and technology base provides us with a key advantage. The Department would press this advantage with a national research and development enterprise for homeland security comparable in emphasis and scope to that which has supported the national security community for more than fifty years. The new Department would consolidate and prioritize the disparate homeland security related research and development programs currently scattered throughout the Executive Branch. It would also assist state and local public safety agencies by evaluating equipment and setting standards.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Intelligence and Threat Analysis. The Department would fuse and analyze intelligence and other information pertaining to threats to the homeland from multiple sources – including the CIA, NSA, FBI, INS, DEA, DOE, Customs, DOT and data gleaned from other organizations. The Department would merge under one roof the capability to identify and assess current and future threats to the homeland, map those threats against our current vulnerabilities, issue timely warnings, and immediately take or effect appropriate preventive and protective action. An important partner with the Department's intelligence and threat analysis division will be the newly formed FBI Office of Intelligence. The new FBI and CIA reforms will provide critical analysis and information to the new Department.

Protecting America's Critical Infrastructure. The Department would be responsible for comprehensively evaluating the vulnerabilities of America's critical infrastructure, including food and water systems, agriculture, health systems and emergency services, information and telecommunications, banking and finance, energy (electrical, nuclear, gas and oil, dams), transportation (air, road, rail, ports, waterways), the chemical and defense industries, postal and shipping entities, and national monuments and icons. Working closely with state and local officials, other federal agencies, and the private sector, the Department would help ensure that proper steps are taken to protect high-risk targets.

OTHER KEY COMPONENTS

State/Local Government & Private Sector Coordination. The Department would consolidate and streamline relations with the federal government for America's state and local governments. The new Department would contain an intergovernmental affairs office to coordinate federal homeland security programs with state and local officials. This new Department would give state and local officials one primary contact instead of many when it comes to matters related to training, equipment, planning, and other critical needs such as emergency response.

Secret Service. The Department would incorporate the Secret Service, which would report directly to the Secretary. The Secret Service would remain intact and its primary mission will remain the protection of the President and other government leaders. The Secret Service would also continue to provide security for designated national events, as it did for the recent Olympics and the Super Bowl.

The White House Office of Homeland Security and the Homeland Security Council. The White House Office of Homeland Security and the Homeland Security Council will continue to play a key role, advising the President and coordinating a vastly simplified interagency process.

Non-Homeland Security Functions. The new Department would have a number of functions that are not directly related to securing the homeland against terrorism. For instance, through FEMA, it would be responsible for mitigating the effects of natural disasters. Through the Coast Guard, it would be responsible for search and rescue and other maritime functions. Several other border functions, such as drug interdiction operations and naturalization, and would also be performed by the new Department.

INTERIM STEPS

The President – using the maximum legal authority available to him – created the Office of Homeland Security and the Homeland Security Council in the weeks following the attack on America as an immediate step to secure the homeland. Since then, the government has strengthened aviation and border security, stockpiled more medicines to defend against bio-terrorism, improved information sharing among our intelligence agencies, and deployed more resources and personnel to protect our critical infrastructure.

The White House Office of Homeland Security will continue to coordinate the federal government's homeland security efforts and to advise the President on a comprehensive Homeland Security strategy. The current components of our homeland security structure will continue to function as normal and there will be no gaps in protection as planning for the new Department moves forward.

Preliminary planning for the new Department has already begun. The formal transition would begin once Congress acts on the President's proposal and the President signs it into law. The President calls on Congress to establish the new Department by the close of their current session – with full integration of the constituent parts occurring over a phased-in period.

SPECIFIC EXAMPLES OF HOW THE NEW DEPARTMENT WILL MAKE AMERICA SAFER

EXAMPLE: REMOVING BARRIERS TO EFFICIENT BORDER SECURITY

Currently, when a ship enters a U.S. port, Customs, INS, the Coast Guard, the U.S. Department of Agriculture, and others have overlapping jurisdictions over pieces of the arriving ship. Customs has jurisdiction over the goods aboard the ship. INS has jurisdiction over the people on the ship. The Coast Guard has jurisdiction over the ship while it is at sea. Even the Department of Agriculture has jurisdiction over certain cargoes. Although the Coast Guard does have the authority to act as an agent for these other organizations and assert jurisdiction over the entire vessel, in practice the system has not worked as well as it could to prevent the illegal entry of potential terrorists and instruments of terror.

Consider this scenario: if the Coast Guard stops a ship at sea for inspection and finds there are illegal immigrants on the ship, the Coast Guard relies on the INS to enforce U.S. immigration law and prevent their entry. If the Coast Guard finds potentially dangerous cargo, it relies on Customs to seize the dangerous cargo. Unfortunately, these organizations may not always share information with each other as rapidly as necessary.

So, instead of arresting potential terrorists and seizing dangerous cargo at sea, our current structure can allow these terrorists to enter our ports and potentially sneak into our society. The system might also allow the dangerous cargo to actually enter our ports and threaten American lives.

Under the President's proposal, the ship, the potentially dangerous people, and the dangerous cargo would be seized at sea by one Department that has no question about either its mission or its authority to prevent them from reaching our shores.

EXAMPLE: PROTECTING OUR NATION'S CRITICAL INFRASTRUCTURE

Nearly five million Americans live within a five mile radius of the most hazardous chemical facilities in the nation. Right now there is no single agency in the government whose core mission is to protect against and respond to an attack on one of these major facilities.

Consider the current homeland security apparatus facing a non-citizen that intends to enter our nation and attack one of our chemical facilities. At our border, INS, Customs, Border Patrol, the Coast Guard, and others share jurisdiction over preventing this person's entry. These government organizations may or may not share information, which makes it possible that this potential terrorist might slip through the cracks.

Currently, at least twelve different government entities oversee the protection of our critical infrastructure. These many government entities may or may not share all information, and state and local governments must work with twelve separate contacts just to help protect their local infrastructure.

Under the President's proposal, the same Department that analyzes intelligence data on the potential terrorist who wants to attack the chemical plant would also be the same Department that can simultaneously alert our border security operatives, alert all of our hazardous materials facilities to ensure that they are prepared to meet this specific new threat from this specific terrorist, and alert all of the affected communities.

EXAMPLE: COMMUNICATING TO THE AMERICAN PEOPLE

Currently, if a chemical or biological attack were to occur, Americans could receive warnings and health care information from a long list of government organizations, including HHS, FEMA, EPA, GSA, FBI, DOJ, OSHA, OPM, USPS, DOD, USAMRIID, and the Surgeon General – not to mention a cacophony of state and local agencies.

There is currently no single organization with operational responsibility that could communicate with the American people in a clear, concise, and consistent voice.

Consider another recent example. Information was provided to local law enforcement entities by multiple U.S. government organizations about potential threats to the Brooklyn Bridge, apartment complexes, shopping malls, the Statue of Liberty, subways and public transit systems, our oil and gas infrastructure, and our financial system.

Under the President's proposal, a single government Department would communicate with the American people about a chemical or biological attack. The new Department would also be the organization that coordinates provision of specific threat information to local law enforcement and sets the national threat level. The new Department would ensure that local law enforcement entities – and the public – receive clear and concise information from their national government. Citizens would also have one Department telling them what actions – if any – they must take for their safety and security.

EXAMPLE: INTELLIGENCE SHARING AND COMPREHENSIVE THREAT ANALYSIS

Multiple intelligence agencies analyze their individual data, but no single government entity exists to conduct a comprehensive analysis of all incoming intelligence information and other key data regarding terrorism in the United States. There is no central clearinghouse to collect and analyze the data and look for potential trends.

Under the President's proposal, the new Department would contain a unit whose sole mission is to assemble, fuse, and analyze relevant intelligence data from government sources, including CIA, NSA, FBI, INS, DEA, DOE, Customs, and DOT, and data gleaned from other organizations and public sources. With this big-picture view, the Department would be more likely to spot trends and would be able to direct resources at a moment's notice to help thwart a terrorist attack.

EXAMPLE: DISTRIBUTION OF KEY PHARMACEUTICALS

Potassium Iodide (KI) is a drug that helps prevent thyroid cancer in the event of exposure to radiation. The drug must be taken within hours of exposure for maximum effectiveness.

Currently, if you live within a ten-mile radius of a nuclear power facility, the distribution of Potassium Iodide is regulated by the Nuclear Regulatory Commission (NRC). The NRC is responsible for getting people this crucial drug, even though the NRC's actual mission is to license nuclear facilities, not provide emergency supplies to the greater population. Outside the ten-mile radius of the nuclear facility, the Federal Emergency Management Agency (FEMA) is responsible for regulating the distribution of Potassium Iodide. The Department of Health and Human Services controls the national pharmaceutical stockpiles that are to be sent rapidly into emergencies. And other government agencies would control evacuation of the emergency zone. To make matters even more confusing, if you happen to live within a ten-mile radius of a nuclear weapons facility, the Department of Energy controls the distribution of the Potassium Iodide.

In the event of radiation exposure, states must currently work with three separate government organizations to distribute critical pharmaceuticals, organizations whose jurisdictions are divided by an invisible ten-mile border. Consider this possible scenario: the NRC and the state decide to distribute Potassium Iodide to everyone within the ten-mile radius. FEMA, however, disagrees with the state and decides against distributing the drug outside the ten-mile radius. In the middle of the NRC, FEMA and state decision process, the state and local governments decide to begin an evacuation. In the ensuing chaos, many exposed individuals might not receive the critical drugs they need.

Under the President's proposal, one Department would be responsible for distributing Potassium Iodide to citizens exposed – no matter where they live. There would no longer be an artificial ten-mile barrier to treatment. This same single Department would also be responsible for coordination with state and local officials on immediate evacuation from the emergency zone.

BRIEF HISTORY OF GOVERNMENT REORGANIZATION

History teaches us that critical security challenges require clear lines of responsibility and the unified effort of the U.S. government. History also teaches us that new challenges require new organizational structures.

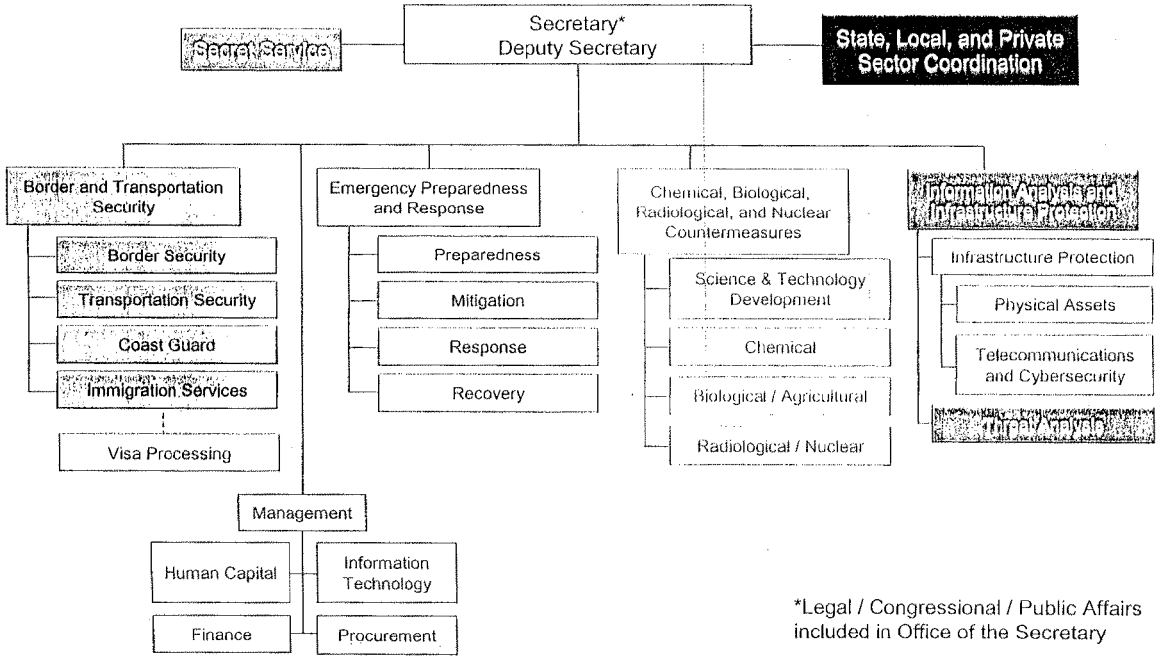
For example, prior to 1945, America's armed forces were inefficiently structured with separate War and Navy Departments and disconnected intelligence units. There were no formal mechanisms for cooperation. After World War II, the onset of the Cold War required consolidation and reorganization of America's national security apparatus to accomplish the new missions at hand.

America needed a national security establishment designed to prevent another attack like Pearl Harbor, to mobilize national resources for an enduring conflict, and to do so in a way that protected America's values and ideals. In December 1945, only months after America's decisive victory in World War II, President Harry Truman asked Congress to combine the War and Navy Departments into a single Department of Defense. President Truman declared, "it is now time to take stock to discard obsolete organizational forms and to provide for the future the soundest, most effective and most economical kind of structure for our armed forces of which this most powerful Nation is capable. I urge this as the best means of keeping the peace."

President Truman's goals were achieved with the National Security Act of 1947 and subsequent amendments in 1949 and 1958. The legislation consolidated the separate military Departments into the Department of Defense with a civilian secretary solely in charge, established a Central Intelligence Agency to coordinate all foreign intelligence collection and analysis, and created the National Security Council in the White House to coordinate all foreign and defense policy efforts.

This reorganization of America's national security establishment was crucial to overcoming the enormous threat we faced in the Cold War and holds important lessons for our approach to the terrorist threat we face today.

Organization of the Department of Homeland Security



*Legal / Congressional / Public Affairs included in Office of the Secretary

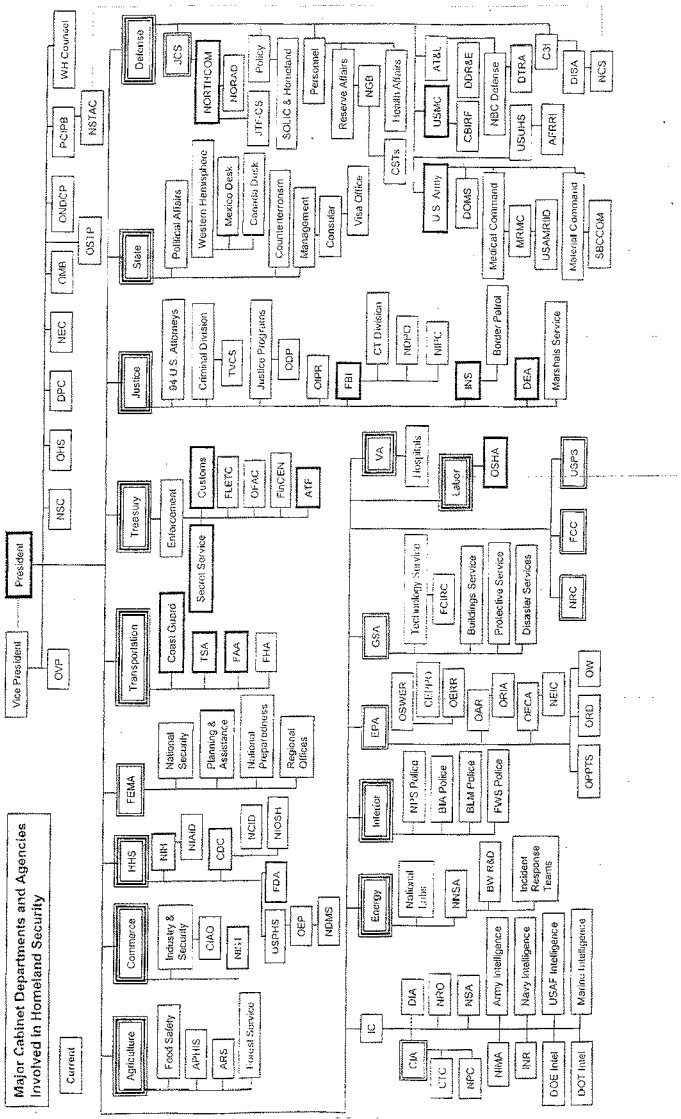
Department of Homeland Security
Major Components

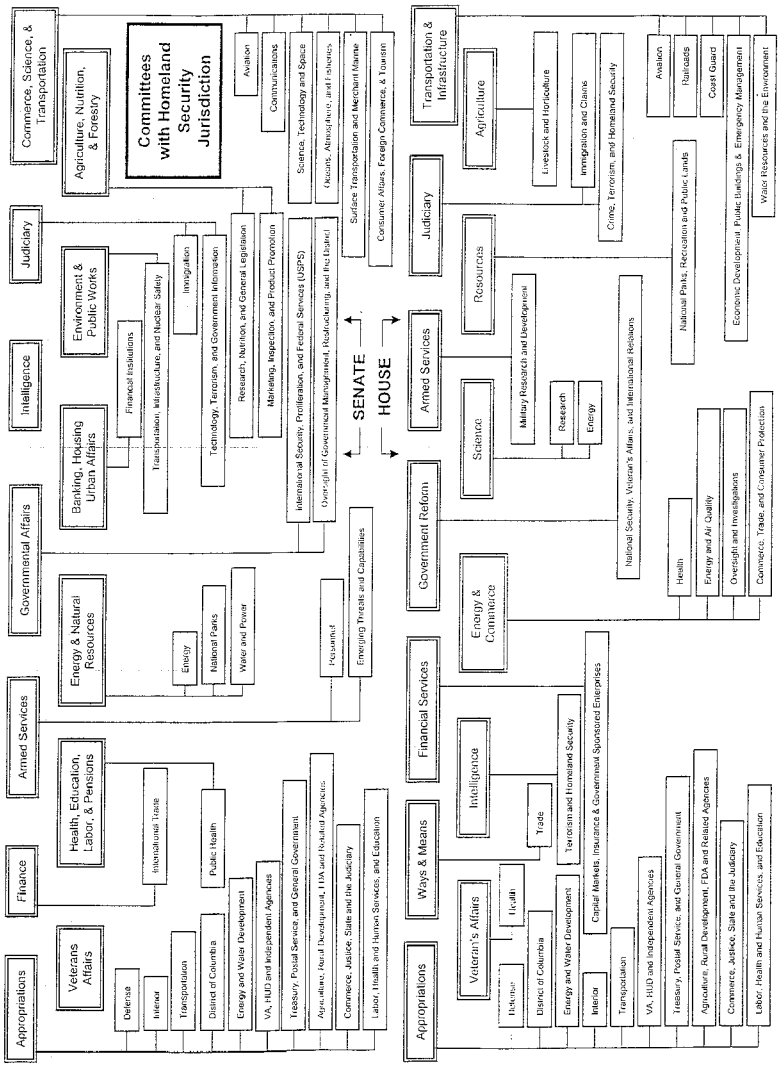
The Department of Homeland Security would be funded within the total monies requested by the President in his FY 2003 budget already before Congress. There would be future savings achieved through the elimination of redundancies inherent in the current structure.

	$(Millions)	FTE (1)
Chemical, Biological, Radiological, and Nuclear Countermeasures		
Civilian Biodefense Research Programs (HHS)	1,993	150
Lawrence Livermore National Laboratory (DOE)	1,188	324
National BW Defense Analysis Center (New)	420	--
Plum Island Animal Disease Center (USDA)	25	124
	3,626	598
Information Analysis and Infrastructure Protection		
Critical Infrastructure Assurance Office (Commerce)	27	65
Federal Computer Incident Response Center (GSA)	11	23
National Communications System (DoD)	155	91
National Infrastructure Protection Center (FBI)	151	795
National Infrastructure Simulation and Analysis Center (DOE)	20	2
	364	976
Border and Transportation Security		
Immigration and Naturalization Service (DOJ)	6,416	39,459
Customs Service (Treasury)	3,796	21,743
Animal and Plant Health Inspection Service (USDA)	1,137	8,620
Coast Guard (DOT)	7,274	43,639
Federal Protective Services (GSA)	418	1,408
Transportation Security Agency (DOT) (2)	4,800	41,300
	23,841	156,169
Emergency Preparedness and Response		
Federal Emergency Management Agency	6,174	5,135
Chemical, Biological, Radiological, and Nuclear Response Assets (HHS)	2,104	150
Domestic Emergency Support Team (3)	--	--
Nuclear Incident Response (DOE)	91	--
Office of Domestic Preparedness (DOJ) (4)	--	--
National Domestic Preparedness Office (FBI)	2	15
	8,371	5,300
Secret Service (Treasury)	1,248	6,111
Total, Department of Homeland Security	37,450	169,154

Note: Figures are from FY 2003 President's Budget Request

(1) Estimated, final FTE figures to be determined
(2) Before fee recapture of $2,346 million.
(3) Interagency group currently mobilized by the Attorney General in response to major incidents.
(4) Included in FEMA in FY 2003 President's Budget Request


Major Cabinet Departments and Agencies Involved in Homeland Security
Current
President
Vice President
OVP
NSC
OHS
DPC
NEC
OMB
ONDCP
PCIPB
NSTAC
WH Counsel
OSTP
Agriculture
Food Safety
APHIS
ARS
Forest Service
Commerce
Industry & Security
CIAO
NIST
HHS
NIH
NIAID
CDC
NCID
NIOSH
FDA
USPHS
OEP
NDMS
FEMA
National Security
Planning & Assistance
National Preparedness
Regional Offices
Transportation
Coast Guard
TSA
FAA
FHA
Treasury
Enforcement
Customs
FLETC
OFAC
FinCEN
ATF
Secret Service
Justice
94 U.S. Attorneys
Criminal Division
TVCS
Justice Programs
COP
OJPR
FBI
CT Division
NDPCC
NIPC
INS
Border Patrol
DEA
Marshals Service
State
Political Affairs
Western Hemisphere
Mexico Desk
Cuba Desk
Counterterrorism
Management
Consular
Visa Office
Defense
JCS
NORTHCOM
NORAD
JTF-CS
Policy
SOLIC & Homeland
Personnel
Reserve Affairs
NGB
Health Affairs
CSTs
U.S. Army
DOMS
Medical Command
MRMC
USAMRMD
Materiel Command
SBCCOM
USMC
CBIRF
USUHS
AFRRI
AT&L
DDR&E
NBC Defense
DTRA
C3I
DISA
NCS
IC
CIA
CTC
NPC
DIA
NRO
NSA
NIMA
INR
Army Intelligence
Navy Intelligence
USAF Intelligence
DOE Intel
Marine Intelligence
DOT Intel
Energy
National Labs
NNSA
BW R&D
Incident Response Teams
Interior
NPS Police
BIA Police
BLM Police
FWS Police
EPA
OSWER
CEI/HO
OERR
OAR
ORIA
OPEA
NEIC
OPPTS
ORD
OW
GSA
Technology Service
FCIRC
Buildings Service
Protective Service
Disaster Services
NRC
FCC
VA
Hospitals
Labor
OSHA
USPS


Committees with Homeland Security Jurisdiction
SENATE
HOUSE
Appropriations
Veterans Affairs
Finance
Health, Education, Labor, & Pensions
Armed Services
Energy & Natural Resources
Governmental Affairs
Banking, Housing Urban Affairs
Intelligence
Environment & Public Works
Judiciary
Commerce, Science, & Transportation
Agriculture, Nutrition, & Forestry
Defense
Interior
Transportation
District of Columbia
Energy and Water Development
VA, HUD and Independent Agencies
Treasury, Postal Service, and General Government
Agriculture, Rural Development, FDA and Related Agencies
Commerce, Justice, State and the Judiciary
Labor, Health and Human Services, and Education
International Trade
Public Health
Energy
National Parks
Water and Power
Personnel
Emerging Threats and Capabilities
Financial Institutions
Transportation, Infrastructure, and Nuclear Safety
Technology, Terrorism, and Government Information
Research, Nutrition, and General Legislation
Marketing, Inspection, and Product Promotion
International Security, Proliferation, and Federal Services (USPS)
Oversight of Government Management, Restructuring, and Fed Disast
Immigration
Aviation
Communications
Science, Technology and Space
Oceans, Atmosphere, and Fisheries
Surface Transportation and Merchant Marine
Consumer Affairs, Foreign Commerce, & Tourism
Appropriations
Ways & Means
Financial Services
Energy & Commerce
Government Reform
Armed Services
Science
Resources
Judiciary
Transportation & Infrastructure
Agriculture
Veteran's Affairs
Intelligence
Health
Trade
Capital Markets, Insurance & Government Sponsored Enterprises
Terrorism and Homeland Security
Military Research and Development
Research
Energy
National Security, Veteran's Affairs, and International Relations
Health
Energy and Air Quality
Oversight and Investigations
Commerce, Trade, and Consumer Protection
National Parks, Recreation and Public Lands
Economic Development, Public Buildings, & Emergency Management
Water Resources and the Environment
Livestock and Horticulture
Immigration and Claims
Crime, Terrorism, and Homeland Security
Aviation
Railroads
Coast Guard

THE DEPARTMENT OF HOMELAND SECURITY

Terrorists today can strike at any place, at any time, and with virtually any weapon. This is a permanent condition and these new threats require our country to design a new homeland security structure.

The United States faced an enormous threat during the Cold War. We created a national security strategy to deter and defeat the organized military forces of the Soviet bloc. We emerged victorious from this dangerous period in our history because we organized our national security institutions and prepared ourselves to meet the threat arrayed against us. The United States is under attack from a new kind of enemy – one that hopes to employ terror against innocent civilians to undermine their confidence in our institutions and our way of life. Once again we must organize and prepare ourselves to meet a new and dangerous threat.

Careful study of the current structure – coupled with the experience gained since September 11 and new information we have learned about our enemies while fighting a war – has led the President to conclude that our nation needs a more robust and unified homeland security structure.

Mission of the New Department

The mission of the Department of Homeland Security would be to:

- Prevent terrorist attacks within the United States;
- Reduce America's vulnerability to terrorism; and
- Minimize the damage and recover from attacks that do occur.

The Department of Homeland Security would mobilize and focus the resources of the federal government, state and local governments, the private sector, and the American people to accomplish its mission.

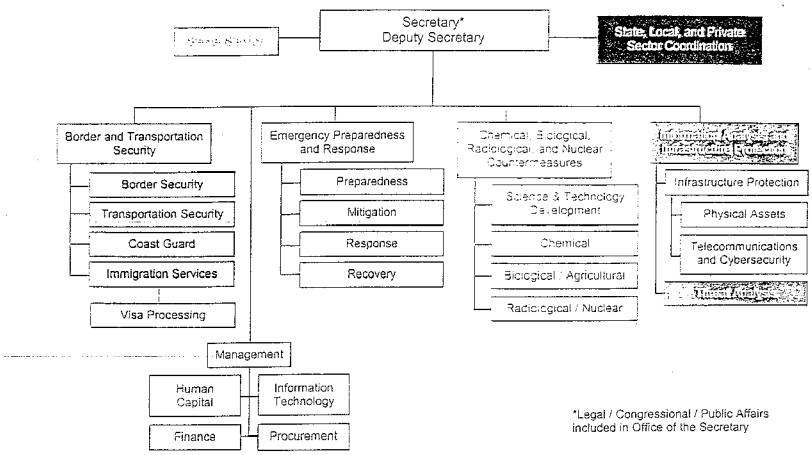
Organization

The creation of the Department of Homeland Security would empower a single Cabinet official whose primary mission is to protect the American homeland from terrorism. The Department of Homeland Security would have a clear, efficient organizational structure with four divisions.

- **Border and Transportation Security**
- **Emergency Preparedness and Response**
- **Chemical, Biological, Radiological, and Nuclear Countermeasures**
- **Information Analysis and Infrastructure Protection**

Even after creation of the new Department, homeland security will still involve the efforts of other Cabinet departments. The Department of Justice and the FBI, for example, will remain the lead law enforcement agencies for preventing terrorist attacks. The Department of Defense will continue to play a crucial support role in the case of a catastrophic terrorist incident. The Department of Transportation will continue to be responsible for highway and rail safety, and air traffic control. The CIA will continue to gather and analyze overseas intelligence. Homeland security will continue to require interagency coordination, and the President will still need a close adviser on homeland security related issues. Accordingly, the President intends a strong continuing role for the White House Office of Homeland Security and the Homeland Security Council.

ORGANIZATION OF THE DEPARTMENT OF HOMELAND SECURITY



Border and Transportation Security

Securing our nation's air, land, and sea borders is a difficult yet critical task. The United States has 5,525 miles of border with Canada and 1,989 miles with Mexico. Our maritime border includes 95,000 miles of shoreline, and a 3.4 million square mile exclusive economic zone. Each year, more than 500 million people cross the borders into the United States, some 330 million of whom are non-citizens.

The Department of Homeland Security would be responsible for securing our nation's borders and transportation systems, which straddle 350 official ports of entry and connect our homeland to the rest of the world. The tasks of managing our borders and securing our transportation systems are directly related – indeed, at our international airports and seaports they are inseparable.

The Department would manage who and what enters our homeland, and work to prevent the entry of terrorists and the instruments of terrorism while simultaneously ensuring the speedy flow of legitimate traffic. It would be the single federal Department in charge of all ports of entry, including security and inspection operations, and would manage and coordinate port of entry activities of other federal departments and agencies. The Department would lead efforts to create a border of the future that provides greater security through better intelligence, coordinated national efforts, and unprecedented international cooperation against terrorists, the instruments of terrorism, and other international threats. At the same time, it would help ensure that this border of the future better serves the needs of legitimate travelers and industry through improved efficiency.

The Department would lead work toward a state-of-the-art visa system, one in which visitors are identifiable by biometric information that is gathered during the visa application process. It would ensure that information is shared between databases of border management, law enforcement, and intelligence community agencies so that individuals who pose a threat to America are denied entry to the United States. It would also lead efforts to deploy an automated entry-exit system that would verify compliance with entry conditions, student status such as work limitations and duration of stay, for all categories of visas.

To carry out its border security mission the Department would incorporate the United States Customs Service (currently part of the Department of Treasury), the Immigration and Naturalization Service and Border Patrol (Department of Justice), the Animal and Plant Health Inspection Service (Department of Agriculture), and the Transportation Security Administration (Department of Transportation). The Department would also incorporate the Federal Protective Service (General Services Administration) to perform the additional function of protecting government buildings, a task closely related to the Department's infrastructure protection responsibilities.

The Department would secure our nation's transportation systems, which move people from our borders to anywhere in the country within hours. The recently created Transportation Security Administration, which would become part of the new Department, has statutory responsibility for security of all modes of transportation and directly employs airport security and law enforcement personnel. Tools it uses include intelligence, regulation, enforcement, inspection, and screening and education of carriers, passengers and shippers. Its present focus on aviation security will not slow the government's pace in addressing the security needs of other transportation modes. The incorporation of TSA into the new Department will allow the Department of Transportation to remain focused on its core mandate of ensuring that the nation has a robust and efficient transportation infrastructure that keeps pace with modern technology and the nation's demographic and economic growth.

United States Coast Guard. In order to secure our nation's territorial waters, including our ports and waterways, the Department would assume authority over the United States Coast Guard, which would maintain its existing independent identity as a military organization under the leadership of the Commandant of the Coast Guard. Upon declaration of war or when the President so directs, the Coast Guard would operate as an element of the Department of Defense, consistent with existing law.

The U.S. Coast Guard is charged with regulatory, law enforcement, humanitarian, and emergency response duties. It is responsible for the safety and security of America's inland waterways, ports, and harbors; more than 95,000 miles of U.S. coastlines; U.S. territorial seas; 3.4 million square miles of ocean defining our Exclusive Economic Zones; as well as other maritime regions of importance to the United States.

The Coast Guard has command responsibilities for countering potential threats to America's coasts, ports, and inland waterways through numerous port security, harbor defense, and coastal warfare operations and exercises. In the name of port security specifically, the Coast Guard has broad authority in the nation's ports as "Captain of the Port." Recently the Coast Guard has worked to establish near shore and port domain awareness, and to provide an offshore force gathering intelligence and interdicting suspicious vessels prior to reaching U.S. shores.

Immigration and Visa Services. The new Department of Homeland Security would include the INS and would, consistent with the President's long-standing position, separate immigration services from immigration law enforcement. The Department would build an immigration services organization that

would administer our immigration law in an efficient, fair, and humane manner. The new Department would assume the legal authority to issue visas to foreign nationals and admit them into the country. The State Department, working through the United States embassies and consulates abroad, would continue to administer the visa application and issuance process. The Department would make certain that America continues to welcome visitors and those who seek opportunity within our shores while excluding terrorists and their supporters.

Emergency Preparedness and Response

We cannot assume that we can prevent all acts of terror and therefore must also prepare to minimize the damage and recover from attacks that do occur. As September 11 showed, the consequences of terrorism can be far-reaching and diverse. The Department of Homeland Security would ensure the preparedness of our nation's emergency response professionals, provide the federal government's response, and aid America's recovery from terrorist attacks and natural disasters.

To fulfill these missions, the Department of Homeland Security would build upon the Federal Emergency Management Agency (FEMA) as one of its key components. It would continue FEMA's efforts to reduce the loss of life and property and to protect our nation's institutions from all types of hazards through a comprehensive, risk-based, all-hazards emergency management program of preparedness, mitigation, response, and recovery. And it will continue to change the emergency management culture from one that reacts to terrorism and other disasters, to one that proactively helps communities and citizens avoid becoming victims.

In terms of preparedness, the Department would assume authority over federal grant programs for local and state first responders such as firefighters, police, and emergency medical personnel. Various offices in the Department of Justice, the Department of Health and Human Services, and the Federal Emergency Management Agency currently manage those programs. In addition, the Department would develop and manage a national training and evaluation system to design curriculums, set standards, evaluate, and reward performance in local, state, and federal training efforts.

The Department would continue FEMA's practice of focusing on risk mitigation in advance of emergencies by promoting the concept of disaster-resistant communities. It would continue current federal support for local government efforts that promote structures and communities that have a reduced chance of being impacted by disasters. It would bring together private industry, the insurance sector, mortgage lenders, the real estate industry, homebuilding associations, citizens, and others to create model communities in high-risk areas.

The Department would have responsibility for federal emergency response efforts. It would lead our national response to a biological attack, direct the Nuclear Emergency Search Teams, Radiological Emergency Response Team, Radiological Assistance Program, Domestic Emergency Support Team, National Pharmaceutical Stockpile, and the National Disaster Medical System, and manage the Metropolitan Medical Response System. The Department would also coordinate the involvement of other federal response assets such as the National Guard in the event of a major incident.

The consequences of a terrorist attack are wide-ranging and can include: loss of life and health, destruction of families, fear and panic, loss of confidence in government, destruction of property, and disruption of commerce and financial markets. The Department would lead federal efforts to promote recovery from terrorist attacks and natural disasters. The Department would maintain FEMA's procedures for aiding recovery from natural and terrorist disasters.

Incident Management. The Department would work with federal, state, and local public safety organizations to build a comprehensive national incident management system for response to terrorist incidents and natural disasters. This system would clarify and streamline federal incident management procedures, eliminating the artificial distinction between "crisis management" and "consequence management." The Department would consolidate existing federal government emergency response plans – namely the Federal Response Plan, the National Contingency Plan, the U.S. government Interagency Domestic Terrorism Concept of Operations Plan, and the Federal Radiological Emergency Response Plan – into one genuinely all-hazard plan. In time of emergency, the Department would manage and coordinate federal entities supporting local and state emergency response efforts.

Interoperable Communications. In the aftermath of any major terrorist attack, emergency response efforts would likely involve hundreds of offices from across the government and the country. It is crucial for response personnel to have and use equipment and systems that allow them to communicate with one another. The current system has not yet supplied the emergency response community with the technology that it needs for this mission. The new Department of Homeland Security would make this a top priority.

Chemical, Biological, Radiological, and Nuclear Countermeasures

The knowledge, technology, and material needed to build weapons of mass destruction are spreading inexorably. If our enemies acquire these weapons and the means to deliver them, they will use them potentially with consequences far more devastating than those we suffered on September 11.

The Department of Homeland Security would lead the federal government's efforts in preparing for and responding to the full range of terrorist threats involving weapons of mass destruction. To do this, the Department would set national policy and establish guidelines for state and local governments. It would direct exercises and drills for federal, state, and local chemical, biological, radiological, and nuclear (CBRN) response teams and plans. The result of this effort would be to consolidate and synchronize the disparate efforts of multiple federal agencies currently scattered across several departments. This would create a single office whose primary mission is the critical task of protecting the United States from catastrophic terrorism.

The Department would be responsible for several distinct capabilities and institutions that focus on specific elements of this mission. The Department would unify much of the federal government's efforts to develop and implement scientific and technological countermeasures to CBRN terrorist threats. The Department would also provide direction and establish priorities for national research and development, for related tests and evaluations, and for the development and procurement of new technology and equipment to counter the CBRN threat. The Department would incorporate and focus the intellectual energy and extensive capacity of several important scientific institutions, including Lawrence Livermore National Laboratory (currently part of the Department of Energy) and the Plum Island Animal Disease Center (Department of Agriculture).

The Department would unify our defenses against human, animal, and plant diseases that could be used as terrorist weapons. The Department would sponsor outside research, development, and testing to invent new vaccines, antidotes, diagnostics, and therapies against biological and chemical warfare agents; to recognize, identify, and confirm the occurrence of an attack; and to minimize the morbidity and mortality caused by any biological or chemical agent.

The Department would unify our defenses against agricultural terrorism – the malicious use of plant or animal pathogens to cause disease in the agricultural sector. The Department would exclude agricultural pests and diseases at the border. It would strengthen national research programs and surveillance systems to shield agriculture from natural or deliberately induced pests or disease. Working with the Department of Agriculture and the Department of Health and Human Services, it would also that ensure rigorous inspection and quality assurance programs protect the food supply from farm to fork.

Science & Technology Agenda. In the war against terrorism, America's vast science and technology base provides us with a key advantage. The Department would press this advantage with a national research and development enterprise for homeland security comparable in emphasis and scope to that which has supported the national security community for more than fifty years. This is appropriate, given the scale of the mission and the catastrophic potential of the threat. Many of the needed systems would be potentially continental in scope, and thus the technologies must scale appropriately, in terms of complexity, operation, and sustainability.

This research and development would be driven by a constant examination of the nation's vulnerabilities, constant testing of our security systems, and a constant evaluation of the threat and its weaknesses. The emphasis within this enterprise would be on catastrophic terrorism – threats to the security of our homeland that would result in large-scale loss of life and major economic impact. It would be aimed at both evolutionary improvements to current capabilities as well as the development of revolutionary new capabilities.

The following are examples of the types of research and development projects that the Department would pursue with its scientific assets.

- **Preventing importation of nuclear weapons and material.** The Department of Homeland Security would make defeating this threat a top priority of its research and development efforts. This nuclear denial program would develop and deploy new technologies and systems for safeguarding nuclear material stockpiles and for detecting the movement of those materials. In particular, it would focus on better detection of illicit nuclear material transport on the open seas, at U.S. ports of entry, and throughout the national transportation system.

- **Detecting bioterrorist attacks.** The anthrax attacks of October 2001 proved that quick recognition of biological terrorism is crucial to saving lives. The Department of Homeland Security would lead efforts to develop, deploy, manage, and maintain a national system for detecting the use of biological agents within the United States. This system would consist of a national public health data surveillance system to monitor public and private databases for indications that a bioterrorist attack has occurred, as well as a sensor network to detect and report the release of bioterrorist pathogens in densely populated areas.

The technologies developed must not only make us safer, but also make our daily lives better. While protecting against the rare event, they should also enhance the commonplace. Thus, the technologies developed for homeland security should fit well within our physical and economic infrastructure, and our national habits. System performance must balance the risks associated with the threat against the impact of false alarms and impediments to our way of life.

Information Analysis and Infrastructure Protection

The Department of Homeland Security would merge under one roof the capability to identify and assess current and future threats to the homeland, map those threats against our current vulnerabilities, inform the President, issue timely warnings, and immediately take or effect appropriate preventive and protective action.

Threat Analysis and Warning. Actionable intelligence is essential for preventing acts of terrorism. The timely and thorough analysis and dissemination of information about terrorists and their activities will improve the government's ability to disrupt and prevent terrorist acts and to provide useful warning to the private sector and our population. Currently, the U.S. government has no institution primarily dedicated to analyzing systematically all information and intelligence on potential terrorist threats within the United States, such as the Central Intelligence Agency performs regarding terrorist threats abroad. The Department of Homeland Security, working together with enhanced capabilities in other agencies such as the Federal Bureau of Investigation would make America safer by pulling together information and intelligence from a variety of sources.

The prevention of terrorist acts requires a proactive approach that will enhance the capability of policymakers and law enforcement personnel to preempt terrorist plots and warn appropriate sectors. The Department would fuse and analyze legally accessible information from multiple available sources pertaining to terrorist threats to the homeland to provide early warning of potential attacks. This information includes foreign intelligence, law enforcement information, and publicly available information. The Department would be a full partner and consumer of all intelligence-generating agencies, such as the Central Intelligence Agency, the National Security Agency, and the FBI. By obtaining and analyzing this information, the Department would have the ability to view the dangers facing the homeland comprehensively, ensure that the President is briefed on relevant information, and take necessary protective action.

The Attorney General recently revised the guidelines governing how the FBI gathers information and conducts investigations. The new guidelines reflect the President's commitment to preventing terrorism by allowing the FBI to intervene and investigate promptly, while also protecting American's constitutional rights, when information suggests the possibility of terrorism. The revised guidelines empower FBI agents with new investigative authority at the early stage of preliminary inquiries, as well as the ability to search public sources for information on future terrorist threats. The FBI can now identify and track foreign terrorists by combining information obtained from lawful sources, such as foreign intelligence and commercial data services, with the information derived from FBI investigations. In addition, the revised guidelines removed a layer of "red tape" by allowing FBI field offices to approve and renew terrorism enterprise investigations rather than having to obtain approval from headquarters.

The Department of Homeland Security would complement the FBI's enhanced emphasis on counterterrorism law enforcement by ensuring that information from the FBI is analyzed side-by-side with all other intelligence. The Department and the Bureau would ensure cooperation by instituting standard operating procedures to ensure the free and secure flow of information and exchanging personnel as appropriate.

The Department's threat analysis and warning functions would support the President and, as he directs, other national decision-makers responsible for securing the homeland from terrorism. It would coordinate and, as appropriate, consolidate the federal government's lines of communication with state and local public safety agencies and with the private sector, creating a coherent and efficient system for conveying

actionable intelligence and other threat information. The Department would administer the Homeland Security Advisory System and be responsible for public alerts.

The Department of Homeland Security would translate analysis into action in the shortest possible time – a critical factor in preventing or mitigating terrorist attacks, particularly those involving weapons of mass destruction. Because of the central importance of this mission, the Department would build excellence in its threat analysis and warning function, not only in terms of personnel, but also in terms of technological capabilities.

This proposal fully reflects the President's absolute commitment to safeguard our way of life, including the integrity of our democratic political system and the essential elements of our individual liberty. The Department of Homeland Security will not become a domestic intelligence agency.

Critical Infrastructure Protection. The attacks of September 11 highlighted the fact that terrorists are capable of causing enormous damage to our country by attacking our critical infrastructure – those assets, systems, and functions vital to our national security, governance, public health and safety, economy, and national morale.

The Department of Homeland Security would coordinate a national effort to secure America's critical infrastructure. Protecting America's critical infrastructure is the shared responsibility of federal, state, and local government, in active partnership with the private sector, which owns approximately 85 percent of our nation's critical infrastructure. The new Department of Homeland Security will concentrate this partnership in a single government agency responsible for coordinating a comprehensive national plan for protecting our infrastructure. The Department will give state, local, and private entities one primary contact instead of many for coordinating protection activities with the federal government, including vulnerability assessments, strategic planning efforts, and exercises.

The Department would build and maintain a comprehensive assessment of our nation's infrastructure sectors: food, water, agriculture, health systems and emergency services, energy (electrical, nuclear, gas and oil, dams), transportation (air, road, rail, ports, waterways), information and telecommunications, banking and finance, energy, transportation, chemical, defense industry, postal and shipping, and national monuments and icons. The Department would develop and harness the best modeling, simulation, and analytic tools to prioritize effort, taking as its foundation the National Infrastructure Simulation and Analysis Center (currently part of the Department of Energy). The Department would direct or coordinate action to protect significant vulnerabilities, particularly targets with catastrophic potential such as nuclear power plants, chemical facilities, pipelines, and ports, and would establish policy for standardized, tiered protective measures tailored to the target and rapidly adjusted to the threat.

Our nation's information and telecommunications systems are directly connected to many other critical infrastructure sectors, including banking and finance, energy, and transportation. The consequences of an attack on our cyber infrastructure can cascade across many sectors, causing widespread disruption of essential services, damaging our economy, and imperiling public safety. The speed, virulence, and maliciousness of cyber attacks have increased dramatically in recent years. Accordingly, the Department of Homeland Security would place an especially high priority on protecting our cyber infrastructure from terrorist attack by unifying and focusing the key cyber security activities performed by the Critical Infrastructure Assurance Office (currently part of the Department of Commerce) and the National Infrastructure Protection Center (FBI). The Department would augment those capabilities with the response functions of the Federal Computer Incident Response Center (General Services Administration). Because our information and telecommunications sectors are increasingly interconnected, the Department

would also assume the functions and assets of the National Communications System (Department of Defense), which coordinates emergency preparedness for the telecommunications sector.

State, Local, and Private Sector Coordination

The nature of American society and the structure of American governance make it impossible to achieve the goal of a secure homeland through federal Executive Branch action alone. The Administration's approach to homeland security is based on the principles of shared responsibility and partnership with the Congress, state and local governments, the private sector, and the American people.

The Department of Homeland Security would coordinate, simplify, and where appropriate consolidate government relations on its issues for America's state and local agencies. It would coordinate federal homeland security programs and information with state and local officials.

The Department would give state and local officials one primary contact instead of many, and would give these officials one contact when it comes to matters related to training, equipment, planning, exercises and other critical homeland security needs. It would manage federal grant programs for enhancing the preparedness of firefighters, police, and emergency medical personnel. It would set standards for state and local preparedness activities and equipment to ensure that these funds are spent according to good statewide and regional plans. To fulfill these preparedness missions, the Department of Homeland Security would incorporate the Department of Justice's Office of Domestic Preparedness, the Federal Bureau of Investigation's National Domestic Preparedness Office, and the Federal Emergency Management Agency's Office of National Preparedness.

United States Secret Service

The primary mission of the United States Secret Service is to protect the President, Vice President, and other national leaders. The Service also contributes its specialized protective expertise to planning for events of national significance (National Special Security Events). In addition, the Service combats counterfeiting, cyber-crime, identity fraud, and access device fraud, all closely tied to the terrorist threat. Under the President's proposal, the Secret Service would report directly to the Secretary of Homeland Security. While the Service would remain intact and not be merged with any other Department function, the Service's unique and highly specialized expertise would complement the core mission of the new Department.

Non-Homeland Security Functions

The Department of Homeland Security would have a number of functions that are not directly related to securing the homeland against terrorism. By incorporating the emergency management mission of FEMA, it would be responsible for natural disasters. Through the Coast Guard, it would be responsible for search and rescue and other maritime functions. By incorporating the INS, it would be responsible for immigration and naturalization services. Through the Secret Service, it would be responsible for fighting counterfeiters. And by incorporating the Customs Service it would be responsible for stopping drug smuggling.

The New Department Would Improve Efficiency Without Growing Government

The Department of Homeland Security must be an agile, fast-paced, and responsive organization that takes advantage of 21st-century technology and management techniques to meet a 21st-century threat.

The creation of a Department of Homeland Security would not "grow" government. The new Department would be funded within the total monies requested by the President in his FY 2003 budget already before Congress for the existing components. The cost of the new elements (such as the threat analysis unit and the state, local, and private sector coordination functions), as well as department-wide management and administration units, can be funded from savings achieved by eliminating redundancies inherent in the current structure.

Going forward, increased resources may be required to meet emerging challenges, but by minimizing duplication of effort and lack of coordination we can ensure that any growth is limited to what is absolutely required. By combining and integrating functions that are currently fragmented, the Department of Homeland Security would:

- **Enhance operational efficiencies** in field units with overlapping missions. For example, the deployment of a cross-trained work force would provide more cost efficient inspection activities at the ports of entry than exist today with three separate units. Integration would allow for a more productive workforce at the agent level and elimination of parallel overhead structures in the field, as well as at headquarters.

- **Reduce redundant information technology spending**. Development of a single enterprise architecture for the department would result in elimination of the sub-optimized, duplicative, and poorly coordinated systems that are prevalent in government today. There would be rational prioritization of projects necessary to fund homeland security missions based on an overall assessment of requirements rather than a tendency to fund all good ideas beneficial to a separate unit's individual needs even if similar systems are already in place elsewhere.

- **Effective management of research and development spending** would be facilitated by central control of research and development funding based, again, on overall homeland security priorities.

- **Better asset utilization** could be gained through consolidation and joint, comprehensive capital planning, procurement, and maintenance. This would pertain to boats, vehicles, and planes, as well as property management.

- **Consolidated, streamlined grant making** would promote targeted, effective programs at the state and local level, stretching the federal dollar further than is possible in the environment of multiple funding sources with sometimes overlapping missions.

In order to respond to rapidly changing conditions, the Secretary would need to have great latitude in re-deploying resources, both human and financial. The Secretary should have broad reorganizational authority in order to enhance operational effectiveness, as needed. Moreover, the President will request for the Department significant flexibility in hiring processes, compensation systems and practices, and performance management to recruit, retain, and develop a motivated, high-performance and accountable workforce. When a job needs to be done the Department should be able to fill it promptly, at a fair compensation level, and with the right person. Likewise, employees should receive recognition for their achievements, but in cases where performance falls short, should be held accountable. Finally, the new Department should have flexible procurement policies to encourage innovation and rapid development and operation of critical technologies vital to securing the homeland.

Planning, Transition, and Implementation Process

The planning process for the new Department has already begun. During this period, the Office of Homeland Security will maintain vigilance and continue to coordinate the other federal agencies involved in homeland security. Until the Department of Homeland Security becomes fully operational, the proposed Department's designated components will continue to operate under existing chains of command.

The formal transition process would begin once Congress acts on the President's proposal and the President signs it into law. Under the President's plan, the new Department would be established by January 1, 2003, with integration of some components occurring over a longer period of time. To avoid gaps in leadership coverage, the President's proposal contemplates that appointees who have already been confirmed by the Senate would be able to transfer to new positions without a second confirmation process.

ADMINISTRATION HOMELAND SECURITY ACTIONS SINCE SEPTEMBER 11

Sep 11	America attacked
Sep 11	Department of Defense begins combat air patrols over U.S. cities
Sep 11	Department of Transportation grounds all U.S. private aircraft
Sep 11	FEMA activates Federal Response Plan
Sep 11	U.S. Customs goes to Level 1 alert at all border ports of entry
Sep 11	HHS activates (for the first time ever) the National Disaster Medical System, dispatching more than 300 medical and mortuary personnel to the New York and Washington, D.C. areas, dispatching one of eight 12-hour emergency "push packages" of medical supplies, and putting 80 Disaster Medical Assistance Teams nationwide and 7,000 private sector medical professionals on deployment alert.
Sep 11	Nuclear Regulatory Commission advises all nuclear power plants, non-power reactors, nuclear fuel facilities and gaseous diffusion plants go to the highest level of security. All complied.
Sep 11	President orders federal disaster funding for New York
Sep 11	FEMA deploys National Urban Search and Rescue Response team
Sep 11	FEMA deploys US Army Corp of Engineers to assist debris removal
Sep 12	FEMA deploys emergency medical and mortuary teams to NY and Washington
Sep 12	FAA allows limited reopening of the nation's commercial airspace system to allow flights that were diverted on September 11 to continue to their original destinations
Sep 13	President orders federal aid for Virginia
Sep 13	Departments of Justice and Treasury deploy Marshals, Border Patrol, and Customs officials to provide a larger police presence at airports as they reopen
Sep 14	President proclaims a national emergency (Proc. 7463)
Sep 14	President orders ready reserves of armed forces to active duty
Sep 14	FBI Releases List of Nineteen Suspected Terrorists
Sep 17	Attorney General directs the establishment of 94 Anti-Terrorism Task Forces, one for each United States Attorney Office

Sep 18	President signs authorization for Use of Military Force bill
Sep 18	President authorizes additional disaster funding for New York
Sep 20	President addresses Congress, announces creation of the Office of Homeland Security and appointment of Governor Tom Ridge as Director
Sep 21	HHS announces that more than $126 million (part of $5 billion the President released for disaster relief) is being provided immediately to support health services provided in the wake of the attacks.
Sep 22	President signs airline transportation legislation, providing tools to assure the safety and immediate stability of our Nation's commercial airline system, and establish a process for compensating victims of the terrorist attacks.
Sep 25	The first of approximately 7,200 National Guard troops begin augmenting security at 444 airports
Sep 27	The FBI releases photographs of 19 individuals believed to be the 9/11 hijackers
Sep	Coast Guard immediately mobilized more than 2,000 Reservists in the largest homeland defense and port security operation since World War II.
Oct 1	FEMA declares over $344 million committed to New York recovery so far
Oct 4	Robert Stevens dies of anthrax in Florida – first known victim of biological terrorism
Oct 8	President swears-in Governor Ridge as Assistant to the President for Homeland Security, and issues Executive Order creating OHS
Oct 9	President swears-in General (Retired) Wayne Downing as Director of the Office of Combating Terrorism, and issues Executive order creating OCT.
Oct 10	President unveils "most wanted" terrorists
Oct 12	FAA restores general aviation in 15 major metropolitan areas
Oct 16	President issues Executive Order establishing the President's Critical Infrastructure Protection Board to coordinate and have cognizance of Federal efforts and programs that relate to protection of information systems
Oct 21	FAA restores general aviation in 12 more major metropolitan areas
Oct 22	President issues Executive Order for HHS to exercise certain contracting authority in connection with national defense functions.
Oct 23	U.S. Customs Service creates new Office of Anti-Terrorism

Oct 25	Department of Treasury launches Operation Greenquest, a new multi-agency financial enforcement initiative bringing the full scope of the government's financial expertise to bear against sources of terrorist funding.
Oct 26	President signs the USA Patriot Act
Oct 29	President chairs first meeting of the Homeland Security Council. Issues Homeland Security Presidential Directive-1, establishing the organization and operation of the HSC, and HSPD-2, establishing the Foreign Terrorist Tracking Task Force and increasing immigration vigilance
Oct 30	FAA restricts all private aircraft flying over nuclear facilities
Nov 8	President announces that the Corporation for National and Community Service (CNCS) will support homeland security, mobilizing more than 20,000 Senior Corps and AmeriCorps participants
Nov 8	President Bush creates the Presidential Task Force on Citizen Preparedness in the War Against Terrorism to help prepare Americans in their homes, neighborhoods, schools, workplaces, places of worship and public places from the potential consequences of terrorist attacks.
Nov 15	FEMA announces Individual and Family Grant program for disaster assistance
Nov 28	HHS awards contract to produce 155 million doses of smallpox vaccine by the end of 2002 to bring the total of doses in the nation's stockpile to 286 million, enough to protect every United States citizen.
Nov 29	Attorney General Ashcroft announces Responsible Cooperators Program, which will provide immigration benefits to non-citizens who furnish information to help apprehend terrorists or to stop terrorist attacks.
Dec 3	FBI implements first phase of headquarters reorganization
Dec 10	U.S. Customs launches "Operation Shield America" to prevent international terrorist organizations from obtaining sensitive U.S. technology, weapons, and other equipment
Dec 12	Governor Ridge and Canadian Foreign Minister John Manley sign a "smart border" declaration and action plan to improve security and efficiency of the Northern border
Dec 19	FAA restores general aviation in 30 major metropolitan areas
Dec 28	President issues Executive Orders on succession in federal agencies
Jan 10	President signs $2.9 billion bioterrorism appropriations bill
Jan 11	FAA publishes new standards to protect cockpits from intrusion and small arms fire or fragmentation devices, such as grenades, requiring operators of more than 6,000 airplanes to install reinforced doors by April 9, 2003.

Jan 17	President issues Executive Order authorizing the Secretary of Transportation to increase the number of Coast Guard service members on active duty.
Jan 17	U.S. Customs announces Container Security Initiative
Jan 17-18	U.S. Border Patrol officials and other representatives of the INS meet with Native American leaders and law enforcement officials jointly strengthen security along the Southwest and Northern borders.
Jan 17 & Jan 25	FBI releases information, photographs, and FBI laboratory photographic retouches on six suspected terrorists
Jan 18	Department of Transportation meets mandate to submit plans for training security screeners and flight crews
Jan 23	FBI announces new hiring initiative for FBI Special Agents
Jan 28	Congress confirms appointment of John W. Magaw as Under Secretary of Transportation for Security
Jan 30	President issues Executive Order establishing the USA Freedom Corps, encouraging all Americans to serve their country for the equivalent of at least 2 years (4,000 hours) over their lifetimes.
Jan 31	HHS announces state allotments of $1.1 billion to help strengthen their capacity to respond to bioterrorism and other public health emergencies resulting from terrorism.
Feb 3	United States Secret Service ensures security of Super Bowl XXXVI, a National Special Security Event
Feb 4	President submits the President's Budget for FY 2003 to the Congress, directing $37.7 billion to homeland security, up from $19.5 billion in FY 2002.
Feb 6	Attorney General Ashcroft announces rule change to Board of Immigration Appeals to eliminate backlog, prevent unwarranted delays and improve the quality of board decision-making while ensuring that those in our immigration court system enjoy the full protections of due process.
Feb 8-24	United States Secret Service ensures security of the 2002 Winter Olympics, a National Special Security Event
Feb 25	Soldiers of the U.S. Army National Guard begin to deploy to augment border security
Feb 26	Nuclear Regulatory Commission orders all 104 commercial nuclear power plants to implement interim compensatory security measures, formalizing measures taken in response to NRC advisories since September 11, and imposing additional security enhancements as a result of on-going comprehensive security review.

Mar 1	U.S. Customs Service announces action plan to ensure international air carrier compliance with regulations requiring passenger and crew information prior to arrival in the U.S. on flights from foreign locations.
Mar 5	Attorney General Ashcroft announces National Security Coordination Council to ensure seamless coordination of all functions of the Department of Justice relating to national security, particularly efforts to combat terrorism.
Mar 8	To date, the U.S. Coast Guard has conducted over 35,000 port security patrols and 3,500 air patrols; boarded over 10,000 vessels including over 2,000 "high interest vessels;" escorted 6,000 vessels in and out of ports including 2,000 escorted by Sea Marshalls; maintained over 124 security zones; and recalled 2,900 Reservists to active duty.
Mar 12	President establishes the Homeland Security Advisory System (HSPD-3)
Mar 19	President issues Executive Order establishing the President's Homeland Security Advisory Council
Mar 22	Secretary of State Powell and Mexico Interior Minister Santiago Creel sign a "smart border" declaration and action plan to improve security and efficiency of the Southern border
Mar 25	U.S. Customs officers begin partnership with Canadian Customs officers to inspect U.S.-bound cargo upon its first arrival in the ports of Montreal, Halifax, and Vancouver
Mar 25	Nuclear Regulatory Commission orders Honeywell International, Inc., a uranium conversion facility in Illinois, to immediately implement interim compensatory security measures.
Mar 29	HHS announces it will obtain more than 75 million additional doses of smallpox vaccine from Aventis Pasteur Inc., provided the supply, stored in a secure location since 1972, is proven safe and effective.
Apr 5	NRC forms Office of Security to streamline security, safeguards and incident response activities
Apr 8	INS implements rule changes governing an alien's ability to begin a course of study the period of time visitors are permitted to remain in the United States
Apr 16	U.S. Customs launches the Customs-Trade Partnership Against Terrorism
Apr 22	FBI Director Mueller announces key management positions in the counterterrorism division
Apr 30	Transportation Security Administration announces successful implementation of Federal passenger screeners at Baltimore-Washington airport
May 14	President Signs Border Security and Visa Entry Reform Act
May 19	TSA issues 180 day progress report to Congress
May 22	CIA creates new position of Associate Director of Central Intelligence for

Homeland Security, effective May 28.

May 24 Nuclear Regulatory Commission orders decommissioning of commercial nuclear power plants with spent fuel stored in water-filled pools and a spent nuclear fuel storage facility using pool storage to implement interim compensatory security measures for the current threat environment.

May 29 Attorney General Ashcroft and FBI Director Mueller announce reorganization of the FBI to achieve top priority of counter-terrorism and better coordination with the CIA

ROAD MAP FOR NATIONAL SECURITY:
IMPERATIVE FOR CHANGE

The Phase III Report of
the U.S. Commission on National Security/21st Century

March 15, 2001

U.S. Commission on National Security/21st Century[1]

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[1] Disclaimer: This Commission has striven successfully to achieve consensus on all major issues, and each Commissioner stands by all the major recommendations made in this report. However, as is to be expected when discussing complex issues, not every Commissioner agrees completely with every statement in the text that follows.

I. Securing the National Homeland

One of this Commission's most important conclusions in its Phase I report was that attacks against American citizens on American soil, possibly causing heavy casualties, are likely over the next quarter century.[7] This is because both the technical means for such attacks, and the array of actors who might use such means, are proliferating despite the best efforts of American diplomacy.

These attacks may involve weapons of mass destruction and weapons of mass disruption. As porous as U.S. physical borders are in an age of burgeoning trade and travel, its "cyber borders" are even more porous—and the critical infrastructure upon which so much of the U.S. economy depends *can* now be targeted by non-state and state actors alike. America's present global predominance does not render it immune from these dangers. To the contrary, U.S. preeminence makes the American homeland more appealing as a target, while America's openness and freedoms make it more vulnerable.

Notwithstanding a growing consensus on the seriousness of the threat to the homeland posed by weapons of mass destruction and disruption, the U.S. government *has not* adopted homeland security as a primary national security mission. Its structures and strategies are fragmented and inadequate. The President must therefore both develop a comprehensive strategy and propose new organizational structures to prevent and protect against attacks on the homeland, and to respond to such attacks if prevention and protection should fail.

Any reorganization must be mindful of the scale of the scenarios we envision and the enormity of their consequences. We need orders-of-magnitude improvements in planning, coordination, and exercise. The government must also be prepared to use effectively—albeit with all proper safeguards—the extensive resources of the Department of Defense. This will necessitate new priorities for the U.S. armed forces and particularly, in our view, for the National Guard.

The United States *is today very poorly organized to design and implement any comprehensive strategy to protect the homeland.* The assets and organizations that now exist for homeland security are scattered across more than two dozen departments and agencies, and all fifty states. The Executive Branch, with the full participation of Congress, needs to realign, refine, and rationalize these assets into a coherent whole, or even the best strategy will lack an adequate vehicle for implementation.

This Commission believes that the security of the American homeland from the threats of the new century should be *the* primary national security mission of the U.S. government. While the Executive Branch must take the lead in dealing with the many policy and structural issues involved, Congress is a partner of critical importance in this effort. It must find ways to address homeland security issues that bridge current gaps in organization, oversight, and authority, and that resolve conflicting claims to jurisdiction within both the Senate and the House of Representatives and also between them.

Congress is crucial, as well, for guaranteeing that homeland security is achieved *within a framework of law that protects the civil liberties and privacy of American citizens.* We are confident that the U.S. government can

[7] See *New World Coming*, p. 4, and the Report of the National Defense Panel, *Transforming Defense: National Security in the 21st Century* (Washington, DC: December 1997), p. 17.

enhance national security without compromising established Constitutional principles. But in order to guarantee this, *we must plan ahead.* In a major attack involving contagious biological agents, for example, citizen cooperation with government authorities will depend on public confidence that those authorities can manage the emergency. If that confidence is lacking, panic and disorder could lead to insistent demands for the temporary suspension of some civil liberties. That is why preparing for the worst is essential to protecting individual freedoms during a national crisis.

Legislative guidance for planning among federal agencies and state and local authorities must take particular cognizance of the role of the Defense Department. *Its subordination to civil authority needs to be clearly defined in advance.*

In short, advances in technology have created new dimensions to our nation's economic and physical security. While some new threats can be met with traditional responses, others cannot. More needs to be done in three areas to prevent the territory and infrastructure of the United States from becoming easy and tempting targets: in strategy, in organizational realignment, and in Executive-Legislative cooperation. We take these areas in turn.

A. The Strategic Framework

A homeland security strategy to minimize the threat of intimidation and loss of life is an essential support for an international leadership role for the United States. Homeland security is not peripheral to U.S. national security strategy but central to it. At this point, national leaders have not agreed on a clear strategy for homeland security, a condition this Commission finds dangerous and intolerable. We therefore recommend the following:

1 The President should develop a comprehensive strategy to heighten America's ability to prevent and protect against all forms of attack on the homeland, and to respond to such attacks if prevention and protection fail.

In our view, the President should:

- Give new priority in his overall national security strategy to homeland security, and make it a central concern for incoming officials in all Executive Branch departments, particularly the intelligence and law enforcement communities;
- Calmly prepare the American people for prospective threats, and increase their awareness of what federal and state governments are doing to prevent attacks and to protect them if prevention fails;
- Put in place new government organizations and processes, eliminating where possible staff duplication and mission overlap; and
- Encourage Congress to establish new mechanisms to facilitate closer cooperation between the Executive and Legislative Branches of government on this vital issue.

We believe that homeland security can best be assured through a strategy of *layered defense* that focuses first on prevention, second on protection, and third on response.

Prevention: Preventing a potential attack comes first. Since the occurrence of even one event that causes catastrophic loss of life would represent an unacceptable failure of policy, U.S. strategy should therefore act as far forward as possible to prevent attacks on the homeland. This strategy has at its disposal three essential instruments.

Most broadly, the first instrument is U.S. diplomacy. U.S. foreign policy should strive to shape an international system in which just grievances can be addressed without violence. Diplomatic efforts to develop friendly and trusting relations with foreign governments and their people can significantly multiply America's chances of gaining early warning of potential attack and of doing something about impending threats. Intelligence-sharing with foreign governments is crucial to help identify individuals and groups who might be considering attacks on the United States or its allies. Cooperative foreign law enforcement agencies can detain, arrest, and prosecute terrorists on their own soil. Diplomatic success in resolving overseas conflicts that spawn terrorist activities will help in the long run.

Meanwhile, verifiable arms control and nonproliferation efforts must remain a top priority. These policies can help persuade states and terrorists to abjure weapons of mass destruction and to prevent the export of fissile materials and dangerous dual-use technologies. But such measures cannot by themselves prevent proliferation. So other measures are needed, including the possibility of punitive measures and defenses. The United States should take a lead role in strengthening multilateral organizations such as the International Atomic Energy Agency.

In addition, increased vigilance against international crime syndicates is also important because many terrorist organizations gain resources and other assets through criminal activity that they then use to mount terrorist operations. Dealing with international organized crime requires not only better cooperation with other countries, but also among agencies of the federal government. While progress has been made on this front in recent years, more remains to be done.[8]

The second instrument of homeland security consists of the U.S. diplomatic, intelligence, and military presence overseas. Knowing the who, where, and how of a potential physical or cyber attack is the key to stopping a strike before it can be delivered. Diplomatic, intelligence, and military agencies overseas, as well as law enforcement agencies working abroad, are America's primary eyes and ears on the ground. But increased public-private efforts to enhance security processes within the international transportation and logistics networks that bring people and goods to America are also of critical and growing importance.

Vigilant systems of border security and surveillance are a third instrument that can prevent those agents of attack who are not detected and stopped overseas from actually entering the United States. Agencies such as the U.S. Customs Service and U.S. Coast Guard have a critical prevention role to play. Terrorists and criminals are finding that the difficulty of policing the rising daily volume and velocities of people and goods that cross U.S. borders makes it easier for them to smuggle weapons and contraband, and to move their operatives into and out of the United States. Improving the capacity of border control agencies to identify and intercept potential threats without creating barriers to

[8] See *International Crime Threat Assessment* (Washington, DC: The White House, December 2000).

efficient trade and travel requires a sub-strategy also with three elements.

First is the development of new transportation security procedures and practices designed to reduce the risk that importers, exporters, freight forwarders, and transportation carriers will serve as unwitting conduits for criminal or terrorist activities. *Second* is bolstering the intelligence gathering, data management, and information sharing capabilities of border control agencies to improve their ability to target high-risk goods and people for inspection. *Third* is strengthening the capabilities of border control agencies to arrest terrorists or interdict dangerous shipments *before* they arrive on U.S. soil.

These three measures, which place a premium on public-private partnerships, will pay for themselves in short order. They will allow for the more efficient allocation of limited enforcement resources along U.S. borders. There will be fewer disruptive inspections at ports of entry for legitimate businesses and travelers. They will lead to reduced theft and insurance costs, as well. Most important, the underlying philosophy of this approach is one that balances prudence, on the one hand, with American values of openness and free trade on the other.[9] To shield America from the world out of fear of terrorism is, in large part, to do the terrorists' work for them. To continue business as usual, however, is irresponsible.

The same may be said for our growing cyber problems. Protecting our nation's critical infrastructure depends on greater public awareness and improvements in our tools to detect and diagnose intrusions. This will require better information sharing among all federal, state, and local governments as well as with private sector owners and operators. The federal government has these specific tasks:

- To serve as a model for the private sector by improving its own security practices;
- To address known government security problems on a system-wide basis;
- To identify and map network interdependencies so that harmful cascading effects among systems can be prevented;
- To sponsor vulnerability assessments within both the federal government and the private sector; and
- To design and carry out simulations and exercises that test information system security across the nation's entire infrastructure.

Preventing attacks on the American homeland also requires that the United States maintain long-range strike capabilities. The United States must bolster deterrence by making clear its determination to use military force in a preemptive fashion if necessary. Even the most hostile state sponsors of terrorism, or terrorists themselves, will think twice about harming Americans and American allies and interests if they fear direct and severe U.S. attack after—*or before*—the fact. Such capabilities will strengthen deterrence even if they never have to be used.

Protection: The Defense Department undertakes many different activities that serve to protect the American homeland, and these should be integrated into an overall surveillance system, buttressed with additional resources. A ballistic missile defense system would be a useful addition and should be developed to the extent technically feasible,

[9] Note in this regard Stephen E. Flynn, "Beyond Border Control," *Foreign Affairs* (November/December 2000).

fiscally prudent, and politically sustainable. Defenses should also be pursued against cruise missiles and other sophisticated atmospheric weapon technologies as they become more widely deployed. While both active duty and reserve forces are involved in these activities, the Commission believes that more can and should be done by the National Guard, as is discussed in more detail below.

Protecting the nation's critical infrastructure and providing cyber-security must also include:

- Advanced indication, warning, and attack assessments;
- A warning system that includes voluntary, immediate private-sector reporting of potential attacks to enable other private-sector targets (and the U.S. government) better to take protective action; and
- Advanced systems for halting attacks, establishing backups, and restoring service.

Response: Managing the consequences of a catastrophic attack on the U.S. homeland would be a complex and difficult process. *The first priority should be to build up and augment state and local response capabilities.* Adequate equipment must be available to first responders in local communities. Procedures and guidelines need to be defined and disseminated and then practiced through simulations and exercises. Interoperable, robust, and redundant communications capabilities are a must in recovering from any disaster. Continuity of government and critical services must be ensured as well. Demonstrating effective responses to natural and manmade disasters will also help to build mutual confidence and relationships among those with roles in dealing with a major terrorist attack.

All of this puts a premium on making sure that the disparate organizations involved with homeland security—on various levels of government and in the private sector—can work together effectively. We are frankly skeptical that the U.S. government, as it exists today, can respond effectively to the scale of danger and damage that may come upon us during the next quarter century. This leads us, then, to our second task: that of organizational realignment.

B. Organizational Realignment

Responsibility for homeland security resides at all levels of the U.S. government—local, state, and federal. Within the federal government, almost every agency and department is involved in some aspect of homeland security. None have been organized to focus on the scale of the contemporary threat to the homeland, however. This Commission urges an organizational realignment that:

- Designates a single person, accountable to the President, to be responsible for coordinating and overseeing specific U.S. government activities related to homeland security;
- Consolidates certain homeland security activities to improve their effectiveness and coherence;
- Establishes planning mechanisms to define clearly specific responses to specific types of threats; and
- Ensures that the appropriate resources and capabilities are available.

Therefore, this Commission strongly recommends the following:

2 The President should propose, and Congress should agree to create, a National Homeland Security Agency (NHSA) with responsibility for planning, coordinating, and integrating various U.S. government activities involved in homeland security. The Federal Emergency Management Agency (FEMA) should be a key building block in this effort.

Given the multiplicity of agencies and activities involved in these homeland security tasks, someone needs to be responsible and accountable to the President not only to coordinate the making of policy, but also to oversee its detailed implementation. This argues against assigning both roles to a senior person on the National Security Council (NSC) staff and for the creation of a separate agency. This agency would give priority to operational planning while relying primarily on others to carry out those plans. To give this agency sufficient stature within the government, its director would be a member of the Cabinet and a statutory advisor to the National Security Council. The position would require Senate confirmation.

Notwithstanding NHSA's responsibilities, the National Security Council would still play a strategic role in planning and coordinating all homeland security activities. This would include those of NHSA as well as those that remain separate, whether they involve other NSC members or other agencies, such as the Centers for Disease Control within the Department of Health and Human Services.

We propose building the National Homeland Security Agency upon the capabilities of the Federal Emergency Management Agency (FEMA), an existing federal agency that has performed well in recent years, especially in responding to natural disasters. NHSA would be legislatively chartered to provide a focal point for all natural and manmade crisis and emergency planning scenarios. It would retain and strengthen FEMA's ten existing regional offices as a core element of its organizational structure.

While FEMA is the necessary core of the National Homeland Security Agency, it is not sufficient to do what NHSA needs to do. In particular, patrolling U.S. borders, and policing the flows of peoples and goods through the hundreds of ports of entry, must receive higher priority. These activities need to be better integrated, but efforts toward that end are hindered by the fact that the three organizations on the front line of border security are spread across three different U.S. Cabinet departments. The Coast Guard works under the Secretary of Transportation, the Customs Service is located in the Department of the Treasury, and the Immigration and Naturalization Service oversees the Border Patrol in the Department of Justice. In each case, the border defense agency is far from the mainstream of its parent department's agenda and consequently receives limited attention from the department's senior officials. We therefore recommend the following:

3 The President should propose to Congress the transfer of the Customs Service, the Border Patrol, and Coast Guard to the National Homeland Security Agency, while preserving them as distinct entities.

Bringing these organizations together under one agency will create important synergies. Their individual capabilities will be molded into a stronger and more effective system, and this realignment will help ensure that sufficient resources are devoted to tasks crucial to both public safety and U.S. trade and economic interests. Consolidating overhead, training programs, and maintenance of the aircraft, boats, and helicopters that these three agencies employ will save money, and further efficiencies could be realized with regard to other resources such as information technology, communications equipment, and dedicated sensors. Bringing these separate, but complementary, activities together will also facilitate more effective Executive and Legislative oversight, and help rationalize the process of budget preparation, analysis, and presentation.

—*Steps must be also taken to strengthen these three individual organizations themselves.* The Customs Service, the Border Patrol, and the Coast Guard are all on the verge of being overwhelmed by the mismatch between their growing duties and their mostly static resources.

The Customs Service, for example, is charged with preventing contraband from entering the United States. It is also responsible for preventing terrorists from using the commercial or private transportation venues of international trade for smuggling explosives or weapons of mass destruction into or out of the United States. The Customs Service, however, retains only a modest air, land, and marine interdiction force, and its investigative component, supported by its own intelligence branch, is similarly modest. The high volume of conveyances, cargo, and passengers arriving in the United States each year already overwhelms the Customs Service's capabilities. Over $8.8 billion worth of goods, over 1.3 million people, over 340,000 vehicles, and over 58,000 shipments are processed *daily* at entry points. Of this volume, Customs can inspect *only one to two percent* of all inbound shipments. The volume of U.S. international trade, measured in terms of dollars and containers, has doubled since 1995, and it may well double again between now and 2005.

Therefore, this Commission believes that *an improved computer information capability and tracking system—as well as upgraded equipment that can detect both conventional and nuclear explosives, and chemical and biological agents—would be a wise short-term investment with important long-term benefits.* It would also raise the risk for criminals seeking to target or exploit importers and cargo carriers for illicit gains.[10]

The Border Patrol is the uniformed arm of the Immigration and Naturalization Service. Its mission is the detection and prevention of illegal entry into the United States. It works primarily between ports of entry and patrols the borders by various means. There has been a debate for many years about whether the dual functions of the Immigration and Naturalization Service—border control and enforcement on the one side, and immigration facilitation on the other—should be joined under the same roof. The U.S. Commission on Immigration Reform concluded that they should not be joined.[11] We agree: the Border Patrol should become part of the NHSA.

The U.S. Coast Guard is a highly disciplined force with multiple missions and a natural role to play in homeland security. It performs maritime search and rescue missions,

[10] See the *Report of the Interagency Commission on Crime and Security in U.S. Seaports* (Washington, DC: Fall 2000).

[11] See the *Report of the U.S. Commission on Immigration Reform* (Washington, DC: 1997).

manages vessel traffic, enforces U.S. environmental and fishery laws, and interdicts and searches vessels suspected of carrying illegal aliens, drugs, and other contraband. In a time of war, it also works with the Navy to protect U.S. ports from attack.

Indeed, in many respects, the Coast Guard is a model homeland security agency given its unique blend of law enforcement, regulatory, and military authorities that allow it to operate within, across, and beyond U.S. borders. It accomplishes its many missions by routinely working with numerous local, regional, national, and international agencies, and by forging and maintaining constructive relationships with a diverse group of private, non-governmental, and public marine-related organizations. As the fifth armed service, in peace and war, it has national defense missions that include port security, overseeing the defense of coastal waters, and supporting and integrating its forces with those of the Navy and the other services.

The case for preserving and enhancing the Coast Guard's multi-mission capabilities is compelling. But its crucial role in protecting national interests close to home has not been adequately appreciated, and this has resulted in serious and growing readiness concerns. U.S. Coast Guard ships and aircraft are aging and technologically obsolete: indeed, the Coast Guard cutter fleet is older than 39 of the world's 41 major naval fleets. As a result, the Coast Guard fleet generates excessive operating and maintenance costs, and lacks essential capabilities in speed, sensors, and interoperability. To fulfill all of its missions, the Coast Guard requires updated platforms with the staying power, in hazardous weather, to remain offshore and fully operational throughout U.S. maritime economic zones.[12]

The Commission recommends strongly that Congress recapitalize the Customs Service, the Border Patrol, and the Coast Guard so that they can confidently perform key homeland security roles.

NHSA's planning, coordinating, and overseeing activities would be undertaken through three staff Directorates. The Directorate of Prevention would oversee and coordinate the various border security activities, as discussed above. A Directorate of Critical Infrastructure Protection (CIP) would handle the growing cyber threat. FEMA's emergency preparedness and response activities would be strengthened in a third directorate to cover both natural and manmade disasters. A Science and Technology office would advise the NHSA Director on research and development efforts and priorities for all three directorates.

Relatively small permanent staffs would man the directorates. NHSA will employ FEMA's principle of working effectively with state and local governments, as well as with other federal organizations, stressing interagency coordination. Much of NHSA's daily work will take place directly supporting state officials in its regional offices around the country. Its organizational infrastructure *will not be heavily centered* in the Washington, DC area.

NHSA would also house a National Crisis Action Center (NCAC), which would become the nation's focal point for monitoring emergencies and for coordinating federal support in a crisis to state and local governments, as well as to the private sector. We envision the center to be an interagency operation, directed by a

[12] See Report of the Interagency Task Force on U.S. Coast Guard Roles and Missions, *A Coast Guard for the Twenty First-Century* (Washington, DC: December 1999).

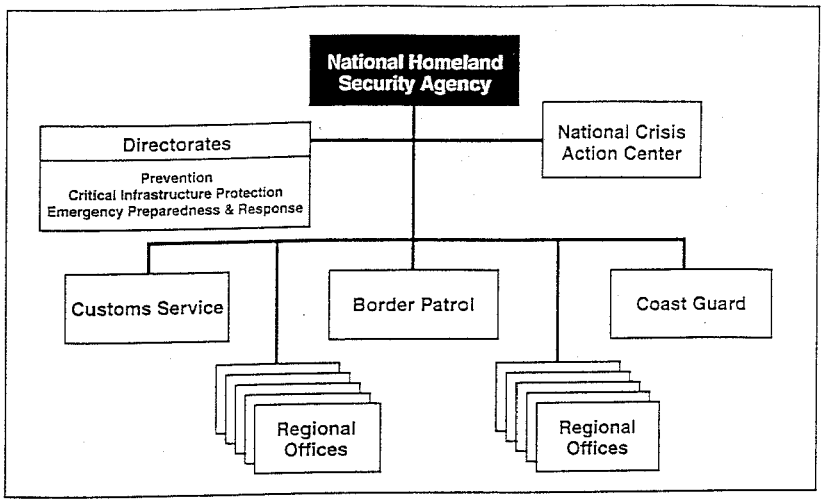

Figure 1: National Homeland Security Agency

two-star National Guard general, with full-time representation from the other federal agencies involved in homeland security (see Figure 1).

NHSA will require a particularly close working relationship with the Department of Defense. It will need also to create and maintain strong mechanisms for the sharing of information and intelligence with U.S. domestic and international intelligence entities. We suggest that NHSA have liaison officers in the counter-terrorism centers of both the FBI and the CIA. Additionally, the sharing of information with business and industry on threats to critical infrastructures requires further expansion.

NHSA will also assume responsibility for overseeing the protection of the nation's critical infrastructure. Considerable progress has been made in implementing the recommendations of the President's Commission on Critical Infrastructure Protection (PCCIP) and Presidential Decision Directive 63 (PDD-63). But more needs to be done, for the United States has real and growing problems in this area.

U.S. dependence on increasingly sophisticated and more concentrated critical infrastructures has increased dramatically over the past decade. Electrical utilities, water and sewage systems, transportation networks, and communications and energy systems now depend on computers to provide safe, efficient, and reliable service. The banking and finance sector, too, keeps track of millions of transactions through increasingly robust computer capabilities.

The overwhelming majority of these computer systems are privately owned, and many

operate at or very near capacity *with little or no provision for manual back-ups in an emergency*. Moreover, the computerized information networks that link systems together are themselves vulnerable to unwanted intrusion and disruption. An attack on any one of several highly interdependent networks can cause collateral damage to other networks and the systems they connect. Some forms of disruption will lead merely to nuisance and economic loss, but other forms will jeopardize lives. One need only note the dependence of hospitals, air-traffic control systems, and the food processing industry on computer controls to appreciate the point.

The bulk of unclassified military communications, too, relies on systems almost entirely owned and operated by the private sector. Yet little has been done to assure the security and reliability of those communications in crisis. Current efforts to prevent attacks, protect against their most damaging effects, and prepare for prompt response are uneven at best, and this is dangerous because a determined adversary is most likely to employ a weapon of mass disruption during a homeland security or foreign policy crisis.

As noted above, a Directorate for Critical Infrastructure Protection would be an integral part of the National Homeland Security Agency. This directorate would have two vital responsibilities. First would be to oversee the physical assets and information networks that make up the U.S. critical infrastructure. It should ensure the maintenance of a nucleus of cyber security expertise within the government, as well. There is now an alarming shortage of government cyber security experts due in large part to the financial attraction of private-sector employment that the government cannot match under present personnel procedures.[13] The director's second responsibility would be as the Critical Information Technology, Assurance, and Security Office (CITASO). This office would coordinate efforts to address the nation's vulnerability to electronic or physical attacks on critical infrastructure.

Several critical activities that are currently spread among various government agencies and the private sector *should be brought together for this purpose*. These include:

- Information Sharing and Analysis Centers (ISACs), which are government-sponsored committees of private-sector participants who work to share information, plans, and procedures for information security in their fields;
- The Critical Infrastructure Assurance Office (CIAO), currently housed in the Commerce Department, which develops outreach and awareness programs with the private sector;
- The National Infrastructure Protection Center (NIPC), currently housed in the FBI, which gathers information and provides warnings of cyber attacks; and
- The Institute for Information Infrastructure Protection (I3P), also in the Commerce Department, which is designed to coordinate and support research and development projects on cyber security.

In partnership with the private sector where most cyber assets are developed and owned, the Critical Infrastructure Protection Directorate would be responsible for enhancing information sharing on cyber and physical security, tracking vulnerabilities and proposing improved risk management policies, and delin-

[13] We return to this problem below in Section IV.

eating the roles of various government agencies in preventing, defending, and recovering from attacks. To do this, the government needs to institutionalize better its private-sector liaison across the board—with the owners and operators of critical infrastructures, hardware and software developers, server/service providers, manufacturers/producers, and applied technology developers.

The Critical Infrastructure Protection Directorate's work with the private sector must include a strong advocacy of greater government and corporate investment in information assurance and security. The CITASO would be the focal point for coordinating with the Federal Communications Commission (FCC) in helping to establish cyber policy, standards, and enforcement mechanisms. Working closely with the Office of Management and Budget (OMB) and its Chief Information Officer Council (CIO Council), the CITASO needs to speak for those interests in government councils.[14] The CITASO must also provide incentives for private-sector participation in Information Sharing and Analysis Centers to share information on threats, vulnerabilities, and individual incidents, to identify interdependencies, and to map the potential cascading effects of outages in various sectors.

The directorate also needs to help coordinate cyber security issues internationally. At present, the FCC handles international cyber issues for the U.S. government through the International Telecommunications Union. As this is one of many related international issues, it would be unwise to remove this responsibility from the FCC. Nevertheless, the CIP Directorate should work closely with the FCC on cyber issues in international bodies.

The mission of the NHSA must include specific planning and operational tasks to be staffed through the Directorate for Emergency Preparedness and Response. These include:

- Setting training and equipment standards, providing resource grants, and encouraging intelligence and information sharing among state emergency management officials, local first responders, the Defense Department, and the FBI;
- Integrating the various activities of the Defense Department, the National Guard, and other federal agencies into the Federal Response Plan; and
- Pulling together private sector activities, including those of the medical community, on recovery, consequence management, and planning for continuity of services.

Working with state officials, the emergency management community, and the law enforcement community, the job of NHSA's third directorate will be to rationalize and refine the nation's incident response system. The current distinction between crisis management and consequence management is neither sustainable nor wise. The duplicative command arrangements that have been fostered by this division are prone to confusion and delay. NHSA should develop and manage a single response system for national incidents, in close coordination with the Department of Justice (DoJ) and the FBI. This would require that the

[14] The Chief Information Officer Council is a government organization consisting of all the statutory Chief Information Officers in the government. OMB's Deputy Director for Management chairs the Council.

current policy, which specifies initial DoJ control in terrorist incidents on U.S. territory, be amended once Congress creates NHSA. We believe that this arrangement would in no way contradict or diminish the FBI's traditional role with respect to law enforcement.

The Emergency Preparedness and Response Directorate should also assume a major resource and budget role. With the help of the Office of Management and Budget, the directorate's first task will be to figure out what is being spent on homeland security in the various departments and agencies. Only with such an overview can the nation identify the shortfalls between capabilities and requirements. Such a mission budget should be included in the President's overall budget submission to Congress. The Emergency Preparedness and Response Directorate will also maintain federal asset databases and encourage and support up-to-date state and local databases.

FEMA has adapted well to new circumstances over the past few years and has gained a well-deserved reputation for responsiveness to both natural and manmade disasters. While taking on homeland security responsibilities, the proposed NHSA would strengthen FEMA's ability to respond to such disasters. It would streamline the federal apparatus and provide greater support to the state and local officials who, as the nation's first responders, possess enormous expertise. To the greatest extent possible, federal programs should build upon the expertise and existing programs of state emergency preparedness systems and help promote regional compacts to share resources and capabilities.

To help simplify federal support mechanisms, ***we recommend transferring the National Domestic Preparedness Office (NDPO), currently housed at the FBI, to the National Homeland Security Agency***. The Commission believes that this transfer to FEMA should be done at first opportunity, even before NHSA is up and running.

The NDPO would be tasked with organizing the training of local responders and providing local and state authorities with equipment for detection, protection, and decontamination in a WMD emergency. NHSA would develop the policies, requirements, and priorities as part of its planning tasks as well as oversee the various federal, state, and local training and exercise programs. In this way, a single staff would provide federal assistance for any emergency, whether it is caused by flood, earthquake, hurricane, disease, or terrorist bomb.

A WMD incident on American soil is likely to overwhelm local fire and rescue squads, medical facilities, and government services. Attacks may contaminate water, food, and air; large-scale evacuations may be necessary and casualties could be extensive. Since getting prompt help to those who need it would be a complex and massive operation requiring federal support, such operations must be extensively planned in advance. Responsibilities need to be assigned and procedures put in place for these responsibilities to evolve if the situation worsens.

As we envision it, state officials will take the initial lead in responding to a crisis. NHSA will normally use its Regional Directors to coordinate federal assistance, while the National Crisis Action Center will monitor ongoing operations and requirements. Should a crisis overwhelm local assets, state officials will turn to NHSA for additional federal assistance. In major crises, upon the recommendation of the civilian Director of NHSA, the President will designate a senior figure—a Federal Coordinating Officer—to assume direction of all federal ac-

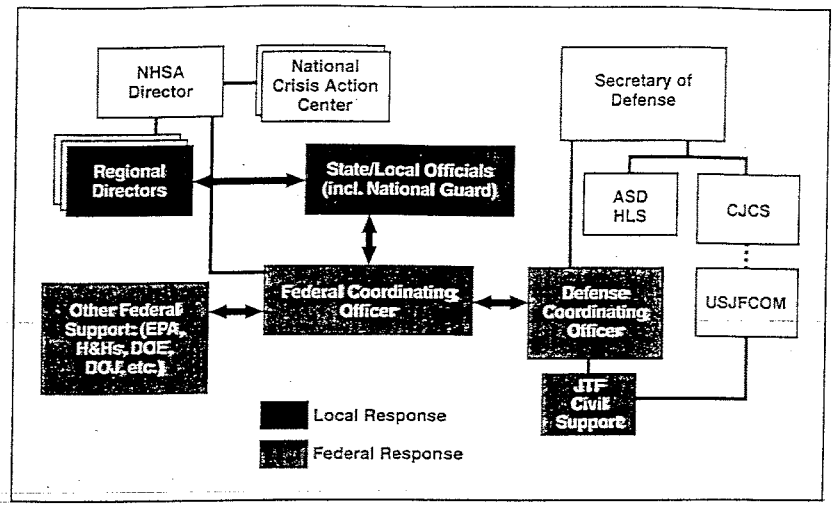

Figure 2: Emergency Response Mechanisms

tivities on the scene. If the situation warrants, a state governor can ask that active military forces reinforce National Guard units already on the scene. Once the President federalizes National Guard forces, or if he decides to use Reserve forces, the Joint Forces Command will assume responsibility for all military operations, acting through designated task force commanders. At the same time, the Secretary of Defense would appoint a Defense Coordinating Officer to provide civilian oversight and ensure prompt civil support. This person would work for the Federal Coordinating Officer. This response mechanism is displayed in Figure 2.

To be capable of carrying out its responsibilities under extreme circumstances, NHSA will need to undertake robust exercise programs and regular training to gain experience and to establish effective command and control procedures. It will be essential to update regularly the Federal Response Plan. It will be especially critical for NHSA officials to undertake detailed planning and exercises for the full range of potential contingencies, including ones that require the substantial involvement of military assets in support.

NHSA will provide the overarching structure for homeland security, but other government agencies will retain specific homeland security tasks. We take the necessary obligations of the major ones in turn.

Intelligence Community. Good intelligence is the key to preventing attacks on the homeland and homeland security should become one of the intelligence community's most important missions.[15] Better human intelligence must

[15] We return to this issue in our discussion of the Intelligence Community in Section III.F., particularly in recommendation 37.

supplement technical intelligence, especially on terrorist groups covertly supported by states. As noted above, fuller cooperation and more extensive information-sharing with friendly governments will also improve the chances that would-be perpetrators will be detained, arrested, and prosecuted before they ever reach U.S. borders.

The intelligence community also needs to embrace cyber threats as a legitimate mission and to incorporate intelligence gathering on potential strategic threats from abroad into its activities.

To advance these ends, we offer the following recommendation:

4 The President should ensure that the National Intelligence Council: include homeland security and asymmetric threats as an area of analysis; assign that portfolio to a National Intelligence Officer; and produce National Intelligence Estimates on these threats.

Department of State. U.S. embassies overseas are the American people's first line of defense. U.S. Ambassadors must make homeland security a top priority for all embassy staff, and Ambassadors need the requisite authority to ensure that information is shared in a way that maximizes advance warning overseas of direct threats to the United States.

Ambassadors should also ensure that the gathering of information, and particularly from open sources, takes full advantage of all U.S. government resources abroad, including diplomats, consular officers, military officers, and representatives of the various other departments and agencies. The State Department should also strengthen its efforts to acquire information from Americans living or travelling abroad in private capacities.

The State Department has made good progress in its overseas efforts to reduce terrorism, but we now need to extend this effort into the Information Age. Working with NHSA's CIP Directorate, the State Department should expand cooperation on critical infrastructure protection with other states and international organizations. Private sector initiatives, particularly in the banking community, provide examples of international cooperation on legal issues, standards, and practices. Working with the CIP Directorate and the FCC, the State Department should also encourage other governments to criminalize hacking and electronic intrusions and to help track hackers, computer virus proliferators, and cyber terrorists.

Department of Defense. The Defense Department, which has placed its highest priority on preparing for major theater war, should pay far more attention to the homeland security mission. Organizationally, DoD responses are widely dispersed. An Assistant to the Secretary of Defense for Civil Support has responsibility for WMD incidents, while the Department of the Army's Director of Military Support is responsible for non-WMD contingencies. Such an arrangement does not provide clear lines of authority and responsibility or ensure political accountability.

The Commission therefore recommends the following:

5 The President should propose to Congress the establishment of an Assistant Secretary of Defense for Homeland Security within the Office of the Secretary of Defense, reporting directly to the Secretary.

A new Assistant Secretary of Defense for Homeland Security would provide policy oversight for the various DoD activities within the homeland security mission and ensure that mechanisms are in place for coordinating military support in major emergencies. He or she would work to integrate homeland security into Defense Department planning, and ensure that adequate resources are forthcoming. This Assistant Secretary would also represent the Secretary in the NSC interagency process on homeland security issues.

Along similar lines and for similar reasons, we also recommend that *the Defense Department broaden and strengthen the existing Joint Forces Command/Joint Task Force-Civil Support (JTF-CS) to coordinate military planning, doctrine, and command and control for military support for all hazards and disasters.*

This task force should be directed by a senior National Guard general with additional headquarters personnel. JTF-CS should contain several rapid reaction task forces, composed largely of rapidly mobilizable National Guard units. The task force should have command and control capabilities for multiple incidents. Joint Forces Command should work with the Assistant Secretary of Defense for Homeland Security to ensure the provision of adequate resources and appropriate force allocations, training, and equipment for civil support.

On the prevention side, maintaining strong nuclear and conventional forces is as high a priority for homeland security as it is for other missions. Shaping a peaceful international environment and deterring hostile military actors remain sound military goals. But deterrent forces may have little effect on non-state groups secretly supported by states, or on individuals with grievances real or imagined. In cases of clear and imminent danger, the military must be able to take preemptive action overseas in circumstances where local authorities are unable or unwilling to act. For this purpose, as noted above, the United States needs to be prepared to use its rapid, long-range precision strike capabilities. A decision to act would obviously rest in civilian hands, and would depend on intelligence information and assessments of diplomatic consequences. But even if a decision to strike preemptively is never taken or needed, the capability should be available nonetheless, for knowledge of it can contribute to deterrence.

We also suggest that the Defense Department broaden its mission of protecting air, sea, and land approaches to the United States, consistent with emerging threats such as the potential proliferation of cruise missiles. The department should examine alternative means of monitoring approaches to the territorial United States. Modern information technology and sophisticated sensors can help monitor the high volumes of traffic to and from the United States. Given the volume of legitimate activities near and on the border, even modern information technology and remote sensors cannot filter the good from the bad as a matter of routine. It is neither wise nor possible to create a surveillance umbrella over the United States. But Defense

Department assets can be used to support detection, monitoring, and even interception operations when intelligence indicates a specific threat.

Finally, a better division of labor and understanding of responsibilities is essential in dealing with the connectivity and interdependence of U.S. critical infrastructure systems. This includes addressing the nature of a national transportation network or cyber emergency and the Defense Department's role in prevention, detection, or protection of the national critical infrastructure. The department's sealift and airlift plans are premised on largely unquestioned assumptions that domestic transportation systems will be fully available to support mobilization requirements.

The department also is paying insufficient attention to the vulnerability of its information networks. Currently, the department's computer network defense task force (JTF-Computer Network Defense) is underfunded and understaffed for the task of managing an actual strategic information warfare attack. It should be given the resources to carry out its current mission and is a logical source of advice to the proposed NHSA Critical Information Technology, Assurance, and Security Office.

National Guard. The National Guard, whose origins are to be found in the state militias authorized by the U.S. Constitution, should play a central role in the response component of a layered defense strategy for homeland security.

We therefore recommend the following:

6 The Secretary of Defense, at the President's direction, should make homeland security a primary mission of the National Guard, and the Guard should be organized, properly trained, and adequately equipped to undertake that mission.

At present, the Army National Guard is primarily organized and equipped to conduct sustained combat overseas. In this the Guard fulfills a strategic reserve role, augmenting the active military during overseas contingencies. At the same time, the Guard carries out many state-level missions for disaster and humanitarian relief, as well as consequence management. For these, it relies upon the discipline, equipment, and leadership of its combat forces. The National Guard should redistribute resources currently allocated predominantly to preparing for conventional wars overseas to provide greater support to civil authorities in preparing for and responding to disasters, especially emergencies involving weapons of mass destruction.

Such a redistribution should flow from a detailed assessment of force requirements for both theater war and homeland security contingencies. The Department of Defense should conduct such an assessment, with the participation of the state governors and the NHSA Director. In setting requirements, the department should minimize forces with dual missions or reliance on active forces detailed for major theater war. This is because the United States will need to maintain a heightened deterrent and defensive posture against homeland attacks *during* regional contingencies abroad. The most likely timing of a major

terrorist incident will be while the United States is involved in a conflict overseas.[16]

The National Guard is designated as the primary Department of Defense agency for disaster relief. In many cases, the National Guard will respond as a state asset under the control of state governors. While it is appropriate for the National Guard to play the lead military role in managing the consequences of a WMD attack, its capabilities to do so are uneven and in some cases its forces are not adequately structured or equipped. Twenty-two WMD Civil Support Teams, made up of trained and equipped full-time National Guard personnel, will be ready to deploy rapidly, assist local first responders, provide technical advice, and pave the way for additional military help. These teams fill a vital need, but more effort is required.

This Commission recommends that the National Guard be directed to fulfill its historic and Constitutional mission of homeland security. It should provide a mobilization base with strong local ties and support. It is already "forward deployed" to achieve this mission and should:

- Participate in and initiate, where necessary, state, local, and regional planning for responding to a WMD incident;
- Train and help organize local first responders;
- Maintain up-to-date inventories of military resources and equipment available in the area on short notice;
- Plan for rapid inter-state support and reinforcement; and
- Develop an overseas capability for international humanitarian assistance and disaster relief.

In this way, the National Guard will become a critical asset for homeland security

Medical Community. The medical community has critical roles to play in homeland security. Catastrophic acts of terrorism or violence could cause casualties far beyond any imagined heretofore. Most of the American medical system is privately owned and now operates at close to capacity. An incident involving WMD will quickly overwhelm the capacities of local hospitals and emergency management professionals.

In response, the National Security Council, FEMA, and the Department of Health and Human Services have already begun a reassessment of their programs. Research to develop better diagnostic equipment and immune-enhancing drugs is underway, and resources to reinvigorate U.S. epidemiological surveillance capacity have been allocated. Programs to amass and regionally distribute inventories of antibiotics and vaccines have started, and arrangements for mass production of selected pharmaceuticals have been made. The Centers for Disease Control has rapid-response investigative units prepared to deploy and respond to incidents.

These programs will enhance the capacities of the medical community, but the momentum and resources for this effort must be extended. ***We recommend that the NHSA Directorate for Emergency Preparedness and Response assess local and federal medical resources to deal with a WMD emergency. It should then specify those medical programs needed to deal with a major national***

16 See the *Report of the National Defense University Quadrennial Defense Review 2001 Working Group* (Washington, DC: Institute for National Strategic Studies, November 2000), p. 60.

emergency beyond the means of the private sector, and Congress should fund those needs.

C. Executive-Legislative Cooperation

Solving the homeland security challenge is not just an Executive Branch problem. Congress should be an active participant in the development of homeland security programs, as well. Its hearings can help develop the best ideas and solutions. Individual members should develop expertise in homeland security policy and its implementation so that they can fill in policy gaps and provide needed oversight and advice in times of crisis. Most important, using its power of the purse, Congress should ensure that government agencies have sufficient resources and that their programs are coordinated, efficient, and effective.

Congress has already taken important steps. A bipartisan Congressional initiative produced the U.S. effort to deal with the possibility that weapons of mass destruction could "leak" out of a disintegrating Soviet Union.[17] It was also a Congressional initiative that established the Domestic Preparedness Program and launched a 120-city program to enhance the capability of federal, state, and local first responders to react effectively in a WMD emergency.[18] Members of Congress from both parties have pushed the Executive Branch to identify and manage the problem more effectively. Congress has also proposed and funded studies and commissions on various aspects of the homeland security problem.[19] But it must do more.

A sound homeland security strategy requires the overhaul of much of the legislative framework for preparedness, response, and national defense programs. Congress designed many of the authorities that support national security and emergency preparedness programs principally for a Cold War environment. The new threat environment—from biological and terrorist attacks to cyber attacks on critical systems—poses vastly different challenges. ***We therefore recommend that Congress refurbish the legal foundation for homeland security in response to the new threat environment.***

In particular, Congress should amend, as necessary, key legislative authorities such as the Defense Production Act of 1950 and the Communications Act of 1934, which facilitate homeland security functions and activities.[20] Congress should also encourage the sharing of threat, vulnerability, and incident data between the public and private sectors—including federal agencies, state governments, first re-

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17 Sponsored by Senators Sam Nunn and Richard Lugar.

18 Public Law 104-201, *National Defense Authorization Act for FY 1997: Defense Against Weapons of Mass Destruction*. This legislation, known as the Nunn-Lugar-Domenici Amendment, was passed in July 1996.

19 We note: the Rumsfeld Commission [*Report of the Commission to Assess the Ballistic Missile Threat to the United States* (Washington, DC: July 15, 1998)]; the Deutch Commission [*Combating Proliferation of Weapons of Mass Destruction* (Washington, DC: July 14, 1999)]; Judge William Webster's Commission [*Report on the Advancement of Federal Law Enforcement* (Washington, DC: January 2000)]; the Bremer Commission [Report of the National Commission on Terrorism, *Countering the Changing Threat of International Terrorism* (Washington, DC: June 2000)]; and an advisory panel led Virginia Governor James Gilmore [*First Annual Report to the President and the Congress of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction* (Washington, DC: December 15, 1999)].

20 The Defense Production Act was developed during the Korean War when shortages of critical natural resources such as coal, oil, and gas were prioritized for national defense purposes. [See Defense Production Act of 1950, codified at 50 USC App. § 2061 et seq. Title I includes delegations to prioritize and allocate goods and services based on national defense needs.] Executive Order 12919, *National Defense Industrial Resources Preparedness*, June 6, 1994, implements Title I of the Defense Production Act. Congressional review should focus on the applicability of the Defense Production Act to homeland security needs, ranging from prevention to

sponders, and industry.[21] In addition, Congress should monitor and support current efforts to update the international legal framework for communications security issues.[22]

Beyond that, Congress has some organizational work of its own to do. As things stand today, so many federal agencies are involved with homeland security that it is exceedingly difficult to present federal programs and their resource requirements to the Congress in a coherent way. It is largely because the budget is broken up into so many pieces, for example, that counter-terrorism and information security issues involve nearly *two dozen* Congressional committees and subcommittees.

The creation of the National Homeland Security Agency will redress this problem to some extent, but because of its growing urgency and complexity, homeland security will still require a stronger working relationship between the Executive and Legislative Branches. Congress should therefore find ways to address homeland security issues that bridge current jurisdictional boundaries and that create more innovative oversight mechanisms.

There are several ways of achieving this. The Senate's Arms Control Observer Group and its more recent NATO Enlargement Group were two successful examples of more informal Executive-Legislative cooperation on key multi-dimensional issues.

Specifically, in the near term, this Commission recommends the following:

7 Congress should establish a special body to deal with homeland security issues, as has been done effectively with intelligence oversight. Members should be chosen for their expertise in foreign policy, defense, intelligence, law enforcement, and appropriations. This body should also include members of all relevant Congressional committees as well as ex-officio members from the leadership of both Houses of Congress.

This body should develop a comprehensive understanding of the problem of homeland security, exchange information and viewpoints with the Executive Branch on effective policies and plans, and work with standing committees to develop integrated legislative responses and guidance. Meetings would often be held in closed session so that Members could have

restoration activities. Section 706 of the Communications Act of 1934 also needs revision so that it includes the electronic media that have developed in the past two decades. [See 48 Stat. 1104, 47 USC § 606, as amended.] Executive Order 12472, *Assignment of National Security and Emergency Preparedness Telecommunications Functions*, April 3, 1984, followed the breakup of AT&T and attempted to specify anew the prerogatives of the Executive Branch in accordance with the 1934 Act in directing national communications media during a national security emergency. It came before the Internet, however, and does not clearly apply to it.

21 For more than four years, multiple institutions have called on national leadership to support laws and policies promoting security cooperation through public-private partnerships. See, for example, the President's Commission on Critical Infrastructure Protection, *Critical Foundations, Protecting America's Infrastructures* (Washington, DC: October 1997), pp. 86-8, and the *Report of the Defense Science Board Task Force on Information Warfare* (Washington, DC: November 1996).

22 This includes substantial efforts in multiple forums, such as the Council of Europe and the G8, to fight organized transnational crime. See *Communiqué* on principles to fight transnational organized crime, Meeting of the Justice and Interior Ministers of the Eight, December 9-10, 1997.

access to interagency deliberations and diverging viewpoints, as well as to classified assessments. Such a body would have neither a legislative nor an oversight mandate, and it would not eclipse the authority of any standing committee.

At the same time, Congress needs to systematically review and restructure its committee system, as will be proposed in recommendation 48. A single, select committee in each house of Congress should be given authorization, appropriations, and oversight responsibility for all homeland security activities. When established, these committees would replace the function of the oversight body described in recommendation 7.

In sum, the federal government must address the homeland security with greater urgency. The United States is not immune to threats posed by weapons of mass destruction or disruption, but neither is it entirely defenseless against them. Much has been done to prevent and defend against such attacks, but these efforts must be incorporated into the nation's overall security strategy, and clear direction must be provided to all departments and agencies. Non-traditional national security agencies that now have greater relevance than they did in the past must be reinvigorated. Accountability, authority, and responsibility must be more closely aligned within government agencies. An Executive-Legislative consensus is required, as well, to convert strategy and resources into programs and capabilities, and to do so in a way that preserves fundamental freedoms and individual rights.

Most of all, however, the government must reorganize itself for the challenges of this new era, and make the necessary investments to allow an improved organizational structure to work. Through the Commission's proposal for a National Homeland Security Agency, the U.S. government will be able to improve the planning and coordination of federal support to state and local agencies, to rationalize the allocation of resources, to enhance readiness in order to prevent attacks, and to facilitate recovery if prevention fails. Most important, this proposal integrates the problem of homeland security within the broader framework of U.S. national security strategy. In this respect, it differs significantly from issue-specific approaches to the problem, which tend to isolate homeland security away from the larger strategic perspective of which it *must* be a part.

We are mindful that erecting the operational side of this strategy will take time to achieve. Meanwhile, the threat grows ever more serious. That is all the more reason to start right away on implementing the recommendations put forth here.

TESTIMONY OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION

ON

THE CREATION OF A DEPARTMENT OF HOMELAND SECURITY

BEFORE

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

THURSDAY, JUNE 20, 2002
106 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, D.C.

Chairman Lieberman, Ranking Member Thompson, distinguished members of the Committee, I would like to thank the Committee for the opportunity to comment on the President's Department of Homeland Security legislative proposal.

As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union which represents over 12,000 Customs employees who are stationed at 301 ports of entry across the United States. Customs inspectors and canine enforcement officers make up our nation's first line of defense in the wars on terrorism and drugs. In addition, Customs personnel are responsible for ensuring compliance with hundreds of import laws and regulations, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money.

With a FY2002 budget of approximately $3.1 billion and over 19,000 employees, the U.S. Customs Service continues to be the Nation's premier border agency. The U.S. Customs Service interdicts more drugs than any other agency and ensures that all goods and persons

entering and exiting the United States do so in compliance with over 400 U.S. laws and regulations at 301 points of entry across the country. Customs is also a revenue collection agency, collecting an estimated $25 billion in revenue on over 25 million entries involving over $1.3 trillion in international trade every year.

The President's proposal would consolidate the Customs Service, INS, Border Patrol, the Animal and Plant Health Inspection Service (APHIS) the Transportation Security Agency (TSA), the Coast Guard, and the Federal Protective Service (FPS) into one department titled Border and Transportation Security under the jurisdiction of a newly created Department of Homeland Security. I find this proposal to be extremely troubling, especially the fact that the Customs Service would not be maintained as a distinct entity within the proposed Department of Homeland Security.

One of the keys to operating any government agency is sound organization. It can ensure that problems reach their proper level of

helps assure accountability.

I would have to respectfully disagree with the view that consolidating the Customs Service with INS, Border Patrol, Coast Guard, TSA, FPS, and APHIS will achieve the goals of sound organization, accountability and enhanced border and port security.

Consolidating these organizations would cause logistical and institutional chaos. It would also take attention away from critical homeland security priorities. Yes, all of these organizations deal with front line border and port security, but in very different capacities. Each of these agency's missions are unique and should remain in their current structure. Ignoring each agency's fields of expertise will lead to losing that expertise. A new cabinet-level agency is no substitute for the additional funding and personnel needed at the U.S. Customs Service as well as other border security agencies.

For example, Customs is charged with preventing contraband from entering the U.S. as well as preventing terrorists from using commercial or private transportation venues of international trade for smuggling explosives or weapons of mass destruction into or out of the United States. Customs personnel use advanced manifest information on goods to improve targeting systems to detect questionable shipments as well as deploying state of the art inspection technology at land borders, airports and seaports. Customs personnel also use advanced computer systems to compare international passenger information against law enforcement databases on a passenger-by-passenger basis to detect possible terrorists or criminals.

Whereas, the Border Patrol's primary mission is the detection and prevention of illegal entry into the United States between ports of entry, the INS is tasked with the deterrence of unlawful entry of persons into the United States as well as facilitating lawful entry of persons entering the United States at ports of entry. Some of the Coast Guard's missions include maritime search and rescue, international ice patrol operations,

polar and domestic waterway icebreaking, bridge administration, aids to navigation, recreational boating safety, and vessel traffic management. APHIS's missions include protecting America's animal and plant resources by safeguarding resources from exotic invasive pests and diseases, monitoring and managing agricultural pests and diseases existing in the United States, and resolving and managing trade issues related to animal or plant health, and ensuring the humane care and treatment of animals.

The Customs Service is also responsible for collecting over $25 billion in trade revenue each year. The organizational mission of the Department of Homeland Security has nothing to do with revenue collection or trade facilitation, two main missions of the U.S. Customs Service. Adding revenue collection and trade facilitation responsibilities to the Department of Homeland Security's mission would create a logistical mess and make it more difficult for U.S. companies that import and export goods, a fact that has been mentioned by a number of trade groups such as the National Foreign Trade Council and the Electric

Industries Alliance.

Another argument which was mentioned in the President's proposal as a reason requiring the most significant restructuring of the U.S. government in over 50 years is the lack of intelligence sharing between agencies. As any expert involved in law enforcement operations will tell you, the routine sharing of tactical intelligence is critical to all law enforcement operations, especially agencies tasked with border security. While some work still needs to be done in the area of cooperation and coordination of intelligence, all three agencies involved with border security functions have been working together as part of Intelligence Collection and Analysis Teams (ICATs). These teams have been created throughout the country to analyze smuggling trends and concealment methods, and to quickly disseminate intelligence to all ports of entry and Border Patrol checkpoints. These ICATs are comprised of Customs Inspectors and Agents, INS agents, INS analysts and, the U.S. Border Patrol as well as local law enforcement in some cases.

However, the President's proposal does not directly address the problem of sharing intelligence between the border security agencies and the FBI and CIA because these two agencies are not directly included in the President's proposal. Several members of Congress have stated that the best way to avert intelligence-sharing failures is to put the head of the proposed department in charge of the operatives who gather the information, including those now at the FBI and the CIA. This is certainly one way to ensure proper intelligence sharing among agencies.

In Customs' case, no one doubts that the level of conveyances, cargo and passengers has increased dramatically over the last five years, but unfortunately its resources have not kept pace. Traffic volume at U.S. land ports-of-entry has steadily increased as our shared borders with Mexico and Canada have become more open as a result of the NAFTA and other initiatives. The steady increase in non-commercial traffic has led to increased congestion and backups at many land ports-of-entry, particularly those along the Southwest border. Nearly 68 percent of non-commercial vehicles that enter the United States entered

at land ports-of-entry along the Southwest border. Wait times along the Southwest border often extend to 45 minutes or more during peak hours. Such lengthy delays can be both irritating and costly to businesses and the traveling public. The lack of resources at ports-of-entry is also a problem along the Northern Border as well as seaports. The events of September 11 brought attention to the fact that the Northern Border and the nations' seaports have long been neglected in terms of personnel and resources.

In fact, Customs recent internal review of staffing, known as the Resource Allocation Model or R.A.M. shows that Customs needed over 14,776 new hires just to fulfill its basic mission and that was before September 11. What Customs needs in order to be successful and to continue to carry out its recently expanded mission of homeland security is greater funding.

For instance, with increased funding, modern technologies, such as Vehicle and Cargo Inspection Systems (VACIS), which send gamma rays through the aluminum walls of shipping containers and vehicles to

enable Customs inspectors to check for illegal drugs or weapons of mass destruction, could be acquired. However, adequate and consistent funding to purchase, operate and maintain these technologies has not been forthcoming. There have been a number of instances around the country where multi-million dollar VACIS x-ray machines have sat unused because of the lack of funding available for Customs personnel to operate the machines. Other technologies, coupled with proper personnel funding, such as portable contraband detectors (a.k.a. Busters), optical fiber scopes and laser range finders can be invaluable to Customs personnel protecting our borders from terrorists and illegal drugs.

The President's FY2003 budget requests a funding level of $3.18 billion and 19,628 FTEs for the United States Customs Service. This request represents a token increase from last year's appropriations. NTEU feels that this budget is simply inadequate to meet the needs of Customs personnel, especially in light of the incidents surrounding September 11th.

In 2001, Customs Service employees seized over 1.7 million pounds of cocaine, heroin, marijuana and other illegal narcotics – including over 9.5 million tablets of Ecstasy, triple the amount seized in 1999. Customs also processed over 497 million travelers last year, including 1 million cars and trucks and over $1.3 trillion worth of trade. These numbers continue to grow annually. Over the last decade trade has increased by 137%. It has become very clear that funding must be substantially increased in order to allow Customs to meet the challenges of the future, especially as Customs continues to have significantly higher workloads and increased threats along America's borders.

Yet, despite the increased threats of terrorism, the dramatic increases in trade resulting from NAFTA, and new drug smuggling challenges, the Customs Service has confronted its rapidly increasing workload and homeland security mission with relatively static staffing levels and resources. In the last ten years, there have not been adequate increases in staffing levels for inspectional personnel and import

specialists, the employees who process legitimate trade, to successfully conduct their missions.

The recent deployment of over 700 National Guard troops to our borders clearly shows the need for more Customs personnel. Currently, some of the National Guard troops in the border are unarmed, which not only puts the Customs inspectors' lives in danger but that of the National Guard as well. In fact, a number of drug seizure cases have had to be dismissed because of the improper discovery and handling of illegal drugs by National Guard troops. These troops need to be removed from the borders and quickly replaced with highly trained Customs personnel.

Yet, the President's Department of Homeland Security proposal does not include any additional funding that will enable the Customs Service and its personnel to successfully accomplish their missions of border security and trade facilitation.

The American public expects its borders to be properly defended. The government must show the public that it is serious about protecting the borders by fully funding the agencies tasked with defending the borders and laws of the United States. No organizational structure change will be successful, no matter how good it may look on paper, if the government does not provide proper funding for its border security agencies.

On a final note, the Administration's proposed legislation would allow the Secretary of Homeland Security together with the Director of OPM to waive all civil service laws, including merit principles, whistleblower protection, the right to belong to a union, and pay and benefits with regard to employees of a new Department of Homeland Security. This would be a huge blow to the merit system that has produced the most corruption-free civil service in the world and a huge blow to the employees who we are counting on to win the war against terrorism. Before, during, and after September 11, front line employees have acted heroically to protect our freedom. They do not deserve to

lose theirs.

Thank you for the opportunity to share NTEU's thoughts on this very important issue. I look forward to working with the Committee on this and many other issues related to homeland security.

Questions by Senator Tom Carper

Question #1: In the written testimony you made available to the committee, you say that the creation of a new department would not "grow" government, that the President's FY03 budget requests for the transferred agencies would be enough to fund them once they've been moved and that the new entities you would create would be paid for through savings achieved by eliminating redundancies. Does the administration have an estimate of how much can be achieved in savings? If so, what would those estimated savings be dependent on?

Answer to Question #1: The creation of the Department of Homeland Security (DHS) provides a range of opportunities for efficiency gains and budgetary savings. Across the Department, there will be opportunities to enhance operational and capital efficiencies, coordinate policy and strategic planning, define appropriate roles and missions, and ensure accountability for homeland security functions. While it is premature to provide a savings estimate, it is fair to say that they will depend upon the Department's emerging structure. We expect that, through the creation of DHS and subsequent prudent management, we can prevent duplication in research, integrate the assets that protect our border and transportation systems, rationalize our border presence and overhead, integrate information systems, and streamline assistance to first responders, for example.

Question #2: Even if the savings that can be achieved are significant, the President's draft legislative proposal calls for the appointment of a deputy secretary, five undersecretaries and up to 16 assistant secretaries in addition to the new secretary and there has already been talk of constructing a new headquarters for the department. Will the savings you are planning for cover these costs? If not, how much should the Congress expect to spend in future years to cover the new personnel and infrastructure costs this department will bring?

Answer to Question #2 (Potential costs of the new Department): Throughout the transition process, will be working to create an optimal Departmental structure. This will be presented – part and parcel with its resource requirements – in the President's FY 2004 Budget. While we recognize that there will be costs associated with establishing the new Department, we expect that in the near term, the proposal can be funded with the large increases in resources that have already been provided or are requested by the President. In the longer term, we expect to achieve savings and productivity improvements that will support our Nation's security. Also, it is important to note that because the DHS will incorporate components of existing Departments, we expect that some of the Department-wide resources that now support those components in the existing Departments will shift to DHS in future years.

Question #3: Unlike S. 2452, the President's proposal transfers the new Transportation Security Administration (TSA) into the new department. Ever since the TSA was created, as you know, it has focused almost solely on air security. This is understandable considering that we were attacked on September 11th through the air and Congress set into law some pretty stringent deadlines for the new agency to meet. With the TSA out of the Department of Transportation, however, are there plans to have them begin focusing on security problems in other modes of transportation?

Answer to Question #3 (Security of all modes of transportation): TSA is already actively engaged in ensuring the security of transportation over land and sea. It is focusing on the inter-modal aspects of moving people and goods, such as transportation from truck to rail to ship, for example. TSA is developing procedures, and will seek to implement them, to prevent any mode of transportation from being exploited by terrorists. It is presently working closely with agencies that will be included in DHS, especially the Coast Guard and the Customs Service. We expect that TSA's inclusion in DHS will enhance its ability to focus on modes beyond aviation. It will be linked to critical intelligence information and IT systems, and will be able to leverage the staff, research capabilities, resources and facilities of other DHS components.

Question #4: In the President's proposal, the Office of Homeland Security is left intact but not given any additional authority or responsibilities. What role do you see the person in your position taking if the President's proposal were to become law? How would that role differ from the role of the Director of the National Office for Combating Terrorism that Senator Lieberman would set up in the White House?

Answer to Question #4 (Continuing role of the Office of Homeland Security): The President intends for the White House Office of Homeland Security and the Homeland Security Council to continue to play a key role, advising the President and coordinating a vastly simplified interagency process. The Assistant to the President for Homeland Security will be a confidential advisor to the President, just as is the Assistant to the President for National Security Affairs. Consequently, the Administration strongly opposes the provision in Senator Lieberman's proposal that the Assistant to the President for Homeland Security be confirmed by the Senate.

Question #5: I've spoken in the past about the need to find a way to evaluate the performance of this new department at some point down the road so we would be able to tell if what we've constructed is actually working the way we intended it to. How do you think we can best do that?

Answer to Question #5 (Evaluating the performance of the new Department): We believe that establishing DHS will provide a strong framework for performance measurement. In the past, it has been difficult to develop performance measures for homeland security because responsibilities have been spread across fragmented agencies with similar missions. DHS will integrate many of the core lines of business that support homeland security and clearly delineate who is responsible for those lines of business. With that framework in place, we can set targets for the Department, and hold people accountable for achieving those targets. We will be able to establish meaningful benchmarks to measure the speed and quality of information that moves throughout the Department, the flow of goods and services across the border, and the enforcement actions supported by DHS activities, for example.

Governor Tom Ridge, Office of Homeland Security, Responses to Questions from the June 20, 2002 Senate Committee on Government Affairs hearing: "President Bush's Proposal to Create a Department of Homeland Security"

Questions by Senator Cochran

Question #1: Your plan would move the Secret Service into the Department, where it will be a separate entity that would report to the Secretary. While I understand why the protective mission of the Secret Service should be included in the new Department, I'm not sure that the Counterfeit Division of the Secret Service should be transferred.

- Is there a specific reason why you would want to retain the Counterfeit Division within the Department of Homeland Security?

- Have you given any consideration to transferring the counterfeiting mission of the Secret Service to any other Department or Agency, or retaining it in the Treasury Department?

Answer to Question #1: The core mission of the Secret Service aligns with the core competences of the new Department. The Secret Service has two distinct and significant missions: protection and criminal investigations. It is responsible for: the protection of the President, the Vice President, and their families, heads of state, and other designated individuals; the investigation of threats against these protectees; protection of the White House, Vice President's Residence, and other buildings within Washington, D.C.; and security design, planning, and implementation at designated National Special Security Events.

The Secret Service is also responsible for the enforcement of laws relating to counterfeiting of obligations and securities of the United States, investigation of financial crimes including, but not limited to access device fraud, financial institution fraud, identity theft, computer fraud, telecommunications fraud, and computer-based attacks on our Nation's financial, banking, and telecommunications infrastructure.

These missions obviously have a critical nexus to the fundamental mission of the new Department: protecting our Nation, its leadership, and its critical infrastructure from terrorist attack. Equally important, however, is the synergy between the institutional culture and mindset of the Secret Service and the institutional culture and mindset we hope to create in the new Department.

The counterfeiting duties of the Service are deeply integrated into the culture, operation, and daily workings of the Secret Service, and should remain part of the Service. These duties and responsibilities will continue to be performed and fully supported within the new Department. The Secret Service's internal operational management works well to support the Secret Service's specialized expertise. It should be left intact in the new department, and report directly to the Secretary.

Question #2: Concerns have been raised about the provisions in the President's proposal that would allow the Department the freedom to craft a personnel program specific to the Department of Homeland Security.

- Could you explain to us some of the changes you envision in the area of personnel management and on what basis you believe these changes are needed?

Answer to Question #2 (Personnel management in the new Department): The President's bill creates a broad framework that allows the new Department to retain the best aspects of the government's existing personnel systems and builds on them.

- Federal workers transferring to the new Department will bring their current pay and benefits with them. They will enjoy the same benefits (health, retirement, life insurance, and the new long-term care insurance plan) that are available to employees today.
- When the new Department is established, employees represented by unions will continue to be represented; their bargaining units will move with them.
- Veterans will continue to be eligible to receive employment preference in the new Department.
- The new Department will be bound by merit system principles: fair treatment without regard to political affiliation; equal pay for equal work; and protection for whistleblowers.
- Consolidating the large number of agencies now involved in some aspect of fighting terrorism into one department will yield significant efficiencies. By eliminating duplicative and overlapping functions, employees can be freed to focus on protecting Americans on the front line.
- Employees in the agencies that would transfer to the new Department now work under different pay systems and would bring a variety of differing employment policies that have evolved over time. The new Secretary of Homeland Security will need to have the flexibility to manage the newly formed Department with a personnel system that allows the Secretary to put the right people in the right place at the right time.
- The goal of the new system is to attract and retain good people, pay them fairly, offer incentives for exceptional contributions and ensure accountability for individual performance

Question #3: It is clear you will have an excess of employees in certain skill areas, such as personnel, Congressional Affairs, etc., with the establishment of this new Department.

- Assuming there will be a need for a reduction in force, what methods do you plan to use, to minimize the negative impact on personnel?

Answer to Question #3 (The potential for layoffs): Given the critical need for well-trained talent in the new Department and the changing demographics of the workforce, we expect that layoffs, if any, would be limited. Nevertheless, a key objective of the consolidation is a strengthening of the effectiveness of the Department in part through the redeployment of personnel to the front lines – on the borders and at laboratory benches. The challenge will be to match the right people to the right job. If a reduction in force occurs, adequate authority is available to ensure employees are treated justly. These authorities, or similar mechanisms,

include: Reassignment to vacant positions; retraining of staff; early retirement programs; and judicious use of buyouts.

Question #4: Do you anticipate the creation of additional non-career SES level positions or other positions appointed by the President?

Answer to Question #4 (Creation of additional positions): Section 103 of the draft bill submitted by the Administration creates the personnel structure that will support the Secretary in carrying out the missions and responsibilities of the Department. The section establishes a senior management team consisting of up to twelve Senate-confirmed officials, including a Deputy Secretary, an Under Secretary for each of the four divisions within the Department, an Under Secretary for Management, and up to six additional Assistant Secretaries whose duties may be defined by the Secretary. Additionally, the section provides for appointment of a Senate-confirmed Inspector General and a Senate-confirmed Commandant of the Coast Guard, under the same conditions provided in current law. The Director of the Secret Service, who is not currently Senate confirmed, will be appointed by the President without Senate confirmation. The General Counsel, Chief Financial Officer, and Chief Information Officer will also be presidential appointees not requiring Senate confirmation. The section authorizes appointment by the President of up to ten additional Assistant Secretaries; this will give the Secretary important flexibility in designing, structuring, and establishing the Department.

Questions #5: One of the major mechanisms for detecting a biological or chemical attack is the public health surveillance system that is currently a part of HHS and would be transferred to the new department. This system also serves another important purpose in identifying naturally occurring outbreaks of disease.

- How would the disease surveillance system interact with the Department of Health and Human Services in the event of an outbreak?

Answer to Question #5 (Interaction of the disease surveillance system with the Department of Health and Human Services): The Department of Homeland Security, under the President's proposal, will improve infectious disease and chemical terrorism surveillance by working with the Centers for Disease Control and Prevention (CDC) and the Department of Veterans Affairs in concert with local and state public health jurisdictions. These entities will work to develop a national system to detect biological and chemical attacks. This system will include a public health surveillance system to monitor public and private databases for indicators of biological or chemical attack. The CDC will continue its vital contribution to detect, diagnose, and address bioterrorist threats. Its Epidemic Intelligence Service will be expanded and modernized to better train local and state officials in recognizing biological attacks. The recently established Epidemic Information Exchange System will allow the sharing of disease information in a secure information system. Public health databases will be linked nationwide through the National Electronic Disease Surveillance System to recognize patterns of disease occurrence and to identify potential regional or national outbreaks.

Question #6: The President's proposal supports consolidating duplicative activities within the new Department. The Division of Border and Transportation Security will combine several

agencies that have both air and maritime assets, such as the Coast Guard and the Customs Service.

- Have you given any consideration to consolidating these air and maritime assets into one agency?
- Is there any reason why you would want to keep those assets separate?
- Do you think there could be savings if these assets were consolidated?

Answer to Question #6: There are duplicative administrative systems and structures among the components that will make up the new Department. The Transition Planning Office for the Department of Homeland Security, which was established by Executive Order on June 20th, will study the different administrative and management systems of the agencies that will comprise the new Department and develop recommendations on what redundancies can be addressed by the new Department after it is established. The Administration will also examine operational redundancies to determine what efficiencies can be gained by consolidating missions and functions. The draft bill submitted by the Administration gives the Secretary of Homeland Security authority, subject to specific limitations, to reorganize the Department of Homeland Security by allocating or reallocating functions within the Department and by establishing, consolidating, altering or discontinuing organizational units within the Department. This authority is critical to the successful establishment and organization of a new department. It allows the Secretary to fulfill the purpose of the bill by bringing together the many different functions and organizational units that will be consolidated in the new department and having them work together in new ways, and with new priorities. Similar reorganization authority was granted in the acts creating the Department of Energy and the Department of Education. The Secretary's authority to reorganize would not extend to the abolition of an entity that the bill establishes or requires to be maintained as a distinct entity, including the United States Secret Service and the Coast Guard. No consideration has yet been given by the Transition Planning Office to the specific air and maritime assets you refer to in your question.

Questions by Senator Voinovich

Question #1: In testimony before this Committee last year, retired general and former drug czar Barry McCaffrey stated that the Border Patrol needs 40,000 agents to properly do its job. He also noted that the Coast Guard and the Customs Service are undersized for their missions. Has the Administration conducted a recent assessment of the missions of those agencies to determine the "right size" of their respective workforces? Does the Administration have any plans to increase the size of these three agencies?

Answer to Question #1 ("Right size" of border agencies): I greatly respect General McCaffrey's views on the challenges facing our border security agencies. The Administration believes that our border security agencies require additional resources to accomplish their critical missions. Accordingly, In the 2003 Budget, the President proposed approximately $11 billion for border security. In total, this represents an increase of $2.2 billion from the 2002 Budget for border security. The President's 2003 Budget proposal increases the inspection budget of the Customs Services by $619 million, for a total of $2.3 billion. This additional funding increases the ability of the Customs Service to fulfill its critical border security role. The President's 2003 Budget increases the INS budget for enforcement by $1.2 billion, for a total of $5.3 billion, including the resources necessary to implement the Entry-Exit visa system. These resources will enhance key INS missions related to homeland security, including border patrol, inspections, and the implementation of a technologically advanced system for monitoring the entry and exit of foreign visitors. The Budget for Fiscal Year 2003 requested the largest increase in the history of the Coast Guard. The Budget for Fiscal year 2004 will continue to support the re-capitalization of the Coast Guard's aging fleet as well as targeted improvements in the areas of maritime domain awareness, command and control systems, and shore-side facilities. The United States asks much of its Coast Guard and we will ensure the service has the resources needed to accomplish its multiple missions.

Question #2: I suspect that Congress is going to be making changes to the department for years to come. For example, do you anticipate the department retaining non-security functions, such as the tax revenue function that is part of the Customs Service? Should such non-security functions eventually return to their originating agency or department?

Answer to Question #2 (Changes to the Department & non-security missions): The Customs Service plays very important roles in administering U.S. trade law and in collecting revenue from import duties. These functions of the Customs Service are operationally intertwined with its border security mission but are themselves not directly related to homeland security. Many departments perform numerous missions not related to their core mission and do so in an outstanding manner. The Department of Transportation, through the Coast Guard Commandant coordinates all the federal government's drug interdiction activities. The Department of Defense administers the

largest federal educational program for school-aged children - the Department of Defense Dependents Schools system. The Department of the Treasury manages a large fleet of aircraft - the Customs Service's Air Wing.

The President's proposal was carefully crafted to include in the Department of Homeland Security only those agencies whose principal missions align with the new Department's mission of protecting the homeland. The Administration looks forward to working with Congress to ensure that the Homeland Security Act of 2002 ensures full accountability by the Department's leadership for all its missions, homeland security related or not. I would emphasize, that by creating this Department, the Congress would ensure that a single official - the cabinet-level Secretary of Homeland Security - would be accountable for all statutory responsibilities.

Question #3: Our government has resisted creating a domestic intelligence agency, and this new department would not create one. The FBI seems to be filling this role right now. Is this adequate? Or do we have to take more concrete steps to create a domestic intelligence capability?

Answer to Question #3 (Domestic Intelligence): Consistent with longstanding principles, the Department would not engage in the domestic collection of intelligence on United States citizens. The President's proposal creates within the Department the new capabilities that our Nation needs to fight the war on terrorism and also holds true to the belief that government intrusion into the daily lives of our citizens should be strictly limited.

Questions by Senator Akaka

Question #1: The administration's proposal raises serious questions about the scope of whistleblower protection for employees in the new Department of Homeland Security. However, in congressional testimony, you have indicated that the proposal would provide full whistleblower protection to employees in this new agency. Please explain how whistleblowers would be protected, citing specific language if applicable.

If however, you believe this protection is provided through the absence of specific language to the contrary, please explain why the outcome would be different for this department as compared with the Transportation Security Agency.

Answer to Question #1 (Whistleblower protections): Department of Homeland Security employees will have whistleblower rights and protections. In fact, the Department of Homeland Security will have all the protections guaranteed by the merit system principles. The Administration has committed itself to a workplace free of discrimination and retaliatory behavior. These are fundamental and decent values that will serve as the foundation for employment at the Department. Under the President's proposal, the laws that now apply to employees who will be transferred to the new Department will continue to apply as they have to date. The bill (Section 730) requires that any new system be "grounded in the public employment principles of merit and fitness." Civil service law sets out the nine merit system principles including: hiring based on merit; fair treatment without regard to political affiliation and other non-merit considerations; equal pay for equal work; and protecting employees against reprisal for whistleblowing.

Question #2: According to the administration's proposal, federal labor unions and their collective bargaining agreements would move intact into the new department. However, the Secretary of the Department and the Director of the Office of Personnel Management would be permitted to remove unions from the department after a transition period. The President may also remove collective bargaining rights from employees who perform intelligence, investigative, or security functions. Do you believe that union representation for federal employees is a risk to national security? What criteria would you suggest to determine whether an employee in this new agency should be excluded from union representation?

Answer to Question #2 (Collective bargaining rights): Under the President's proposal, the Title 5, U.S. Code laws governing federal personnel management that now apply to employees who will be transferred to the new Department will continue to apply as they have to date, including union representation. The proposed legislation does not impair employees' collective bargaining rights in any way or change existing authorities. Specifically the legislation proposed by the Administration provides that when the Department is established, employees represented by unions will continue to be represented because their bargaining units will move with them. The Administration would support specific statutory affirmation of the existing rights of Department of

Homeland Security employees to union representation, subject to National Security authority.

Over twenty years ago, Congress gave the President authority to exclude an agency from the coverage of the Federal Labor Management Relations Statute if he determined that an agency's primary function included intelligence, counterintelligence, investigative, or national security work. Every President beginning with Jimmy Carter has used this authority to issue executive orders exempting an agency or agency component from coverage.

The Government Reform and Oversight Committee passed an amendment which would severely limit the President's ability to use this authority. The amendment results in the anomalous situation that a President has the authority, if he deems it appropriate, to exempt agency components in, for instance, the Library of Congress or the Department of State, but he has limited authority to do so in the Department of Homeland Security, a department with a clear mandate to engage in national security work. The Administration strongly opposes this amendment.

Whatever the final composition of the Department of Homeland Security, it is clear that the new agency will have the responsibility to safeguard our country, to secure its people and borders. This new agency's mission, by necessity, will include, in some part, intelligence, counterintelligence, investigative and national security work - the very work that Congress deemed appropriate for an exemption. Restricting the President's powers to safeguard the national security in a new Department dedicated to strengthening our security would be an unfortunate irony.

We - the Congress and the Administration - are working diligently to establish a Department that will respond to the terrorist threat. We are engaged in an effort to better protect Americans from the horrors of terrorism. I submit to you that this effort will be significantly undermined if this Amendment is allowed to stand. The Administration is committed to using the existing statutory authority to exempt units of government from the FLMRA with great care and restraint; however, if it is needed, it must be available. Cutting back on the President's ability to protect the Nation's security and engrafting special statutory protections for public employee unions into this bill is clearly the wrong thing to do.

Question #3: The administration's proposal calls for additional "management flexibilities" to structure the personnel system for the new department. How will this proposal ensure that the rights of federal employees and merit system principles are preserved?

Answer to Question #3 ("Management flexibilities"): The intent of the personnel provisions in the Homeland Security Act of 2002 is to give the Department tools it needs to fulfill its mission with a flexible, contemporary human resources management (HRM) system that meets its specific needs. The bill also contains two kinds of safeguards to guard against the theoretical creation of an abusive HRM system. First, the bill requires

that the regulations establishing the details of the HRM system must be "grounded in the public employment principles of merit and fitness." The nine principles now found in section 2301(b) of title 5, United States Code will govern the creation of the Department-specific personnel rules. One of the principles is that employees must be protected against reprisal for lawful disclosure of information evidencing illegal or wasteful activities.

Secondly, the regulations establishing a new HRM system must by law be published for public comment before they become final rules. The process of prescribing regulations ensures that the point of view of the Department is counterbalanced by the broader, government-wide viewpoints of the Office of Personnel Management and the Office of Management and Budget. Even before an HRM system is established, indeed before any element of a new HRM system can be published for public comment, it must be agreed to by each of the agencies.

Question #4: In establishing the office of Inspector General (IG) at the Department of Homeland Security, the administration's proposal includes language authorizing the Secretary to prohibit the Inspector General from carrying out an audit or investigation if one is needed to prevent 'a significant impairment to the interests of the United States.' While the sectional analysis states that this authority is granted to the Department of Defense and the Department of Justice, the language in the administration's proposal is much broader. Please explain why this additional language was included and what scenarios would fall under this provision that would warrant immunity from the IG's oversight. Could this include whistleblower complaints?

Answer to Question #4: The Administration strongly supports the independence of empowered inspectors general within all agencies. Clearly, an independent inspector general ensures that agencies perform their statutory duties in efficient and cost-effective manners. The section in the draft bill to which you refer is modeled on sections 8 and 8e of the Inspector General Act. It places the Secretary of Homeland Security on essentially the same footing, with respect to the Department of Homeland Security, as the Secretary of Defense and the Attorney General, with respect to their own Departments. Under those two sections, the Secretary of Defense and the Attorney have limited authority to circumscribe the activities of their departmental Inspectors General upon notice to Congress. Consistent with those two sections, this section expressly requires the Secretary of Homeland Defense to notify the Congress within thirty days of any exercise of the limiting authority. This section reflects a carefully drawn balance between the need to respect the unusual and sensitive nature of the substantive work of the Departments and the overall purposes of the Inspector General Act.

Question #5: Section 204 of the administration's proposal provides that information voluntarily submitted to the new department would be exempted from the Freedom of Information Act (FOIA). This proposal is similar to that included in S. 1456, the Critical Infrastructure Information Security Act, introduced by Senators Bennett and Kyl. However, the administration's proposal appears contradictory to testimony provided to the Governmental Affairs Committee by the Justice Department in May. In particular,

the Justice Department found that legislation on this issue should (1) explicitly exclude independently-obtained information from use by the government; (2) specify which agencies or divisions thereof may receive the information; and (3) require the information provider to explicitly request the protection of the statute. Could you please comment on why the draft bill contains none of the provisions recommended by the Justice Department?

Answer to Question #5: (Freedom of information provisions of the President's proposal): In order to build a system capable of protecting the Nation's critical infrastructure, the federal government must be able to gather information related to operational capacities and vulnerabilities and share resulting assessments or analysis with not only the private sector but also state and local officials. To facilitate this free exchange of essential information between the federal government and all infrastructure sectors, (I would note that 85 percent of the nation's infrastructure is owned by the private sector), the Administration believes that there should be a limited exemption for information voluntarily submitted to the government related to critical infrastructure. At the same time, the Administration is committed to ensuring that the federal government's regulatory and enforcement efforts are in no way undermined. The Administration looks forward to working with the Committee to ensure that the Homeland Security Act of 2002 includes appropriate FOIA exemptions for the new Department.

Question #6: During the May hearing, concerns were raised that creating a FOIA exemption could bar the federal government from disclosing information regarding toxic spills, fires, explosions, and other accidents. Moreover, it has been conceded by many, both in the government and in industry, that existing exemptions would adequately cover any concerns that may arise regarding the disclosure of this information and that a FOIA exemption would not actually facilitate greater information sharing. Could you please comment on (1) how the administration's language affects disclosure of environmental hazards; (2) why the existing FOIA exemptions would not apply to critical infrastructure information; and (3) how the FOIA exemption would actually facilitate the sharing of information in light of concerns with government use of the information?

Answer to Question #6 (Effects of freedom of information provisions on required disclosures): Nothing in the Administration's proposal was intended to affect disclosure requirements for incidents regarding toxic spills, fires, explosions, and other accidents. The intent of the FOIA-related provisions in the Administration's proposal is to facilitate the free flow on information between government agencies responsible for developing plans for the protection of America's infrastructure and private-sector owners and operators of critical infrastructure. The Administration is willing to review FOIA-related aspects of our proposal with the Congress to ensure that FOIA exemptions included in the Homeland Security Act of 2002 accomplish this important objective.

Question #7: In the past, OMB has recommended the elimination of certain programs because they were judged to be ineffective. Prevention and mitigation programs, such as the disaster mitigation programs in FEMA, have been targeted in part because traditional cost-benefit analysis is not appropriate. As you know, FEMA will be responsible for

terrorism mitigation in the new department. How should FEMA show that its programs are effective in reducing the impacts of a terrorist attack and what guidelines would you establish for FEMA?

Answer to Question #7 (Measures of effectiveness for FEMA programs): One of the major advantages of establishing the Department of Homeland Security is that it will be able to evaluate various strategies and resource requirements to improve homeland security against each other. Ultimately, this will result in more effective investments to protect our homeland. In the case of mitigation, FEMA is currently developing guidelines on how to design and evaluate projects to mitigate the effects of a terrorist attack. Further, DHS will be able to target any mitigation resources based on analysis of the potential risks and impacts associated with a given project.

Question #8: The President has created a Transition Planning Office within the Office of Management and Budget to coordinate the creation of the proposed Department. Under current plans, the OMB office would be terminated 90 days after Congress clears legislation for the new Department. According to recent testimony by the Comptroller General, the challenges facing the new Department will require additional resources, time and effort to overcome. How does the administration plan to aid with the transition of the proposed Department?

Answer to Question #8 (Transition Planning): The purpose of the OMB transition planning Office is to coordinate, guide, and conduct transition and related planning throughout the Executive Branch of the United States Government in preparation for the proposed Department of Homeland Security, and to work with Congress as it considers legislation creating the Department. The transition planning office will ensure that the critical issues associated with the transition have been considered -- and, to the extent possible, addressed -- in advance of the enactment of legislation. Once the Department is established in law, we expect that the Department's leadership, with support from OMB and all affected agencies, will assume primary responsibility for the transition. The President's proposal, which allows for budgetary and other resources to be transferred to DHS upon its establishment, will result in the new Secretary having the immediate powers and authorities to effective discharge the new Department's responsibilities.

Question #9: The proposed Department is expected to have an annual procurement budget of over $5 billion. The administration's proposal emphasizes the need for "innovative acquisition management and flexible procurement policies" to deploy new technologies quickly. It is assumed that the new Department would rely on the acquisition workforce from the consolidated agencies. However, contract management and the lack of trained acquisition specialists is a government-wide concern. How would we ensure that the Department has the personnel needed to carry out such broad acquisition functions, and do you believe that the Department should have a chief acquisition officer?

Answer to Question #9 (Acquisition functions of the new Department): The Secretary of Homeland Security requires an acquisition system and contracting authority

which can rapidly adjust to changing threats. Accordingly, the Administration's proposal calls for the new Department to have some of the same acquisition and contracting authorities that have proven beneficial in other Departments, including: non-impairment - the ability to waive acquisition regulations that impair the mission; other transactions authority - the ability to develop prototypes and field them rapidly; and personal services contracts - the ability to quickly hire consultants/contractors for immediate projects.

According to the legislative proposal, the new Department would have an Under Secretary for Management who would be responsible for acquisition programs and for ensuring that the acquisition personnel of the Department effectively carry out the acquisition programs. This Under Secretary would be confirmed by the Senate and accountable to the Congress for ensuring that the acquisition functions are handled properly.

NOTE: There was no Question #10.

Question #11: Section 503 of the President's proposal for a Department of Homeland Security authorizes the Secretary to call on the Department of Energy or the Environmental Protection Agency during an actual or threatened terrorist attack, major disaster, or other emergency involving nuclear or radiological materials. As you know, how and when federal agencies support one another other during times of crisis is described in the Federal Response Plan (FRP), currently administered and maintained by FEMA. In fact, the FRP was created to ensure coordination and specify lead and support agencies in the event of a disaster. Why not expand the Federal Response Plan to include nuclear events rather than setting up a special relationship for a specific threat? The Federal Response Plan has been expanded before to encourage the "all-hazard" approach that has worked so well for FEMA. Are there plans to abandon the Federal Response Plan?

Answer to Question #11 (Federal Response Plan): The *National Strategy for Homeland Security*, released by the President on July 16, 2002, recognizes that there are too many seams in our current response plans and capabilities. Today, at least five different plans – the Federal Response Plan, the National Contingency Plan, the Interagency Domestic Terrorism Concept of Operations Plan, the Federal Radiological Emergency Response Plan, and a nascent bioterrorism response plan – govern the federal government's response to terrorist attacks and natural disasters.

The first major initiative listed in the *Emergency Preparedness and Response* chapter of the *Strategy* calls on the Department of Homeland Security to consolidate the existing federal government emergency response plans into one genuinely all-discipline, all-hazard plan—the Federal Incident Management Plan. This plan would cover all incidents of national significance, including acts of nuclear terrorism, and clarify roles and expected contributions of various emergency response bodies at different levels of government in the wake of a terrorist attack.

Question #12: The President's proposal does not define "first responder." Since the events of last fall, we have seen additions to the traditional "first responder" family. The health care community will be a first responder in any large scale terrorist attack. However, the hospitals, private practices, and clinics comprising the health care community do not have formal ties with the Centers for Disease Control and Prevention and public health departments, the Federal Emergency Management Agency and the emergency medical services, or the Department of Justice and law enforcement. I am concerned that because the health care community does not have a federal counterpart, emergency preparedness and response plans are often made without their input. How will the health care community be included in DHS activities and planning?

Answer to Question #12 (Inclusion of the health care community in DHS planning): The *National Strategy for Homeland Security* acknowledges the important role that our health care community will play in any large scale terrorist attack. In the *Emergency Preparedness and Response* chapter of the *Strategy*, one of the major initiatives is to prepare health care providers for catastrophic terrorism. This initiative calls for the Department of Homeland Security, working with the Departments of Health and Human Services and Veterans Affairs, to support the training and equipping of state and local health care personnel to deal with the growing threat of chemical, biological, radiological, and nuclear terrorism. The Department would continue to fund federal grants to states and cities for bioterrorism preparedness. It would use the hospital preparedness grant program to help prepare hospitals and poison control centers to deal specifically with biological and chemical attacks and to expand their surge capacity to care for large numbers of patients in a mass-casualty incident. These efforts would enhance training between public health agencies and local hospitals and seek improved cooperation between public health and emergency agencies at all levels of government.

A major act of biological terrorism would almost certainly overwhelm existing state, local, and privately owned health care capabilities. For this reason, the federal government, as you know, maintains a number of specialized response capabilities for a bioterrorist attack. The National Disaster Medical System, a federal/private partnership that includes the Departments of Health and Human Services, Defense, Veterans Affairs, and FEMA, provides rapid response and critical surge capacities to support localities in disaster medical treatment. Under the President's proposal, the Department of Homeland Security will assume authority over the System to ensure adequate federal support to the health care community during incidents of national significance.

In addition, the Department of Homeland Security, working with the Department of Health and Human Services, would lead efforts to test whether illnesses or complaints may be attributable to chemical, biological, radiological, or nuclear exposure; establish disease/exposure registries; and develop, maintain, and provide information on the health effects of hazardous substances. The Environmental Protection Agency will also continue to provide a laboratory diagnostic surge capacity for environmental samples during crises.

Question #13: The President's proposal creates a cooperative relationship between DHS and the Department of Health and Human Services (HHS) to conduct civilian human health-related biological, biomedical, and infectious disease defense research and development. HHS is not the only department to conduct biomedical and bioweapon defense research. Are all research activities in these agencies to be moved also? Has the administration considered such an agreement regarding animal and plant research with the Department of Agriculture? Why is it necessary to move the Plum Island Research Center, a crucial research facility for the Department of Agriculture, to DHS to conduct agriculture terrorism defense research?

Answer to Question #13 (Relationship between the Department of Homeland Security and the Department of Agriculture): Much of the funding for research activities of agencies conducting bioterrorism research – including HHS, Defense, and Energy – will be transferred to the Department of Homeland Security under the President's proposal. Similar research on agroterrorism is part of the DHS proposal. The Plum Island Animal Disease Center will be a vital asset for the new Department. Plum Island is responsible for research and diagnosis to protect United States animal industries and exports against catastrophic economic losses caused by foreign animal disease (FAD) agents accidentally or deliberately introduced into the U.S. In the U.S., certain highly infectious foreign animal diseases, such as foot-and-mouth disease, can be studied only at Plum Island.

Question #14: Will DHS perform the military related biodefense activities now performed by the National Bio-Weapons Defense Analysis Center of the Department of Defense (DoD)? How will DHS coordinate with DoD to ensure that military and needs are met?

Answer to Question #14 (Research performed by the National Bio Weapons Defense Analysis Center): The National Bio Weapons Defense Analysis Center's mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction (WMD). It has two major components: (1) Evaluating national requirements for analysis of emerging biological threats and assessment of countermeasures against those threats; and (2) Creating and deploying a national, multi-component, multi-organization defense capability targeted to urban areas, other high-value assets, and special events. The goal is to provide an integrated capability to detect, mitigate and respond to biological-related incidents. The Department of Defense will retain responsibility for all military-related biodefense research activities.

Question #15: Section 502 of the President's proposal transfers the functions, personnel, assets, and liabilities from several independent agencies to the Department of Homeland Security. Subsection (5) specifies transferring the National Disaster Medical System from HHS to DHS. However, the function of National Disaster Medical System (NDMS) does not reside in HHS or any one department. The NDMS is a cooperative arrangement between the Departments of Health and Human Services, Veterans Affairs, and Defense and the Federal Emergency Management Agency. Does DHS intend to acquire the medical facilities, staff, and equipment from any of these departments?

Answer to Question #15 (DHS acquisition of medical facilities, staff, and equipment for other departments): DHS does not intend to acquire the medical facilities, staff, and equipment from any of these departments aside from those in FEMA and the Office of Emergency Preparedness, which are indicated in the proposal. Under the proposal, the Department of Homeland Security would be responsible for policy coordination and the other coordination responsiblities currently under the authority of HHS with respect to the National Disaster Medical System. The new Department would continue to take advantage of special arrangements with the Department of Veterans Affairs, for example, in support of the NDMS.

Governor Tom Ridge, Office of Homeland Security, Responses to Questions from the June 20, 2002 Senate Committee on Government Affairs hearing: "President Bush's Proposal to Create a Department of Homeland Security"

Questions by Senator Cleland

Question #1: As you know, there is often a culture developed within Agencies of the federal government that sometimes is ingrained in employees of that Agency. While this culture can be helpful and often create a sense of pride, it also can cause problems and sometimes block change. How do you envision overcoming the negatives of this culture during the transition of thousands of employees from Departments like Treasury, Transportation and others to the new Department?

Answer to Question #1 (Assimilating different cultures in the new Department): As President Bush stated last week when he addressed homeland security workers, "we owe a huge debt of gratitude to those public servants who quietly stand guard on the ramparts of freedom." I share the President's confidence that these public servants will bring that sense of commitment and professionalism to the new Department when their agencies are transferred to it by the Congress. Clearly, the new Secretary of Homeland Security will have to take into account the different cultures that will come to the new Department. Indeed, the Administration believes that we must harness the pride that individuals take in their respective agencies. At the same time, the Department of Homeland Security must foster a new culture; a culture of cooperation.

Key to the new Department's ability to capitalize on the strengths offered by the different agencies is the new Secretary possessing the flexibility to draw from the best practices of the public and private sectors. The flexibility requested in the President's proposal will benefit all federal employees transferring to the new Department. The Administration believes that important human resources – including incentives, accountability, pay harmonization – are better addressed through a flexible HR system, able to respond and meet the workers concerns as the issues arise.

Question #2: As a member of the Commerce Committee and the Subcommittee on Aviation, I helped to draft the new aviation security law which created the Transportation Security Administration. If the TSA is placed within the new Homeland Security Department, as the President's plan proposes, how do you answer critics who believe this move would force the Transportation Security Administration to reinvent itself for the second time and could undo whatever progress the TSA has made up to this point in time?

Answer to Question #2 (Transfer of the Transportation Security Administration to the new Department): I do not agree that the proposed transfer of the Transportation Security Administration to the new Department will interfere with TSA's important security mandate. The events of September revealed the high priority that must be given to protecting the transportation sector. It is only natural, therefore, for the newly created Transportation Security Administration (TSA) to become a part of the Department of Homeland Security.

The entirety of TSA's budget, personnel, and focus is directly related to the core missions of the proposed Department - protecting the security of our air, land, and sea borders and

the security of our interconnected transportation systems. TSA has the statutory responsibility for security of all modes of transportation and it directly employs transportation security personnel. The organization uses various tools to execute its assigned missions including intelligence, regulations, enforcement, inspection, screening and education of carriers, passengers, and shippers.

At the Department of Homeland Security, TSA will have ready access to the department's intelligence architecture to support our efforts to prevent terrorists from using the transportation system as a target. Combining TSA with established organizations will enable the fledgling agency to benefit from their relevant experience. Also, by merging TSA with fully staffed agencies, the new Department will allow the leveraging of staff, research capabilities, resources and facilities to address critical vulnerabilities.

Moreover, the continuity of security from our borders throughout our transportation system is extremely important. The protection of this system and the passengers, cargo, and conveyances traveling through it is a responsibility that must be shared by TSA, INS, Customs and other Department of Homeland Security elements. Clearly, these agencies' ability to coordinate will be enhanced if they are part of the same organization and has access to shared systems.

Question #3: Airlines and airport managers have expressed concern that heightened--and lengthy--security checks pose a burden to passengers which have caused many to opt to travel by train and car for shorter trips. These long lines, they say, could ultimately lead to a period of prolonged financial losses by an industry already shaken by the events of September 11th. In short, airline and airport reps say they are having a lot of difficulty now dealing with an agency--the Department of Transportation--that understands the industry. They fear this situation will be made worse if we transition to a new agency that has no aviation background and is largely unconcerned over the operational and passenger efficiencies of the aviation system. How do you answer their concerns?

Answer to Question #3 (Industry concerns about the new Department): The national effort to enhance homeland security will yield tremendous benefits and entail substantial financial and other costs. The benefit of our efforts will be a reduction in both the risk of future terrorist events and their consequences should an attack occur. The financial cost is the amount of money, manpower, equipment, and innovative potential that must be shifted toward homeland security -- resources which then cannot be used for goods, services, homes, and other productive investments. Americans also incur substantial costs in longer waits at airport security checkpoints and restrictions on some individual freedoms. While these costs are often difficult to measure quantitatively, they are no less real and burdensome to Americans. We must measure and balance both benefits and costs to determine the correct level of homeland security efforts.

President Bush is committed to ensuring that a careful considering of potential benefits and costs is conducted by all federal agencies before new homeland-security policies or procedures. I would reassure all involved with the air transportation industry that the

new Department of Homeland Security and the Transportation Security Administration will work closely with them to ensure that the American people and our businesses are served by an aviation sector that is both secure and efficient. The Administration believes that transferring TSA to the new Department will enable it to leverage the Department's staff, research capabilities, resources and facilities to accomplish its security missions more effectively.

Question #4: The Administration's legislative draft authorizing the creation of the Department of Homeland Security stipulates that all biological, chemical, radiological, and nuclear preparedness-related construction and renovation of HHS facilities would be carried out by the Secretary of the Department of Homeland Security through HHS, and that the Secretary of the Department of Homeland Security shall have the final authority to set priorities for such funding. Over the past several years, Congress has placed the CDC first on a 10-year track and then, last year, on a 7-year track for the renovation of its crumbling, World War II-era facilities, largely in recognition of the central role of the CDC in our national defense against bioterrorism. Secretary of HHS Tommy Thompson has, in testimony before this committee, given Congress his assurance that he is committed to this accelerated funding track, or Master Plan. Can we be confident that, if funds for buildings and facilities are channeled through the Department of Homeland Security rather than HHS, the commitment to the CDC's Master Plan will be shared by the new Department?

Answer to Question #4 (The Administration's commitment to renovating CDC facilities): The Administration's proposal underscores the central role of the CDC in protecting the American people from the threat of bioterrorism. The new Department of Homeland Security would be absolutely committed to enhancing our country's capacity for bioterrorism research, including the renovation of buildings and facilities at CDC in support of this effort.

Question #5: When it comes to the organization of our national defense against bioterrorism, the devil is, as always, in the details. The difficult questions here are the same ones we are asking with respect to the FBI and CIA: Are the activities of a particular agency sufficiently related to homeland security that the entire agency should be transferred to the new Department? If not, should certain functions and personnel that are directly related to homeland security be transferred from the existing agency to the new Department? If so, which ones should be transferred? Are there some functions and personnel that are related to homeland security that should remain with their original agencies but then contract with the new Department on an as-needed basis for reasons having to do with efficiency, synergy, or practicality? Specifically with respect to bioterrorism defense, which functions should be transferred from the CDC to the new Department? Which counter-bioterrorism functions should remain with the CDC?

Answer to Question #5 (Transfer of functions to the new Department): The President's proposal identifies the specific HHS functions that should be transferred to the new Department. These include the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System, and the

Strategic National Stockpile. The draft bill does not propose the transfer of any CDC functions to the new Department.

Question #6: I am very interested to learn more from Governor Ridge about what the Administration is thinking along these lines. I would also like to know from the Governor whether the Administration's proposal would separate certain public health experts from the considerable resources and expertise of the various agencies of HHS, such as the Centers for Disease Control and Prevention (CDC) and the National Institutes of Health (NIH). I must express serious concern that such a division, if called for, would squander the synergies that arise from the collective, collaborative efforts of scientists and public health experts working together in the same agency. The CDC, with its substantial expertise in matters of public health, and now with its institutional experience in responding to an actual biological attack, is a tremendous national asset, and I believe we would be remiss if as we organize our national response to bioterrorism we fail to make the most of that asset. Could you comment on the role of the CDC vis-a-vis the Department of Homeland Security in our national efforts to prepare for and respond to acts of biological terrorism?

Answer to Question #6 (The role of CDC in fighting bioterrorism): The President's proposal acknowledges the expertise and resources of CDC and NIH in the field of bioterrorism. The scientists and public health experts who work in those organizations make an outstanding contribution our country's bioterrorism efforts. The proposal does not intend to separate these scientists and public health experts from the assets at CDC and NIH.

While CDC experts would continue research and public health preparedness activities, the Secretary of Homeland Security would have primary responsibility for preventing terrorist attacks within the United States, reducing the vulnerability of the United States to terrorism, and minimizing the damage and assisting in the recovery from terrorist attacks in the United States. As such, the Secretary of Homeland Security would be responsible for bioterrorism, one of the gravest homeland security threats facing this country. The Secretary of Homeland Security would use the assets and expertise of the CDC in this effort. CDC scientists and public health experts would continue their research and their interaction with state and local governments to prepare for public health threats.

Question #7: The Administration has explained its decision to support the creation of a Department of Homeland Security partly in terms of our need for a single department and a single director whose sole mandate and sole focus is securing the homeland. I wholeheartedly concur. However, I am concerned that a significant gap in our bioterrorism defenses--a gap related to a lack of a focused, dedicated entity--would remain even after the new Department is up and running. There is, right now, no entity focused solely on the threat of bioterrorism. The CDC's Bioterrorism Preparedness and Response Program is presently scattered throughout the agency's various National Centers and must borrow human and physical resources from other programs. CDC staff divide their time between the bioterrorism program and their traditional duties. While I

recognize the dual nature of many bioterrorism preparedness activities--e.g., strengthening our ability to detect a naturally occurring disease outbreak has the concomitant effect of strengthening our ability to detect a bioterrorist attack--I am convinced that countering the threat of bioterrorism demands a team of people who are focused solely on that task. Certainly, the resources and expertise of the other centers of the CDC should be fully utilized in bioterrorism preparedness and response activities, but I believe there ought to be a team of dedicated bioterrorism specialists leading the CDC's efforts. The knowledge base, skills, and resources required for responding to a bioterrorist-caused disease outbreak are distinct in a number of critical ways from those required for responding to a naturally occurring outbreak. The CDC must be organized in a manner that reflects these crucial distinctions. The coordination of the federal response to bioterrorism should take place in the Department of Homeland Security. I am especially hopeful that the new office of the Undersecretary for Emergency Preparedness and Response within the new Department will be able to facilitate coordination and communication between law enforcement and public health. But it is my opinion that this bioterrorism center should be located at the CDC. The bioterrorism team--the field professionals, at least--should remain with their counterparts in the CDC's traditional centers to take advantage of the collective resources and expertise of the CDC's 8,500 employees, sophisticated network of laboratories, and year's of close relations with state and local public health departments. I would like to have your take on my proposal to create a dedicated National Center for Bioterrorism Preparedness and Response within the CDC.

Answer to Question #7 (A proposed National Center for Bioterrorism Preparedness and Response): The President's proposed legislation would establish an entire division in the Department of Homeland Security devoted to leading the federal government's efforts in preparing for and responding to the full range of terrorist threats involving weapons of mass destruction. Under the President's proposal, the Department of Homeland Security would unify much of the federal government's efforts to develop and implement scientific and technological countermeasures against human, animal, and plant diseases that could be used as terrorist weapons. The Department would sponsor and establish national priorities for research, development, and testing to invent new vaccines, antidotes, diagnostics, therapies, and other technologies against bioterrorism; to recognize, identify, and confirm the occurrence of an attack; and to minimize the morbidity and mortality caused by such an attack.

The President recognizes that all these efforts against bioterrorism must be part of a broader research and development program. Therefore, the President's proposal would charge the new Department with leading the federal government's whole range of homeland security science and technology efforts. Currently, the bulk of our scientific efforts against biological terrorism are conducted by the Department of Health and Human Services and are separate from research against other weapons of mass destruction. The President's proposal would consolidate the funding and oversight for these programs with other scientific initiatives in order to ensure that priority threats receive an appropriate share of our national research and development investment. In response to your specific question about a dedicated National Center for Bioterrorism

Preparedness and Response within the CDC, I believe it is appropriate for the Office of Homeland Security, the new Department (once it is established) and the Department of Homeland Security to consider , will consider, in consultation with the Secretary of Homeland Security, proposals to strengthen America's ability to prepare for and respond to bioterrorism.

Question #8: According to the President's proposal, the Customs Service will be transferred from the Department of Treasury to the new Department of Homeland Security. Given the possibility that weapons of mass destruction will enter the country via our nation's ports, it is imperative that we establish security criteria to identify high risk containers, pre screen containers before they arrive at U.S. ports, use technology to pre screen high risk containers, and develop and use smart and secure containers. While the Customs Service has already begun implementation of these efforts, I have amended the Port Security bill to insure that these measures will continue. Do you support the expansion, or at the minimum, the continuation of this pilot program?

Answer to Question #8 (Container security): The Administration aggress that container security is a significant challenge requiring immediate attention. Containers are an indispensable but vulnerable link in the chain of global trade; approximately 90 percent of the world's cargo moves by container. Each year, nearly 50 percent of the value of all U.S. imports arrives via 16 million containers. Accordingly, the *National Strategy for Homeland Security* includes an initiative to improve the security of international shipping containers. Core elements of this initiative are to establish security criteria to identify high-risk containers; pre-screen containers before they arrive at U.S. ports; use technology to inspect high-risk containers; and develop and use smart and secure containers.

Question #9: On November 16, 2001, an individual breached a security checkpoint at Atlanta's Hartsfield International airport. The security breach triggered the total evacuation of Hartsfield and a temporary halt of incoming and outgoing air traffic. That action caused a ripple effect of delays and flight cancellations. I might add that I have first hand knowledge of those delays, since I spent some "quality time" on the tarmac in Atlanta that day. It was amazing to me to learn that in Georgia, an individual who wilfully violates the secure area of an airport is only subject to a misdemeanor which means a maximum penalty involving a civil fine up to $1,100 and a year in jail. Therefore, I introduced legislation, S. 1794, that will make it a federal criminal offense to intentionally circumvent an airport security checkpoint. At a Senate Commerce Committee hearing on Tuesday February 5, the head of the new Transportation Security Administration, the Honorable John Magaw specifically indicated his support for my legislation. Since the President's proposed Homeland Security Department would absorb the Transportation Security Administration, do you foresee this legislation providing an important tool for the airport and law enforcement officials who are responsible for insuring that the Nation's airports and its passengers are safe and secure?

Answer to Question #9 (Proposed legislation S. 1794): The Administration is absolutely committed to securing the Nation's airports and ensuring the safety of passengers. We look forward to working with the Congress to enhance the effectiveness of airport security systems and procedures. The Administration is currently reviewing S. 1794.

Question #10: How would you analyze current Congressional oversight up to and following September 11, 2001? Should Congress re-organize its oversight responsibilities regarding homeland defense and, if so, how?

Answer to Question #10 (Congressional oversight of homeland security): The President's proposal for a new Department of Homeland Security addresses a fundamental problem within the Executive Branch – more than a hundred different government agencies have some responsibilities for homeland security, and no one has final accountability. The proposed new Department will have a single Cabinet-level officer accountable to the American people and the Congress for homeland security. Currently, more than 80 congressional committees and subcommittees share jurisdiction over homeland security issues. I believe that it is appropriate for both the House of Representatives and the Senate to consider whether this current set-up is the most effective way to provide oversight over the new Department.

Question #11: As many of you know, the President along with the Joint Chiefs of Staff have proposed the creation of a new Northern Command to be based in Colorado to serve along side NORAD. As a member of the Senate Armed Services Committee, I am eager to begin the work that is necessary to get this command up and running. The Armed Services Committee is in fact conducting a hearing on the nomination of General Ralph Eberhardt to be the CINC of Northcom. As we proceed with this process of creating this new agency, I am eager to see how this new Homeland Security Agency will work with our new Northern Command since the President's proposal is silent on coordination between the new agency and the Department of Defense. I look forward to any thoughts or comments that you might have on this relationship.

Answer to Question #11: The President's proposal to create the Department of Homeland Security envisions close cooperation between the new Department and the Department of Defense. The President's proposal and the *National Strategy for Homeland Security* give the Department of Homeland Security the responsibility for consolidating existing federal government emergency response plans – namely the Federal Response Plan, the National Contingency Plan, the U.S. government Interagency Domestic Terrorism Concept of Operations Plan, and the Federal Radiological Emergency Response Plan – into one genuinely all-discipline, all-hazard plan. Developing and implementing this plan will require close coordination between the Department of Homeland Security, the Department of Defense, and federal, state, and local agencies. The Commander of Northern Command will update plans to provide military support to domestic civil authorities in response to natural and man-made disasters and during national emergencies. The Department of Homeland Security and the Department of Defense will also participate, as appropriate, in homeland security

training that involves military and civilian emergency response personnel. As is the case with all other combatant commanders, the commander of Northern Command will take all operational orders from and is responsible to the President through the Secretary of Defense.

Question #12: As we have seen from the heinous attacks of September 11th and the anthrax laced letters, a variety of personnel, including local law enforcement, firefighters, and emergency technicians, among others, are necessary for effectively coordinating a response to terrorist attacks. The President's proposal coordinates federal homeland security programs and information with State and local officials. I believe it is imperative that State and local law enforcement authorities, as well as public safety officials, be apprised of all relevant information. What information will this new Department communicate to State and local public safety officials and how will this communication be coordinated?

Answer to Question #12 (Communication with state and local public safety officials): Since the first day of its inception, one of the Office of Homeland Security's top priorities has been to improve the flow of information between the government personnel who are working are fighting terrorism every day. Many important improvements have been made. Nevertheless, the *National Strategy for Homeland Security* acknowledges that work remains to be done and lays out some important steps for the near future.

The *National Strategy for Homeland Security* calls for the integration of information sharing across state and local governments, private industry, and citizens. Several efforts are underway to enhance the timely dissemination of information from the federal government to state and local homeland security officials by building and sharing law enforcement databases, secure computer networks, secure video teleconferencing capabilities, and more accessible websites. The *Strategy* details these efforts, laying out the federal government's responsibilities in this area and providing suggested steps for state and local governments.

First, the FBI and other federal agencies are augmenting the information available in their crime and terrorism databases such as the National Crime Information Center and the National Law Enforcement Telecommunications Systems. These databases are accessible to state and local authorities.

Second, state and local governments should use a secure intranet to increase the flow of classified federal information to state and local entities. This would provide a more effective way to disseminate information about changes to the Homeland Security Advisory System and share information about terrorists. The federal government would also make an effort to remove classified information from some documents to facilitate distribution to more state and local authorities. The effort would help state and local law enforcement officials learn when individuals suspected of criminal activity are also under federal investigation and will enable federal officials to link their efforts to investigations being undertaken in the states. The Department of Homeland Security would create a

Collaborative Classified Enterprise environment to share sensitive information securely among all relevant government entities. This effort, which is to include dozens of agencies, will put in place a secure communications network to allow agencies to "plug in" their existing databases to share information.

Third, a secure video conferencing capability connecting officials in Washington, D.C., with all government entities in every state will be implemented by the end of the calendar year. This capability will allow federal officials to relay crucial information immediately to state homeland security directors and enhance consultation and coordination.

Fourth, expansion of the '.gov' domain on the Internet for use by state governments has already been completed. In the past, only federal government websites were permitted to use the '.gov' domain. This change will ensure the legitimacy of government websites and enhance searches of all federal and state websites, thereby allowing information to be accessed more quickly. These '.gov' sites will also allow homeland security officials to exchange sensitive information on the secure portions of those websites.

Questions by Senator Carnahan

Question #1: Governor Ridge, I have been hearing from Missouri first responders that they lack the basic equipment needed to help secure our homeland. In response to their concerns, I have attempted to find out what monies have been granted by the Administration to Missouri for homeland security efforts.

Since September 11, what funding has been provided for Missouri homeland security that was not already scheduled to be provided under the President's FY 2002 budget? Please explain: 1) The agency that is the source of the funds, 2) The amount of the funding, 3) The date the funds were provided, 4) The state and local agencies that received the funding, and 5) Requirements for the state to distribute funds to local agencies.

Please provide this information for any grants or distributions of funds budgeted for the remainder of fiscal year 2002. If it is not possible to provide this information, what accounting systems are you planning to implement in the future to track homeland security spending?

Answer to Question #1 (Federal support for first responders): The President has requested dramatic increases in federal support to first responders. Before September 11, the federal government had allocated less than $1 billion since 1995 to help prepare first responders for terrorist attacks. The *First Responder Initiative*, part of President Bush's Fiscal Year 2003 Budget proposal, would increase federal funding levels in this area more than tenfold (from $272 million in the pre-supplemental Fiscal Year 2002 Budget to $3.5 billion in Fiscal Year 2003).

Your specific questions about levels of federal support for first responders in the state of Missouri underscore a significant problem addressed by the President's proposal – the proliferation of grant programs across the Department and the accompanying lack of coordination and accountability. The President has proposed consolidating all federal grant programs that support our state and local first responders under the oversight of the new Department of Homeland Security. This would streamline relations with the federal government for America's state and local governments. The Department, for example, would serve as the primary point of contact for Missouri's first responder entities seeking federal grants. This consolidation would improve future coordination of all such grant programs – reducing duplication, increasing synergies, and enhancing oversight. It would also enable a single official – the new Secretary of Homeland Security – to quickly provide you the detailed information you need to assess the effectiveness of federal programs that support first responders.

Questions for the Record
Submitted to Senator Gary Hart
by Senator Max Cleland
Senate Committee on Governmental Affairs

"President Bush's Proposal to Create a Department of Homeland Security"

June 20, 2002

Question No. 1: As you know, there is often a culture developed within Agencies of the federal government that sometimes is ingrained in employees of that Agency. While this culture can be helpful and often create a sense of pride, it also can cause problems and sometimes block change. How do you envision overcoming the negatives of this culture during the transition of thousands of employees from Departments like Treasury, Transportation and others to the new Department?

Response: Career civil servants, including those in agencies proposed to be consolidated within the new Department of Homeland Security, will overwhelmingly be motivated by the challenge of being on the frontline of the 21st century's war on terrorism and the ideal of protecting the United States from external attack. Their sense of patriotism can and should be appealed to as the principal motivation for realigning their agencies with the new Department. When the new U.S. Air Force was created in 1947 out of the air elements of the U.S. Army, those who formed the new service were excited and enthusiastic about being involved at the creation. New loyalties develop very quickly under the proper leadership.

Questions No. 2: When it comes to the organization of our national defense against bioterrorism, the devil is, as always, in the details. The difficult questions here are the same ones we are asking with respect to the FBI and CIA: Are the activities of a particular agency sufficiently related to homeland security that the entire agency should be transferred to the new Department? If not, should certain functions and personnel that are directly related to homeland security be transferred from the existing agency to the new Department? If so, which ones should be transferred? Are there some functions and personnel that are related to homeland security that should remain with their original agencies but then contract with the new Department on an as-needed basis for reasons having to do with efficiency, synergy, or practicality? Specifically with respect to bioterrorism defense, which functions should be transferred from the CDC to the new Department? Which counter-bioterrorism functions should remain with the CDC?

Response: Here I refer to my response to a very similar question from Senator Voinovich. In my personal judgment, the new Department of Homeland Security should not undertake to administer the traditional functions of established federal agencies, such as customs collection, routine visa administration, supervision of fisheries, and so forth. In almost all of the two dozen or more federal agencies proposed by the President to be consolidated within the new Department, a reasonably clear line can be drawn between these traditional functions and the more pertinent law enforcement functions critical to homeland security. It is of critical

importance that these law enforcement functions that relate directly to homeland security be consolidated within the new Department and be effectively coordinated.

Questions No. 3: How would you analyze current Congressional oversight up to and following September 11, 2001? Should Congress re-organize its oversight responsibilities regarding homeland defense and, if so, how?

Response: Once again in my personal judgment (and therefore not speaking for other members of the U.S. Commission on National Security for the 21st Century), I believe a thorough-going examination of the events leading up to the initial terrorist attack on September 11, 2001, should be undertaken by an independent panel of leading citizens with national security experience as a means of both developing an accurate contemporary record of those events and as a means of providing a learning base to prevent those attacks in the future. Existing Congressional oversight committees should not be responsible for this effort in that their performance during this period should also be subject to examination and scrutiny.

Question No. 4: As you already know, the President along with the Joint Chiefs of Staff have proposed the creation of a new Northern Command to be based in Colorado to serve along side NORAD. As a member of the Senate Armed Services Committee, I am eager to begin the work that is necessary to get this command up and running. The Armed Services Committee is in fact conducting a hearing on the nomination of General Ralph Eberhardt to be the CINC of Northcom. As we proceed with this process of creating this new agency, I am eager to see how this new Homeland Security Agency will work with our new Northern Command since the President's proposal is silent on coordination between the new agency and the Department of Defense. I look forward to any thoughts or comments that you might have on this relationship.

Response: The new Northern Command (NorthCom) should have liaison personnel within the new Department of Homeland Security and there should be direct and immediate contact between the CINC of NorthCom and the Secretary of the Department, especially during high-threat periods. Presumably, although not clearly, the new command will have some capability and duty to anticipate externally-mounted attacks and lead in preventing them.

Questions for the Record
Submitted to Senator Gary Hart
by Senator Tom Carper
Senate Committee on Governmental Affairs

"President Bush's Proposal to Create a Department of Homeland Security"

June 20, 2002

Question No. 1: In S. 2452, we place an intelligence analysis and threat assessment entity in an office in the White House and ask the director of that office to use the intelligence he or she gathers on domestic threats to work with the secretary of the new department to develop a terrorism response plan. In the President's proposal, the intelligence gathering entity is in the department. Which approach do you think would best address the information sharing problems within the intelligence community that we've been hearing so much about?

Response: The proposed new Department of Homeland Security should have its own office of intelligence analysis and threat assessment, preferably one that reports directly to the Secretary of the Department. That office should not itself be an intelligence *collection* agency but should instead have a full, professional capability of accurately *analyzing and interpreting* information relating to threats to the homeland produced by existing agencies of the U.S. intelligence community.

Question No. 2: I've spoken in the past about the need to find a way to evaluate the performance of this new department at some point down the road so we would be able to tell if what we've constructed is actually working the way we intended it to. How do you think we can best do that?

Response: Once established, the new Department of Homeland Security should be subject to the most rigorous oversight by specially established Congressional committees, particularly regarding the degree to which the Department's component parts, e.g., U.S. Coast Guard, U.S. Customs Service, and U.S. Border Patrol, are working cooperatively and effectively. Congress cannot afford to let Departmental mismanagement condone duplication, non-communication, or security loop-holes endanger the national security.

Questions for the Record
Submitted to Senator Gary Hart
by Senator George Voinovich
Senate Committee on Governmental Affairs

"President Bush's Proposal to Create a Department of Homeland Security"

June 20, 2002

Question No. 1: I suspect that Congress is going to be making changes to the department for years to come. For example, do you anticipate the department retaining non-security functions, such as the tax revenue function that is part of the Customs Service? Should such non-security functions eventually return to their originating agency or department?

Response: In my personal judgment, the new Department of Homeland Security should not undertake to administer the traditional functions of established federal agencies, such as customs collection, routine visa administration, supervision of fisheries, and so forth. In almost all of the two dozen or more federal agencies proposed by the President to be consolidated within the new Department, a reasonably clear line can be drawn between these traditional functions and the more pertinent law enforcement functions critical to homeland security. It is of critical importance that these law enforcement functions that relate directly to homeland security be consolidated within the new Department and be effectively coordinated.

U.S. Senator Max Cleland
Member, Senate Governmental Affairs Committee

Questions for Warren Rudman
"President Bush's Proposal to Create a Department of Homeland Security"

June 20, 2002

Question 1: As you know, there is often a culture developed within Agencies of the federal government that sometimes is ingrained in employees of that Agency. While this culture can be helpful and often create a sense of pride, it also can cause problems and sometimes block change. How do you envision overcoming the negatives of this culture during the transition of thousands of employees from Departments like Treasury, Transportation and others to the new Department?

Response: One of the concepts that Hart/Rudman strongly recommended in our report was that each agency brought into the Department keeps its identity. Thus, the Coast Guard, Border Patrol, etc. would to an outsider still be quite the same. The difference being in that they would report to a different cabinet secretary. Change in culture takes a long time. Nonetheless, I believe that the new cabinet department will develop a culture consistent with its mission: namely, protecting the homeland.

Question 2: When it comes to the organization of our national defense against bioterrorism, the devil is, as always, in the details. The difficult questions here are the same ones we are asking with respect to the FBI and CIA: Are the activities of a particular agency sufficiently related to homeland security that the entire agency should be transferred to the new Department? If not, should certain functions and personnel that are directly related to homeland security be transferred from the existing agency to the new Department? If so, which ones should be transferred? Are there some functions and personnel that are related to homeland security that should remain with their original agencies but then contract with the new Department on an as-needed basis for reasons having to do with efficiency, synergy, or practicality? Specifically with respect to bioterrorism defense, which functions should be transferred from the CDC to the new Department? Which counter-bioterrorism functions should remain with the CDC?

Response: Since the nature of bioterrorism defense is essentially scientific, I think it would be a mistake to transfer any of these organizations currently within the government into the new department. The department should have a strong coordinatative role but not a scientific one.

Question 3: How would you analyze current Congressional oversight up to and following September 11, 2001? Should Congress re-organize its oversight responsibilities regarding homeland defense and, if so, how?

Response: Hart/Rudman strongly recommended the creation of a select committee on homeland defense in both the House and the Senate. Not to do so would create insufferable burdens on the leadership of the new department. To the extent that some of the transferred agencies have other responsibilities, i.e. Coast Guard and boat safety, the traditional committees may retain their jurisdiction for those limited purposes.

Question 4: As you may already know, the President along with the Joint Chiefs of Staff have proposed the creation of a new Northern Command to be based in Colorado to serve along side NORAD. As a member of the Senate Armed Services Committee, I am eager to begin the work that is necessary to get this command up and running. The Armed Services Committee is in fact conducting a hearing on the nomination of General Ralph Eberhardt to be the CINC of Northcom. As we proceed with this process of creating this new agency, I am eager to see how this new Homeland Security Agency will work with our new Northern Command since the President's proposal is silent on coordination between the new agency and the Department of Defense. I look forward to any thoughts or comments that you might have on this relationship.

Response: Hart/Rudman recommended the creation of the Northern Command. The Hart/Rudman proposal creating the Department of Homeland Security (DHS) creates a strong link between the DHS and the Northern Command.

Responses to Questions for the Record
Submitted to Senator Warren B. Rudman
From Senator Tom Carper

June 20, 2002

"President Bush's Proposal to Create a Department of Homeland Security"

1. **In S. 2452, we place an intelligence analysis and threat assessment entity in an office in the White House and ask the director of that office to use the intelligence he or she gathers on domestic threats to work with the secretary of the new department to develop a terrorism response plan. In the President's proposal, the intelligence gathering entity is in the department. Which approach do you think would best address the information sharing problems within the intelligence community that we've been hearing so much about?**

   Response: I believe whatever intelligence unit is developed should be within the Department of Homeland Security (DHS).

2. **I've spoken in the past about the need to find a way to evaluate the performance of this new department at some point down the road so we would be able to tell if what we've constructed is actually working the way we intended it to. How do you think we can best do that?**

   Response: Evaluation of each of the organizations contained within DHS should be a critical analysis of their annual reports versus the mission statement supplied to them by the new cabinet secretary.

Responses to Questions for the Record
Submitted to Senator Warren B. Rudman
From Senator George Voinovich

June 20, 2002
Governmental Affairs Committee

"President Bush's Proposal to Create a Department of Homeland Security"

1. **I suspect that Congress is going to be making changes to the department for years to come. For example, do you anticipate the department retaining non-security functions, such as the tax revenue function that is part of the Customs Service? Should such non-security functions eventually return to their originating agency or department?**

   Response: I believe that the interrelationships of those sections of the department related to non-security functions, should nonetheless be retained because of the interdependence of the entire agency on each of its parts. A good example of this would be the U.S. Coast Guard and the Customs Service.

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