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LEGISLATIVE OPTIONS TO STRENGTHEN HOMELAND DEFENSE

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

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LEGISLATIVE OPTIONS TO STRENGTHEN HOMELAND DEFENSE

FRIDAY, OCTOBER 12, 2001

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

The Committee met, pursuant to notice, at 10 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Levin, Akaka, Durbin, Dayton, Thompson, Collins, Voinovich, and Bennett.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. Good morning and thank you so much for being here at this hearing. Today the Governmental Affairs Committee will consider various legislative proposals to strengthen homeland security. This is a follow-up to our hearing 3 weeks ago that explored the question of whether government is adequately organized to meet threats to the American homeland.

The tragic events of September 11 were a shocking and painful wake-up call for all Americans, including those of us who are privileged to be in public service. The senseless deaths of thousands of our fellow citizens at the hands of terrorist hijackers hurt and angered our Nation, but I think they also forged in us an iron resolve to bring to justice those who aided and abetted the terrorists. The attacks also underscored our vulnerability to those who would do us ill and the failure of the government and the private sector—in this case, particularly, the airlines who were responsible for security—to prevent those attacks.

In the weeks that have followed, many reasons have been given for this failure. The one which concerns the Governmental Affairs Committee, because it is at the heart of our jurisdiction, is that our government lacks the appropriate structures and mechanisms to adequately carry out the responsibility of homeland protection. We, of course, have military intelligence, law-enforcement and emergency response assets, but they are inadequately organized to guard against the kinds of attacks we witnessed last month, and I would say also inadequately directed and driven to prevent further attacks of that kind. So this morning this Committee will consider two—at least two, and to a certain extent, three major reorganization proposals that have been introduced in Congress to better achieve homeland security and protection from terrorism.

S. 1449, introduced by Senator Graham and others, would establish a national office for combating terrorism. This proposal would

create a statutory White House office with a Senate-confirmed director responsible for coordinating government-wide terrorism policy. A House bill, sponsored by Representatives Gibbons and Harman, would also create a White House office with strong budget authority to coordinate programs to defend against terrorism and other homeland threats.

The second bill we will look at is S. 1534, a proposal introduced yesterday by Senator Specter and myself, that would establish a Department of National Homeland Security. Briefly, our bill would bring under a single administrative umbrella the Federal Emergency Management Agency, the Customs Service, the Border Patrol, the Coast Guard and other offices responsible for critical infrastructure protection. These agencies would be organized into three functional directorates for prevention, protection and preparation to respond. The head of the department would be a cabinet secretary who would be subject to Senate confirmation and thus, accountable to Congress and the American people. Like other agency chiefs, he would enjoy executive control over personnel and programs, and he would have all-important budget authority over his department's spending priorities.

In short, S. 1534 is meant to structure homeland defense in a way that makes sense operationally, but also in terms of maximizing funding priorities, interagency cooperation, and just plain bureaucratic clout. S. 1534 is modeled on the recommendation of the so-called Hart-Rudman Commission. A nearly identical House bill has been sponsored by Representatives Thornberry and Tauscher. I should point out that Congressman Thornberry, who is with us today, had the foresight to introduce his bill well before the September 11 attacks.

These bills stress different aspects of anti-terrorism and reorganization and each in its own way, in my opinion, if enacted, would have a positive effect on the administration's efforts to fight terrorism and protect our citizens, which, of course, we all support.

Governor Tom Ridge, I think, is a terrific choice to head the new Office of Homeland Security, but, in my opinion, as constituted now, his office does not give him the power he needs to ensure that he will get the job of homeland security done. His office is not authorized by law. He is not confirmed by the Senate. He lacks sufficient budget authority over the agencies he will be overseeing and coordinating to make sure his priorities, and I would say ours, are their priorities, and that his sense of urgency about the job he has, and I would add ours, is also a sense of urgency shared by those who will be under him. I think we need to create a robust cabinet-level agency led by a strong director that has the clout and resources to make the homeland security mission work, and that is what the legislation Senator Specter and I have introduced would do.

The Committee will also hear from Senator Smith about legislation he has offered to create a Domestic Terrorism Preparedness Council that would be charged with developing and implementing a terrorism preparedness plan. Representative Gilchrist has a similar measure pending in the House. So we have got a very distinguished set of witnesses on both panels today.

I want to thank them in advance for taking time to be with us this morning to share their experience and their counsel, as we together, certainly across party lines, try to fashion the best structure through which we can get done what is now probably the most urgent responsibility our Federal Government has, which is to protect the American people from attack here on the American homeland. Now let me turn to my colleague and friend, the Ranking Member of this Committee, Senator Fred Thompson.

OPENING STATEMENT OF SENATOR THOMPSON

Senator THOMPSON. Thank you, Mr. Chairman, and I certainly cannot think of a more timely hearing than this one. There have been a lot of excellent proposals put on the table. Yours is one of them. We ought to consider them seriously. I want to apologize to my staff for an excellent statement that they drafted here. I would like to make it a part of the record. It just occurred to me a few minutes before we had this hearing, that perhaps it would be more beneficial by stating an alternative notion or two that focuses on the nature of the problem.

It seems to me that although we certainly do need to look at the organizational structure of our effort here, that is really not the basis of our problem. I think the real problem has been that, for some time now in this town, we have not taken this problem seriously. Although we have had many good hearings and many excellent admonitions and suggestions over the years, the Congress has never really followed up and done much about it. We have not had much leadership from the White House over the last several years, in taking this problem seriously.

It is not for lack of organization, it seems to me, that we are in the trouble that we are in right now. It is lack of leadership. It does not matter what kind of organization we have if we do not have the right kind of leadership. Without leadership, we are not going to be able to address the problem. So, if it is also the case, as it appears to me, that this is, by its very nature, a decentralized problem, then our tendency will be to centralize the problem and the effort and create a new, concise entity. We have 40 agencies with responsibility, and maybe 40 agencies need responsibility. Maybe the problem is so diverse and covers so many different areas that we need all of these people involved. If that is the case, if leadership is the problem, then what is the solution?

One of the things we need to seriously consider, as, of course, we will, is whether or not we should simply vest the authority in the Executive Branch, perhaps reinstitute the Reorganization Act, which was used for many, many years to reorganize the Federal Government. With this authority, the President could reorganize as he saw fit. Authority could be given to the Congress on an expedited basis, to say yea or nay. This authority would give the President the opportunity to look across the spectrum at what all of these agencies are doing with all these Congressional committees having all this jurisdiction. It might be best to take some time to see how this thing really ought to be reorganized before we impose upon the new President and his new team some kind of a new organizational plan that would involve the changing and perhaps even disrupting thousands and thousands of government employ-

ees. So I would merely suggest that this certainly be in the back of our minds, at least, as we look at all of these organizational plans.

Clearly, September 11 has gotten our attention. I think we are all encouraged that we are now fulfilling our responsibilities and taking this matter very, very seriously. We should address it, not only in terms of organization, but in terms of budget priorities. We should work with the President to come up with the very best solution in order to deal with the problem that certainly is at the very top of our agenda and a concern to us all.

Thank you, Mr. Chairman.

[The prepared statement of Senator Thompson follows:]

PREPARED STATEMENT OF SENATOR THOMPSON

Thank you Mr. Chairman.

There have been other times of great crisis in our country. Few of these, however, caught us with such an inadequate organizational structure and the urgency to build a new one has never been greater. Many distinguished panels and experienced public servants informed us that the government's efforts to prevent, deter, and respond to terrorism were fragmented and uncoordinated; by and large we failed to heed that advice. We hesitated due to the big changes they called for and sometimes because there were more important priorities. But these reasons are, for all practical purposes, immaterial. What we are left with now are decisions we cannot avoid and actions that we must take.

Previously, there were questions that could not be asked. Those questions must be asked now. Previously, there were programs that could not be touched. Those programs must be examined and, if necessary, changed and moved. Previously, there were agencies that put counterterrorism on the back burner. Obviously, it must now be a prime concern.

However, we should not and cannot reorganize for the sake of reorganizing, and that is what I caution against now. I believe that hasty action leads us down the dangerous path towards the illusion of security, which is more dangerous than having no security at all.

I believe that there are a number of questions that must be asked and answered before we can even begin. What is the problem we are trying to fix? The outcome we want—freedom from terror—is clear, but a definition of the problem is lacking. Was it a specific agency that failed to do its job? Several agencies? Was the problem that we didn't plan adequately for those who are willing to die in the commission of terrorist acts? The problem must inform our solution, not the other way around. And at this point, I don't believe anyone has clearly articulated what it is we're trying to solve.

Whatever our decision is, it clearly must be able to stand the test of time. We want to ensure that a year from now, five years from now, when the exigency of the moment has passed and when the new Director of Homeland Security does not possess the forceful personality of Governor Ridge, that counterterrorism efforts are coordinated and urgent.

If deep organizational change is needed—and as I have said, it may be—then why not let it come from the President? I suggest that what might serve us well is the Reorganization Act. This important legislation was born in the Great Depression, another time when a departure from conventional thinking was called for. We here in the Congress would not be giving up our role in the policy process, since both houses would still have to affirm any measure before it became law. Rather, we would allow the President to assess where the weaknesses in the system are and to act quickly to fix them.

Mr. Chairman, that concludes my remarks. I look forward to hearing what our distinguished witnesses have to say.

Chairman LIEBERMAN. Thank you, Senator Thompson, for that thoughtful statement. Normally, we would go to the witnesses. I wonder, in light of the importance of the hearing, whether any of my colleagues would like to make a brief opening statement?

Senator Bennett.

OPENING STATEMENT OF SENATOR BENNETT

Senator BENNETT. Yes, thank you, Mr. Chairman. If I could just make a personal statement here, quoting the historic Yogi Berra, "Deja vu all over again." I entered the Executive Branch in the first of the Nixon Administration in 1969 at the Department of Transportation. The Department of Transportation, which is now stable and part of our government structure, was formed in much the same manner that your bill and Senator Specter's bill is proposing here, with respect to this new department.

It took the FAA, which was an independent agency, the Urban Mass Transit Administration, which was part of HUD, the Federal Highway Administration, which was in Commerce, the Coast Guard, which was in Treasury, the St. Lawrence Seaway, and I have forgotten where it was, and the Federal Rail Administration that was created de novo to be part of this Department of Transportation—and all this was done in the Johnson Administration, and the Department was 18 months old when President Nixon was elected, and I was part of the team that went in to take over that Department.

I saw firsthand, 18 months after the formation of the Department, how badly it was struggling to come together and how difficult those 18 months were. In the next 2 years, in which I was privileged to serve in the Department under the leadership of Secretary Volpe, we struggled mightily just to pull the thing together and make it work. It was one of the most difficult, exhilarating, educational management experiences of my young life, to go through that. I just want to sound a note of caution, having been through that experience, that the idea of pulling together a group of existing agencies, ripping them out of the roots that they have established in the departments where they exist, and then putting them together on what looks like a very clean piece of paper, in terms of an organizational chart, is a very difficult reality to deal with in terms of the way the structure is built.

Having said that, I applaud you and Senator Specter for your bill, because we probably need to get someplace like this as quickly as we can, and we therefore need to start. But my only cautionary note, as we do start, is to recognize that this is not going to come together very quickly. We have the National Security Council, which was created in 1947, after the Second World War. We went through the Second World War with the pressures of the war leaving the disparate parts scattered all over the government, because we did not want to try to disrupt what they were doing to force an additional organizational circumstance. So, I thank you for your indulgence.

I simply want to sound that note of caution as we proceed down this road. I again reiterate my congratulations to you for getting us started down the road, because we should not let the caution tell us the task is so daunting we will not even begin it. I wanted to share that personal reaction as I looked at this, because it did stir up memories that are now over 30 years old, in my own experience.

Chairman LIEBERMAN. Thanks, Senator Bennett. That is a very instructive comment, and I presume most people agree that your words are not only realistic and wise, but that the effort was ultimately worth it in terms of what was produced.

Senator BENNETT. That is correct.

Chairman LIEBERMAN. The reassuring reality here is that the President has acted quickly, created the office, has Governor Ridge in it. So something is happening now, even as we consider whether there are better ways to do it that we can build on.

Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Mr. Chairman, I want to commend you and thank you for calling this hearing, and also to take the time to welcome our friends and our colleagues to this hearing. Even before the tragedy of last month, our leadership has looked for ways to strengthen our defense, and, Mr. Chairman, at this point, I want to include my whole statement, but I will make some brief remarks here.

Chairman LIEBERMAN. Without objection, it will be included in the record.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

Good morning. I commend the Chairman for calling this hearing and thank our witnesses for being with us today.

Even before the tragic events of last month, we have looked for ways to strengthen homeland defense. A threat that was once seen as a problem of the future has sadly become a present day reality. The question remains: How can we best prevent, protect, and respond to threats on our homeland while preserving the freedoms that define America?

We should also be mindful that future threats may not take the same form of those a month ago. In July, the Subcommittee on International Security, Proliferation and Federal Services, which I chair, held a hearing on FEMA's role in managing a bioterrorist attack. That hearing made it clear that the United States lacked a national security strategy and the institutional organization to address terrorist attacks.

Any strategy should address the fact that such future attacks will affect regions of our country differently. There is no one type fits all strategy. Geographically isolated or remote states like Hawaii or rural areas will require different response strategies and resources than New York City or the Washington, D.C. region.

Our ability to address this issue will depend on the organization and coordination of our resources, the strategy we employ, and communication among federal, state, and local governments. Chairman Lieberman has proposed creating a Department of National Homeland Security. President Bush suggests a less formal approach. Whatever choice is made, we must ensure our strategy and organization maximizes the talents of those charged with homeland security and the resources needed to address any threat.

I look forward to your proposals and thank you again for being with us.

Senator AKAKA. What was once seen as a problem of the future has sadly become the present-day reality. The question remains: How can we best prevent, protect and respond to threats on our homeland while preserving the freedoms that define America?

In July, the Subcommittee on International Security, Proliferation and Federal Services, which I Chair, held a hearing on FEMA's role in managing a bioterrorist attack. It became clear at the time that we lack a national security strategy and an institutional organization to address the terrorist attacks. We must ensure our strategy and organize and maximize the talents of those charged with homeland security, and that is what we are trying to do.

So I want to thank you, Mr. Chairman, and wish all of us well and hope we are able to define our strategy and our work.

Thank you.

Chairman LIEBERMAN. Thanks, Senator Akaka. Thanks for your Subcommittee's leadership in that area, too.

Senator Voinovich.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you, Mr. Chairman. I would like to thank you for holding this hearing on legislative options to strengthen our homeland defense, and I want to welcome our panels of witnesses.

Mr. Chairman, during the waning years of the Cold War, in the decade since its conclusion, Congress and previous administrations have commissioned study after study on the preparedness level of the Federal Government in the face of a terrorist attack on the United States of America. In the aftermath of last month's acts of terrorism on our homeland, the spotlight has shone on the important role our Federal agencies, and the individuals who work for them, play in the defense of our Nation. It is amazing to me that a crisis has to occur before we begin taking action on something as serious as making sure we have the proper structure and personnel in place to guarantee our national security.

However, let me say that although Congress has not yet made a decision on the type of homeland security office we might create, if we create one at all, I am impressed with the deliberate and prompt action President Bush has undertaken within the past few weeks to create an Office of Homeland Security. I believe it is important that, as Congress evaluates options for building upon that new office, we seriously consider the input of the Executive Branch in structuring our agencies in a manner that the administration deems most effective.

Maybe I have been an administrator too long—10 years as mayor and 8 years as governor, but I wonder: Has the administration been heard from in regard to how they want to organize and deal with the problem? They are the ones that are going to be charged with that responsibility, and they ought to determine the best way to respond, in my opinion, to the problem that we have.

Mr. Chairman, only months ago the Hart-Rudman Commission released its final report on the national security posture of our Nation. One of the Commission's findings said, "Attacks against American citizens on American soil, possibly causing heavy casualties, are likely over the next quarter century." Now, that is eerie in its foresight. Another finding of the Commission was 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."

This Committee is considering restructuring the Federal Government to ensure that our Nation is prepared to respond to future attacks. As we do, we should resolve to take action on the Commission's prediction about the state of the Federal Government's human capital and our Nation's preeminence in the world, and ensure that we correct the situation before it gets worse. For example, right now we know that we are out on the Internet advertising

for people that can speak Arabic and other languages. We are just not prepared for this situation today.

I think you know, Mr. Chairman, I am preparing to introduce legislation that will address this human capital crisis, and I urge my colleagues to keep in mind the important role that Federal employees play in protecting the American people. As former Secretary of Defense James Schlesinger said when he testified before our Oversight of Government Management, Restructuring and the District of Columbia Subcommittee, in March, "Fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of the U.S. national security policy." I would agree with that assessment. We have all kinds of agencies we can restructure, but it is the quality of the people that we have in those agencies that are really going to make the difference. If you have good people—although you may not have the best structure—and they can effectively coordinate their activities, there is a lot that can be accomplished.

I think we have seen that so far. We have a crisis. The President has brought them together. We have seen cooperation around here like we have not seen in anyone's memory. Turf battles have kind of disappeared because we have a crisis. So, as I said, Mr. Chairman, as we consider the structure, let's try to make sure we get input from the administration on how they think this should be organized, and let's also pay attention to the fact that we need to deal with the human capital crisis.

Chairman LIEBERMAN. Thanks, Senator Voinovich. Let me just indicate for the record and reassure you that we invited the administration to testify this morning. They chose not to, but they did say that Governor Ridge would be happy to meet with the Committee in session to discuss his attitude toward the various proposals here.

Senator Durbin.

OPENING STATEMENT OF SENATOR DURBIN

Senator DURBIN. Thank you, Mr. Chairman. Thank you for this hearing. Several years ago I read an interesting biography of George Marshall. When the storm clouds were gathering over Europe, Franklin Roosevelt went to General Marshall and asked him to take a look at the military capacity of the United States, long before Pearl Harbor. When General Marshall arrived at the War Department he found that we had a token military at best that had been decommissioned after World War I and never really activated in the intervening time.

He asked if there were any battle plans that were available. They went to the vault and pulled out the one contingency which they had prepared for. It was the invasion of Mexico. Within a short period of time, Pearl Harbor occurred, America was at war, and in a matter of several years we took that decimated, almost non-existent military force and turned it into a military force that literally saved the world. You have to ask yourself, in that period of time, what happened, and I think we can reflect on several things that happened: First, strong leadership at every level, from the President on down; second, bipartisanship, as Senator Voinovich has said, that we have seen clear evidence of in the last few

weeks here on Capitol Hill, a national cause that rallied the best and brightest who wanted to be part of saving America and winning the war, and a sense of purpose and urgency that managed to break through the bureaucracy and all of the problems of the past.

We now have lived through September 11, and the question is whether or not we can rally this same strength and this same sense of purpose. I think the President has chosen an extraordinary person to lead that in Governor Tom Ridge. It has been my pleasure to call him a friend and fellow congressman since we were both elected in 1982, but the question is whether or not Congress and the President and all of us as a people will stand behind him with that same sense of purpose as he puts together this critically-important agency. There will be many good ideas. In the end, we must rally behind the best and make certain it works. Thank you.

Chairman LIEBERMAN. Thank you, Senator Durbin.

Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Mr. Chairman, I want to thank you for your leadership and for holding this hearing. We have an impressive first panel of distinguished witnesses who have been waiting for a half-hour to share their wisdom with us, so I am going to forego my opening comments and listen to their testimony.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Collins. You are right about the panel of witnesses. I am grateful that they are here. We have three colleagues in the Senate, and three colleagues from the House. I had not thought of it before, but I note as I look, in true human indication and evidence of non-partisanship, four of our colleagues are Republicans and only two are Democrats.

How did that happen, Fred? [Laughter.]

With Senator Graham's indulgence, I know Senator Specter has to return to Pennsylvania. I am going to ask him to go first, if you would.

Senator SPECTER. Thank you very much, Mr. Chairman. I had negotiated with Senator Graham priority. We are swearing in a U.S. Attorney this afternoon in Philadelphia, but then he told me about his plane, so I am going to defer to Senator Graham. He has to leave at 10:30 a.m., so his statement will not be too long. [Laughter.]

TESTIMONY OF HON. BOB GRAHAM, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator GRAHAM. Thank you very much, Senator, and after that it will be shorter than it would have otherwise been.

Mr. Chairman, I appreciate this opportunity to testify before your panel on the legislation that has been introduced on the Office of Homeland Security. Let me say from the outset, and particularly in response to some of the comments by Senator Voinovich, I could not agree more that this needs to be an effort in which there is the highest level of cooperation, collaboration and respect between the Executive and Legislative Branches. This work is too important for it to be treated in any other manner.

I see that our efforts here today and the efforts that led to the legislation that has been introduced are all intended to complement, both in the sense of expressing our appreciation for, as well as to join in an effective partnership with, the administration. After several months of research on the day after the President announced his selection of Governor Ridge, along with Senator Dianne Feinstein and others, I filed a bill entitled the National Office for Combatting Terrorism, which would establish an office in the White House with that as its objective.

After 9 years on the Intelligence Committee, I am acutely aware of the need for a centralized authority to coordinate our counterterrorism efforts. Many studies, including some that have been referenced this morning, have brought before us the urgency of such coordination. As one example, the General Accounting Office has identified that there is a wide range of agencies, from the CIA to the FBI, from the FAA to the Federal Emergency Management Agency, which have part of this responsibility, yet there is no single individual in charge of these efforts. The GAO concluded just last month, "Key interagency functions are resident in several different organizations, resulting in fragmented leadership and coordination. These circumstances hinder unity of effort and limit accountability."

In other words, I would analogize our situation to a team which has a number of talented athletes, but no head coach to bring their efforts together behind a single plan. We must have a leader who can command action when the inevitable interagency rivalries occur. The White House appointment of Governor Ridge is a recognition of this requirement, and I am grateful that a man of such talent has accepted this position, but I am deeply concerned that the Governor cannot do all that the President intends for him to do, even though the executive order of October 8 is filled with strong language, including directives that the office, "shall work with executive departments and agencies," and, "shall identify priorities and coordinate efforts." Nor should the homeland security of America have to depend upon the occupant of the office's personal ties with the President.

If you want an example of the fragility of that, I would suggest that you might do some research on the first person who held the term "Czar" in American history, Harold Ickes, when he was given that title of Czar of Petroleum during World War II, and how much his effectiveness waned when his relationship on a personal level with the President of the United States took a downward slide. Frankly, I do not believe that the director of the Office of Homeland Security will have the clout that he or she needs to perform these essential tasks without gaining the power that would be granted through a permanent statutory position. Foremost among these powers, he needs budget authority, which only the Congress can convey.

Without the ability to tell an agency director that his budget priorities are misplaced or order the elimination of redundant functions from agency budgets, I do not believe that Governor Ridge will be able to implement an effective counterterrorism strategy.

I also believe the director of this office should be confirmed by the Senate. Confirmation would ensure his accountability to both

the Congress and the American people, and I would ask to have entered in the record a statement by the Director of the General Accounting Office on some of the issues that are likely to be raised in terms of the accountability that comes only through Senate confirmation.[1]

Chairman LIEBERMAN. Without objection.

Senator GRAHAM. The Congress cannot afford such resistance when it comes to the battle against terrorism. Mr. Chairman, your Committee, the Intelligence Committee and others, must fulfill our important oversight responsibilities with the Office of Homeland Security. While there clearly were intelligence and law-enforcement failures in the days and weeks leading up to the horrific events of September 11, it is too soon to say where those gaps in our safety net occurred. It is not too soon, however, to commit that we will empower a new leader, a new leader whose mission will be to close those gaps.

I have promised hearings before the Intelligence Committee when the time is right, and I do not want to encounter any roadblocks in getting the information that we will need.

In closing, let me repeat, as I have told the Vice President and the head of the National Security Agency and others in the administration, we have no intention of undermining the President's plans for his Office of Homeland Security. We seek to give the office the authority it needs to carry out its extremely important functions. We believe that clear lines of authority must be established so that our war on terrorism can be successful, all the way from the collection of intelligence overseas to the ultimate victory, through eliminating the scourge of global terrorism.

Also, Mr. Chairman, I would like to say that I am familiar with the provisions of the bill that you have introduced, which would consolidate a number of agencies. I applaud those goals, especially relating to better protection of our borders. Your legislation is consistent with the approach that Senator Feinstein and I have taken in S. 1449, and we look forward to working with you to merge our proposals into the most effective homeland defense for America.

Mr. Chairman, the challenge that we face today is not a new one for America. We have been challenged many times in our national history. I was moved by rereading the words of one of our greatest leaders at one of our times of greatest challenge. In his second address to the Congress, on Feb. 1, 1862, President Abraham Lincoln gave these directions to the American people: "The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so must we think anew and act anew. We must disenthrall ourselves, and then we will save our country."

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Graham, for an excellent statement. Let me just very briefly respond to what you said at the end about your proposal and ours not being mutually exclusive or inconsistent. I agree with you that it is quite conceivable that we could take some of the offices and agencies of government,

[1] The prepared statement of the Comptroller General of the U.S. General Accounting Office, August 6, 2001, appears in the Appendix on page 129.

specifically involved in homeland security, border control, etc., put them together under a strong director, and that would be one element under an overall coordinator of counterterrorism in the White House. So I look forward to working with you and seeing whether it is possible to mesh the two proposals.

Senator GRAHAM. Thank you very much, and thank you for your courtesy in allowing me to go first, and I hope that you will make your appointment with the new U.S. Attorney in Philadelphia.

Chairman LIEBERMAN. Thanks, Bob. Have a safe trip.

Senator SPECTER. Senator Graham, riding Amtrak is a lot better than flying to Florida; we have a lot more conveyances leaving. However, your schedule is more urgent than mine, so I am glad to have deferred to you.

TESTIMONY OF HON. ARLEN SPECTER,[1] A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Mr. Chairman and Members of this distinguished Committee, I ask unanimous consent that the full text of the lengthy statement be included in the record, and I will summarize as briefly as I can, in light of the many witnesses you have today on this important subject.

Chairman LIEBERMAN. It will be printed in the record, of course.

Senator SPECTER. We have had numerous studies, and it is time for action on reorganization. I am pleased to have worked with you, Mr. Chairman, on S. 1534, which represents our best thinking as of the moment, and I am pleased to see our colleagues in both the House and the Senate with other legislative proposals, and I know from my 4 years on this Committee, that this is the place to amalgamate these bills and face up to the needs and produce a finished product.

My view is that the government is much too proliferated and diverse, and I came to that when I chaired the Intelligence Committee in 1995 and 1996 and looked at the issue of weapons of mass destruction, and found some 96 separate agencies, many of them overlapping, notwithstanding the overlaps, many gaps, and no centralized authority. In the Intelligence Act of 1996, a provision was legislated to create a commission which was chaired by former CIA Director John Deutch, and I served as the vice chairman. We found that the turf battles were just furious, just extraordinary, and after a lot of hearings and a lot of witnesses and a lot of deliberation, we concluded that really the only person who could handle it, next to the President, would be the Vice President, and that was the recommendation of our commission, with consolidated lines of authority.

Today, it is unrealistic to give the Vice President any more duties, we just cannot do that. We have had the action by the President through an executive order, which was exactly right, because he needed to act immediately. Legislation takes time, so President Bush has pursued the first steps in appointing Governor Tom Ridge, a man whom I obviously know very well. We are fellow Pennsylvanians, working practically every day for the past 20 years or more, when he was in the House and when he served ably

[1] The prepared statement of Senator Specter appears in the Appendix on page 57.

as Governor. When Governor Ridge was asked about his role, he said, "Well, people can say no to me, but they cannot say no to the President."

Now, that is true, but every time there is a dispute the President cannot conceivably intervene, and we are dealing with an office which has to be institutionalized. In the future there may be another person in Governor Ridge's position. There may be another person President of the United States and the personal relationship may not exist, and that is the role of the Congress and the role of this Committee, which is the extensive experience this Committee has had.

You have outlined already the provisions of S. 1534, so I shall not duplicate them. When we get to the end of the rainbow on homeland security, we still have a big issue of coordination of our intelligence operations. My 8 years on the Senate Intelligence Committee and chairing the Judiciary Subcommittee on Terrorism has left me in a state of wonderment as really what to do with the intelligence agencies. I have found, I am sorry to say, that the agents in the Central Intelligence Agency do not tell the Director what is going on, and I could be very specific, but we would have to go into closed session.

I have found the battles within the FBI and the culture there more secretive than is imaginable. Within those agencies, somehow someone has got to take charge, and it is an ongoing battle, and then it is a problem of trying to find coordination. We had a hearing before this Committee, jointly with the Intelligence Committee, in 1997, and we needed some important information. Senator Bennett had sought some information from the FBI and they told him they did not have the information, but then he found out from the CIA that the FBI had the information. The FBI said they could not find it, but the CIA found it, having been told by the FBI, but nobody would tell Senator Bennett. I do not know why they would not tell you, Senator Bennett, but they would not and they would not tell this Committee.

My red light is on, so I will conclude within 30 seconds. At the end of the rainbow on homeland security, I suggest that this Committee and the Congress has to figure out a way to stop the intelligence gaps. We have a very nervous America. The overhang on this country today is just extraordinary, and fortunately we passed two pieces of legislation yesterday, airport security and the terrorism bill, which, as I said on the floor last night, we should have done 2 weeks ago. However, we are going to have to tackle this intelligence issue. It is just unfathomable that when you have the FBI putting a man on a Watch List, he still can get on a airplane and turn a commercial airline into a bullet to topple one of America's great buildings. So, the job is difficult, and I am sure this Committee is up to getting it started, and the Senate and the Congress will finish it up. Thank you very much.

Chairman LIEBERMAN. Thank you, Senator Specter, for a thoughtful and very direct statement. I could not agree with you more. As you look back to what led up to the attacks on September 11, it is hard not to conclude that part of our vulnerability came from the unwillingness or inability of various agents or just the incapacity of the various agencies in our government to work to-

gether and share information. That is an intolerable, unacceptable condition, which if this Committee can play a part in avoiding in the future, we will try very hard to do. Thanks for your statement.

Senator SPECTER. Thank you.

Chairman LIEBERMAN. Senator Smith, welcome.

TESTIMONY OF HON. BOB SMITH,[1] A U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator SMITH. Thank you, Mr. Chairman, and thank you for holding this hearing. As I was listening to Senator Graham read yet another great quote from Abraham Lincoln, I was reminded of the fact that I might remind our staffs and all of us that Lincoln wrote his own speeches, and look how long they have been remembered.

Chairman LIEBERMAN. They also tended to be shorter than ours.

Senator SMITH. Much shorter. Mr. Chairman, I have a formal statement for the record and I would ask unanimous consent that be placed in the record.

Chairman LIEBERMAN. It will be.

Senator SMITH. I appreciate, again, the opportunity to come here and be heard, and I will say right up front that although I do have a piece of legislation, S. 1453, which is a companion to my friend's—Representative Gilchrist's—legislation in the House, I do not believe that is a silver bullet. I think we all need to work together. I hope, as Senator Specter said, that whatever we come up with will be the right product. Congress tends to be a reactionary body. We have had a very serious national calamity and we need to respond to it quickly, and hopefully pride of authorship will not get in the way of doing that. So I look forward to just offering my views on a couple of issues.

As the former chairman and now ranking member of the Environment and Public Works Committee, of which you are a member, Mr. Chairman, you know that we have been involved in terrorism preparedness, and FEMA is part of our oversight. So I am going to try to speak to that point.

The very first meeting I had with Joe Allbaugh when he came to us before his confirmation—the topic of discussion in most of the meeting was terrorism. He was very concerned about it then and that concern turned out to be very prophetic. The consequence management or the preparation to respond after the disaster is the issue that I want to focus on, because it is a very complicated puzzle.

I also want to congratulate my colleague, Congressman Gilchrist, for his leadership in the House on essentially the same legislation. Senator Thompson, you made a point about the numbers and departments and agencies out there. There are 140, at least, Federal departments and at least 100 separate Federal terrorism preparedness training courses, and that is just at the Federal level. When we go to the local level and the State level and there are dozens, if not hundreds, more. You made a point of whether or not there is enough—maybe we need them all. I do not think it is a question

[1] The prepared statement of Senator Smith appears in the Appendix on page 66.

of whether we need them as much as it is, as you said, who is going to coordinate them to make sure they all work together.

There is no coordinated national leadership or strategy right now. We do have Federal programs that overlap. They are fragmented, they are redundant and they are confusing, and they waste resources and time. That is what we need to correct. That is not to say that this Nation does not have the tools to effectively respond, because we do and we have, but we do lack strategy and coordination. The great leadership of Mayor Giuliani in New York carried that crisis through. Similarly with the Pentagon. We had plenty of people right here on the ground to see that it worked well, but that may not always be the case as we look around other areas of the country where something else could happen.

The question is how do we coordinate with the State and local emergency responders? They are going to be the first ones on the scene. They would be the first ones there. So, basically, our bill expands the Stafford Act.

It expands the definition of hazard to include a terrorist attack involving a weapon of mass destruction, such as an aircraft, and it is my intent to broaden that even more to include any man-made disaster, as opposed to a natural disaster. I will not go into all the things that we do to create an Office of National Preparedness. This, of course, was drafted prior to the announcement by the President of Governor Ridge's role, and obviously we would be looking at melding that together, whether you call it the Office of National Preparedness or Homeland Security, whatever it is, we are more than happy to work with Governor Ridge on that.

We will fully integrate State and local emergency first responders into a national strategy. You think about these fireman and policemen that got on that scene. They were the first ones there and they suffered the most severe consequences with a tremendous loss of life. So I cannot stress enough how important coordination is with those State and local officials as the tragedy plays out. The current vice chairman of the Terrorist Task Force of the National Energy Emergency Managers Association, Woody Fogg, is from New Hampshire, and he has pointed that out very effectively.

I would just conclude, Mr. Chairman, if you look back at the tremendous job that Jamie Lee Witt did at FEMA, and Mr. Allbaugh had to jump into the harness quite quickly with big shoes to fill, but he has done a great job—I just want to reiterate that we need to work together quickly and effectively to do the right thing to make sure that all these agencies do coordinate and that we do have leadership, as Senator Thompson said.

I look forward to working with all of you in any way I can to make that happen. I am not here to say it is my way or no way; I am here to say I am ready to help any way I can.

Chairman LIEBERMAN. Thanks very much, Senator Smith, for the substance of what you said and the spirit in which it was given. I agree that is just the way we have to go forward. You make a very strong point about the role of State and local officials as first responders, both in what happened on September 11, and, of course, as we know, focusing on public concerns and our concerns about bioterrorism or chemical terrorism. There, too, State and local law enforcement, rescue officials and public health officials

will be the first line of response. So we need to work closely with them. Thanks for your testimony.

Congressman Gilchrist, thank you for coming across the Hill and giving us your time and wisdom this morning.

TESTIMONY OF HON. WAYNE T. GILCHREST,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GILCHREST. Yes sir. Thank you, Senator Lieberman. It is a pleasure to walk across to the Senate side and see our counterparts on this, who are all focused on doing what is best for the Nation.

Our bill essentially is—H.R. 525 is essentially the same bill that Senator Smith has introduced on this side. There has been a great deal of discussion this morning about the myriad of departments and agencies that deal, for the most part, quite effectively with crisis management and recovery after a crisis has occurred. But, as Senator Durbin mentioned, we were in a new age at the beginning of World War II. We transitioned out of a very different time frame, and I might add that 60 years ago, during that time frame, to give another quote from a famous American, Franklin Roosevelt said, "This generation has a rendezvous with destiny."

I think there is a sense in this Nation, and perhaps around the world, that there is a new age that has dawned, a new age of fear and crisis, certainly in many parts of the World, including the United States, but there is a new sense of unity, of cooperation, that we truly are all on this same little blue planet together. The ability to communicate and effectively deal with international problems will require, as Senator Thompson said, effective, knowledgeable leadership to pull these disparate interest groups together.

How do we respond in a very organized way when we are dealing with 40 or 90 different departments, agencies, whatever, knowing that each of those departments and each of the agencies has skill, expertise and knowledge that we do not want to disrupt, we only want to direct? I think if we can create an almost invisible structure, but a structure that will not uproot the expertise and knowledge in these various agencies and departments, and yet direct them in a manner that we have never done before, we will be successful.

I feel that to a large extent, having worked with the administration for many months, Mr. Allbaugh and FEMA, that we have, to a large extent, mirrored what the President wants to do in this particular arena. I read a book some time ago, called "Conciliance." It was written by E.O. Wilson, a Harvard zoologist. Conciliance is the unity of knowledge. That is the definition of that word. E.O. Wilson said, "In this new time, in order for the human race to be effective, there has to be an understanding and a direction from all the disparate, all the diversity that we have, in the same direction." So what our bill attempts to do, and I am going to boil it down to just a simple structure, but I would ask that my entire statement be submitted to the record.

Chairman LIEBERMAN. It will be.

Mr. GILCHREST. We are looking for leadership and direction to quell the bureaucratic bickering that sometimes occurs in the Fed-

[1] The prepared statement of Mr. Gilchrest appears in the Appendix on page 72.

eral Government. The direction needs to come from the President. So in our bill we make the President, for all intents and purposes, the board of directors. The board of directors would include a council, and the council includes anywhere from the Department of Transportation to the Department of the Treasury, to OMB to the FBI, the CIA, EPA, Department of Agriculture, etc. Those people would meet, we suggest, no fewer than two times a year. The chief executive officer underneath that board of directors would be someone like Tom Ridge, and Tom Ridge would have his own staff that would help direct the board of directors.

Now, I think the important part of this is to bring—to quote E.O. Wilson's book again, "To bring human beings together, to exchange information, there is no more complex phenomenon in the known universe." Wilson says that the human brain is the most complex organism in the known universe, and the most effective way to exchange information, to understand the nature of a problem, to come up with a solution to that problem and to be effective in real-time, is to exchange information between people. So the people from these different agencies and departments would meet and exchange that information, coordinate that information, to be effective on the ground. So the person who picks up the telephone and calls 911, the person that answers that emergency call, will know exactly what to do.

Now, New York, one of the best cities in the country to respond to these disasters, did an extraordinary job. But would Hartford, Connecticut have this same expertise? Would Chattanooga, Tennessee have the same expertise? Would Buffalo, Wyoming have the same expertise? What we want to do is draw the Nation together in the same direction without creating any more bureaucracy, but tap the skill, the expertise and the knowledge from what we have right now. Thank you.

Chairman LIEBERMAN. Thank you, Congressman. I must say I am grateful for the contribution that our colleagues have made today and I am sure that high level will continue with the final two.

Congresswoman Harman, thanks for being here. I have been long interested in national security matters. I know you are on the new committee created in the House, I believe vice chair on the new Committee on Terrorism. We look forward to your testimony now.

TESTIMONY OF HON. JANE HARMAN,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. HARMAN. Thank you, Mr. Chairman. It is a pleasure to appear before you and your many colleagues, some former colleagues of mine in the House, and to be on a panel with people very thoughtful about these issues, and to sit anywhere near my good friend, Lee Hamilton, whom we all miss in the House.

This is a subject that, as you say, has long interested me. I served on the House Intelligence Committee in my prior service in Congress. During my sabbatical from Congress I served on the Congressionally-mandated National Commission on Terrorism. One of the members of that commission is now at the NSC as the mili-

[1] The prepared statement of Ms. Harman appears in the Appendix on page 79.

tary aide to the President on counterterrorism issues, and I think we made some very valuable recommendations there. Now I am back, as you pointed out, as ranking member of the new House Intelligence Subcommittee on Terrorism and Homeland Security, which has been named by our Majority Leader and Minority Leader as the focal point of homeland security activity in the House. It is a high honor to do that and to be here and to promote legislation which I believe is complementary to the other bills pending and I believe should be part of the package that we move in the House and the Senate as quickly as possible.

I would just suggest to you that one opportunity in the Senate to move at least the piece I am about to address would be as an amendment to the Senate Intelligence Authorization Bill, which I know will be coming up here very soon. It could also be incorporated in whatever package your Committee reports, but there is an opportunity, I believe, within the next week or so to start, at least, with part one of the reform package.

Mr. Chairman, in President Bush's compelling speech to the Nation last Sunday, as we launched air strikes over Afghanistan, he told our young men and women heading into harm's way, "Your mission is clear, your cause is just, and you will have all the tools you need." That spirit of careful and effective organization and planning, that attention to detail, I believe, drives the most effective military strategy ever launched by our country. But that kind of organization and planning and attention to detail is not present, not yet, in the rest of our response to September 11.

I would suggest that we are just as ad hoc after September 11, with respect to the other things we are doing, as we were before. We are doing good things in the Congress. We are providing substantial funds for victims, substantial money for damage repair. We have bailed out the airlines. We are looking at airline and airport security, steps to help displaced airport workers, steps to respond to anthrax attacks, but where is the plan? Where is the careful organization?

Where is a national strategy that deals with many of the things we have just been talking about and many of the things you have mentioned—deals with what Senator Specter accurately described as the intelligence gaps, deals with what you said, Mr. Chairman, with this intolerable situation where agencies are unwilling to share information? Where is the national strategy that starts with the way we collect information, the way we analyze information, the way we disseminate intelligence information, the way we act on it and then the way we respond in the unfortunate event of a terrorist attack on our homeland? Where is the strategy?

Last week in the House, Congressman Jim Gibbons from Nevada and I, both members of the House Intelligence Committee, and now joined by six more members of the House Intelligence Committee, introduced the bill we think is step one to deal with the need to formulate this national strategy. I would ask your permission to incorporate some formal remarks and remarks from Mr. Gibbons in your record.[1]

Chairman LIEBERMAN. Please.

[1] The prepared statement of Mr. Gibbons appears in the Appendix on page 133.

Ms. HARMAN. We believe our bill comes closest to what President Bush has tried to articulate in his executive order, which you mentioned that he released on Monday when he swore in Governor Ridge. That executive order cites the need to form an Office of Homeland Defense to detect, prepare for, prevent, protect against, respond to and recover from terrorist attacks against this Nation. The mission is challenging in its breadth and complexity. According to the executive order, Ridge's mission is to develop and coordinate the implementation of a comprehensive strategy, but he is not asked to develop that strategy.

He is directed to advise OMB the appropriateness of other agencies' budget, but he is not given real budget authority. He is authorized to review plans and preparations for ensuring the continuity of government, to work with others, to ensure the adequacy, to encourage, to invite—wonderfully hopeful words, but where is the authority to get any of this done? Beyond his persuasive abilities and his close relationship to the President, Ridge has none of the tools required to force coordination of efforts or to win turf battles, and the turf battles have already begun.

To overcome what I believe were the objections from cabinet secretaries, the President appointed himself, not Governor Ridge, to Chair the newly-created Homeland Security Council. Why did he do that? I would guess because Secretary X called up and said, "I do not want Ridge to be senior to me, that is not fair. I have been here for 9 months; he is the new kid on the block. Do not do that." So the answer is, "Don't worry, I won't do that, I will be chair." What does that say about Ridge and his tools?

Jim Gibbons and I believe that the starting point of a real toolkit for Ridge is budget authority, not just the authority to certify budgets, that is what my good friends, Senator Graham and Senator Feinstein, have proposed, but the authority to reject budget requests that do not comply with the national strategy. That veto power is only in our bill and we would hope that you would consider that and add that to the package that you are going to pass here, because that veto power will be the tool that Ridge needs to implement a national strategy from the beginning of intelligence collection to the end of the first response effort. Absent that, as I mentioned, I think we are nowhere.

The New York Times has said of Governor Ridge, "The portfolio is enormous, but his authority is vague." *The Wall Street Journal* said, "Ridge has little control over the counterterrorism budgets fueling concerns that he will lack the tools." *The Washington Post* has written, "In any circle but those of the Federal cutthroats who guard their turf, Ridge's friendship with the Commander-in-Chief would be a boon, but the gladiators he is about to face devour czars." Ridge said himself at his swearing in just a few days ago, "The only turf we should be worried about protecting is the turf we stand on." I agree.

So, in conclusion, Mr. Chairman, I think we need to give this very able man at this very critical time the tools to do his job. That requires budget authority; that requires inclusion of our bill in any package that you report. Again, I appreciate being here, and I would just tell you that your leadership on this and so many issues like the energy problem, which California suffered under earlier

this year, is so much appreciated by me and all of our California colleagues in the House. Thank you very much.

Chairman LIEBERMAN. Thanks, Congresswoman Harman, for your kind words and for a very strong statement. It is quite instructive, and maybe we will get to it with the second panel, to compare the language in the executive authority, executive order, creating Governor Ridge's office, on budget authority with your language on budget authority, which is very clearly stated and much stronger. So thank you. You made a real contribution today.

Congressman Thornberry, thanks for your patience. I have found, as you were kind enough to say yesterday, from my side, my work on the Armed Services Committee particularly, I find over and over again as I am heading in a certain direction, I look up and there is Mac Thornberry heading in the same direction. I suppose this could mean we are both wrong, but nonetheless, I find your presence there quite reassuring, and I thank you for your leadership, and as we said yesterday, prescience in introducing this bill long before the tragic events of September 11. I look forward to your testimony now.

TESTIMONY OF HON. MAC THORNBERRY,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. THORNBERRY. Thank you, Mr. Chairman and Senators. I appreciate your patience in wading through to listen to some of the witnesses. With your permission, Mr. Chairman, I would like to submit a statement I gave before the Government Reform Committee in April, primarily because while there is much more intense interest on this issue, I think the basic facts are the same. One of the basic facts is this government is poorly organized to protect and defend the country and to respond against major attacks on our homeland. In that statement, I list some of the studies that all come to that conclusion, all of which, of course, were done before September 11.

It occurs to me that the comments made by Senator Thompson and Senator Voinovich are exactly right. You have to have a number of things to make something work. Leadership is critical. Good people are essential. Cooperation can overcome a number of other problems, but organization is important, too. President Eisenhower is quoted as saying, "The right system doesn't guarantee success, but the wrong system guarantees failure, because it sucks the leaders into the cracks and fissures as they seek to manage dysfunction, rather than make critical decisions." I do believe that is part of what we are dealing with here.

As you have said, Mr. Chairman, my bill is also based on the Hart-Rudman recommendations. I think it is important for me to just—you will hear from some of them directly in a moment—but I think it is important to remember that this commission, set up by President Clinton and former Speaker Gingrich, was not charged as an antiterrorism commission. Their charge was to determine what is the national security going to look like over the next 25 years? As they spent 3 years looking at this subject, they say the number one problem we have is homeland security. With the

[1] The prepared statement of Mr. Thornberry appears in the Appendix on page 82.

widest range of political philosophies imaginable on that commission, they come to a unanimous recommendation that the approach that we have taken is the right thing.

I would just say, Mr. Chairman, that I do not believe anything in our legislation is inconsistent with the executive order that the President has already issued, and I am going to be a little different from some of my colleagues. Frankly, I think the President ought to be able to arrange his White House any way he wants to, and certainly, if you look at the executive order, Governor Ridge has a full plate before him as he seeks to coordinate everything from agriculture to transportation, and just about everything else that is in the government. But, as he is coordinating at the top of the bureaucracy, you have to think about how you are going to implement this coordinated policy that he comes up with.

The analogy the White House has used is this is kind of like the National Security Council. Well, Condoleeza Rice coordinates a wide variety of policies, but then you have a Department of State and a Department of Defense to implement those policies. That is what I see our department as doing, not across the board, but in the area of Border Patrol, response and cyberterrorism, these are the folks that implement it. So it is down a level or so in the bureaucracy.

Now we have these three border agencies that are clearly not a good fit with the departments where they reside. Maybe at some point Customs fit in the Department of the Treasury, where it was a major source of revenue, but now, if we agree that part of their primary responsibility is to make sure bad things do not come into the country, it needs to have a little bit of a different focus. So bringing them together, I think, would be helpful.

The other thing is, however we rearrange these boxes in the bureaucracy, what counts is what happens on the ground, using the border as an example. Right now we have got Customs Service, Border Patrol, and the Coast Guard—they do not even use the same radios. They cannot talk to one another. They have different equipment. They have among them 11 different databases, none of which work with one another. Now, we could allow Governor Ridge to get in and to try to manage that dysfunction, or we can bring it together, coordinate it and let him worry about other critical decisions.

I think that is a better fit, and it just really struck me over the past month how many of our colleagues, whether they have worked on the drug program or they have worked on the immigration problem, have come to the same conclusion on the border issue, that having these different agencies scattered around does not make much sense. The same could be argued for FEMA, the response folks. At a time where seconds could mean many, many lives, having that coordinated so we do not have to worry about whose phone number is the right one to call, but one phone number where action takes place, I think is better.

Mr. Chairman, finally I would just like to say I think we should move quickly on this. It is always hard to reorganize the government. You are taking money and power away from somebody and giving it to somebody else. That steps on bureaucrats' toes. It steps on toes up here in the House and the Senate. But if there is ever

a time to put parochialism aside, it seems to me that this is it, focusing on, not any magic answers, but some common-sense, prudent steps that can make us a little safer. I think we need to move on it. Thank you.

Chairman LIEBERMAN. Thanks very much for an excellent statement, and I share your sense of urgency. If we can figure out a way to work together, the spirit is here and the intent is here to get something done that would be supportive of the President and Governor Ridge as soon as possible. I also liked your formulation, and I do think it suggests that it is possible, in general terms, to take the approach that is represented here by Senator Graham and Congresswoman Harman, Congressman Gibbons and the one that we have, and meld them together, because they are two different functions. You are right. We are talking about an implementing group. I think theirs is much more an overall coordinating of all the counterterrorism efforts.

Thanks to both of you very much. I wish you a good weekend and we look forward to working with you on this important matter.

I would like to call the second panel. Again, I thank them for their patience. I think that our colleagues have been very constructive and helpful in their contributions this morning, members of the House and the Senate, and I thank them.

This panel has the Hon. Lee Hamilton, now Director of the Woodrow Wilson International Center for Scholars, but, of course, our long-time friend and colleague in the House, a real leader on national security and foreign policy questions; the Hon. Barry McCaffrey, now President of B.R. McCaffrey and Associates, one of those czars who faced the gladiators and appears to be neither bloody nor—he is here and he looks strong and healthy—I want to thank General McCaffrey for rearranging a class he teaches at West Point to be here with us, because he brings a unique perspective that we appreciate; General Charles Boyd, now Senior Vice President and Washington Program Director of the Council on Foreign Relations; Dr. Steven Flynn, a Senior Fellow of National Security Studies at the Council on Foreign Relations; and Thomas Stanton, Chair of the Standing Panel on Executive Organization and Management of the National Academy of Public Administration. We really look forward to the testimony of this panel. I thank you all for your time and your contribution.

Congressman Hamilton, welcome. It is great to see you again.

TESTIMONY OF HON. LEE H. HAMILTON,[1] DIRECTOR, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Mr. HAMILTON. Thank you, Mr. Chairman, and Members of the Committee. I am immensely pleased to be here. I want to commend you for trying to find ways to strengthen our homeland security across this great land. Americans are, for the first time in my recollection, worried about their personal security in their homes. So they are very, very anxious that you act appropriately, and I am delighted to see you tackling this problem seriously.

The threshold question for me in dealing with this question of organization of the Federal Government to deal with terrorism is how

[1] The prepared statement of Mr. Hamilton appears in the Appendix on page 87.

serious of a threat to national security is terrorism? Senator Thompson said a moment ago, and I thought he was right on the mark, that we have not taken it seriously enough. In the view of the Hart-Rudman Commission, terrorism is the number one threat to the national security of the United States. If that is true, and we believe that unanimously—if it is true, then that has profound implications as to how the government should be organized and how the resources of the government should be allocated.

You have already mentioned, Mr. Chairman, there are two basic schools of thought as to how you proceed, the czar model or the cabinet model. I am not sure there is a right or wrong way to do this. I think the President has made a significant step in the right direction with what he has done. I personally do not think it has gone far enough. My own view is this is an evolving matter in the government and in the Legislative Branch, as well. So he should be commended for the steps that he has taken.

Senator Voinovich said a moment ago that the President deserves flexibility. He is exactly right about that, as well, and we should give him considerable leeway in setting up his own government. But, for me at least, although the President has improved the situation, I think you need to strengthen this organization. The key question is will the new government office or agency have the clout, the money and the staff to do what is necessary to protect our security? Will Governor Ridge be able to give orders to many disparate agencies involved in homeland security, many of which have a long history, as Senator Specter said a moment ago, of bureaucratic rivalry?

I picked up the quote in the *Congressional Quarterly*—perhaps some of you saw it—from Secretary of Defense Rumsfeld during his first tour of duty as Secretary of Defense. It is on page 2,309 of the *Congressional Quarterly*. He was involved in a suggestion that the Pentagon had, at that time, a debate over control of intelligence. This was his response, "If they are in my budgets, I will run them." I think most of us would be sympathetic with Secretary Rumsfeld. If we were running the department and we had the budget, we would want to control it. This is precisely the problem that Governor Ridge is going to confront.

"If they are in my budget, I am going control it," and Governor Ridge is going to be sitting around that table with a lot of big hitters in this town—the head of the FBI, the head of the Defense Department, the head of the State Department, and he is not, as I understand it, going to have the kind of clout to get the job done, because they will come to the table and say, "It is in my budget, I want to run it." Sooner or later—my guess is sooner—but, sooner or later he will be confronted with that problem under the present executive order status.

The administration has emphasized that Governor Ridge will have access to the President and strong support from him. I do not doubt that, but it is not enough. There are dozens of people who have access to the President of the United States, and without a legislative framework providing budgetary authority and staff, his power will be uncertain and subject to the vagaries of future Presidents and their attention to homeland security. It looks to me like, as I understand it, Governor Ridge will have borrowed staff, uncer-

tain power over department budgets, and have very little control over counterterrorism budgets of the more than 40 agencies that he is to oversee. He will lack the tools necessary to force those agencies to carry out his plans and work together.

The question you have to ask yourself is how do you make this bureaucracy work. We all have our own judgments about that. We all know how difficult it is to move the Federal bureaucracy, and I think it can only be done with a person with a lot of clout, a lot of budget, and a lot of staff. So, I support the establishment of a Homeland Security Agency or Department.

The head of that agency should be cabinet-level. That position is simply too important to depend upon a personal relationship with the President. It is too important to depend on the public's current mood with regard to terrorism or any other issue. It should be, as Senator Specter said, institutionalized, and he should have robust authority, as I think the Chairman said a moment ago, with budget and line authority. I have always been skeptical of interagency cooperation and coordination. I recognize that the government has to do a lot of its work in that process. In ordinary times it is done in that manner, but these are not ordinary times.

The President has said we are at war and that the business of homeland security is a national priority. So the head of this agency must have power not just to advise and to coordinate. I think the Homeland Security Agency, following the recommendations of the Hart-Rudman Commission, should include FEMA, Coast Guard, Customs, and the Border Patrol. There will be others who will comment further on that.

May I make two other points before I conclude? I notice in your bill, Mr. Chairman, you have a research component. That is very important and I commend that aspect of it. I know it is not widely discussed. The second point I want to say, with some fear and trepidation in my voice, and that is that the Congress of the United States is not very well organized to deal with terrorism.

You have to get your own house in order. If Governor Ridge has to come up here and testify to between 20 or 30 committees of the House and the Senate, he is going to be spinning his wheels an awful lot of the time. You have got to work that out. My own view is that you need some kind of a select committee in probably both houses, the House and the Senate, to deal with it. It is not just a matter of the Executive Branch being reorganized to deal with terrorism. You had better look at your own house, as well.

With those stern words, Mr. Chairman, I hope you will accept them in the proper spirit, and I am very pleased to be with you.

Chairman LIEBERMAN. Thanks very much, Congressman Hamilton. They were stern, but they were right on target and I doubt that you would have any disagreement here among the members about your last point, which is that we not only have to help reorganize the Executive Branch, we have to help reorganize ourselves to deal better with the problem of terrorism. Thank you.

General McCaffrey, thanks again for being here.

TESTIMONY OF GENERAL (RET.) BARRY R. McCAFFREY,[1] PRESIDENT, B.R. McCAFFREY ASSOCIATES, INC.

General MCCAFFREY. Mr. Chairman, I wonder if I may request permission to enter into the record a statement that I have prepared.

Chairman LIEBERMAN. Without objection, it will be printed in full in the record.

General MCCAFFREY. Well, let me thank you, if I may, for the opportunity to share with you some of my own insights, based in particular on more than 5 years' experience dealing with the interagency process of confronting drug abuse in America. I have worked with many of you, to include your Ranking Minority Member, Senator Thompson, in successfully addressing those problems. Indeed, the Congress gave me 3 years of consideration and finally reauthorized ONDCP. I think I got probably 80 percent of what I wanted and ended up with an agency that was more responsive to the American people and the needs of the problem. So I offer that for you as a consideration.

Let me also take special note that Rob Hausman, a young lawyer with Bracewell and Patterson, is here. He was loaned to me by his law firm. I am grateful. He was a strategic planner with me at ONDCP, a very bright and effective public servant—and Major Jen Cook, my teaching associate, a military intelligence officer, Rhodes Scholar, and a terrific partner in my national security professor role at West Point.

Let me, if I can, start by underscoring my own sense of admiration and confidence in the President of the United States and the team that he has assembled that has confronted this issue in the last several weeks. Unequivocally, I think listening last night and listening to the President and his address to both Houses of Congress, we were seeing leadership, simplicity of purpose, character and a sense of determination, which I think will serve us well. Indeed, many of these people in the administration, Secretary Powell, Secretary Rumsfeld, Paul Wolfwood, Steve Hadley, Dr. Rice and others, I have known and admired for years. I think the senior military team, Dick Meyers, Pete Pace and others, are as good as we could have produced. We are well-served by the public servants who will step forward and address this problem.

Governor Ridge, known by reputation on watch-in-action—you could not go wrong having a Federal Prosecutor, a Congressman, a Governor and combat-infantry buck sergeant, decorated, to step forward and assume the responsibility. I would also underscore, if I could, General Wayne Downing, who has, fortunately, accepted the President's call to serve in the NSC and also to work with Governor Ridge as a counterterrorism adviser. I do not know of a person I have seen in the last 15 years who knows more about that issue and is more of a battle-hardened, tested and creative public servant than Wayne Downing.

Let me talk about the problem, though. The problem as I look at it clearly goes back some 15 years, a period in which we watched with an out-of-body sense of detachment while this country accepted dozens killed or wounded, to hundreds killed or wounded, to

[1] The prepared statement of General McCaffrey appears in the Appendix on page 92.

thousands killed or wounded—the East Africa bombings were 6,054 casualties. During that period of time, it is my own assertion, while we had these brilliant studies and recommendations from people like the Hart-Rudman Commission or the Commission on Terrorism or other bodies that I have watched, we never took any significant positive or negative action against this threat. It was shameless the degree to which the political leadership, the military leadership, the media and the U.S. Congress ignored the problem.

I say ignored it because I never really heard a determined debate in which there was disagreement with where we were going. There was instead an acceptance of the threat and then we walked away to go back to our business. Now we have got 6,000 dead and we have got to do something about it, and we are in continuing peril. We ought to understand that. It is going to take us a year to 3 years, in my view, to reorganize domestic defenses. It will take us 6 months, to a couple of years, to adequately confront these terrorist base areas overseas and, more importantly, the states that sponsor them. During that period of time we should not misunderstand that we are in great danger.

Governor Ridge's attempt to organize what I would primarily see as the domestic aspect of that problem is one that is vitally needed, and I applaud the President for identifying such a superb public servant and for giving him his initial authority. Nothing but good can come out of that.

Let me, if I may, however, offer a notion that if you skim-read the Presidential order that set up his effort, there is no mention of the Armed Forces. There is no adviser from the Chairman of the Joint Staff or the Armed Forces on this council. It is a coordinating, not a directing, authority. It does not mention missile defense, cyber warfare, counter-drug, economic warfare, information warfare, civil disturbances, national disasters, or any other aspect except a narrow definition of counterterrorism. There is no mention of coordination with Canada and Mexico in hemispheric security arrangements.

He lacks budgetary authority. There will be no unity of effort in supporting exercises, training and directing the responsible use of monies in the current bureaucratic format. More importantly, it would be my own observation—I really echo the words of the first panel and certainly Congressman Lee Hamilton—that what it lacks is the force of law. We do not have power in the Federal Government unless you are established by legal statute.

He is not charged with developing a national strategy, with articulating it. He has not been given budget certification authority or decertification authority. He has not been specifically identified as a policy coordination authority. There is no requirement to develop a performance measure-of-effectiveness system. There is no requirement to say that in 1 year you will have half of civil aviation with Federal Air Marshals and, in 18 months, complete it. There is no requirement on him to report to the Congress, the American people, and devise a format to say what it is that we are concerned about and we are holding you accountable for.

There is no authority to call interagency meetings. He does not have his own staff and budget, it has been mentioned already. I would argue—Colin Powell, my mentor, used to say do not talk

about your programs, talk about your budgets. So if he does not have the budget for his own TDY staff, if he does not have his own legislative liaison office, legal office and public affairs office, then he will have to borrow those authorities out of the White House, who are doing the Nation's business, not the problem of counterterrorism coordination.

In sum, I would argue that notwithstanding this man's superb credentials, clear access to the Cabinet and to the senior leadership of Congress, within 1 year, with a small staff of detailees, with no Federal legislation, with no separate budget, no budget certification, he will be relegated to running the Speaker's Bureau on Counterterrorism Operations. I would argue that would not be what either the Congress or the President's wants.

There are huge programs to be addressed—I will not go through them—secure our borders, get sensible immigration policies, strengthen domestic military capabilities. We have the wrong National Guard. We have a force capable of modestly-trained, excellently-equipped, of fighting high-intensity combat operations in an international environment, armor, SP artillery, attack helicopters. We do not have a force in which 54 State governors and territorial governors have an adequate chemical, biological, radiological, reconnaissance and decontamination ability, field hospitals, transportation units, and military police.

We have the wrong National Guard and we are going to have to rethink it. We do not have adequate intel sharing on the homefront. There is no mechanism to work with the private sector right now; and then, finally, we lack an adequate Federal, State, and local coordination, particularly to respond to incidents involving weapons of mass destruction. We should not misunderstand that we will, in the coming decade, without question, face attempts by foreign terrorist organizations—there are 31 identified by the State Department—to employ WMD threats against our civil population. It may well have happened already.

On that note, let me, if I may say, I very much respect the leadership of Congress on this issue. Governor Ridge is not here to speak up for his own viewpoint and we do not have time to waste for him to discover the tools and come down here to ask for them.

Thanks very much, Mr. Chairman and Members of your Committee.

Chairman LIEBERMAN. Thanks, General McCaffrey. I look forward to some questions and answers. I was just thinking as I was listening to you speak, we have a colleague here who last year in our national campaign rode what he called the Straight Talk Express. It seems to me that you have been riding it for many years now and you rode it right into the hearing today. Thank you.

General Boyd.

TESTIMONY OF GENERAL CHARLES G. BOYD, USAF (RET.),[1] FORMER EXECUTIVE DIRECTOR OF THE U.S. COMMISSION ON NATIONAL SECURITY/21ST CENTURY AND CURRENT DIRECTOR OF THE WASHINGTON OFFICE OF THE COUNCIL ON FOREIGN RELATIONS

General BOYD. It is an honor for me, as well, to be here and offer my thoughts. I think the record should reflect that everything that Congressman Hamilton and General McCaffrey said, I would have said, had they not said it first.

You have asked me to come here today, sir, to comment on these pieces of legislation, proposed legislation, before you, and I think it will come as no surprise to you that the Lieberman bill is one that I can endorse with enthusiasm. It strikes a remarkable resemblance to some work that I was involved in.

Chairman LIEBERMAN. On the Hart-Rudman Commission.

General BOYD. At the Hart-Rudman Commission, indeed. Also, I have prepared a somewhat lengthy statement that I would ask that you include in the record. I will not read it for you today. Let me clarify a couple of things. I was heartened by your words and Senator Graham's words with respect to, perhaps, melding these two pieces of legislation in some form, because the Thornberry bill, the Lieberman bill, while it does exactly what I think it ought to do organizationally, it does not talk to the integration at the strategic level as much as I would prefer.

I assume that the President moved quickly, and I think he did the right thing, to illuminate the problem, to get some supercoordinator active as quickly as he could and not have to take the delay to work out the political or bureaucratic problems involved in agency development. But I am heartened because you all are thinking very, very seriously about that—the next step. I think General McCaffrey would agree with me, neither of us would like to go into combat—and this is a war—with only coordinating authority over our component forces that we were required to fight.

What troubles me, as well, about only the coordinating aspect of Governor Ridge's responsibilities—there seems to be a parallel organization between the National Security Council and the Homeland Security Council, as if homeland security somehow is a separate part, or not integrated into our overall national security framework. That is a new seam that is being introduced, and a problem in this mission area that is plagued with far too many seams already. What the Hart-Rudman Commission tried to emphasize was the importance of integrating homeland security into that overall framework of national security. To integrate it into the way we think about national security with its military, its diplomatic, and its economic components. It now should have a homeland security component.

While it is implicit in your legislation by saying that this Secretary of Homeland Security would be a statutory adviser to the National Security Council, I think, if I were to do this again, I would have encouraged my commissioners to think about actually making the Secretary of Homeland Security a statutory member of

[1] The prepared statement of General Boyd appears in the Appendix on page 109.

the NSC, to give him the very kind of clout, authority and equality at the table that Congressman Hamilton argued for.

Chairman LIEBERMAN. Incidentally, excuse me, but, in fact, in response to a good suggestion from Senator Specter, our bill actually does that now. We make the Secretary of Homeland Security Agency a member of the National Security Council.

General BOYD. Excellent, the variant that I have did not specify that, sir. So I stand corrected.

Finally, I think I would say the two arguments that I have heard most recently for not moving in this direction are, that to do so, even though it might be a good idea, would be disruptive in time of crisis, and we would not want to do that. Mr. Chairman, I believe this is going to be a long and enduring conflict. I think if it were something we might hopefully conclude within the next few weeks, then perhaps waiting until after the crisis had ended would be appropriate. But if this is to be an enduring conflict, and I believe it is, then I can see no reason why we would not want to organize our efforts, marshal our resources, get our house in order as quickly as possible right now.

The President—and this is the second piece—if he is worried about the politics involved or he is worried about the bureaucratics involved, then I think you all have a marvelous opportunity to give him a gift now and to tell him, "Mr. President, in a bi-partisan way, we are going to give you the tools that you surely want, but did not ask for, we want and to show you that you will not have the kind of rancor or bureaucratic in fighting that you want to evade. We are going to give you a piece of legislation that gives you everything you need to do this critical task as well as possible, organizing the Executive Branch, and we, the U.S. Congress are standing behind you in a bi-partisan way."

One last, very brief thought, if I may; I was at the Congressional retreat at Green Briar last spring when that marvelous historian, David McCullough, gave the keynote address. He talked in terms of the nobility of purpose of this notion of representative democracy. He talked about Adams riding his horse 400 miles to cast his vote in support of those who sent him. He looked at the 140 Republicans and Democrats gathered there and respectfully suggested that they might do a little more to pull on the oars together toward common purpose. Then he said something that has stuck with me and I think will continue to: Nothing that has happened in history had to happen that way. It happened that way because people made choices and caused those things to happen that way.

You have choices now and you can choose together to do what needs to be done or you can shirk that duty. I have great confidence, based upon this very hearing, if nothing else, that you all, on both sides of the aisle, are prepared to do what is necessary and right, and I commend you for it, sir.

Chairman LIEBERMAN. Thanks, General, for an excellent statement, and I appreciate what you said just before the conclusion, about the gift that we can present the President. I have had some good conversations with the Chief of Staff, the legislative office at the White House, and a brief conversation with Governor Ridge, and that is just the spirit in which I approach this, and they re-

sponded in kind. So I can hope we can keep those lines of communication open.

Dr. Flynn, thanks for being here.

TESTIMONY OF STEPHEN E. FLYNN,[1] Ph.D., SENIOR FELLOW, NATIONAL SECURITY STUDIES, COUNCIL ON FOREIGN RELATIONS

Mr. FLYNN. Thank you, Mr. Chairman. I am delighted to be here, as well. I am basically a border guy. The first part of my career, I served in the Coast Guard as a Coast Guard officer, commanding two cutters up and down our coast. Over the last decade I have been studying and writing about borders and, more recently, the asymmetric threat to our homeland. I have been doing this at the Brookings Institution, the University of Pennsylvania's Annenberg School, and, since 1999, at the Council on Foreign Relations. I think what I may bring to this is to talk a little bit about the problem that you are trying to organize this government to resolve.

For the last 2 years, I have been making field visits across the border crossings on the U.S.-Canada Border and the U.S.-Mexico Border, and many of our Nation's major seaports and airports, overseas and megaports, like Hong Kong and Rotterdam. My research question has essentially been this: Given the cascading tides of people and goods moving across our national borders, how do we filter bad from good, the dangerous from the benign? The answer that I have arrived at is we do not, and given our current border management system, our architecture, we cannot.

Let me be clear about this; this Nation presently has no credible way to reliably detect and intercept illegal and dangerous people and goods intent on entering this country. Our border management systems are broken. Let me provide you with just a few of the findings that I have made most recently, and back over the course of my career.

At any given time there are literally thousands of 40-foot, multiton containers moving around this country, of which U.S. authorities have no clue about what is in them or a good bit about where they are from or where they are going. This is because the way we have developed our Customs inspection system is to inspect and examine at the final destination port. A large number of our containers arrive in Long Beach. They travel by rail to Chicago and go on to New York and Newark. That is the first time that a Customs agent is likely to pick up a piece of paper and say what have we got here; 2,800 miles into the heartland of America and you have 30 days to provide an itemized list of just what it is you are bringing beyond something that says FAK, freights all-kind.

There is a terminal in Southern California in which 45 percent of all the maritime crude shipments arrive each day, roughly 25 percent of the crude oil consumed by the entire State of California is off-loaded there. Today is the first anniversary of the attack on the *U.S.S. Cole.* If an attack like on the *U.S.S. Cole* took place against a tanker tied up to that pier right now, you would effectively shut down the economy in Southern California within about three or 4 days, because there is only 48 hours of refined fuel avail-

[1] The prepared statement of Mr. Flynn appears in the Appendix on page 113.

able to service the entire southern portion of California from Santa Monica to San Diego to the Rockies. There is no full-time uniformed police officers assigned to that port. That terminal is guarded by private security, rent-a-cops.

Now, by statute, the U.S. Coast Guard, through its capital-to-port function, is supposed to provide for port security, but after a decade of budgetary neglect, the Coast Guard, which is also tasked, by way with patrolling 95,000 miles of coastline, shoreline, has its ranks reduced to the lowest level since 1964 and is routinely cannibalizing its decades-old cutters and aircraft for spare parts to keep them operational.

In the 1990's, the Coast Guard did assemble six specially-trained port security units that were funded by the Department of Defense, they were manned by reservists, and their mission is to go overseas and support the Navy as it does force projection. Another point, despite the fact that the Canadian security and intelligence services believe that there may be as many as 50 terrorist groups with a foothold in Montreal, Toronto and Vancouver, prior to September 11, the 4,000 mile border, land and water border with Canada, was patrolled by 330 Border Patrol agents, supported by one analyst, with radios that they cannot use to communicate with local and State police authorities. What they do is they talk over their radio on their frequency, the state trooper will listen to his scanner, pick up what he said, talk over his radio and go back to the agents. That is the reality of the border with Canada, which again we have 50 terrorists—groups with terrorist affiliations operating within a stone's throw of this Nation's borders.

In addition, U.S. trade with Canada climbed fourfold in 1985, from just over $100 billion to $400 billion a year. U.S. Customs has 700 inspectors assigned to the northern border, 200 less than it had 20 years ago. Routinely one-half of all the primary inspection stations along the northern border, from Washington to Maine, have no personnel assigned to those stations because of staff shortfalls from INS and from Customs.

On the Southwest border, port directors communicate—I was just there in August—communicate with their Mexican counterparts by sending couriers to the center of the bridge, to have their counterpart send a courier to their side of the center of the bridge, in order to communicate with each other if there is a problem, because they have no secure communications to talk with one another. This is like Checkpoint Charlie, and this is how we are doing border management now in this Nation.

The front-line agencies cannot even effectively communicate with each other. For example, let's imagine this scenario: A ship with a shadowy record of serving in the darkest corner of the maritime trade, its shipping agents notice that it will be importing a type of cargo that does not square with its home port or any of its recent ports-of-call; it is manned by crew members, some of which are on intelligence watch lists because they are suspected of having links with radical Islamic fundamentalist organizations; the ship is scheduled to arrive on the very same day that a tanker with a highly-volatile fuel is also arriving in the port. It would be reasonable for the American people to expect that we would detect and intercept that ship before something horrific happened. The odds of

that happening right now are very, very small. Why? Because all those data points, all those red flags, would not be viewed simultaneously.

The Coast Guard would know something about the ship, it would know something about the hazardous cargo coming in. Customs would receive some advance notice of cargo manifest information. If it was bulk, you would only receive it at the point of arrival itself. INS may or may not know much about the crew, depending on the kind of visas the sailors hold and the time with which the shipping agent faxes the crew list. In addition, none of the front-line inspectors in these agencies would likely have any access to the national security intelligence from FBI or CIA.

All these agencies will have more people and cargo, and ships that spark their interest and concern than they have manpower to intercept and inspect. We have to ask questions. How did we end up in such a mess? It is certainly not this administration's fault and, to some extent, it is not the last administration's fault. This is an accumulated result of four things: An extraordinary 200-year run when we have not faced a serious attack on U.S. soil; a revolution in global transportation logistic networks which has simply overwhelmed the enforcement and regulator agents and supervisors; the statutory blindness of our national security community to the problem and an organizational, cultural bias away from it, because the writ only runs from the water's edge out; and a dysfunctional, byzantine governmental organizational structure that sprawls from front-line agencies who would see the problem, but are in so many departments—they all get a piece of the elephant—nobody can put it together.

Their parent departments, the Congressional appropriators, the OMB reviewers, historically have had no real appreciation of the vital security role these agencies play. That being said, Houston, we have a problem. There is a poignant scene in Apollo 13 when the mission controller comes into the room with all the parts of an astronaut's suit and throws it on the table to all his collective staff and says, "You are not going to leave here until you invent a way to make a new air filter." Well, Mr. Chairman, we need to repair our Nation's border-filtering system and it is just as urgent and requires the same level of creativity and energy.

We are not going to coordinate ourselves into repairing a problem like this. We are going to need to fix front-line agencies that are broken. We are going to need to change the way they are doing business. We are going to need to change the way the government supports their doing business, and it is going to cost money. We could outfit the agencies that have the equivalent of broomsticks to wage this war on terrorism. We need to provide them the technology and the analysts and the additional manpower to do these things right. They need to be able to fuse it. We need to herd these cats under one roof, that the President, this country and the American people can hold accountable for the homeland security of this great Nation.

I would argue that this is the Nation's top priority. On Monday, after the World Trade Center attack, I stood at Ground Zero and saw a sight I hope never to see again. In that rubble, amongst the 5,000 other civilians lying there is the remains of Fred Marone, a

colleague of mine. Fred was the Director of Public Safety and the Superintendent of Police for the Port Authority for New York and New Jersey. He was as decent and as committed of a public servant as this country has ever had. I feel a special obligation to raise my voice today, to give meaning to his tragic death.

When I started my current study, it was as an academic interest; now it is a deeply personal one. For anyone in this town who feels that it is too painful to try to rearrange the Executive Branch and the Congressional oversight of this government to meet the demands of this mission, I would suggest required reading being the daily obituary list in the Metro section that is going to run for another year, that has the parents and the mothers and the sons and the daughters who perished that tragic day.

Mr. Chairman, terrorists have declared war on this homeland. This Nation is extremely vulnerable to these kinds of attacks. For gosh sakes, we need to recognize that we have to fundamentally rethink and reorganize how we provide for the security of this Nation in this new and dangerous era.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Dr. Flynn, for your very powerful testimony, and I promise you, your words will continue to ring in my ears. Senator Levin could not stay longer and has asked just to make a few brief comments before we conclude this panel with Mr. Stanton.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Mr. Chairman. I appreciate your letting me do that, and I thank our witnesses also for allowing this interruption with the good grace that I can see in their faces. Taking up from what Dr. Flynn just said so eloquently, we do need to fundamentally rethink the way we reorganize our homeland defenses, 40 agencies involved in this. We should do it without worrying about the politics or the bureaucratic toes that we step on. I happen to feel that is very accurate.

My own feeling at this point is one of the major problems we have is that we have a huge amount of information that is not shared well, not coordinated well, not assessed well, not communicated well. We have people coming into this country who are on watch lists, who are fugitives who get in, who are not watched once they get in. We have student visas issued to people who are not students, who never show up at schools. We have an awful lot of work to do just to coordinate the mass of information which has already accumulated about people coming into this country. That is just one of the problems.

It is amazing to me the shortfalls in that area, however, and one of the issues that I think we have to look at is which of the various structural approaches will best address that problem, and it may be putting it all under one roof, it may be some coordinated approach. But I happen to agree that we should do the right thing and not worry about the reaction on the part of the agencies. That is the least of my concerns. However, I do disagree with a couple of our witnesses on just small points.

General McCaffrey, you said that we do not have the time to waste while Governor Ridge discovers the tools that he needs, and

I disagree with that. We need to know what Governor Ridge thinks, and I think our Chairman has already indicated he will be meeting with the Committee.

Chairman LIEBERMAN. Yes.

Senator LEVIN. I do not know if he will be meeting in a public session or how that will be done, but I think it is very important that we hear from Governor Ridge. He has all the qualifications which you all have talked about in terms of his background. In fact, I think, General, you mentioned some of those qualifications. So it is very important to me what he and the administration wants.

General Boyd, you said that we ought to give the administration a gift, even though they are not asking for it. If it is a gift, we ought to give it to them, whether they ask for it or not, but we have to make sure that it is a gift indeed; and in order to get a full picture as to whether it is a gift, I think it is essential that we hear from this administration as to why it is that they do not want a new agency with all of the powers which have been described here, at least in one bill.

We may want to do that anyway; and I am not saying we ought to just be governed by what they say, but we surely ought to at least hear from them, one way or another. I hope this administration is not afraid to take on their own bureaucracies. I do not believe for 1 minute that they are afraid to take on their own bureaucracies in the aftermath of these events, but we just have to make sure that what we do is a gift, not just to them, but more importantly to the American people. So I would just emphasize that one point, whichever approach is best is surely the one we are going to be for, but we do need to hear from the administration and from Governor Ridge on that point, one way or another, publicly, I hope, but privately if necessary. I do not know why it would be necessary. I think there is great determination and strength in this administration to do the job that needs to be done.

I would ask, Mr. Chairman, that a statement of mine be inserted in the record at this point, and again I thank you for allowing this intervention.

[The prepared statement of Senator Levin follows:]

OPENING STATEMENT OF SENATOR LEVIN

The terrorist attack of September 11 has caused us to reevaluate from top to bottom how we go about our lives in the United States. One important element in that reevaluation is the organization of the Federal Government in handling our response to, and the prevention of, terrorism on our own soil. We need to have the most efficient and effective coordination of programs and agencies, and the existing lines of authority and responsibility may now be out of date. We have to identify areas of duplication and eliminate them; we have to determine the most effective means of management and implement them.

Everyone seems to agree that, at present, we have a problem in terms of coordination. In a recently issued report that the Senate Armed Services Committee requested in the Defense Authorization bill last year, the General Accounting Office (GAO) noted that there are 40 different agencies working on homeland security issues, with inadequate communication and coordination between these agencies. The GAO report calls for a single individual within the Office of the President—appointed by the President and confirmed by the Senate—to provide overall coordination and leadership for Federal efforts to combat terrorism.

In an effort to coordinate, the President has issued an executive order creating the Office of Homeland Security and the Homeland Security Council and has ap-

pointed Governor Tom Ridge to head it. Questions remain as to whether Governor Ridge has the necessary tools and authorities, the necessary power, to coordinate and control anti-terrorism activities within the government.

On the Armed Services Committee, we've been working to give the Department of Defense more tools and authority to address terrorism.

- In 1999, we created the Emerging Threats Subcommittee, which pushed the Department of Defense (DOD) to improve their efforts in combating terrorism.
- In this year's DOD Authorization Bill, we added funding to the budget request specifically to combat terrorism and broadened the utilization of $1.3 billion of requested missile defense money so that it could be spent either on missile defense or combating terrorism.

Today's witnesses advocate different approaches to the government structure to organize the Federal Government's role in homeland defense. The key to deterrence is information—information effectively collected and coordinated within and among key agencies. We have major problems today in that key area. Several examples of this manifested themselves relative to the September 11 attacks:

- One of the alleged hijackers of the plane that crashed into the Pentagon apparently entered the country on a student visa. We since learned that he never showed up at the California school that had admitted him and that the school never contacted the INS. Colleges are required to tell the INS when a student drops out or graduates. Why doesn't the INS routinely review the status of student visas? And would that information, if it had been obtained by the INS, have been shared with the FBI or local law enforcement? I doubt there is a system for that to occur, but if it had it would have apparently taken months for the INS to enter the data from the manual reports that schools submit.
- Nabil Al-Marabh, a fugitive from Canada, came into the United States even though he had been named on the FBI's "watch list." Why didn't the Customs officials have access to the FBI watch list? In addition, Michigan authorities told reporters that Al-Marabh had used an Ontario driver's license when he applied for a duplicate permit in Michigan. He later obtained a commercial driver's license, allowing him to transport hazardous materials in heavy trucks. In neither case, apparently, did the state authorities know he was on the FBI "watch list."

Whatever proposal that will best clear up the problems we have with the coordination of information, overcome the duplication, and make existing programs effective is the proposal we should pursue. We must decide how to break through the barriers that inhibit the free flow of information. Would creating a new agency do this? Or would a new agency consolidating FEMA, the Customs Service, the Border Patrol and the Coast Guard into one agency actually give the head of the agency less power to deal with the other agencies? These are important questions that we need to address in these hearings.

We can add millions of dollars to our budgets building defenses and manning defenses but until we have robust inter- and intra-agency communication, the fundamental problem will not be resolved. Sharing of information helps us to predict, prevent, and respond to terrorism. And importantly, we should give real consideration to how Governor Ridge feels that this Administration can best combat terrorism.

Chairman LIEBERMAN. Thank you, Senator Levin. Mr. Stanton.

TESTIMONY OF THOMAS H. STANTON,[1] CHAIR, STANDING PANEL ON EXECUTIVE ORGANIZATION AND MANAGEMENT, NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Mr. STANTON. Mr. Chairman, Members of the Committee, thank you very much. It is a real honor to be here, to contribute to this important discussion. If Dr. Flynn is a border guy, I guess I am a public administration guy. This statement is being submitted personally, but a number of other fellows at the National Academy of

[1] The prepared statement of Mr. Stanton with an attachment appears in the Appendix on page 118.

Public Administration have contributed to the testimony. We were asked to look at two bills, one of which would strengthen the current executive office——

Chairman LIEBERMAN. Excuse me just a second. Lee, thanks so much for coming. I know you told us earlier you had to leave at noon, and obviously we understand. Thanks for your contribution.

Mr. HAMILTON. I apologize.

Chairman LIEBERMAN. Please go ahead.

Mr. STANTON. We were asked to comment on two bills, one to strengthen the current office in the Executive Office of the President, give it statutory basis and some budgetary powers, and the other one to create a new cabinet department. In my testimony I would like to make five specific points. First of all, I agree with all the other witnesses who have said the President's prompt action has been an excellent and very much-needed first step.

Second, the enactment of legislation along the lines of S. 1449 would help to strengthen the authority of the director and the office. The ability to review budgets of the relevant Federal agencies is very important, as we have heard, provided that we clarify the role of that office vis-a-vis the Office of Management and Budget. What we cannot afford here is yet another turf fight, as two agencies fight over budget matters. Inevitably, it goes up the line and we have to attract the attention of the President or Vice President, who have many more important things to do. We should clarify that issue very early.

Third, it is very important to avoid mixing the goals of these two bills. In other words, it would be unwise to have a single person who was both the coordinator of 40-odd agencies, and State and local government activities, and also the head of a cabinet department, because that dual role inevitably will give rise to perceptions that person is favoring their own department at the expense of others. The coordinator has got to be separate so that appearance of impartiality does not arise, and so we avoid, again, unnecessary conflicts that will have to go up the line.

Fourth, the complex issues surrounding creation of a new National Homeland Security Department need to be carefully assessed before we act. If you transfer operating functions from four existing agencies to a new department, this could well create more problems than it solves, and the threshold problem is one of composition. There are a large number of agencies with essential roles in border control and in response to terrorism, the FBI, the Consular Service of the State Department—we could go down the list—that are not included in this new department.

On the other hand, there are a number of functions of these agencies, the four agencies, that will be transferred to the cabinet department that, in fact, have nothing to do with national security. The Coast Guard has a search-and-rescue mission, has an environmental mission, a high-seas fisheries mission. It has a variety of missions that have nothing to do with national security. S. 1449 is superior to the cabinet department because it retains the flexibility for senior policy makers either to include or exclude functions as we evolve our perceptions of the needs of homeland defense and try to decide what we want to do.

Finally, the fifth point, if this Committee does ultimately favor creation of a department, it might be beneficial to use a vehicle of a reorganization act to propose that the President submit legislation to make that change, and then it would be incumbent upon the President to make the careful considerations of the trade-offs to maximize the benefits of a given reorganization and minimize the costs. This Committee, of course, is in an ideal position to enact such a reorganization act because of its jurisdiction over general reorganization matters.

Mr. Chairman, I would respectfully ask that my written statement be added to the record, along with an attachment where a number of fellows of the national academy attempted a first draft at a general reorganization act that this Committee might want to consider in that regard. Again, Mr. Chairman, Members of the Committee, thank you very much for holding these hearings and for the opportunity to participate.

Chairman LIEBERMAN. Thanks, Mr. Stanton, to you and your colleagues, and all that material will be included in the record. We can do 10-minute rounds, since there are only four of us left standing, or sitting here.

General McCaffrey, why don't we begin by asking you to tell some war stories from your time as a czar; in other words, about what experiences you had that leads you to advocate strong budgetary authority within this new Office of Homeland Security?

General MCCAFFREY. Well, certainly, Mr. Chairman, I started with, to some extent, having to accept the responsibility to coordinate national drug policy with enormous personal standing in the Executive Branch and in Congress. I was believed to be non-partisan, to have some credentials in organizing people, machinery and efforts. The President was politically vulnerable and needed some cover. I knew all these key actors, so I came in with a lot of personal standing. Having said that, I inherited an agency which was 25 people or so, demoralized. The Shelby-Kerry amendment had defunded them. It had no legitimacy in Congress. It had no powers that had been used inside the Executive Branch.

Chairman LIEBERMAN. Did it have budget authority of any kind when you came in?

General MCCAFFREY. It never used it, the power that had been granted. It had certification-decertification authority, but no one since 1988 had actually ever employed it.

Chairman LIEBERMAN. Meaning that relevant budgets would have to combine.

General MCCAFFREY. In theory, the agency, which has been, of course, downsized from 180 ineffective people to 25 ineffective people, had never used the power that was there, to order an agency or department to include or change its budgetary requirements in accordance with the national drug strategy. It was beyond belief.

Chairman LIEBERMAN. But what did you do about it?

General MCCAFFREY. Well, the first thing I did was came to Congress and asked for a law, and said, "Here is the way I see this agency." I also went to the President, the Chief of Staff, the OMB Director, did a back-of-the-envelope analysis, designed an agency with 154 people, with 40-some odd liaison officers, put down 10

warrants of authority that I demanded, got nine under the President's verbal OK, said, "Trust us, we'll back you on this."

Then I came to Congress and said, "I would like you to make this a law," and 3 years later, partially because I decertified the Secretary of Defense's budget——

Chairman LIEBERMAN. Tell us a little about that.

General MCCAFFREY. It was like setting fire to a cathedral on Easter Sunday. I have never seen anything like it.

Chairman LIEBERMAN. Not a good thing to do.

General MCCAFFREY. He was a superb public servant. I do not think he was personally involved in it. He felt betrayed. I had been getting kicked back from DOD. I looked at the counterdrug effort. DOD played a modest supporting role. It was a $1 billion budget. If I tried to do that to Secretary Shalala in Health and Human Services, she would have killed me, but the board had come back, "Tell McCaffrey to stop screwing around with our money or we will take all his money away." So we spent 1 weekend, we lined it all up, we notified the relevant Congressional committees, we notified the media, we notified everybody except the President of the United States and the Secretary of Defense, and then we released it and decertified the budget. Unbelievable—it stopped my——

Chairman LIEBERMAN. Briefly stated, why did you decertify? You did not think he was spending enough or giving you enough?

General MCCAFFREY. He had $900 million in it. I wanted $1.1 billion. I had different views of it. I could not get a serious dialogue. I could not share the interagency process. I was not believed to be a credible actor. The word was, "Keep this up and we will take away all your money." In fact, one senior actor told me, "We will kill you and no fingerprints will be on it." At the end of that exercise, from then on, I can assure you when I called a meeting on budgetary matters, people came to the meeting.

I really think the key to much of this is you simply have to have a Federal law, Congress has got to tell you what to do. You have got to be a Senate-confirmed officer of government. You have to have your own budget. If you do not have a public affairs and legislative affairs and legal section, then that implies you must borrow these bureaucratic functions from the larger White House. I was an agency, as well as a member of the EOP. If you are going to do that, then you are never going to come see Congress, because you are never going to break through into the priority list for the national business, which is what the White House does.

The bottom line is I look at the kind of authorities that the governor has been issued to do this. I think in the acute stage of this crisis he will do just fine. He is a larger public servant with all of his experience.

Let me add, if I may, one other thought, and I bet Chuck Boyd would agree with it. One of the things that I know from being a 25-year-old combat leader, rifle company commander, is one of the major weaknesses of the American people is our inability to stay afraid very long. I tell people that I was a four-star general because I could remember fear for years on end, and I worry enormously about 1 year from now, if we have had 10 minor terrorist incidents, which have been disrupted by the incredibly effective FBI and local

law enforcement, whether we are going to forget our sense of collective fear.

We have got to change some large muscle movement problems, and I could not agree more with Dr. Flynn. Our Federal border control authority—I went down the four border States as the first act in government. We do not have the rule of law and order on the U.S. borders. It is fundamentally broken. If you put your finger on a map anywhere on that border and ask who is in charge of this effort, there is no Federal officer who is charged with integrating infrastructure, intelligence, communication and planning. There is no modality to coordinate across that border. If you ask sector commanders, "Who is your Mexican counterpart? What is the fax number? What is the telephone number? When did you see him last? Show me the map that shows the other side of the border, the avenues of approach," none of it exists. It is outrageous.

They resisted—I tried to double the Border Patrol and succeeded, from 3,000 to 9,000. The right answer, I told them, was 20,000, and they resisted that approach. The real answer, it seems to me, is 40,000 people.

Chairman LIEBERMAN. Amen. Part of what we have not talked about yet in this whole matter, and it is not for today, is that if we are really serious about Border Patrol, infrastructure protection, preparedness to respond to emergencies, it is going to cost us some money, because not only are we badly organized, or, in fact, disorganized, we are woefully underfunding the effort to protect us. Now that we have, unfortunately, experienced what we have on September 11, hopefully, we will act on it.

Your point is a very powerful point and very provocative, General, because part of what we are all dealing with is—when we go home every weekend—is fear that we have not seen before, and there is a natural tendency to want to argue with it. Of course, that is not all bad, we want to reassure people, but there is a way in which the sustaining of fear will motivate us to be where we should be, to be at our best and to defend. So I am going to carry that with me.

Dr. Flynn, how would you reorganize the border access and control agencies? I guess a subquestion to that is, how do you respond to the recommendation of the Hart-Rudman Commission, which is in our legislation, to put at least these three agencies, Border Patrol and Customs and Coast Guard, under one Secretary, to work more closely together?

Mr. FLYNN. Yes, Mr. Chairman. I think maybe I can talk directly to something Mr. Stanton had said about the challenge—is if you extract this piece out, assign to the homeland security mission other things that are not homeland security-related, there is a real problem here. Let me say that I do not think that is true, because it turns out that the capacity that these agencies can bring to the table is basically the ability to detect abhorrent activity; that is a way in which the asymmetric threat, the terrorist, is likely to come.

That is, my day on a patrol boat—you go out there and you pick up a fisherman and you board him and you say, "We are here to board to see if you are complying with all applicable Federal laws and regulations. Captain, I see you are fishing. What are you fishing for?"

"Well, I am doing some scalloping."

"Oh, in 3,000 feet of water, that is quite a trick. It is a long way down to get those scallops off the bottom of the ocean."

What I had was the ability of a context. I could say this is different from what somebody—and I could spot somebody who was fishing in an area that there are not any fish. That is the same thing for the boating safety, the auxiliary people who are out there, on a day-to-day. They are the sensors out there who are going to detect the kind of way these terrorists behave, as we saw their behavior on September 11 trying to blend into the real estate here.

The challenge is that these folks turn out to be the front-line new national security agents. They are the likely people who detect and they are also going to be the first responders, but right now they are not equipped to do the day-to-day jobs, so they are not likely to be able to give us that extra edge. They are also not likely to be able to—they are not connected in any way to the national security establishment. So they do not even know what to really look for.

Part of this is recognizing that the capacity of these agencies is largely their non-national security role that gives us a clue in how you deal with that. On specifically with putting them together, the number is 40 agencies to deal with—well, the fact of the matter is, in terms of presence—again, those people have sensors, that is really a small number of them. It is the Border Patrol. It is INS. It is Customs. It is Coast Guard. A lot of these authorities are delegated to them to be on the lookout for more than they can possibly handle. So I think the notion of getting a critical mass together—they are the right players.

As that scenario I laid out for you, the ship with the cargo with the people, you have got to at least connect those three dots, and those are now in three different places. If you could bring those three together, you have got this command of the most likely risk at least. We have those 11 databases that were mentioned earlier by Representative Thornberry—at least you would have them talking to each other and you would have somebody to stay in for that.

The key is that each of these agencies have a problem in that they are embedded in a department that has a core mission, that Congress mandates them to do and to resource them to do, and when they are doing something related to national security, their appropriator and their OMB reviewer says, "That is not my account," and Big Dig versus Coast Guard, port security. Our core thing is Big Dig, and so, inevitably you get this atrophying of capability. So I think bringing them together helps to bring that. You do not want to strip anything away from these. It will be the Customs officer's regulatory role that will give him the capacity to interact with that trade community and help that trade community—help them spot bad things.

Chairman LIEBERMAN. If I hear you correctly, bringing them together in a Homeland Security Agency, without subtracting at all from their other missions, will thereby make homeland security a priority?

Mr. FLYNN. You get a two-fer. You get them doing their jobs, better resources, because in doing that, if they are tethered to this—they are given the mission that while you are out there doing your

job, you are also on the lookout for bad things happening and detecting and intercepting them. You get the best of all worlds, in my view. It is not an either/or.

Chairman LIEBERMAN. General Boyd, did you want to say something?

General BOYD. No, I was just going to reinforce—and he has done it now—there is nothing those agencies have to stop doing as a result of being integrated into a Homeland Security Agency. They are going to continue to do all of the things that they now do, but they are going to do it with common purpose and they are going to be doing it for someone who controls the way they procure, the way they train, the way they exercise and the way they respond for the principal mission of homeland security.

Chairman LIEBERMAN. Thank you. My time is up, but Mr. Stanton, go ahead.

Mr. STANTON. I guess what I am hearing is a real need, an urgent need for integration at the operational level, and we face a bit of a Hobson's Choice. The way I read the commission's report, because people were concerned with the problems and disruption that Senator Bennett talked about, in fact, these three agencies would be kept largely separate within the new department. And that is needed because it will take you a 1½ or 3 years, whatever, to get integration of cross-cutting responsibilities and concerns.

My point is not that ultimately we may not want to do something like that. My point is that right now we do not have a full understanding of what we want to put into that mix and what we want to keep out, and that operational integration—when you read the commission report, and my hat is off to the commission—this was way before September 11—they talked about priorities of border security that were languishing, budgets that were hopelessly inadequate. We are going to solve that problem with or without an organizational change. But we should wait to see what the real contours of this problem are; among other things, how is Congress going to organize itself?

To a large extent, Executive Branch organization tends, for very good reason, to mirror what Capitol Hill does, and to figure out over some time what is it we want to put in, what is it we want to keep out, how do we maximize the benefits and minimize the downsides, which inevitably will be there?

Chairman LIEBERMAN. Thanks, Dr. Stanton. Senator Thompson.

Senator THOMPSON. Thank you very much, Mr. Chairman; we have had some excellent testimony. It has been very helpful. Thank you all. Mr. Stanton, I think you are absolutely right in everything that you say. It occurs to me that we are not here because we have been told for a decade, at least, in very pointed terms, of the nature of the danger, the extent of it, all the things that Dr. Flynn so eloquently described. We have known, basically, all this stuff, for a long time. I mean, it has been on the public record, but that is not the reason we are here. We should have been here because of that, but we are not. We were not focused, and nobody took it seriously. It has not been a part of the national debate.

We are here because of September 11. It causes me to think about fundamentally what we are about here. It seems to me that we are looking at reorganization, not because reorganization or

changing the boxes or lines of responsibility in and of itself is going to make us safer, but because we can do some things that will create or facilitate or assist the leadership and accountability that we are going to have to have to make us safer. And that is what this is about. I think Senator Hart said that if his proposal—if the commission's proposal had been in place, we could not have avoided September 11.

I think if the boxes had all been different, if we had any of these reorganization plans, it would not have been different. This means that until we take things seriously, until we have the right kind of leadership on both ends of Pennsylvania Avenue, till we have responsibility, so heads roll when things do not work, some measure, some way to measure whether or not we are making any progress, which we do not have in government at all, not much will change. In fact, this is just endemic of all of government. This is just much more serious than anything else. Lack of accountability and lack of leadership are issues we could have addressed at any time, but we did not do it. We have not taken it seriously.

The leadership part, of course, is a political matter. It is up to the American people, who have got to demand better. Up until recently, most politicians believe that what is most on the minds of the American people is not national defense, national security and terrorism. All of these issues are certainly way down the list. But, on the side of accountability, perhaps we can do something better to make it more likely that if we have the leadership, we could be doing a better job and have some measures of success. We would be making progress.

I think moving the boxes would not have made any difference. In the future, a year from now, we could basically lull ourselves back into the same kind of situation. Unless we have leadership and accountability and some way to measure where we are, we could face this problem again. So what can we do to help that? This is what I am looking at. I have no faith in any system of box reorganization or rearrangement, in and of itself. But if it can help in those underlying things that we have been lacking, clearly lacking, then it is worthwhile. So that does get to the issues that we have been talking about, in terms of reorganization, what would help and so forth. We focused in on the budget problem.

I am not sure that I know what we are talking about when we talk about budget authority. General McCaffrey and any of you, does that mean decertification ability or is there more to it than that? As I see the executive order, it says the head of OHS—authorizes the head of OHS to review agency budgets and make recommendations to agency heads and to the director of the Office of Management and Budget regarding the levels and uses of funding for homeland security-related activities. Prior to the forwarding of the proposed annual budget submission to the President for transmittal to Congress, the head of OHS is to certify to the OMB Director the funding levels that he believes are necessary and appropriate for the homeland security-related activities of the Executive Branch. No further guidance in this regard is offered by the order. This is from CRS. So it sounds like he may have certification authority.

General McCAFFREY. I think the word "review" is a throwaway line. It means you do not have to go to the meeting. Now, in addition, I would say some of this is mechanical.

Senator THOMPSON. Is it different than what you had?

General McCAFFREY. Senator, let me offer a thought, because I generally agree that problems are not solved by bureaucratic reorganizations, generally I would agree. Having said that, let me give you two models, and they really astonish me. Our military formations are set up so that, and I got this at the end of the Gulf War. I had a couple of reporters commenting on how splendidly my division had done, and therefore wasn't it me personally that must have accomplished these great things? You are missing the point. If I had dropped dead the day before the attack started, there were a dozen people who could have stepped in and made this thing work as well as I did, and the reason was we had an organizational dynamic, a training system, a set of authorities that were widely understood, that make the organization responsive to sensible direction.

There are other organizational schemes in which they are not responsive, in which it is a trying-to-herd-cats-with-a-broom, and I would argue the interagency process tends to be that way. It focuses on two or three problems; it does pretty good at addressing them. We are in an acute crisis stage now. I have no doubt in the coming 6 months the Congress and the administration will make a series of sensible decisions. But the border, for example, the fact that it is completely dysfunctional, that the Coast Guard is not in charge of coordinating the maritime flank security of the United States in Brownsville, Texas and in San Diego, and that when you go there, there are a dozen people with guns, badges and boats, and there is no integrating authority, these kinds of things need to get fixed.

Senator THOMPSON. There is some real low-hanging fruit that we could obviously start with here. Again, I guess the question I have is whether or not, in trying to reach the goal we are trying to reach, in terms of facilitating the things that we need to have more of, in terms of accountability and measures, and to induce the leadership that we need, is it better for Congress to come with some compromise among all these proposals that we have? It will not be anything that we have seen without changes. It will be probably some compromise of various proposals.

Or would it be better to say, "Mr. President, you have got a lot of things on your plate and have a lot of people responsible to you, but there is nothing more important to this Nation than this, and you have the ultimate responsibility. We are going to give you the authority under the Reorganization Act to reorganize, then you come back to us. If we do not like it, we can turn it down, but you have the responsibility, you have the authority. You must come with the leadership. You must maintain that leadership, and you are going to be held accountable for this and whoever you choose to place in whatever position you choose to place them in." That is one approach. The other is coming up with probably and mesh of a new kind of reorganization, and pass that.

The second part of the question—should we look at this thing more or less in two phases? Is there an answer possibly for the real

short-term, and then an answer for the longer-term? I think most of us assume that there is going to be an intensity about this for some time, but then there is going to be a long-term—forever—problem and need to address it; and possibly, as we look at these questions. Should we look at it in two phases? What should we do right now for the short-term? Should we give ourselves a little bit more time to look at it a little bit down the road?

General MCCAFFREY. Senator, I think you are right on the notion. I mean, thank God the President stepped forward and got this superb public servant, Governor Ridge, and gave him some people and gave him a mission. So, we are moving forward as we are sitting here discussing the issue.

There are two definitive options on the table; one is clustered around Senator Lieberman's notion, and others, forming a department, which actually is the right solution. The only concern I have with it is I think it will take you a year to think through the legislation or we will screw it up. When I say think through the legislation, it is not just writing a 28-page document, it is making sure that document is compatible with the responsibilities of the Attorney General, the Secretary of Defense, the Secretary of Treasury and others. You cannot just do the one without the other or we will be in even worse gridlock.

Having said that, in the shorter run, it seems to me in the next 30 days you should issue Governor Ridge a model. There are some that you can examine. One of them is ONDCP. You worked for 3 years to find me many of the tools that I wanted. So it is there to be examined and seems to me—I will borrow Chuck Boyd's word—it would be a gift to Governor Ridge, which he has not come down here and asked for.

The administration has come as far as they wanted to go for now. I would respectfully urge the Congress to think through this and give him an interim solution. Then a year from now, if you can chart out these other, more-definitive options, one of which I did not think would be possible in my lifetime, was unscrewing the U.S. border control system. That one deserves to be done, and I went to Senators and Congressman and Governors along those four border States and said that you people have lived here all your life. There is no border between the United States and Mexico. It is uncontrolled. It is unbelievable, the situation—two unions, four different departments of government, 700 people, different work rules. There is no high school, hospital or factory in America where there is not a person who is the integrator of that activity. That is not the case in our 32 border-crossing points into Mexico.

You can fix these things, but it is going to require some real careful analysis, to make sure the Coast Guard, a giant armed service, one of the most professional organizations I have ever dealt with, with inadequate resources, obsolescent ships and aircraft and probably stuck in the wrong agency of government to boot—but thinking through what to do with that is going to require some real judgment.

Senator THOMPSON. Mr. Chairman, I apologize. Could I get Mr. Stanton's comment on this?

Chairman LIEBERMAN. Sure.

Mr. STANTON. Mr. Chairman, I would like to echo what General Mccaffrey just said, that the first step might be to strengthen the coordinating role of Governor Ridge through something similar to S. 1449, taking advantage of the ONDCP model, and possibly also accompanying that with an enactment of a general reorganization act, so that the infrastructure, the legal infrastructure, is in place, so that this Committee can come back at an appropriate time, whenever the Committee decides, and say to the executive, "Now we think it is time to move. We think it is time to institutionalize and we would like to hear from you shortly under the parameters of the Reorganization Act."

Chairman LIEBERMAN. Thank you. Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman, and I echo thank you to the panel. I have learned a great deal here and I think you have made an enormous contribution to our dialogue. I would like to just continue the dialogue for a minute, and, if I may, Mr. Chairman, go back to my opening comment about my experience with bringing together the Department of Transportation.

Mr. Stanton, I wish you were right, in terms of the Executive Branch mirroring the Legislative Branch. I remember very clearly Bryce Harlow, who was the President's head of legislative liaison in the White House and probably the best individual ever to do that job in any administration. He goes all the way back to Franklin Roosevelt, did it for Eisenhower, finished his career in government doing it for Nixon. He called us all together—I was the head of Congressional liaison at DOT—and he called us all together and said, "All right, now the first thing you do is get with your committee of authorization in the Congress," and that meant the guy at DOD went to Armed Services, the guy at Treasury went to Finance, and so on. I said, "Bryce, highways are Public Works. Mass transit is Banking. The Coast Guard is Armed Services, Amtrak and the FAA are Commerce. I got five committees of jurisdiction."

It is still that way. Whoever represents the Department of Transportation to the Congress still has five committees of authorization and jurisdiction up here on Capitol Hill. So if I can do a bank-shot off of that, Mr. Chairman, please talk to Tom Daschle about this issue, in terms of how Congress is organized with respect to terrorism. I have had a conversation with him. I will not publicly say what came out of that, but you have more leverage with him than I do. Let me just put in that plug.

Mr. Stanton, I identify with you, absolutely, out of my experience as to how long it is going to take. General McCaffrey, I think your year is very optimistic, and in the meantime the turf battles will become tighter rather than looser, and again—we are coming back to it—but one of the driving forces behind the creation of the Department of Transportation was the Coast Guard believing that if they could just get out from under the Treasury Department, that did not understand their mission, and into somebody that did, they would become the lead agency that would dominate the Department of Transportation. Now we are hearing that the Coast Guard has to get out of the Department of Transportation, that does not understand their mission.

In the meantime, I think we may have more going for us with Governor Ridge than the testimony here has suggested. Let me

give you three names—Harry Hopkins. Harry Hopkins had no budgetary authority, he had no cabinet position, he had no formal, structural place in the government, and he was probably Franklin Roosevelt's most powerful individual during the entire Second World War, because Roosevelt used him in that kind of capacity. When you heard that Harry Hopkins was going to come see you, wherever you were in the U.S. Government, you paid attention.

The second name—again, personal experience—Pat Moynihan. When I was at the Department of Transportation, the most terrifying words that could come to us were that Pat Moynihan was going to come see us, because Pat Moynihan had been appointed by President Nixon as the coordinator—whatever the title was, that was not the word—of urban policy. If Moynihan was going to come over to the Department of Transportation and start looking at what we were doing with respect to cities and mass transit and highways, we were terrified that he was going to discover that we did not know what we were doing, and that he was going to tell somebody, and the somebody he was going to tell was the President of the United States, and bank-shot OMB.

The people who really call the shots in the government all work for OMB. I found that out, once OMB decided, or once John Ehrlichman and some of the others around Nixon decided that they did not like John Volpe—John Volpe was a cabinet officer who went 2 years without ever speaking to the President of the United States, because they kept him walled-off, and he ended up being told what to do by a 28-year-old in OMB whose principal government activity has been as an advance man for Nixon in the campaign.

Now, General McCaffrey, you are nodding. You are kind of identifying with this kind of experience.

General MCCAFFREY. Except I was talking to my President.

Senator BENNETT. OK, you were talking to your President, but just being a cabinet officer does not always mean that you have all of the clout that the media assumes with a cabinet officer. Somebody in OMB who decides they are going to cut the knees out from you can almost always do that, unless you have the kind of clout that Pat Moynihan had. Now, when they bundled Pat Moynihan off to be Ambassador to the United Nations, all of that effort stopped in the Nixon Administration. He was never replaced, but that was a Presidential counselor, adviser, whatever, who made a significant difference.

If somebody like that had focused Dr. Flynn on the border, the existing agencies in the box where they already are would immediately start standing tall and the money would start to flow, because OMB would decide that they have got to do this, because Governor Ridge or whoever it is carrying that kind of clout is telling us.

Now, the third name, and this is one you probably will not recognize, Katie McGinty. Has anybody ever heard of Katie McGinty?

Chairman LIEBERMAN. Yes, we recognize that name.

Senator BENNETT. You recognize that name.

Chairman LIEBERMAN. Very fondly.

Senator BENNETT. Well, not quite so fondly.

Chairman LIEBERMAN. I had a feeling.

Senator BENNETT. Katie McGinty had a staff of 11 people in a funky little office off of Lafayette Park, but she dictated environmental policy to the Department of Interior. The reason I know it is because she created the monument in southern Utah that created an enormous firestorm, similar to what you are talking about, at least in Utah, about setting fire to a cathedral on Easter morning. She did it stealthily No one knew it. She was denying to me that she was doing it while it was going on. She sat in my office and said, "No, Senator, there is no such thing." 24 hours later, the President announced it.

Why did she have that kind of power? Because she carried Vice President Gore's torch on the environment, and as long as the Vice President was willing to say this is what is going to happen, she was the implementing officer. So I give you those three names, Harry Hopkins, Pat Moynihan and Katie McGinty, to demonstrate that it is not automatic to assume in a structural way that someone who does not have cabinet—does not have enormous clout to get things done.

Now, I am convinced, as a result of this hearing, that we need to restructure in the Executive Branch something like what you are talking about here. But I am also convinced, Mr. Chairman, that what we need to do—and maybe we need to do nothing. Maybe it would happen—I would hope that it would happen automatically—but, given Governor Ridge's background, given his proximity to the President and given the visibility of this issue, he will be able to go in and shine the light on the border problem within existing structure. We need to pursue his capacity to do that immediately, and give him every support and strength we can out of the Congress, while at the same time taking the time to do the long-term fix right, rather than rush to judgment. Now, I have acted as a witness, but in the 30 seconds or whatever remaining, I would appreciate your comments, disagreements, objections, observations and so on, from any of you.

Yes, Dr. Flynn?

Mr. FLYNN. Senator, one of the key things—I agree—I am sort of struggling myself with trying to organize a new threat environment that we are trying to sort through. There is a problem with this organization, and the real problem we have right now is a bifurcation between national security, water's edge-out, and the notion of homeland security and homeland defense as water's edge-in, with a heavy emphasis on more consequence management, picking up the body parts in the event of an attack. What might get lost in that conceptualization is that what happened on September 11 is the divide between domestic and international was obliterated by how these terrorists operated. So we have capacity in that national security establishment that clearly has to come into the domestic round.

Some of the usual suspects in the domestic round that are very good at what they do, do not have a framework to work from. How you do the cross-fertilization is key, and moving around boxes is not going to solve that entirely.

Can we talk about critical infrastructure protection, for instance? You have got to talk about Canada. The pipeline from Alaska runs through Canada. The energy grid that feeds most of it runs

through Canada. The natural gas compressors that feed most of the power plant is in Canada. The idea that you are going to put a line across Canada, who is part of NORAD, a part of our air defense system—we can work that out, but we still have problems working on the border. So the key here is that homeland insecurity will not be done at home. It will require pushing out Customs agents, pushing out the Coast Guard in order to be able to detect and intercept.

How you structure this may, in fact, cause problems at the outset. If you have division of labor as, "OK, Governor Ridge, you look inside and handle that and the National Security Council is going to take over the war over there," we miss what is key about this terrorist threat. It is that the fundamental goal is to cause economic and social disruption in order to weaken the power of this country and its fortitude and its willingness to stay open.

Our disorganization has led these border agencies—as an immediate response to the threat of September 11—was to essentially impose a blockade on our economy to make us more secure. We did not just ground the aircraft. We closed, virtually, all the seaports and we closed the border with Mexico and Canada, effectively by shutting things down to a trickle, and every time we have a new threat, a new intelligence threat, we may do that again and again and again, and that is a major security priority. But it is falling through the cracks because we do not have ourselves structured to think about that new dimension of the problem.

I do not know if this particular—given the timing, I would have loved to have this conversation, working on this issue, much before September 11, but clearly we need to have this conversation. I think the Congress has to debate it and deliberate it. It is a long struggle. We are going to live with terrorism. It is going to be like a flu. This manhunt right now in Afghanistan will hopefully take out some very nasty people, but this is like a flu. Every season, it is going to be a new virus. We have to organize this government to cope with this new reality. The 200-year run is done. We have got to live with the fact our adversaries are going to take the game here, not let us fight it over there.

Mr. STANTON. Senator, I guess we need to do some action. We need to, I believe, strengthen Governor Ridge's hand in his current coordinating capacity. I hear, and I share what I hear, a certain concern that, if like the flu the season goes away for a while and we all relax, whether we are changing the boxes, in which case an OMB that is parsimonious could still stifle homeland security, or whether we do not change the boxes, we will have problems when the flu comes back. So I think what I hear is that we are all concerned with that problem, but again I would say it is not immediately clear that this particular organizational solution is the answer, compared to another one that we might come up with as we understand the contours better.

Senator BENNETT. Thank you, Mr. Chairman. Mr. Boyd.

General BOYD. One additional thought, perhaps, and I certainly agree that powerful men, with superhuman effort and unique access to their President, can get lots done. But I am not sure why we would want to keep the boxes where they are, and therefore require that kind of superhuman effort.

Senator BENNETT. I am not suggesting that we do, long-term.

General BOYD. Let me clarify one thing that I am sure Senator Rudman would want me to clarify the notion that changing the boxes around would not have stopped the attack on September 11 is true, but irrelevant. Had we reorganized these essential elements in the summer of 2001, shortly after the Commission made its recommentations, it probably would not have made much difference by September 11. But I think Senator Rudman would be very quick to point out to you, for reasons that Barry McCaffrey gave, relative to that military structure and its culture, and the common sense of purpose and mission, that had those boxes been rearranged for awhile, it would have made a significant difference in the way that this Nation secured its borders. So be careful about drawing conclusions about the short-term and thinking they apply to the long-term.

In the short-term, it would not make much difference, but you have got to get started on a trip before you can complete the trip, and the sooner, it seems to me, that we get started, the better off we are. One last little thought; we formed the JCS in the early days of World War II very quickly, and that system, which then endured and was codified in law in 1947, the National Security Act of 1947, came together very quickly, because it was a time of crisis and a time of need. I think this reorganization, under a time of crisis, can take place a heck of a lot faster than our more pessimistic estimates would have it.

Senator BENNETT. Thank you.

General MCCAFFREY. Perhaps I could make a quick comment.

Chairman LIEBERMAN. Sure. Please.

General MCCAFFREY. Senator, I actually like the way you set that up. I do think it is going to take a year to think through this. I would not rush to judgment on moving huge elements of government, putting them in new departments and re-creating authorizations and the Appropriations Committee in Congress. You need to think through this, whether it is 3 months or a year, it is going to be something that has to be done very deliberately.

At the same time, I would give the governor some simple leadership tools to employ. A leadership tool is, "I am authorized by law, confirmed by the Senate. The Congress told me I am supposed to do five things." You wave it at people. You also say, "I have to report to these guys twice a year, and they are going to tell me to report about the following. You had better cooperate, because I am going to go down there and lay out the data." Authority is to hire your own people and not end up—I do not want to sound like a cynical, experienced Washington lawyer.

Senator BENNETT. But you are.

General MCCAFFREY. But otherwise you end up with the cats and dogs of Washington, with the Manchurian candidates sent over to spy on you, constrain you, etc. If you do not have your own budget, you cannot go TDY. Somebody rolled their eyes, apparently on TV, when they heard Governor Ridge had asked for a speechwriter and a press guy. That is his job, to communicate to the American people. How can he do it without a team? Then finally, it seems to me this issue is pretty complex. If you can hire Dr. Flynn, you are OK, but to understand some of these programs is going to take a good bit of time, and I would argue the Governor needs to bring

in the best and the brightest in our land quickly, under his aegis, and put them in office, and you ought to confirm the top five people that work for him, so you understand who is about to move the levers of government here.

Chairman LIEBERMAN. In the last couple of weeks I have received probably 10 calls and letters from people who want to leave what they are doing and go to work for Governor Ridge. There is a real sense of national purpose, wanting to be of service, and I think, given the proper authority, he could really attract a first-rate group of people to work with them. This has been a wonderful hearing. I have one more question about something that has perplexed me, and I cannot resist the opportunity, though, because I think you all probably have got some thoughts about it.

This goes to immigration and the INS. In the proposal from Hart-Rudman that we have put in our bill, we have taken the Border Patrol and put it in this Homeland Security Agency, but obviously there are so many questions about the way INS decides who can come in and who cannot that relate to this, and then they make it even more complicated. You probably read the same stuff I have. All 19 of these terrorists that were involved on September 11 were here on tourist and business visas obtained through consulates in their—not their countries, but countries from which they came, which, if I understand it correctly, is actually more under the State Department. So, as we are thinking about really trying to do something about homeland security, do you have any thoughts about whether we should reach into any other parts of INS and bring it into this Homeland Security Agency?

General Boyd, do you want to start?

General BOYD. Yes, sir. We made a deliberate choice, and our thinking at the time—not to include INS—and our thinking at the time was we would take the law-enforcement elements out and collect them under the Homeland Security Agency.

Chairman LIEBERMAN. That was more than Border Patrol.

General BOYD. No; more than Border Patrol—just INS. So I think that was a mistake. That is a second-order thing, the INS, but it is also, as you have suggested, critical to the overall business of knowing who is coming in and keeping some kind of track of them. So that was a mistake. We made a mistake. We should have included—there are probably some other things we should have included, but remember, sir, we were trying to think of the minimum number of things to make this an effective organization without ruffling any more bureaucratic feathers than we had to, because it was a time of peace at the time we were putting this together. It is like the French finance minister, in talking of the art of taxation, likened it to the art of plucking as many feathers as possible with a minimum amount of hissing from the goose, and that is what we were trying to do. We were trying to get the maximum number of feathers we could into this thing with a minimum amount of hissing from the bureaucratic geese.

Chairman LIEBERMAN. Right. Dr. Flynn.

Mr. FLYNN. Yes, one of the key things we have to realize when we think about this border dimension of homeland security is we are not going to stop and examine our way to security. If you have to inspect everything, you see nothing. You just overwhelm the sys-

tem, the volumes of people and goods that come through. So the key is going to be the ability to detect abnormal behavior in the system, and what we are talking about is people, cargo and conveyances; that is, vehicles, trucks and so forth—and vessels. So the notion of—I would be an advocate of putting the whole INS in, because, again, that is the people-dimension, and you have, obviously, a relationship with councils and so forth that are key.

But what you fundamentally want to do to be able to get a handle on this problem, is you need to be able to find a way to do proof-of-identity and proof-of-legal purpose as far upstream as possible, and then maintain that integrity as it goes through, and the agencies are going to help you do that. Again, the terrorists of today are exploiting that system, as well as criminals and so forth. Our regulatory enforcement agencies, they have a vital national security role to play in this new threat environment. You have to push them upstream and those three components have to come together. So it is not hard. It is the people, it is the cargo, and it is the conveyances that we need to have a good picture of what is legitimate so we can facilitate that—because this economy will implode if we do not—and what is illegitimate.

It seems to me that structure could be there, and they keep doing what they do precisely because that is what gives them the intelligence, that gives them the ability to ask questions around the regulatory authority, but they need that tether into that national security world to know what the heck they should be looking for, what is a terrorist in this mix and what is a threat in the mix.

Chairman LIEBERMAN. You and General McCaffrey both sort of offered a conceptual point of view on this, which is very important, which is that these folks working in these positions really now have to think of themselves in a totally different way, and we have to think of them differently, too, because they have now suddenly become—Customs agent, Coast Guard—first line of defense for the Nation. That is a different vision than they have had, and the Border Patrol had a certain vision of itself, but I do not think in terms of real defense, more in terms of keeping people out who were not supposed to come in on the basis of our immigration laws.

General did you have any response?

General MCCAFFREY. Well, just one thought, if I could. First of all, INS does have a system called CIPRIS, which needs to be funded, to track people coming across that border. That is something Congress could look at. But, if I may, having looked at this system with almost bafflement year after year, the principal difficulty, in my judgment, is we do not have an agency that thinks they own the border legal responsibility. It should be the Border Patrol, a uniformed service, and every border crossing, every port of entry, the Border Patrol has infrastructure planning, is the host for a com system, the host for an intel system, etc, and that other government agencies are there to carry out their Federal mandate, but to do so as part of this receptacle run by a single agency, that is the problem.

When you go to a border-crossing site, 500 people—it is slightly better now. There will be a separate intel system being run by Customs and INS. INS has the port. The Border Patrol starts left and right of it. It is unbelievable. They do not have an integrated facil-

ity, and it seems to me the Border Patrol ought to run that, and these other—Department of Agriculture plays a very important responsibility in these border-crossing sites. They ought to be there and there ought to be a chief of that crossing site that sets work schedules, etc. I have sat there with a U.S. Attorney and found a Border Patrol officer on one of our four areas where we—remember, Virgin Islands and Puerto Rico is another one—where a Border Patrol officer was talking about his own cross-border intelligence system that he was running, with plainclothes U.S. border officers who were unknown to the Border Patrolman, that he was grabbing new guys and putting them across the border with radio systems, and no one was aware of it, and the Customs Service was running their own inadequate, amateurish electrooptics surveillance systems.

We have got to have an agency like Bundus Gunshutz or the Gendarmarie, which is charged with border security. There is no law that tells me if I drive up to our border with a truckload of guns and money, and I tell the Border Patrolman, "I'm going into Mexico; get out of my way," there is really no law I am violating, leaving this country where I choose to do so. If I build a giant house up to the border with barn doors that open into Mexico, the Border Patrol may not come into my house. This does not make any sense. The Border Patrol has no authority inside a reservation that borders on Mexico or Canada. There is a separate Department of the Interior jurisdiction there. So we just have no coherence to how we try and establish the rule of law and order, in cooperation with foreign law-enforcement institutions, on the border.

Chairman LIEBERMAN. Mr. Stanton.

Mr. STANTON. Mr. Chairman, your question basically shows how difficult it is to draw new organizational lines. On the one hand, if somebody is trying to fly a crop duster and do us a lot of damage, we do not care whether they get naturalized or not. On the other hand, as you stated with your question about the Consular Service, and Dr. Flynn is talking about in terms of the need for a forward defense of the border, we need to be controlling people's visas, what sort of people, goods, what is coming in across our borders, and we need to be doing it overseas, and that may require drawing different lines from the ones that have been suggested so far. So, again, my concern is one of caution, that we do not leap into a solution. On the other hand, I am not at all urging that we simply stop and do nothing, but we have got to think it through.

It is almost the way the President addressed the issue of fighting these terrorists, that we have got to think it through. There are some subtle problems here. We have got to grapple with them, but there are things we can do in the immediate future.

Chairman LIEBERMAN. Thanks.

Senator Thompson or Senator Bennett, any more questions? I want to thank the witnesses. This has been a very productive hearing. I have the feeling that we all came with some ideas and predispositions, and unlike a lot of hearings, where we make speeches and the witnesses testify and there is not too much of a connection often, I think we all listened, both to one another and to you, and part of that is the fact that you are a very, very strong group of witnesses who were not hesitant to tell us exactly what you think,

and I think you have made our work more manageable. So I am going to think a lot about what was said here, and I look forward to working with my colleagues to do the best that we can to set up a structure, in the short-run and the long-run, that protects the American people.

The record will remain open for additional statements and questions. Senator Feinstein asked me to admit a statement of hers to the record,[1] and Senator Carnahan has done the same.[2]

Thank you very much. The hearing is adjourned.

[Whereupon, at 1:02 p.m., the Committee was adjourned.]

[1] The prepared statement of Senator Feinstein appears in the Appendix on page 130.

[2] The prepared opening statements of Senators Carnahan and Bunning appear in the Appendix on page 55.

APPENDIX

PREPARED OPENING STATEMENT OF SENATOR CARNAHAN

Several weeks ago, a distinguished panel sat before this Committee and discussed the recommendations of the Hart-Rudman and the Gilmore Commissions. I was struck by the similarities between the two commissions' recommendations on what our priorities should be.

The reports agreed on three points:

- there is an increasing variety of possible threats to our homeland;
- the country does not have a clear strategy to prevent these attacks;
- and the responsibility for homeland security is spread across too many agencies without adequate coordination.

Both reports called for a new, more coordinated prevention and protection strategy. The events of September 11 proved we can no longer afford to ignore this urgent need. We must move forward expeditiously.

I applaud President Bush for appointing Governor Ridge as Director of Homeland Security. But it was only the first step. This new post needs statutory authority that clearly defines its powers and responsibilities.

When it comes to the Office of Homeland Security, several issues must be addressed: accountability, coordination, and resources.

This new office will be charged with overseeing matters that already fall within other agencies' jurisdictions. Without statutory authority, holding our so many agencies accountable for their performance will be inherently difficult.

This Committee will play a major role in providing oversight over the new Office of Homeland Security. But how will Governor Ridge provide oversight of the other Federal agencies responsible for domestic terrorism? How will cooperation among these agencies be enhanced?

Furthermore, responsibility for homeland security does not only rest with the Federal Government. It will require effective coordination of all levels of government. State and local governments are important partners in both preventing and responding to attacks on our homeland. How will this new office coordinate with state and local governments to maximize our national response capabilities? How will the Federal Government coordinate with local first responders—who are at the forefront of our defense against domestic terrorism?

I hope that we will use this hearing to begin answering these questions. There are several legislative options currently available to us. And I look forward to working with my colleagues on this Committee to ensure that the Federal Government is organized properly to protect our homeland.

PREPARED OPENING STATEMENT OF SENATOR BUNNING

Thank you, Mr. Chairman.

This is the second hearing the Committee has held on homeland security this year, and I am looking forward to hearing from our guests testifying today. Thank you for being here.

The attack on America was just a little over a month ago. During that time, Congress, the President and the nation have taken many steps to increase our national security, including putting police departments on high alert, making changes to our aviation security, and providing additional protection at our ball parks and many public places.

And, let's not forget, however, that one of the most important steps we have taken is sending our troops overseas to combat terrorism at its root. We owe a tremendous debt to these men and women willing to fight on the front lines for us.

Today, this Committee is going to look at the different legislative options currently on the table dealing with a Homeland Security Office.

While we all agree that we need to shore up our homeland security, the solutions offered are numerous.

There is more than one way to skin a cat, or to staff a government office.

Some would create a separate Federal department, while others would establish an Executive Branch office. Some have also suggested that a combination of these two would be best. We have a lot of issues to consider.

However, it is important to note that President Bush has already established the Homeland Security Office, along with the new Homeland Security Council.

Personally, I think that substance is more important than style, and I hope that any legislative proposal that moves forward in Congress would be done in close consultation with the White House.

Thank you.

ARLEN SPECTER
PENNSYLVANIA

United States Senate
WASHINGTON, DC 20510–3802

COMMITTEES:
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Government Affairs Committee Hearing on Homeland Security

Chairman Lieberman, members of the Committee, thank you for providing me the opportunity to testify on these extremely important issues which address the greatest threat to our national security. It was only one month ago yesterday that our world was transformed and there is no going back to the world of September 10, 2001. The events of September 11th have been compared to another watershed date in our history, December 7, 1941, the surprise attack on our naval and military forces at Pearl Harbor. There are many reasons why this analogy is apt, but there is one reason that is particularly germane to the subject of this hearing.

Many refer to the attack on Pearl Harbor as a "surprise attack," just like many have said that the attacks on September 11th were a complete surprise. However, in actuality, neither were complete surprises. Throughout the years leading up to Pearl Harbor there were journal articles and reports that foretold of the coming war in the Pacific and specifically noted the vulnerability of Pearl Harbor. These studies, unfortunately, did not receive the serious consideration as history proved they deserved.

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We currently find ourselves in analogous situations. Since the end of the Cold War there have been numerous commissions and studies that have addressed the threats of terrorism, the weaknesses in our intelligence community, and the challenges posed by the proliferation of weapons of mass destruction. The people conducting these studies were distinguished academics, current and former Senators, and senior administration officials, with the assistance of very professional staffs. These commissions produced comprehensive and well reasoned reports, with specific recommendations. Yet despite this, very few of the recommendations have been implemented.

The bill that I am co-sponsoring with Senator Lieberman is the first step to remedy this shortcoming. This bill will establish a Department of Homeland Security. This bill recognizes the need for some structural reorganization of the Federal Government in accordance with the recommendations of the Hart-Rudman Commission, which is one of the commissions to which I had earlier referred.

The Hart-Rudman Commission specifically addressed the problems of securing our national homeland. That commission pointed out that the keys to homeland security are the

following tools: 1) diplomacy; 2) U.S. diplomatic, intelligence, and military presence overseas, and; 3) vigilant systems of border security and surveillance. In order to enhance the effectiveness of the third key, the Hart-Rudman Commission recommended creating a national homeland security agency which would consist of the Coast Guard, the Customs Service, the Border Patrol, and FEMA, the Federal Emergency Management Agency, as well as several other smaller organizations.

I am pleased to see that Representative Thornberry has joined us here today. This past March, Congressman Thornberry introduced a bill similar to the bill Senator Lieberman and I are co-sponsoring. I commend Congressman Thornberry for his foresight in this matter. In his bill Congressman Thornberry built on the recommendations of the Hart-Rudman Commission. The bill Senator Lieberman and I are co-sponsoring differ from Congressman Thornberry's bill in two significant aspects. First, our bill establishes the Department of Homeland Security as a cabinet level department. Second, our bill makes the Secretary of Homeland Security a statutory member of the National Security Council.

Making the Homeland Security department a cabinet-level department recognizes the

importance of the responsibilities of the department. Not only will the department contain several large organizations such as the Coast Guard and Border Patrol, but it will also have major responsibilities for coordinating the efforts of the entire federal government, to include the Department of Defense, Department of Justice, and all the other cabinet departments containing a myriad of smaller organizations that have an essential role in homeland security (e.g., the Centers for Disease Control in the Department of Health and Human Services). Additionally, the department would be responsible for coordinating the efforts of state and local governments. A congressionally created cabinet secretary would have the requisite "heft" to accomplish these responsibilities, unlike an agency head that is at a level below the National Security Council.

Currently, the members of the National Security Council explicitly recognized by statute are the President, Vice President, Secretary of State, and the Secretary of Defense. When the National Security Act established the National Security Council in 1947 the principal threat our nation faced was the external threat from the Soviet bloc. Since then, the Cold War has ended, and the events of September 11th demonstrate that the threats to our security are no longer the same as the threats we faced immediately after World War II. The need to establish the

Department of Homeland Security recognizes this changed threat. Accordingly, the body established by Congress to advise the President on national security matters should have as one of its members the new Secretary of Homeland Security.

With respect to the newly created Office of Homeland Security, it is my thought there needs to be a structure whereby the position is made a Cabinet position. The Federal Government is fortunate to have secured the services of former Governor Tom Ridge of Pennsylvania to take on this responsibility. For the moment, the office has been created in the executive branch by an Executive Order, and I believe former Governor Ridge is correct when he says, even though other Government officials may not necessarily listen to him if there are turf battles, they certainly will listen to the President. That, I do believe, is true. However, Governor Ridge, or whoever succeeds him, cannot go to the President every time there is a turf battle to be resolved.

When we talk about homeland security and that function, we are talking about something which needs to be institutionalized in order to go beyond the term of any President, because any subsequent President could revoke the Executive Order creating this position. Additionally, the next person to hold the position after Governor Ridge may not enjoy as close a relationship with

the President as he does. To ensure the continuity of the position and to ensure the position has the appropriate status, requires legislative action, in my judgment. Congress, on behalf of the American people, needs to pass appropriate legislation that codifies the importance of this position.

I am pleased to see that we have also been joined by Senator Graham and Congresswoman Harman who have each introduced legislation that would "codify" and strengthen Governor Ridge's position. Whether such a position would continue to be necessary as a complement to the new position of the Secretary of Homeland Security or whether the Secretary's authority should be explicitly defined to encompass all of Governor Ridge's responsibilities is something this committee should consider.

However, these bills are only the first of many steps we need to take. The Anti-Terrorism bill the Senate passed late last night is another. We also need to take a look at strengthening our intelligence agencies, specifically the coordination among them. There has been another distinguished commission that former Senator Rudman served on, the Brown-Rudman Commission, which has studied the issues of intelligence and has come up with a method and a

procedure for streamlining and restructuring the intelligence community. One of the considerations is that in many departments of the Federal Government, there are smaller intelligence agencies or agencies with intelligence functions, which have a hard time having their voices heard due to their small size. Despite their small size, or maybe because of it, they have unique areas of expertise. For example, in the Department of Health and Human Services there is the Centers for Disease Control and in the Department of Agriculture there is the Food and Drug Administration. In the Department of Intrerior there is the United States Park Police which is responsible for safeguarding our most important monuments, from the Statue of Liberty in New York Harbor to the monuments on the National Mall, as well as all the property outside the White House fence.

At the present time, there is no effective way for dealing with all of these various Departments. The recommendation of the Brown-Rudman Commission was to consolidate and centralize, to give greater authority and power to the Director of Central Intelligence. Currently, the Director of Central Intelligence is charged not only with the operation of the Central Intelligence Agency, but also with the oversight of all the intelligence functions in the United

States and refereeing the turf battles between these agencies.

There has been some gaps and some failures--some major gaps and some major failures--in these turf battles. During the 1995-1996 session of Congress, I had the privilege of serving as the Chairman of the Senate Intelligence Committee. I served in that position for 2 years, in addition to the 6 other years of service on the Intelligence Committee. There is a term limit of eight years on the Intelligence Committee. During the course of that work, I saw the turf battles among the various agencies and became very deeply involved in the issue of weapons of mass destruction, finding that there were dozens of agencies dealing with that issue.

In the Intelligence Authorization Act for Fiscal Year 1996, a commission was created to study the proliferation of weapons of mass destruction. The commission was chaired by former CIA Director John Deutch, and I served as the Vice Chairman of that commission. During the course of the commission work--work that was very similar to that of the Hart-Rudman Commission, the Rumsfeld Commission, and the Brown-Rudman Commission--we noted the difficulties of coordinating all of these important activities. It was the judgment of that commission that the structure be given to the Vice President of the United States on the ground

that he or she--whoever the Vice President may be--would be the only individual, except for the President, who could handle coordinating the intelligence efforts of the United States. Such coordination will be essential to enable the Department of Homeland Security to effectively do its job. However, for a variety of reasons, we do not need to, nor should we, create a new intelligence agency for homeland security. Rather, we need to strengthen the agencies and organizations we have, and the coordination between them, to better support our overall security, both overseas and in our homeland.

It is clear from the events of September 11th that we need to strengthen our homeland defenses. As the investigation continues, and we learn more and more about how many challenges we face, and how lucky we were up until September 11th, it behooves us to move swiftly to ensure that the citizens of our great nation are secure.

Senator Bob Smith
Ranking Member, Environment & Public Works Committee
Testimony
"Legislative Options to Strengthen Homeland Defense."
Friday, October 12, 2001 at 10:00 am in Room 342 of the Dirksen Senate Office Building.

Mr. Chairman, Thank you for the opportunity to come here and share my thoughts on our nation's preparedness status. As the former Chairman and current Ranking Member of the Environment & Public Works Committee (of which I am honored to have you and Senator Voinovich as valued members) and as a member of the Armed Services Committee - I have been very involved in terrorism preparedness and response. As you know, the EPW Committee is an authorizing committee for FEMA - and we have been quite active in past couple of years in making for more effective disaster response and mitigation programs. FEMA's authority for terrorism preparedness and response fall under the Stafford Act. In fact, last year as we were negotiating a final package of Stafford Act amendments in our FEMA bill, we contemplated the inclusion of terrorism preparedness language. Because of some members concerns and agency turf battles, we were unable to include any language on this issue. I'm sure my friend Senator Graham recalls those conversations as he was a primary sponsor of that bill and a driving force behind that bill making it to the President's desk.

This year, in my first meeting with then-nominee, Joe Allbaugh, the primary topic of discussion was terrorism preparedness and what we could do to make the government's programs more effective. Mr. Chairman, I am also heartened with the attention and care that this committee has given to FEMA and terrorism preparedness issues, not just since September 11, but beginning some time ago under former Chairman Thompson, and now with you.

Mr. Chairman - because I am so familiar with FEMA and my bill

focuses on consequence management, I will be keeping my comments limited to that aspect of preparedness. Knowing that this is just one vital piece of a complicated puzzle.

I recently introduced - S. 1453 - the "Preparedness Against Terrorism Act of 2001". This bill is the companion to H.R. 525 introduced in the House by Congress Gilchrest and recently reported our of Congressman LaTourette's subcommittee.

But before I get into an overview of the bill, let me briefly explain the current landscape in the federal government with regard to preparedness - having come from volumes of testimony over the past few years:

- Currently, more than 40 Federal departments and agencies have established preparedness programs
- There are almost 100 separate federal terrorism preparedness training courses and nearly the same number of terrorism response teams
- BUT THERE IS NO COORDINATED NATIONAL STRATEGY
- There is no single entity for state and local officials to coordinate preparedness efforts
- We have federal programs that are overlapping, fragmented and redundant – this is confusing and a waste of valuable resources
- We need a national policy, defined goals and focused coordination of federal consequence management efforts

These are facts that we are all aware of, and, I don't doubt, we all agree something needs to be done. That is not to say that this nation does not have the tools to effectively respond, we do. But, we lack strategy and coordination. The question we have before us is: how do we best coordinate and consolidate these efforts - and equally important - how do we coordinate with the state and local emergency responders ---- those who are the first responders to reach the scene.

S. 1453 is an attempt to do just that. The Purpose of this bill is to make more effective Federal efforts to assist State and local emergency preparedness and response personnel in preparation for domestic terrorist attacks; Also, to designate a lead entity to coordinate those efforts; and to update Federal authorities to reflect the increased risk of terrorist attacks.

We do this by

- Expanding existing Stafford Act definition of "hazard" to include terrorist attack involving a weapon of mass destruction and, it is my intent to broaden that even more to include any "man-made" disasters
- The bill authorizes the Office of National Preparedness within FEMA - an office that was announced by the President on May 8, 2001
- We will fully integrate state and local emergency first responders into a national strategy to respond to terrorist acts on American soil
- The bill also designates a single federal point of contact for state and local first responders for response programs and information
    - I can't stress enough how important the coordination is with the state and local officials. The current vice-chair of the terrorism task force of the National Emergency Managers Association is from New Hampshire, and he has been very effective in making that point with me.

- Along with authorizing the Office of National Preparedness, this bill also establishes the President's Council on Domestic Terrorism

The mission of the President's Council is to establish polices, objectives and priorities for enhancing emergency preparedness capabilities. The functions of the President's Council, as drafted in this bill, could also be performed by the recently created Office of Homeland Security, or even the office that is contemplated in Senator Graham's

bill. This bill was drafted prior to the President's announcement of Governor Ridge's new position and I certainly would want to make the bill compatible with that office - in fact, it is a very good fit.

The mission of the Office of National Preparedness (ONP) is to coordinate the activities of the Federal government and implement the policies, objectives and priorities established by the Council.

- The ONP, housed at FEMA, would develop a Domestic Terrorism Preparedness Plan and an Annual Implementation Plan to include
  - Detailed description of Federal, State, and local roles and responsibilities
  - Defined end state
  - Evaluation of Federal response teams
  - Measurable objectives
  - Inventory and evaluation of Federal preparedness and response programs

The functions of the ONP will include:

- Acting as the primary liaison for Federal, State, and local entities;
- Reviewing and then certify or decertify each Federal program
- Publishing Domestic Terrorism Preparedness Plan and annual implementation strategy
- Coordinating with Federal departments and agencies
- Developing annual consolidated budget
- Creating State and local advisory group
- Establishing voluntary guidelines for preparedness
- Reviewing and providing recommendations to State and local entities on preparedness programs
- Assessing adequacy of emergency medical preparedness; and
- Establishing financial assistance policies for States

Basically this bill sets up a mechanism for establishing a single national strategy and the means to implement that strategy within an agency that has impressive credentials in emergency response. We fix

what is broke and capitalize on that which works best.

I have no doubt that every here agrees with the goals of this legislation. The question that we, as a government, are faced with isn't whether to provide for increased coordination, but instead, determining what is the best model for the most focused and effective mission for consequence management. I believe, as the President did in May when he issued his order, that FEMA is the best place to house the operational arm of emergency response and preparedness. FEMA has proven itself to be a responsive, efficient, and effective agency for handling all types of disasters - natural and man-made. James Lee Witt did a tremendous job of shaping this agency and under Joe Allbaugh's leadership, this work has continued strong. Over the last 5 years FEMA has responded to 371 Emergency or Major Disaster declarations. Many of us here are thankful for the good work that FEMA has done in our states. FEMA has proven its abilities to prepare and respond, and it is my belief that we should capitalize on their talents and track record. However, we must be cautious to not jeopardize the good work they do by having them swallowed up into a new, multi-tasked bureaucracy. They are currently mission ready and focused - it works. We should approach this with caution and be careful not to reinvent the wheel or fix something that is not broken. That said, no option should be precluded from serious consideration.

While I have introduced a bill that provides an answer for one piece of the puzzle - that of consequence management - and I am pleased to have the support of our nation's fire chiefs and the state emergency managers, I do not want to rush forward without allowing the Administration the opportunity for involvement. Governor Ridge was sworn in only days ago, and should be provided the time necessary to work with the Congress in order determine the best course of action. What is for sure, is that as much as Congress may want to create a new structure or advocate its own plan - without the support of the Administration it just won't happen. We must be patient and work WITH the Administration toward a solution that will be focused and

effective. I look forward to that conversation and to working with other members of the Senate to provide for whatever legislation is necessary to meet that goal.

Let me end with this – While I do have strong views of what a coordinated terrorism preparedness effort should look like, I am not here to say, "It is my way or no way." Nor am I here to protect the domain of my committee. Inside the beltway turf battles do not serve this nation well and I will not play that game. It is my intent to work with the President and other Senators, including you, Mr. Chairman, and this committee, to find the right answer.

Thank you again for the opportunity to testify and I lo

The Honorable Wayne T. Gilchrest
"Combating Domestic Terrorism"
Committee on Governmental Affairs
United States Senate
October 12, 2001

Thank you, Senator Lieberman and Senator Thompson, for the invitation to speak to you today on a topic of critical importance. I commend the efforts of members of your committees and my colleagues as you discuss ways to coordinate domestic preparedness and response to terrorism. This forum provides the ability to discuss the issue of domestic terrorism, build on the research that has been done in this area, and explore legislative proposals that are designed to address the situation.

Despite the fact that I appreciate the opportunity to address the committee, I am saddened by the need for this hearing at this time. Thirty-one days after the callous and cowardly attacks against innocent people in New York and across the Potomac River at the Pentagon have placed the topic of "homeland security" front and center on public policy agenda.

The men and women who lost their lives in that attack, and the heroes who helped save countless other lives – sometimes through the sacrifice of their own – should know that their government, from the President and his Administration to the Supreme Court to every Member of Congress, are working hard to ensure that those who perpetrated that vicious assault will be brought to justice – or in the words of President Bush, "justice will be brought to them."

The September 11, 2001, attacks were perhaps the most devastating events on American soil in our history. We had a situation where men, for reasons as twisted and vile as they are malicious and evil, hijacked four aircraft full of civilians with families and lives of their own, and drove them into the symbols of US financial and military strength, subsequently killing thousands.

September 11th was not the first example of domestic terrorism, but it was certainly the largest. Although this was a terrible episode, it could have been more catastrophic. If the explosions included germs or poisonous gas, or produced massive doses of radiation, we would certainly still be trying to contain its effects. We now understand that the terrorists will not hesitate to use those weapons the moment they get a hold of them. The United States must be prepared.

America has always had to face the possibility of domestic terrorists using some tactic or device to cause mass casualties to somehow further their goal, or to get publicity. Fortunately, however, until September 11th, we have seen these criminals as lone individuals attacking small targets in a relatively small area. The Pentagon and World Trade Center attacks changed all of that. These attacks represented a coordinated effort to make a public political statement. It is inevitable that these types of dangers will continue and increase in frequency and severity.

In this age of mass media saturation, a criminal (or network of criminals) knows there is a an immediate worldwide audience, especially if he/she is inside the United States and can destroy some symbol of American government, culture or influence. Indeed, we have a new enemy.

The Members of Congress here, and some of our colleagues who could not be here, are spearheading the national discussion on the need to better coordinate the myriad of existing federal, state, and local resources that make up America's ability to detect, prepare for, prevent,

protect against, and respond to terrorist attacks on Americans at home. Each of us wants to work closely with the White House to do all we can to prevent other World Trade Center or Pentagon attacks, or can respond appropriately if prevention fails.

Each of the members on this panel comes at the issue with a unique perspective. Each bill that will be discussed here today is the product of lot of time and thought, and represents a true commitment to the issue and dedication to the American public. I appreciate the opportunity to share my views with you this morning on why I introduced HR 525, the Preparedness Against Domestic Terrorism Act of 2001, and why I believe that it is the most appropriate approach to dealing with the threat posed by domestic terrorists using conventional explosives or weapons of mass destruction.

Six years after the domestic terrorist bombing of the Alfred Murrah Federal Office building in Oklahoma City, Oklahoma, and four weeks after the World Trade Center and Pentagon attacks, America still requires a coordinated strategy to deal with the consequences of a large scale terrorist incident on American soil, especially if that explosion involves biological, chemical or radiological agents.

The need for a coordinated strategy is not new. I introduced HR 525 in February 2001. In fact, the House and Senate have held a multitude of hearings on this topic over the years, with a series of highly informative hearings earlier this year, in this very room. During those hearings we heard from many of the federal agencies, including most of the President's Cabinet, about the need for a national strategy. In April 2001, the House Transportation and Infrastructure Committee held a joint hearing with the House Government Affairs Committee on the various legislative proposals that would create a fully coordinated and comprehensive national strategy to address the threat that we have seen so vividly turn to reality in recent weeks.

After the Oklahoma City bombing in 1995, Congress created an incredible number of programs to address what was then considered an emerging threat posed by domestic terrorists. The Federal Government and many state and local agencies quickly moved to set up programs and teams designed to handle a domestic terrorism crisis and manage the consequences of such a disaster. Unfortunately, in our zeal to address the threat, we have created many duplicative and overlapping assets. Often, these programs are designed in the absence of an end-state of preparedness. Not every community is as prepared as the nation's capital or America's largest city. No one knows or can tell if their response team is ready, nor have they adequately defined what they need to be ready for.

As you all know so well, to date, more than 40 federal departments and agencies have established programs to assist emergency responders in dealing with the consequences of terrorism. These programs primarily help train state and local officials to recognize and respond to a terrorist attack or create federal response teams that can assist state and local officials should an attack occur. Currently, the Federal Government offers almost 100 separate federal terrorism preparedness training courses and has created over 100 federal terrorism response teams. A lot of groups, a lot of money, but no strategy.

There is evidence that we are beginning to do the same thing again. In the four weeks since the New York and Pentagon attacks, almost every federal department or agency with responsibility for counterterrorism, crisis management, or consequence management has requested, and received, an increase in funding through an expedited appropriations process. These increases

will inevitably increase duplication, fragmentation, and overlapping programs if they are funded in the absence of a national strategy to deal with this problem.

Our duplicative, uncoordinated efforts are costly. Funding for counterterrorism has doubled from $6.5 billion in fiscal year 1998 to about $12.8 billion in fiscal year 2002. Funding levels have increased so quickly that we do not know exactly how many or what programs have been created to respond to domestic terrorism. We should not repeat the mistakes after Oklahoma City.

It is important to keep in mind that in the event of a massive natural or man-made disaster, the first call that will be made is to 911. At the other end of that call is not the White House, not the Federal Emergency Management Agency, not the Federal Bureau of Investigation – it is the local firefighter, the police, and the emergency medical technician who will be first on the scene. They, in turn, will contact a hazardous material unit and inform the area hospitals to expect casualties and injuries.

While my bill addresses this important aspect of our total terrorism budget, it does not propose ways to organize the entire federal counterterrorism structure. It is not designed to do that – I defer that mission to the expertise of those more familiar with the US intelligence community.

Congress can pass sweeping reforms to the overall federal, but we need to make sure that the fire service, the police and the emergency medical personnel in your community and in communities across the country can respond adequately to the first few hours after a catastrophic domestic terrorist attack. As of today, they cannot. And in the current, unorganized system, we will be no better prepared a year from now.

I believe this issue demands leadership.

The Preparedness Against Domestic Terrorism Act of 2001 (HR 525) establishes a President's Council within the Executive Office of the President to coordinate government-wide efforts for improving preparedness against domestic terrorist attacks. The Council will participate in agency budget processes making recommendations to accomplish the goals of a defined national strategy. The Council will be responsible for creating a national strategy for preparedness.

HR 525 amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to include acts of terrorism or other catastrophic events within its definition of "major disaster" for purposes of authorized disaster relief. In doing so, it requires the President to ensure that federal response plans and programs are adequate to respond to the consequences of terrorism directed against a target in the United States and, in doing so, also congressionally authorize the Office of National Preparedness within the Federal Emergency Management Agency, announced by President Bush in May 2001.

As you are aware, the President has taken an important step by creating the position of Assistant to the President for Homeland Security within the Executive Office of the President. Through Executive Order 13228, the President has also created the Homeland Security Council and Office of Homeland Security. I see this as an indication that the President agrees with the concept of a domestic security council with a homeland security/domestic preparedness office implement its policies. It suggests the supporters of HR 525 are on the right track.

In addition to serving as a legislative vehicle to authorize the new Homeland Security Office and Office of National Preparedness, my bill establishes a procedure to: (1) publish a Domestic Terrorism Preparedness Plan and an annual implementation strategy based on an evaluation of current risks and threats; (2) designate an entity to assess the risk of terrorist attacks against transportation, energy, and other infrastructure facilities; and (3) establish voluntary minimum guidelines for state and local preparedness programs.

In addition to responding to a domestic terrorist attack using a weapon of mass destruction, HR 525 will help to better coordinate the federal response to other major disasters, not just terrorist actions, where the same consequence management skills and expertise may be necessary. The bill includes an important budgeting mechanism designed to eliminate duplication of efforts through the budget process, and define an end-state for preparedness.

There have been many comprehensive and exhaustive reports commissioned over the last few years to explore this emerging threat. Each has come to a similar conclusion:

The United States is likely to continue to face the specter of domestic terrorist attacks. The fact that we, as a nation, have not been able to develop and implement a clear, comprehensive, and truly integrated national domestic preparedness strategy means that we remain incapable of responding effectively to a major attack on American soil if that attack employs the use of weapons of mass destruction.

Several research groups have issued reports regarding the organization of the federal counter-terrorism effort. Many of these groups propose drastic changes to the existing Executive Branch structure. I fully support the efforts of these groups in their goal to bring this issue to the forefront of national discussion. Ironically, each of the groups and congressionally mandated studies have not changed their recommendations even in light of the recent strikes against the US homeland. This fact is a testament to the thorough work that has been done in research of the topic prior to September 11, 2001.

Unfortunately, some of the panels and subsequent bills do not focus on the urgency of making sure the federal dollars we spend to prepare our nation's first responders are spent in the most effective and efficient manner. This is just as important, if not more so, than creating a super anti-terrorism entity.

There obviously have been other measures introduced to address the issue of what to do if a terrorist detonates a bomb that contains chemical, biological of radiological agents. I think my bill is the right approach because it raises the profile of domestic preparedness by placing the formulation of a national strategy into the Executive Office of the President, it creates a council that includes representation by each federal department that has an important role to play in development of that strategy, and improves accountability by directing the Council to provide clear budget recommendations to the Office of Management and Budget where those recommendations would be required to follow the national strategy. It is important to do each of these simultaneously because, with such an important responsibility as creating a national domestic preparedness plan, no single agency should be put in the tenuous position of having to formulate and manage key parts of other agencies' domestic preparedness budget.

We do not want a situation where any new agency (or an enhanced existing agency) is responsible for another agency's budget recommendations to the President. That type of situation has not worked in the past and is not likely to work in future. It merely creates the

same type of jurisdictional battles, dissent, confusion, and bureaucratic bickering that has plagued the federal response effort so far. A "super-agency" will also have the twin pitfalls of duplicating efforts that are traditional to other federal agencies and will take years to establish and develop true expertise. The proper place for the formulation of a national domestic preparedness strategy is in the White House. It belongs with the President and his appointed council.

HR 525 puts all of those agencies in the same room working on the strategy, with the various domestic preparedness programs on the table to be discussed.

In a future domestic terrorism scenario, we would face the real threat of not only weapons of mass destruction, but the mass confusion that would result as the first responders, and follow-on federal assets, try to figure out "who is in charge" during the inevitable onslaught of the mass media sending inaccurate or misinformed material that will scare the population and make matters worse.

My legislation does not seek to increase the federal bureaucracy by creating a new agency. It does not realign existing agencies, nor does it dictate to the President what type of strategy needs to be developed. It expands the current authority of the Federal Emergency Management Agency to specifically include a domestic terrorist incident using weapons of mass destruction in the definition of "disaster" for which FEMA already has jurisdiction. It also allows the President the flexibility to design the national strategy to include, exclude, realign, or enhance any agency as he (or she) sees fit. It specifically *avoids* mandating agency realignment until a national strategy is actually crafted. There should be no shifting of roles, responsibilities, or funding until a clear, coordinated national policy of how we plan to prepare ourselves for domestic terrorism is created. The President's executive order and HR 525 outlines that framework.

There is no doubt that the federal agencies have created world-class training and exercise programs. We are improving the capabilities of responders more and more each day; however, I am certain that we can put taxpayers dollars to better use by *coordinating* our federal efforts, not merely creating new ones. After the Council has had time to create the strategy, we should revisit whether a new department is necessary.

I applaud the Presidential Decision Directives (PDD) of the Clinton Administration that were designed to address this issue. PDD 39 selects the Federal Bureau of Investigation at the lead federal agency for "crisis management" and the Federal Emergency Management Agency (FEMA) as the lead federal agency for "consequence management." The directives were in response to the Oklahoma City bombing and sought to help coordinate federal efforts. While helping to define the role of various federal agencies in dealing with domestic responses to catastrophic natural or man-made disasters, these directives and subsequent laws have helped create new offices and programs but have failed to address the overarching issues of coordinating federal efforts into a single integrated plan, streamlining the budgeting process, or responding effectively to state and local needs and concerns.

Until recently, the patchwork of directives, budget summaries, independent agency plans, and related public laws have provided no mechanism for accountability, no enforceable requirement for agency coordination, and no entity with responsibility to review agency funding, all of which are necessary for an effective organizational structure. Even if given more time to try to force the existing measures to work more efficiently, a single statutory mechanism to address the coordination and budget issues does not exist.

Existing measures, including the National Security Presidential Directive issued by President Bush in February of this year and the Executive Order issued this month, and other proposed legislation, do not adequately address the need (nor provide a solid mechanism) to eliminate duplicative programs that lead to fragmentation between federal disaster response programs and confusion amongst state and local first responders through a firm program review and certification process. HR 525 is designed to provide the Assistant to the President for Homeland Security with robust budget authority which will be needed to conduct its responsibilities.

No one will argue that the new Office of Homeland Security has its work cut out for it. Congress must take thoughtful and deliberate steps to allow the Executive Branch the time to provide a structure it can work with to produce a strategy we all can live with.

In addition, agencies have created programs to address domestic preparedness against terrorism, but in most cases their efforts are uncoordinated and do not address the needs of state and local responders. Unfortunately, many of the programs designed to enhance the capabilities of state and local responders duplicate existing federal programs and are created independently of each other. The bottom line is that we have spent a good deal of money recreating the wheel when we should be trying to make it turn faster and more efficiently.

Without a national strategy and clearly defined end-state, we do not have a standard to measure the effectiveness of existing federal programs or any new ones. HR 525 provides voluntary guidelines for the state and local groups to follow. From non-federally mandated guidelines, state and local groups can determine whether their programs meet requirements so they can allocate resources where they are currently lacking. According to the International Association of Fire Chiefs, "It will be exceedingly difficult to reach an acceptable state of preparedness throughout the country if there is no defined level to which we should work."

Preparing state and local responders for domestic terrorist attacks requires an orderly, focused national effort. The federal focus should be on *enhancing* existing response efforts from an "all hazards" approach, not replacing them. Our federal efforts must focus on the immediacy of assistance to state and local responders. The fire community says that if we are going to save the community hit by an attack, it will be in the first hour after the incident.

Many local fire chiefs and state emergency responders tell us that federal assistance does not arrive on the scene of an event until it is too late – at the earliest three to four hours. Chicago's Fire Chief John Eversole stated during a Transportation and Infrastructure Subcommittee hearing in June 1999 that "if I have to wait three to four hours, then send me a lot of body bags, because that's what is going to be left."

Our responders need to be prepared as they are the first on the scene after an incident – but their resources may become quickly overwhelmed. They need to get the training, equipment, and information to better deal with the threat posed by weapons of mass destruction. Our first responders need to know how to hand off the emergency once federal assets arrive. The public needs to know there is a strategy to do these things.

HR 525 does not prescribe a "one size fits all" approach. Our focus must also improve law enforcement and intelligence gathering to make sure our communities can respond to the entire range of terrorist threats such as those we witnessed in September *and* those we did not. I welcome input from all interested members to craft legislation that will offer the best opportunity

for passage in the House and Senate that will lead to reforms at the federal level that, in turn, will assist states and municipalities.

The Preparedness Against Domestic Terrorism Act is purposefully designed to afford the President the latitude and flexibility to be able to work with his staff to create a domestic preparedness plan that can incorporate the recommendations of the entire Federal Government (not just a few select agencies), streamline the budget process, incorporate needs of state and local first responders, and define a level of preparedness to guide our national efforts in order to deal with the existing, emerging, and evolving nature of domestic terrorism.

The President's Homeland Security Council and HR 525 are designed to adapt to the situation. My office has worked closely with the White House, Federal Emergency Management Agency, other federal agencies, independent experts, congressionally authorized panels, the General Accounting Office, and Congressional Research Service to draft the language of this bill. It is a flexible, yet comprehensive, approach to a complex problem.

In my last hearing on this topic, I mentioned that America cannot afford to wait for another "Oklahoma City" before we start to seriously address the problem. After September 11, we need to be prepared for the unthinkable.

Hopefully, by this time next year, we will be discussing how the strategy is working. I urge the Congress to follow the President's lead and pass the Preparedness Against Domestic Terrorism Act or its companion measure introduced by Senator Bob Smith.

Thank you, Chairman Lieberman and Senator Thompson, for the opportunity is discuss this important issue with the Committee.

STATEMENT OF THE HONORABLE JANE HARMAN
Senate Committee on Government Affairs
October 12, 2001

In President Bush's compelling speech to the nation last Sunday as we launched air strikes, he told out young men and women heading into harm's way, "your mission in clear… your cause is just… and you will have all the tools you need."

Few in our country doubt the careful and effective planning for our military response in the wake of September 11. The same cannot be said of other parts of our response.

The federal response to September 11 is still ad hoc. We have provided emergency funds for victims and airlines and begun to look at airports and airline security and new tools for biological attacks. What we really need, however, is a national strategy: to reform how we collect, analyze and disseminate intelligence and coordinate our response across all levels of government in the event of a terrorist attack.

We are no closer to that strategy now than we were a month ago.

The tools to compel a new national threat assessment, design an integrated strategy and compel all government agencies to follow it are in H.R. 3026, the Office of Homeland Security Act, which Congressman Jim Gibbons and I, joined by other members of the House Intelligence Committee, introduced last week.

Our bill matches the Administration's approach for federal organization as articulated on Monday by an Executive Order.

I will describe this legislation, but I also want to stress that it complements the other proposals discussed this morning. I urge the Committee to consider all the pending legislation as a complementary package, and not as competing approaches.

The Administration issued on Monday of this week an Executive Order establishing the Office of Homeland Defense. This Order cited the need to:

- Detect;
- Prepare for;
- Prevent;
- Protect against;
- Respond to; and
- Recover from terrorist attacks against this nation.

This mission is challenging in its breadth and its complexity.

According to President Bush's Executive Order, Governor Ridge's mission is to "develop and coordinate the implementation" of a comprehensive national strategy against terrorism. But he is not directed to actually *develop* the strategy itself – in fact, no one appears to be.

Ridge is directed to "advise" the Office of Management and Budget on the appropriateness of other agencies' budgets for homeland security. But he is not given real budget authority.

He is authorized to "review" plans and preparations for ensuring the continuity of government.

He is directed to "work" with executive departments and agencies to "ensure" the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks.

He is directed to "encourage" and "invite" the participation of state and local governments and private entities to carry out his office's duties.

And he is subject to the White House Office of Communications in "coordinating" the strategy of communicating with the public in the event of a terrorist attack.

Governor Ridge has been told to do a lot of things, but has to rely on the cooperation of the various departments and agencies to succeed.

Beyond his persuasive abilities and his close relationship with the President, Ridge has none of the tools required to force coordination of efforts or to win turf battles.

And the turf battles have already begun. To overcome expected objections from cabinet secretaries, the President appointed himself to chair the newly-created Homeland Security Council than give Ridge the assignment.

Congressman Gibbons and I, with sox of our House Intelligence Committee colleagues on a bipartisan basis believe that what Governor Ridge needs most is the authority to design a national strategy and compel agencies and departments to follow it. This is best achieved by giving Ridge direct authority to reject agency and department spending proposals that are inconsistent with homeland defense. Only our bill gives him that authority.

Veto is real power and without it Governor Ridge stands at a distinct disadvantage to agencies and departments that have had more than nine months lead time preparing their budget submissions. The shear momentum of their effort – backed by thousands of federal employees who have helped shape the budget decisions – will be next to impossible to stop if Ridge can only jawbone.

In addition to budget authority, our bill gives Director of Homeland Security clear authority to do a new current threat assessment (the last National Intelligence Estimate was done in 1997). And, it directs Ridge to design a comprehensive national strategy.

The need for our bill has already been indicated by recent press articles.

A *New York Times* editorial noted of Director Ridge: "[h]is portfolio is enormous, but his authority is vague."

The *Wall Street Journal* reported this week that President Bush's Executive Order "gives its director, former Gov. Tom Ridge, little control over the counterterrorism budgets of the various federal agencies he is supposed to oversee – fueling concerns that Mr. Ridge will lack the tools to force the dozens of often-warring agencies to work together."

The *Washington Post* wrote yesterday "In any circle but those of the federal cutthroats who guard their turf, [Ridge's] friendship with the commander in chief would be a boon. But the gladiators he is about to face devour czars."

At his swearing in, Governor Ridge said "the only turf we should be worried about protecting is the turf we stand on."

We need prompt passage of legislation to make Ridge's statement come true. Every day that Governor Ridge does not have the right set of powers, his turf shrinks and his ability to provide for our homeland security decreases.

Let me close with the suggestions that legislation introduced in the House by my friends, Mac Thornberry and Wayne Gilchrest, and bills as introduced by you, Mr. Chairman, Senators Specter and Smith are complementary to our bill.

Both the National Homeland Security Agency Act and the Preparedness Against Domestic Terrorism Act focus primarily on the response to terrorist attacks, and not the entire spectrum of terrorism prevention and response.

The National Homeland Security Agency Act centers on policy implementation by FEMA, the Coast Guard, Border Patrol, Customs, and infrastructure offices. I agree that this reorganization of agencies should promote homeland security. But I question whether this new Cabinet department can coordinate the efforts of its sister departments and agencies.

Coordinating programs involving turf wars is a challenging matter at best. Trying to do this from an Agency seen as trying to steal turf in the process is even harder.

Only H.R. 3026 equips the Office of Homeland Security with the authority to coordinate efforts and to carry out the conduct of a national homeland strategy and threat assessment. I consider it the critical first step, and hope this Committee will include it in any legislative package it reports.

Testimony of
Congressman Mac Thornberry
Joint Hearing
Government Reform Subcommittee on
National Security, Veterans Affairs, and International Relations
Transportation and Infrastructure Subcommittee on Economic Development,
Pubic Buildings, and Emergency Management
April 24, 2001

Messrs. Chairmen,

I appreciate the invitation to testify today, but I am even more grateful for your decision to have this hearing in the first place. If you believe, as I do, that defending the country and its citizens is one of the primary reasons we have a federal government, then the issues surrounding homeland security must get more of our attention.

Partly because we have begun a new century and a new millennium, partly because there is a new Administration, and partly because more of us are realizing that the pace of change in the world around us is accelerating at an almost frightening pace, there have been a number of studies and reports in the last couple of years on the world security environment.

One overwhelming, common conclusion in them is that America and Americans are increasingly vulnerable to a broadening array of threats from a variety of actors around the world. The development of technology and the rapid spread of technology makes us more vulnerable here at home. We may also find it more difficult to pin down exactly who is responsible for some kind of attack.

The world learned in Desert Storm that it is foolhardy to hit us where we are strong. So there is intensive search to find and to exploit our weak spots. We will have a tough time knowing exactly who will try something, as well as when and how. So we must prepare for uncertainty.

This past January, the bipartisan Commission on National Security/21st Century issued a report in which it found that:

> "The combination of unconventional weapons proliferation with the persistence of international terrorism will end the relative invulnerability of the U.S. homeland to catastrophic attack. A direct attack on American citizens on American soil is likely over the next quarter century. The risk is not only death and destruction but also demoralization that could undermine U.S. global leadership."

We have often heard about the dangers associated with nuclear, chemical, or biological weapons being smuggled into this country. But we could also be devastated by computer attacks against our critical infrastructure or by livestock and plant diseases being introduced into our food supply.

Let me give you one fact that caught my attention. Every day $8.8 billion of goods, 1.3 million people, 58,000 shipments, and 340,000 vehicles enter our country. But the Customs Service is only able to inspect 1 to 2% of them. The volume of U.S. trade has doubled since 1995, and some expect it to double again in the next five years.

And yet, by every account, we are not doing enough to protect our citizens. The Commission on National Security/21st Century found, "[i]n the face of this threat, our nation has no coherent or integrated governmental structures."

A July 1999 report by the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction concluded that "a cardinal truth of government is that policy without proper organization is effectively no policy at all. If the Federal Government's policy is to combat the threat posed by the spread of weapons of mass destruction, then the government must be organized to do so."

A June 2000 study by the National Commission on Terrorism echoed this conclusion when it found that "[t]his country's seeming inability to develop and implement a clear, comprehensive, and truly integrated national domestic preparedness strategy means that we may still remain fundamentally incapable of responding effectively to a serious terrorist attack." The Commission also found that "the complex nature of current Federal organizations and programs makes it very difficult for state and local authorities to obtain Federal information, assistance, funding, and support."

The General Accounting Office recently questioned whether having terrorism response teams associated with the National Guard and with the FBI and with FEMA makes sense. Not only may there be duplication, but there may be confusion about who is responsible for dealing with an incident.

Homeland security is a big, complex problem. No one bill and no one branch of government can address the need. We need a strategy to reduce our vulnerabilities; we need appropriate funding of the efforts we make; and we need effective organizational structures.

President Eisenhower put it pretty well. He said, "the right system does not guarantee success, but the wrong system guarantees failure. A defective system will suck the leadership into its cracks and fissures, wasting their time as they seek to manage

dysfunction rather than making critical decisions."

My bill, H.R. 1158, tries to deal with part of the organizational deficiencies created by having literally dozens of agencies with some responsibility for homeland defense. The bill does not try to fix all of the problems. It does not deal with the military's role in homeland security, for example. It does not try to legislate a particular strategy. But it does try to force more integration, coordination, and planning so that we can "prepare for uncertainty."

My bill would implement one of the recommendations of the Commission on National Security/21st Century. I think that it is important to say a word about that Commission. We are all used to commission after commission producing report after report, which simply set on a shelf somewhere. If we allow the reports of this Commission to simply set on a shelf, history will not be kind to us.

This Commission was unique in the exceptional background, experience – and I would say gravitas – of its members. Their political philosophies ranged from the left to the right. But they unanimously agreed on the nature of the threats we face and on our lack of adequate preparation, and most amazingly, they agreed on what we should do.

Following their recommendations, H.R. 1158 would essentially do 3 things:

1. It would transform FEMA into a National Homeland Security Agency, utilizing its existing regional structure. The Agency would provide one central focal point and contact point for other federal agencies and for state and local entities. Its Director would answer directly to the President and would give priority to operational planning and coordination.

2. H.R. 1158 would bring the Coast Guard, the Customs Service, and the Border Patrol under the umbrella of this Homeland Security Agency as distinct entities. Each of these agencies are in Departments where their mission is very different from the mission of the Department. Each of them play an integral part in protecting our borders, yet there is not the coordination we need.

3. As part of this new agency, my bill would also consolidate a variety of programs to protect critical information infrastructure that are now scattered in a variety of places.

I would like to add one final point. As we try to do a better job in preventing and preparing for the homeland attacks which are sure to come, the lines between foreign and domestic terrorism, between law enforcement and military functions, will become fuzzier and fuzzier. The constitutional and civil libertarian concerns about where all this will lead are real. Some of you may remember the outcry when a military serviceman shot an unarmed civilian along the Texas border a few years ago.

My bill tries to be sensitive to those concerns by utilizing civilian agencies while also making sure we are more effective in fulfilling that first function of the federal government -- to provide for the common defense.

Statement on Homeland Security

The Honorable Lee H. Hamilton
Testimony before the Senate Committee on Governmental Affairs
October 12, 2001

- Chairman Lieberman, Ranking Member Thompson, members of the Committee, thank you for the opportunity to testify before you this morning.

- I commend you for your examination of ways to strengthen our homeland security, a challenge of great importance to this country and its citizens. Across this great land, Americans are worried about their personal security and anxious that you act to improve it.

- The United States remains highly vulnerable to terrorist attacks -- despite our mobilization of recent weeks.

- We are preparing well to protect against the type of attack that occurred on Sept. 11 -- but are we preparing well for the many other possible types of attack, including those from nuclear, chemical, and biological weapons, or from information warfare?

- The core of our national security strategy must be defense of the homeland.

- We must invest far more resources in strengthening the security of our borders, transportation hubs, and cities, and in protecting the crucial infrastructure of our economy, financial systems, energy supplies, and computer networks.

- We also must improve our capacity to respond to terrorist attacks so that the loss of life in any attack is minimized.

- There are many political, economic and military actions that must be taken to improve the security of Americans, and your focus in this hearing is an important one: how do we organize the federal government to meet the terrorist threat to the country?

- The threshold question is: how serious of a threat to national security is terrorism? If it is the No. 1 threat, as the Hart-Rudman commission found, the federal government should be organized, and the federal budget should be allocated, to assure that homeland security is the highest priority.

Czar or agency?

- Two schools of thought on organizing for homeland security are emerging.

-- 1) One school envisions a White House office of similar authority to the National Security Council or the National Economic Council. Its primary job would be coordinating the activities of the various federal agencies and state and local authorities involved in homeland security. This is the approach President Bush has chosen in establishing a Homeland Security Office headed by Tom Ridge.

-- 2) The second school envisions a cabinet official with direct control over a department, budget, and staff. This department would have responsibility for planning, coordinating, and integrating all U.S. programs involving homeland security. This is the approach recommended by the Hart-Rudman commission, which I served on, and by the legislation introduced by Sen. Lieberman.

- President Bush's establishment of the Homeland Security Office is a step in the right direction, but greater steps are required.

Clout, money, and staff

- The key question in organizing for homeland security is: Will the new government office or agency have sufficient clout, money, and staff to do what is necessary to protect our security?

- Will Gov. Ridge be able to give orders to the many disparate agencies involved in homeland security, many of which have long histories of bureaucratic rivalry? For instance, will he be able to tell the Department of Defense to alter its budget or tell the CIA to rearrange its priorities?

- The administration has emphasized that Gov. Ridge will have access to the President and strong support from him. But that is not enough. Dozens of people have access to the President. Without a legislative framework providing budgetary authority and staff, his power will be uncertain and subject to the vagaries of this President's (or future Presidents') attention to homeland security, which may wax and wane in the years ahead.

- It looks like Gov. Ridge will have borrowed staff and uncertain power over other department budgets. If he has little control over the counterterrorism budgets of the more than 40 agencies he is supposed to oversee, he will lack the tools necessary to force those agencies to carry out his plans and work together.

- It is also unclear whether Gov. Ridge will have sufficient access to intelligence, which is necessary if he is to prevent and respond quickly to attempted terrorism.

- Within the White House there are two other new senior officials for anti-terrorism, who report to Gov. Ridge and Condoleezza Rice. How will they relate to the Homeland Security Office?

- Gov. Ridge needs a permanent statutory framework to establish a clear and strong line of authority and to gain budgetary control over other agencies.

A Homeland Security Agency

- My view is Congress should establish a homeland security agency or department whose director is a cabinet official.

- Congressional legislation is needed to make the agency permanent.

- For the agency to be effective it must have the power to force the various federal agencies involved in homeland security -- from the FBI to the Department of Defense -- to act.

- The head of the agency should have budget and line authority over the agencies under him. He must be more than a coordinator if he is to do his job as well as it can be done.

- I have always been skeptical of interagency cooperation and coordination. I recognize that much government work in ordinary times is done in that manner. But these are not ordinary times. We are at war, and the business of homeland security is an urgent national priority. The head of the homeland security agency must have the power to act, not just to advise and coordinate.

- The head of the agency must also have the energetic and sustained backing of the President. Bureaucracies do not cooperate with each other unless they are forced to do so by the President. The President must force bureaucrats to meet political goals.

- The homeland security agency should be built upon the Federal Emergency Management Agency, with the three organizations currently on the front line of border security -- the Coast Guard (currently in the Department of Transportation), the Customs Service (currently in the Department of Treasury), and the Border Patrol (currently in the Department of Justice) -- integrated into it.

- The agency should not have police or military authority. Nor should it be an intelligence collection agency. However, it should be the central coordinating agency for anticipating, preventing, and responding to attacks on the homeland. It should coordinate and oversee efforts by the military and the intelligence community to beef up homeland defense.

- A primary mission of the National Guard should be to reorganize, train, and equip itself to defend the homeland against terrorist attack.

- Our homeland security effort should include more research into effective anti-terrorism strategies and regular exercises to prepare us to respond to any kind of attack.

- We should invest in programs to protect against the wide range of serious threats that we face. That will mean spending more on protection against terrorism and chemical, biological, or nuclear attack.

- The director of a new homeland security agency should begin his work by setting priorities.

  -- He must determine what kind of attacks are most likely, and what we can do to prevent them.

  -- He must determine where we should focus our homeland security personnel and resources.

  -- He must educate the American people about security threats and give them practical advice.

- He may not get it all right. The United States has so many possible targets that it is extremely difficult to protect them all. But we must try to protect as many potential targets as possible.

- **Immigration**: Our homeland security effort must include tighter monitoring of immigration and other cross-border traffic. Last year 489 million people, 127 million cars, and 211,000 boats passed through our borders. Once in the U.S. foreign nationals who have overstayed their visas -- numbering over 3 million at any time -- easily escape notice of the INS. Monitoring the movement of all of these people and goods is a monumental task.

- The U.S. has a proud tradition of openness to foreign visitors. For years efficiency has trumped security. We should not close our borders or put up excessive barriers to entry, but we must improve our monitoring of cross-border traffic and of foreigners already in the U.S. We must screen visa applicants with greater scrutiny and pursue foreign nationals who have overstayed their visas more aggressively.

The role of Congress

- Congress has an important role to play in establishing the legislative framework for a homeland security agency and overseeing all homeland security efforts.

- Congress should reorganize itself to deal with homeland security more effectively. It should form a joint select committee for homeland security, or individual committees in the House and Senate, to provide congressional support and oversight.

- A homeland security committee would simplify the job of the director of the homeland security agency -- for instance, by reducing the number of times he must

testify on the Hill -- and would provide a centralized body for homeland security deliberation and legislating in Congress.

Conclusion

- Strengthening our homeland security is the most important national security challenge we face. It is critical that the government entities established to deal with homeland security have sufficient clout, resources, and staff to take the necessary steps to protect us.

- A homeland security agency or department headed by a cabinet official, and overseen by a select congressional committee on homeland security, is the best means to protect our homeland.

TESTIMONY OF GEN (RET.) BARRY R. McCAFFREY BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS ORGANIZING THE UNITED STATES GOVERNMENT TO EFFECTIVELY PROTECT AMERICA'S HOMELAND AGAINST TERRORISM

October 12, 2001

Chairman Lieberman, Ranking Member Thompson and Members of the Committee, thank you for the invitation to appear before you today to discuss how we can best organize our nation to effectively deal with the threat of terrorism to our homeland. Mr. Chairman and Senator Thompson, allow me to also thank you for the hard work, good counsel and strong support that you have provided over the years in the fight against terrorism. This Committee helped lead the Congress and the country in responding to the terrible atrocities of September 11th, 2001. The entire nation appreciates your leadership in the face of this crisis.

Before turning to the substance of today's hearing allow me to recognize Rob Housman of the law firm Bracewell & Patterson, who served as my assistant director for strategic planning at the White House Drug Policy Office. Rob's firm has generously allowed him to help me prepare this testimony.

INTRODUCTION

The Bush Administration deserves enormous credit for how it is taking the fight to these terrorists. The President and Secretary Powell have reached out to the international community to secure the backing of the civilized world for our just actions. The FBI and the rest of law enforcement and intelligence community are patiently unwinding the webs of terror back to their sources. The brave men and women of our Armed Services are now methodically dismantling Usama Bin Laden's Al Qaeda network and the Taliban regime. We will attempt to attack their communications systems, alternately listening, jamming, and spoofing them. We will freeze their funds. We have begun to destroy their airfields and anti-aircraft installations. Our planes now operate around the clock with near total impunity dropping ordnance on any target of value that dares to raise its head. Through food, medicine and leaflet drops we are reassuring the suffering Afghan people that our quarrel isn't with them, but with the terrorists and those who aid and abet them. These dangerous fanatics are being forced to scramble for survival and prevented from regaining command and control of the terrorist network. In the coming months and years, our forces will attempt to isolate and eliminate this threat to the American people and our Allies.

Today, many Americans take comfort in the roar of our fighter jets flying air CAP patrols in the skies over head. Usama Bin Laden and his terrorists now are also hearing the thunder of our fighters and bombers—only the roar has a vastly different meaning to them than it does to us Americans.

The Administration should also be credited for understanding that the 40-plus government agencies that have a role in fighting terrorism need a new level of coordination in order to respond rapidly and effectively to this threat. The general idea of providing a single office to

shape our Homeland Security policies and ensure we are capable of deterring, preventing and defeating terrorism is not only sound, it is long overdue. The President and his team should be congratulated for moving so swiftly to form the Office of Homeland Security.

Governor Ridge is superbly qualified to head this new agency. He is a highly decorated, combat-tested Army infantry sergeant who served on the frontlines in Vietnam—my own personal experience in Vietnam reminds me that it was our dedicated young NCO's, like Governor Ridge, who safeguarded the soldiers under their command and pushed ahead to fulfill the missions required of them. The Governor is also a lawyer and a former prosecutor. He knows full well what justice requires in the face of acts of terror. He brings great political savvy and executive experience from his service in the Congress and as the governor of Pennsylvania. Governor Ridge has the confidence and commitment of not only the President and the Administration, but of the Congress and both parties. Most importantly, the Governor enjoys the complete support of the American people.

In addition, the recent appointment of retired General Wayne Downing fills me with added confidence in our future security. He is the single most knowledgeable, resourceful and battle hardened special operations leader in America today.

The purpose of this testimony is to discuss how this new Office of Homeland Security should be structured to enable Governor Ridge and his successors to most effectively discharge their responsibilities. **Part I** provides an **overview of the challenge** we face in securing our homeland **from the threat of terrorism**. **Part II** discusses why the **Office of National Drug Control Policy's framework provides a sound model for this new office**. **Part III** outlines the **basic elements necessary for an effective Office** of Homeland Security. **Part IV** sets out a number of **key issues** that the Office of Homeland Security will need to grapple with early on.

I. THE CHALLENGE OF EFFECTIVELY RESPONDING TO TERRORISM

On September 11, 2001, simple boxcutters struck down two of the world's greatest skyscrapers and cut a hole deep into the symbol of American military might. More than 5,000 innocent Americans were killed without warning or reason. Our enemy demonstrated the ability to use the machinery of our prosperity and the openness of our democracy as weapons against us. Never again.

That simple commitment—that this shall never happen again on American soil, or to American citizens—should not be taken lightly or absent a full understanding of the tasks ahead. Preventing this from ever happening again is a major and difficult undertaking.

The movements of a free people in an open society provide ample cover for terrorists:

- America is a nation of over 281 million people, who live across more than 3.7 million square miles of territory.
- Our borders span almost 20,000 miles, ranging from barren deserts to isolated coastlines to inner city blocks shared by sister-cities.

- Last year, there were roughly 475 million crossings of individuals through our 301 ports of entry. Each year, roughly 23 million people enter the United States legally on tourist visas; 500,000 on student visas; and 250,000 on temporary work visas.
- An additional four million people are now illegally in this country. Roughly 2 million of these illegal aliens defied the law and went to ground at the end of their visitor or student visas.
- Incredibly, thousands of today's illegal aliens entered from nations known to harbor terrorism on student visas provided by our Department of State to allow them to study subjects like nuclear physics, chemical engineering, and commercial aviation.

The basic infrastructure and economy of our society provides countless soft targets for terrorists:

- Last year, more than 1.6 million airplanes passed through the airspace of Washington, D.C. alone. Amtrak operates over 22,000 route miles of track. Amtrak's New York to Washington corridor each day carries enough passengers to fill 121 airline flights. The average annual ridership of the New York City subway system is 1.3 billion. Any plane, train, or bus could be used by terrorists to inflict damage and instill fear.
- We have more than 2,800 power plants, including 104 that are nuclear powered.
- Our energy infrastructure relies on more than 19,000 miles of interstate natural gas pipelines.
- Our industrial base includes tens of thousands of chemical plants and other manufacturing facilities.
- On the Internet and in public reading rooms we post the extent of the damage that can be inflicted by destroying each of our individual plants—handing terrorists a veritable "Dummies Guide" to attacking us. To the terrorist, our massive industrial base is a soft target rich environment with which to do harm to America.
- Americans rely on roughly 54,000 individual community water systems. These systems generally have little more than a night watchman and cyclone fencing to safeguard us against deadly chemical and biological attacks.
- We have countless skyscrapers, stadiums, monuments, churches, temples and other places of worship. These structures are where we work, play, congregate, cheer and pray; to the terrorists these gathering places are potential killing fields.
- We are dependent upon the Internet for everything from banking and stock trades to massive business deals. Many of these networks remain vulnerable. Vast quantities of critical information could be gone in the click of a cyber terrorist's mouse.

Our government is ill organized for this task:
The task of getting the scores of involved bureaucracies to set aside bureaucratic considerations and pull together is itself a major challenge.

- More than 40 federal agencies have a role in the fight against terrorism. The combined federal counter-terrorism budget is approximately $9.3 billion in fiscal year 2001.
- On Capital Hill, 26 full committees and 17 subcommittees deal with homeland security matters.

- At the same time, the Department of Defense has no office to assist in the defense of America's homeland.
- America's domestic military defense is made up of the National Guard units of each in the 54 states and U.S. territories. These units are incredibly dedicated and yet modestly trained and inadequately equipped to combat the real threats of terrorism to our domestic population.
- At the state and local level, thousands upon thousands of law enforcement, fire and rescue and emergency management personnel are the frontline units in this battle. However, the lines of coordination between the federal government and these state and local units are ill-defined and remain largely untested.
- For example, our first response to a chemical or biological attack relies heavily upon some 54 state and territorial agencies utilizing more than 3,000 state and local health agencies, with minimal federal coordination

If Governor Ridge has only a small staff of detailees; no federal legislation outlining his job and the mechanisms by which he is to coordinate policy; no separate budget and budget certification authority; and, if he and his principal staff aren't legitimized by Senate confirmation, then, notwithstanding his own tremendous personal credibility and the commitment of the President, within one year he will be relegated to head of the Homeland Security speakers bureau. This job will require the legitimacy of power conferred only when a government agency is created and given a specific warrant of authority by Congressional legislation. Any other solution will soon lose its focus, bureaucratic leverage and independence of action.

II. THE ONDCP/AGENCY MODEL

A useful model for this Committee and the Congress to consider as it begins the process of strengthening the Office of Homeland Security is the Office of National Drug Control Policy (ONDCP) or "Agency" model as found in ONDCP's reauthorization Act of 1998 (21 U.S.C. §§ 1701, *et. seq.*).

A. APPLICABILITY OF THE ONDCP/AGENCY MODEL

The ONDCP/Agency model is worthy of consideration because of the striking parallels between the inter-related threats of drugs and terrorism:

- Both threats require the careful coordination of large numbers of federal agencies, with well-established jurisdictional turfs.
- Responding to each of these threats also requires coordinating nonfederal efforts, including both the public and private sectors.
- The threat of terrorism and the threat of drugs both have international and domestic components. In addition to domestic efforts, an effective strategy against each of these threats requires a multinational response.
- The primary vehicle for preventing, deterring and responding to individual acts of drug crime and terrorism is intelligence and law enforcement, backed by occasional but enormously important support from the military.

- Each of these threats are inter-related and feed off each other. Drug monies from the sale of opium and heroin fill the coffers of the Taliban and bankroll terrorist organizations around the world. The same financial institutions launder the ill-gotten gains of terror and drugs alike. This triangle of criminal trade exchanges money, drugs, and guns to fuel international violence and black markets.

B. BENEFITS OF THE ONDCP/AGENCY MODEL

The ONDCP model as currently found in that office's authorizing legislation, was the long-term product of at least two separate Administrations—one Democratic and one Republican—working in close collaboration with the Congress. In fact, a number of the members of this Committee have played a significant role in crafting the new ONDCP of today. This model has evolved over time and proven effective.

The key elements of the ONDCP/Agency model are:

- A strong Cabinet-level agency within the Executive Office of the President.
- The agency is led by a director and selected senior staff that are subject to Senate confirmation. The director is also a member of the National Security Council for drug-related matters.
- The senior staff of ONDCP is required by law to be wholly apolitical.
- The agency is responsible for producing the Nation's Drug Control Strategy, and the accompanying counter-drug budget.
- The director of ONDCP is provided the authority to decertify any agency's budget that fails to meet the requirements of the National Drug Control Strategy.
- The agency is also responsible for producing a performance measurements of effectiveness (PME) system to track progress in reducing the threat of drugs to our nation.
- ONDCP is independently accountable to the Congress and the public and must regularly report out on how it is carrying out its responsibilities.
- The agency is provided the resources necessary to get the job done through its own budget and dedicated staff (including, in particular, its own strategic planning, budget, public affairs and Congressional affairs staffs).
- The director is empowered to call inter-agency meetings to address critical issues and threats.
- And, most importantly, all these powers and responsibilities are specifically set out in statute.

Over the last five years this model has worked remarkably well, especially given the nature of the drug threat:

- According to 2000 data, drug use among children ages 12 to 17 declined 21 percent in just three-year's time.
- The number of drug-related murders fell to the lowest point in over a decade—reaching a low point of less than half the 1989 high water mark.
- The number of drug courts jumped from a dozen to over 700 operating or coming online.

- We dramatically increased the number of federal drug-related arrests, yet cut the number of arrests for low-level simple possession—in other words we better focused our enforcement resources on the upper echelons of the drug trafficking organizations.
- Since fiscal year 1996, we increased the federal spending on drug prevention programs by 53 percent and on drug treatment 35 percent. During this period our overall federal counter-drug budget grew from $13.8 billion to $19.2 billion

This record of success demonstrates why the ONDCP/agency model is worth considering as the Congress and the Administration put in place an effective Office of Homeland Security.

C. THE ONDCP/AGENCY MODEL VERSUS THE DEPARTMENT MODEL

Over the last few days, a tremendous amount of attention has been brought to bear on whether this new office should be an agency (charged primarily with coordinating policies and overseeing budgets) or a department (charged with a series of operational responsibilities and made up of various other existing federal agencies brought under its umbrella).

There is no single bureaucratic solution to the threat of domestic terrorism. However, there are multiple options that might ensure failure. This office can be effectively conceived of either as an agency or a department, so long as it has the basic tools it needs to succeed, as described in the following section of this testimony.

That said, allow me to sound a note of caution. The United States faces the immediate, real and substantial threat of additional acts of terror even as we carry out our justified and measured actions to eliminate Usama Bin Laden and his terrorist network. Reconstituting vast elements of our federal government, incorporating complex federal agencies, with broad responsibilities and thousands of public servants, into a new department that can function effectively will take time. Such an exercise would divert the energies of this Committee, the Congress and the involved agencies away from defeating the terrorists and to what promises to be a bitter intramural battle over radically changing our complex government.

If the Congress determines that the best possible way to deal with these threats over the long-term is to reconfigure broad elements of our government to create a new and important department, there will be time to do this in a reasoned and considered matter: when the dust has settled and the terrorists are a chronic not acute threat to our society.

For the immediate term, as we wage war against those who wish our nation harm, we should focus the bulk of our attentions on defeating this enemy.

III. REQUIREMENTS FOR AN EFFECTIVE OFFICE OF HOMELAND SECURITY

A. THE FORCE OF LAW

There can be no doubt that President Bush is firmly committed to the fight against terrorism and strongly supports Governor Ridge in his new position. However, as President Bush has rightly and repeatedly said, this is a long-term struggle that will transcend administrations.

Our government does best when it establishes institutions for the long haul, that are based on rationality, not personality. If we are committed to safeguarding our nation against terrorism now and forever—and not just punishing Usama Bin Laden and his ilk for their past barbary—the Office of Homeland Security needs to be designed with the future in mind. The terms of this office—how its leadership is appointed, where its monies come from, what powers it wields, who it is accountable to—must have the permanence of law.

Any Cabinet member, current or former, will tell you how important it is to have the Commander-in-Chief in your corner. However, when push comes to shove it is even more important to have the law on your side.

B. THE TOOLS NECESSARY TO SUCCEED

In order to succeed, this new office needs to be able to: develop the nation's Homeland Security Strategy; oversee the budget; coordinate the development of federal policy; and, mobilize the American people and the Congress. And, it needs the assigned resources to carry out these three tasks.

1. <u>The Ability to Effectively Coordinate all Homeland Security Policies and Programs</u>

The ability to coordinate the actions of the many involved federal agencies requires five core components:

a. Responsibility for the National Strategy

The National Homeland Security Strategy proposed by President Bush should become the critical organizing mechanism by which our nation develops a unified approach to fighting terrorism. However, the purpose of this document is more than just coordination and organization. This Strategy should be viewed as a set of policy priorities, agreed to by all the involved agencies and crafted with the input of the Congress, nonfederal actors and the American people. These markers can then be used as a powerful tool to hold the feet of individual agencies and our government as a whole to the fire—to drive home a common commitment and force action.

b. Responsibility to Craft an Effective System for Tracking Progress

The Office of Homeland Security must also be able to hold the entire federal government responsible for real results. With a threat as great as terrorism it isn't enough to talk about inputs, we need to show output functions. For example, Secretary of Health and Human Services Thompson has committed to ensuring that the nation has 40 million doses of fresh smallpox vaccine available by next summer. At present, the Customs Service inspects less than 10 percent of all containers entering the United States. These numbers must be increased dramatically. These are examples of benchmarks by which we can and should measure progress.

The Homeland Office must be charged with developing a system to demonstrate progress in preventing, deterring and responding to terrorism. Over the long-term, this system of tracking progress will help this new office keep other, larger and longer-serving agencies on focus with the strategy and committed to this fight.

c. Responsibility to Report Out on Progress and Impediments

The Homeland Security Office must be required to independently report out, through the President, to the Congress and the American public on: the progress that is being made in protecting the American people from terrorism; and, any impediments to progress—whether bureaucratic, logistical, budgetary or technological. Such a report should be made on an annual basis. Every American has a stake in this fight; every American should know where we stand.

d. Authority to Convene Meetings for Inter-Agency Policy Formulation

The director of the Homeland Security Office should be empowered to convene meetings at the Cabinet and sub-Cabinet levels. This ability is vital to bringing all the involved agencies to the table to ensure that critical issues are addressed.

2. Authority to Review and Certify Budgets

I had the honor to serve under General Powell when he was the Chairman of the Joint Chiefs of Staff. In one of his many useful tutorials he told us: "don't show me your programs, show me your budget." A strategy without the resources is not worth the paper it is written on. The director of the Homeland Security Office needs the authority to independently decertify any agency budget that does not provide the resources needed to combat the threat of terrorism. This authority should only be subject to interventions by the Director of the Office of Management and Budget, as the President's current plan provides.

Not only are budget certification powers required to ensure sufficient resources, they also play a critical role in policy-making. The ability to decertify an agency's budget is the nuclear weapon of policy-making—it isn't something you can use often, but the mere fact that it is in your arsenal guarantees you are taken seriously. If you want to see another agency get with the program fast, just articulate the possible decertification of its budget.

3. The Indigenous Resources Required to Fulfill These Missions

To fulfill these missions of the Homeland Security Office, this new agency must have its own staff and its own budget. If the bulk of its staff is made up of detailees who carry with them the baggage of their home agencies, and whose future job promotions rest with their home agency superiors, the Office of Homeland Security will be seriously hamstrung. Similarly, if this new agency is dependent upon the budgetary whims and largesse of other government offices for its own funding, it cannot be expected to effectively tackle contentious issues. This office requires its own Congressional relations, public affairs and strategic planning staff. There are those who rolled their eyes when Governor Ridge requested, first off, a speechwriter and spokesperson. Rather, they should have applauded him for his foresight and encouraged him to go further. He will be the principle spokesperson for the President to the Congress and the American people.

IV. PRIORITIES FOR THE OFFICE OF HOMELAND SECURITY

As this Committee and the Congress provides the Office of Homeland Security with the legal standing and tools it needs, it is also entirely appropriate for the legislature to give guidance about the priorities it sees for the office. The following suggestions outline what some of those priorities might be.

A. SECURING OUR NATION'S BORDERS

The federal law enforcement presence along the thousands of miles of international border between the United States and our neighboring states, Canada and Mexico, lack anything but a modest capability to simply monitor the millions of illegal entrants who flood into the nation each year. While most migrants come in search of freedom and economic opportunity, many of them come with criminal intent.

Our federal border law enforcement agencies are asked to enforce our laws in cooperation with our global economic partners. These men and women are well-trained, dedicated professionals, who work tirelessly to protect us under frequently appalling conditions of personal danger. However, these agencies are grossly undermanned, under-funded and lack the necessary technologies and intelligence support. Their organizational structures and doctrine are woefully out of step with contemporary security challenges.

Although we have doubled the size of the Border Patrol in the past decade, this agency is still incapable of enforcing law and order on our frontiers. We need a Border Patrol of 40,000-plus uniformed officers instead of the fewer than 10,000 officers we currently employ.

Our Customs Service is dedicated but poorly organized and resourced. They are overwhelmed by the requirements to enforce more than 400 U.S. laws and 34 international agreements on behalf of 40 other federal agencies—let alone ferret terrorist contraband from the millions of shipments entering our nation. At current levels, the Customs Service inspects less than 10 percent of all containers entering the United States—an individual terrorist, drug trafficker, arms runner or other criminal stands a 90 percent chance that his contraband will clear Customs unimpeded.

With the use of new technologies, such as real-time tracking of U.S.-bound containers, and the cooperation of the legitimate shipping industry, the rate of inspections can be greatly increased and enforcement resources can be better targeted at the highest risk shipments. Such a system could be implemented for as little as $200 million annually.

Similarly, the enormously professional and courageous men and women of the Coast Guard are struggling with obsolete ships and aircraft, and severe budget and personnel shortfalls. One of the simplest ways a terrorist group could deploy a weapon of mass destruction against cities like New York, Washington, D.C., Miami and San Francisco, would be to simply sail it into port.

Revitalizing the Coast Guard is critical to better protecting this nation from the threat of terror. Typically, the Coast Guard has employed about ten percent of its fleet to guarding America's ports; today, the Coast Guard is devoting two-thirds of its on station ships to that task. In the past, the Coast Guard has required little in the way of pre-screening for vessels entering American ports; today, the Coast Guard is checking crew manifests and ship registries for all ships making port calls. These expanded efforts are already over-taxing the resources of the current Coast Guard fleet.

Still, the most significant shortcoming in our air-land-sea border defenses is the total lack of a conceptual framework and the leadership to integrate our federal law enforcement effort. At each port of entry, on each sector of our land border, and in every maritime approach, there is no single federal officer in charge. Neither foreign officials nor U.S. local or state law enforcement officials can put their finger on a map and determine the name of a single federal coordinator for operations at that place. There is no common organizing scheme to the many federal agencies that are charged with these missions; no integrated intelligence or communications network; no common multi-agency infrastructure-development plan.

While the situation has improved markedly during the past five years thanks to increases in manpower and resources, institutional rivalries among our federal law enforcement agencies leave us with a fragmented security apparatus under uncertain leadership. Our borders are still dangerously porous to international criminal and terrorist organizations.

B. OVERSEEING AND POLICING IMMIGRATION

In addition to better securing our borders from contraband and illegal immigration, we must also increase the ability to monitor and oversee legal immigration. The State Department must revisit to whom it grants permission to enter this nation legally and for what purposes. It is beyond comprehension that a person from a terrorist-sponsor state can obtain a student visa for courses of study in disciplines like chemical engineering, nuclear physics and civil aviation.

Similarly, the Immigration and Naturalization Service must be equipped to deal with both those who enter legally but under false pretenses and those who over stay or otherwise violate their visas. Today, we can track a car license plate or a credit card receipt, but our authorities cannot tell us that an individual from Iran or Sudan is now illegally in this country, has gone to ground, and is inquiring about how to fly a crop duster. This is nonsensical.

Congress can help here. The INS has developed, at the request of the Congress, a system called Coordinated Interagency Partnership Regulating International Students (CIPRIS), which would allow the INS to better track foreign student visa compliance and to make this information more readily available to the FBI, Border Patrol, and other agencies. However, this program has never been funded. Absent the tools it needs to get the job done, it is difficult to place much of the blame solely upon the INS.

C. STRENGTHENING AND REORGANIZING OUR DOMESTIC MILITARY CAPABILITIES

With respect to the threat of terrorism to our nation's homeland, the major shortfall of our domestic military response capabilities is that our superb National Guard is structured to be called up and deployed in the first days of a high intensity conflict. The National Guard, by and large, is well equipped and modestly trained for this overseas combat role, which costs the nation $15.2 billion in fiscal year 2001. However, this is a role that was originally intended for military reserve components.

In contrast, the original purpose of the National Guard was to serve as joint federal-state domestic military response to a variety of threats, such as terrorism. (In fact, it wasn't until after the Spanish-American War that National Guard units could lawfully be deployed beyond the United States proper.) However, the Guard, as currently structured is not well prepared for this mission. The Guard should be reorganized and its force structure should be changed to best meet the requirements of a state-level response to terrorism and other domestic threats.

A restructured National Guard should become an integral component of our domestic emergency response forces. The Guard should be trained and equipped at the national level and then returned to the command and oversight of the individual governors (except under what should be rare and special circumstances where they are called by the President to federal duty). Over the long term, it will serve us well to have 54 state and territorial governors who wake up each day worried about the readiness of the Guard units under their command. We must effectively respond to the types of threats that these state leaders believe they are most likely to face.

For this reason, we do not need a "national" National Guard force, whereby, for example, aviation assets are located in one state and chemical, biological, and nuclear assets are in yet another lone state. Instead, the Guard's force structure and numbers should be determined in relation to the general populations and expected needs of the individual states and without regard to political pressures.

Rather than equipping state National Guard units with significant numbers of, armor, artillery and attack helicopters—which are not likely to be used in the domestic context—each state's Guard package should focus on the more immediate needs of the states, such as:

- Site protection by military police and light infantry battalions capable of ensuring order.
- Light ground and aviation reconnaissance capabilities to provide federal, state and local leadership with a fuller understanding of any evolving threat.

- Medical support with field hospitals and medical staffs capable of stepping in when civilian assets are destroyed or overloaded.
- Transportation units, including both truck, airlift, rotory lift and small boat/LCU to provide mobility;
- Communications units to provide secure communications to allow for a coordinated response to any threat.
- Combat engineering to reopen transportation routes, ports and airfields.
- Fighter support to safeguard airspace, metropolitan areas and other potential terrorist targets.
- Logistics units to provide emergency life support to domestic American refugees.
- Chemical, biological and nuclear reconnaissance and decontamination units to counter any use of weapons of mass destruction (WMD).

Additionally, recognizing that there may be times when we need active duty military units to respond to a terrorist attack on our homeland, we need to ensure that our military is prepared to handle this contingency. For example, a biological attack on our homeland would likely require the immediate deployment of at least certain active duty units.

At present, the Department of Defense lacks a homeland command. The answer to this shortcoming, however, is not to go about creating an entirely new joint command and 4-star CINC to lead it. Instead the U.S. Joint Forces Command located in Norfolk, Virginia should be dual-hatted. The Army component of that command, FORSCOM, should be given the lead role, with North American Aerospace Command (NORAD), the Navy's Atlantic Fleet and the Air Force's Air Combat Command, in key supporting roles.

Moreover, the Posse Comitatus Act (18 U.S.C. § 1385), which limits domestic use of the military, may need to be reexamined on a limited basis in light of this possibility. While there are legal gymnastics we can do to avoid a literal violation of the Act, perhaps we should consider the issue more directly.

D. INCREASING OUR ABILITY TO RESPOND TO A WMD ATTACK

As the events of this week have underscored, the state-by-state deployment of an effective, domestic response to the use of WMD is of particular urgency. In my judgment, we must have this capability fully operational within one year in order to be ready to address a WMD attack to this nation. We should expect—and plan to prevent and respond to—such a WMD attack on America to occur sometime within the coming ten years—if it hasn't already occurred on a small-scale in Florida.

We would be foolhardy not to take this threat seriously. New evidence suggests that Usama Bin Laden has been training his fanatics in the use of chemical and biological weapons. The Iraqis are one of five state sponsors of terrorism who have actively researched and developed programs for biological, chemical, and nuclear warfare. They have previously murdered thousands of their own Kurdish population with chemical agents and employed chemical warfare in massed attacks against the Iranians during their seven-year war. We should expect these groups to actively

consider the use of these weapons against us, our allies, and their regional neighbors.

Secretary Thompson is to be commended for his commitment to increase our stockpiles of small pox vaccine by 40 million doses by next summer, up from 2004 as originally planned. However, at the same time, the sole supplier of anthrax vaccine to the United States military cannot now produce the vaccine because it has repeatedly failed basic Food and Drug Administration inspections. We need a Department of Defense facility to produce these vaccines on an emergency basis. At the same time, we must dramatically improve our ability to protect our civilian populations over the immediate term, meaning months, not years.

We also need to swiftly and substantially increase our ability to respond to a chemical, biological or nuclear attack. While a range of factors work in our favor, limiting terrorist access to and in some cases the efficacy of these WMD weapons, we must prepare for the worst. We need to train and equip our federal, state and local political leaders, medical establishment, civilian law enforcement authorities and National Guard units to help them prevent and mitigate WMD attacks.

We must also invest in research to develop new technologies to assist us in more quickly and better identifying a WMD threat before widespread harm can be done.

E. IMPROVING INTELLIGENCE AND INTELLIGENCE SHARING

Our intelligence services are simply not adequate to the task of providing our policy-makers and operational agencies with timely and accurate estimates of terrorists' capabilities and intentions. The courage and dedication of our intelligence community is superb, and our technology is impressive. However, we have emasculated both our overseas intelligence-collection capability as well as that of our domestic law enforcement agencies with unbalanced restrictions on their freedom of action to penetrate and disrupt terrorist cells before they carry our their murderous plans.

This problem is likely to get worse before it gets better. For example, recent studies of the federal workforce have found that the ranks of field FBI agents will suffer great losses of experienced personnel in the coming years. With the number of these counter-intelligence and counter-terrorism trained agents already shrinking, and with demand for them from the private sector growing, we must find ways to better recruit and retain the best and the brightest.

The dedicated and courageous agents of the FBI are also struggling with woefully inadequate and outdated information technologies. The FBI's computers cannot in real time track the enormous amounts of information that is being mined. The American people would be astounded to learn that they have more flexible, capable and faster performance from their home computers than most agents can get from a computer workstation in an FBI field office. The FBI's recently announced Trilogy program, which will expand the Bureau's information processing capabilities, is, by all accounts, inadequate. These upgrades, limited by budgetary constraints, will still not be capable of processing the explosive growth of information that the agency must manage in routine investigations, let alone ones of this magnitude.

And, this information technology problem is not limited to the FBI. In January of 2000, the entire information infrastructure of the National Security Agency, the nation's premier high-tech spying capability, went dead when its computer systems crashed. For three and a half days our nation's intelligence community was largely blind and deaf. NSA Director Lt. General Hayden should be commended for his $2 billion Project Groundbreaker, which will in short order bring that agency's information technologies up to speed. The FBI and other agencies would do well to follow the ambitious lead of the NSA.

We have reaped what we have sown by terrorizing the leaders of our own FBI, CIA, and NSA agencies for political self-protection. For example, FBI agents were aware of suspicious actions on the part of Zacarias Moussaoui, as early as August of this year—when he sought lessons for flying but not landing or taking off a jumbo jet. However, because of the legal impediments of the Foreign Intelligence Surveillance Act and the Attorney General's Guidelines, the FBI agents were prevented from searching his computer and launching a full-scale investigation—this despite warnings from French intelligence. In the wake of the World Trade Center and Pentagon attacks, agents were finally authorized to look more carefully at Mr. Moussaoui; investigators allegedly found information on crop dusting and wind patterns. He is now being detained as a "material witness."

In sum, we lack a body of policy that enables our domestic and foreign intelligence services to aggressively discover and track criminal conspiracies and disrupt or preempt their actions. And, we lack the human and other resources needed to pursue such a policy.

Better intelligence produced and analyzed in a vacuum, however, is of no use. We also need to develop more effective ways of ensuring that the information that is developed reaches the field where it can be used to prevent future terrorism and bring criminals to justice. In the counter-drug law enforcement world, ONDCP over the last five years has lead efforts to create mechanisms to ensure that federal intelligence was securely pushed down even to the street law enforcement. Such mechanisms also need to be developed in the area of Homeland Security. Here, we will need to go even further—at times, we may find it necessary to provide certain limited forms of intelligence information with the private sector, such as owner/operators of critical infrastructure, in order to prevent harm.

F. ENHANCING FEDERAL, STATE AND LOCAL COORDINATION

One of the most striking parallels between the fight against terrorism and the fight against drugs is the degree to which success in both of these struggles is dependent upon efforts at the state and local level. The first line of response to a chemical or biological attack is the local doctor, hospital and health authorities. As both the World Trade Center and Pentagon attacks demonstrated, the first responders to a bomb or other terrorist assault are the state and local law enforcement. However, on a nation-wide basis, coordination between the various levels of government is lacking. For example, we have no integrated means for various federal state and local first-responders to jointly exercise to prepare for terrorist attacks. Nor do we have adequate mechanisms for securely sharing federal intelligence and coordinating operations with state and local authorities.

Over the last five years, in the area of counter-drug policy we developed a range of mechanisms in both the prevention and law enforcement arenas to strengthen state and local anti-drug efforts and to better coordinate these efforts with federal programs.

We need similar mechanisms for homeland security. The federal government must assist states and localities in strengthening homeland security programs ranging from law enforcement and fire and rescue to logistics and healthcare. These strengthened state and local programs then need to be seamlessly integrated with our federal programs.

G. WORKING WITH THE PRIVATE SECTOR TO COMBAT TERRORISM

The terrorist who carried out the attacks of September 11th did not rely upon traditional weapons. Instead, they used commercial airliners as their bombs. In the wake of these attacks, the FBI has found some of the terrorists also inquired about using crop dusting planes. The terrorist weapons of tomorrow can just as easily be an oil refinery, cruise ship, or skyscraper's air conditioning unit as they may be a gun, bomb, or bug.

It is imperative that the new Office of Homeland Security work with the private sector to harden both the nation's critical infrastructure (e.g., stock exchanges, refineries, financial institutions, and air carriers) and those elements of our industrial base and infrastructure that can be used by the terrorists to inflict serious damage (e.g., stadiums).

We have taken steps over the last decade to protect our nation's infrastructure from use by terrorists. However, much remains to be done:

- Under federal laws, chemical and refining plants still provide worst case scenarios to the general public that provide a detailed blueprint for how to attack these plants.
- This month, a single shot from high powered rifle caused 285,600 gallons of crude oil to spill from the Trans-Alaska pipeline and shut the pipeline down for days—imagine what a terrorist bomb could do.
- The decentralization of the telecommunications industry coupled with advances in encryption technologies and the legal limits on federal wiretaps, together provide terrorists and other criminals with much too secure communications capabilities.
- Our international financial networks remain too easily available to terrorists, drug traffickers, organized crime, and others.
- From the structural design of skyscrapers, to inadequate security at stadiums, to air conditioning units vulnerable to chemical or biological attack, our buildings were not designed with terrorism in prevention mind.
- The recent report of the Graham Commission found that the security at our nation's ports is woefully inadequate.
- Even with the President's plans to upgrade air security, we still have little or no ability to adequately control our airspace or deter terrorists with armed marshals and flight crews, as well as federally supervised passenger and baggage screening law enforcement personnel.

And, these are just a few of the immediately obvious problems we face.

We cannot allow the demands of security to fundamentally alter our way of life or grind our nation and its economy to a halt. Security in an open democracy is necessarily imperfect. However, in this grave new world, we all need to better incorporate security into our day-to-day lives and work. This must be a priority for the new Homeland Security Office.

CONCLUSION

Listen carefully in the October air and you can hear the mournful cries of our nation's war dead. The 634,140 military service men and women who gave their lives in the 20th century to keep the horror of 11 September away from our shores are in anguish. They died by the thousands in the surf at Tarawa, in the skies over Schweinfurt, in the muddy hell of the Argonne, wrapped in the frozen white emptiness of the Yalu, and on the killing grounds of the Ia Drang. They gave their lives so that America could live in peace and security, not in the conditions of despair, injustice, poverty, and physical terror that characterize the desperate existence of so many across the face of the globe.

Those Americans in political leadership over the past two decades have failed the American people. It did not have to be this way. The failure was not due to shortcomings in our fighting men and women. We did not lack courage and resolve among our police officers, firefighters and emergency medical technicians.

Instead, our shortcomings were a lack of leadership and sensible policy judgments by our democracy's political, economic, media, and military elites over the past 15 years. We were collectively incompetent in the face of growing mountains of evidence that our nation was increasingly at risk of catastrophic losses from terrorist attacks.

In Shakespeare's play Macbeth, the protagonist takes false comfort in the witches' veiled warning that he is safe until "Birnam Wood come to Dunsinane Hill." Not long after, Macbeth is shocked to learn the woods have in fact moved on his castle—the troops of Malcolm his enemy have cut the trees and used them as camouflage. The unthinkable has happened, the once peaceful woods have been turned into a weapon against Macbeth, just as the witches prophesized. However, he was warned all along.

In this same vein, experts have for years told us about the vulnerability of our nation to terrorist attack. We studied the situation with wise, perceptive groups of men and women. We issued calls to action, which were wittily debated by the American political leadership. We carefully examined the many reasons why any and all anti-terrorist policy measures would be ineffective or, worse, result in a counter-reaction to threaten a value we hold precious. We issued multiple calls and sent innumerable diplomatic warnings and demarches. But it stopped there. We failed to hold the terrorists and their state sponsors accountable in the only ways they understand.

A complicated, dangerous world demands American leadership, economic and military support, and intelligence cooperation. Each generation seemingly has to learn through bloodshed that freedom is never free. Sadly, this time the wake up call came at the expense of over 5,000 innocent lives—people who were simply going about their daily routines.

Our political leadership has taken the necessary first step in Afghanistan by holding both the terrorists and those who gave them refuge and comfort responsible. Afghanistan will be the "schwerpunkt" of what is likely to be a six-month campaign. Then, we will have to confront the threat of terrorism more broadly—wherever else it arises.

This strategy, combined with the improvements to our domestic ability to deter and respond to terrorist acts and our international ability to track and preempt terrorist networks will be neither short nor simple. Maintaining international consensus in the coming war against terrorism will demand skillful diplomacy; maintaining domestic resolve in the face of American casualties will be equally difficult. Both tasks will require strong, decisive leadership.

In order to succeed we must better organize ourselves to the task. There can be no doubt that Governor Ridge in his new role as director of the Office of Homeland Security enjoys the support of the President, the Congress and the American people. Nor can there be any question that he has the skills, dedication and determination required to help our nation prevail. The only question that remains is: will our political leadership give him the tools he needs to get the job done?

Thank you once again Mr. Chairman and Ranking Member Thompson for the opportunity to appear before this Committee.

Prepared Statement of Charles G. Boyd,
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before the Governmental Affairs Committee,
U.S. Senate,
October 14, 2001

Mr. Chairman and Senators,

I am honored to be here today on behalf of the U.S. Commission on National Security/21st Century (USCNS/21), where I served as executive director. I will go directly to the issue at hand: an explanation of what the Hart-Rudman Commission actually proposed with respect to homeland security and why.

The Commission examined and debated extensively two approaches to dealing with the problem of myriad agencies randomly pursuing various aspects of homeland security: that of a White House Coordinator, or czar, whose mission would be to persuade 40-odd disparate groups into a common purpose; or, through integration of this mission into the National Security Commission process, and establishment of an operationally coherent functional department to perform core elements of the mission.

The Commission came to believe that any solution to the problem needed to be consistent with our cabinet form of government and integrated into a strengthened (NSC) process that incorporates homeland security into the overall national security framework rather than separating it as a stand alone mission. We proposed creating a National Homeland Security Agency (NHSA) whose Director or Secretary would represent this mission at the NSC level as an equal with the other components of national security. Given the realities of power within Washington the Commission strongly advocated the need for both line and budget authority. Finally, the Commission believed the enduring nature of the problem required new institutions that could deal with homeland security effectively over time, and not depend upon the fear of the moment or personal relationships with the President.

The homeland security challenge should be a central responsibility of the President's national security team, it must be incorporated into his strategic planning and adequately resourced, and the principal elements of it must be structured into an accountable organization to accomplish this objective. Effectiveness is derived from organizations having responsibility, authority, and accountability over missions and resources.

I now turn my testimony towards three very important issues. First,

why we must not delay in moving to establish a National Homeland Security Agency. Second, to reemphasize exactly what the Commission proposed and to clarify the notion of a "super agency" that the Commission did not propose. And third, to stress how the Commission resolved the mismatch between homeland security "strategic integration" and "operational authority."

The recent initiative taken by the Bush Administration is a good "First Step," a step hopefully that will not become the last step. Our Commission believed another step, creation of an agency or department is critical to success. Some believe that the National Homeland Security Agency is a "great idea," but that the time is not right to reorganize the government-not now, in the middle of a crisis. I strongly disagree. Were the crisis likely to be a short one, I might say wait. But, if this is to be, as our President believes, and certainly I believe, a long protracted struggle lasting years or perhaps decades, why would we want to continue indefinitely with a or dysfunctional system, or even a sub-optional one?

As long as a sense of urgency exists, former governor Ridge may be partially successful in his new office. I am thankful for that. However, as soon as the level of fear declines even slightly, old bureaucratic prerogatives will resurface-possibly aided by Congressional committees trying to guard their oversight responsibilities-and current organizations vested with different aspects of homeland security will ultimately move to regain control of resources and missions.

The second major issue needing clarification is the myth of the "super agency" sometimes attributed to the Hart-Rudman proposal. Our Commission recommended no such thing. The Commission recommended a modest reorganization of key entities dealing with critical infrastructure protection, border security and disaster response into a coherent single agency charged with those homeland security missions that could function within the NSC process as an equal, and still work effectively with state and local officials and private businesses. That meant reducing the "seams" between mal-positioned but important agencies such as the Border Patrol, Coast Guard, and Customs, the proper placement of which would produce the greatest effectiveness.

The international component of reducing proliferation and terrorism overseas remains in the realm of diplomacy and defense. The purely military aspects of homeland defense remain with the Defense Department though we recognize the need to better integrate DoD support to civil authorities. We did not envision the National Homeland Security Agency "taking over" law enforcement from the FBI and the Justice Department, but saw the need to better exchange information and to get the Justice Department out of crisis management. We did not envision National Homeland Security Agency "intelligence operatives" spying on Americans, but identified the clear need to create a single point of contact to request, get, and distribute needed intelligence.

And our proposal does not add bureaucracy; it merely reorganizes the existing entities in a logical fashion to create internal synergies and efficiencies.

Finally, I would stress that the Commission resolved the mismatch between security "strategic integration" and "operational authority." Our cross agency review found failures in both, and we derived solutions to both.

To solve the problem of strategic integration, the Commission concluded that homeland security could not be separated from other elements of national security, indeed it was central to it. All strategy and development, from diplomatic, economic and military considerations had to be within the context of potential impacts on the homeland. Intelligence priorities, too, had to be changed to include the homeland. In that regard, we called for establishing a national intelligence officer for homeland security in the National Intelligence Council, and development of a national intelligence estimate (NIE) for this area.

The National Homeland Security Agency addresses new operational dimensions of this mission. The NHSA is not a "new" institution in the physical sense-we merely realigned organizations to make them more effective. The border agencies and FEMA do not move anywhere, or go away. They will conduct all of their present missions but with common leadership, a common strategy and a common purpose. Their information systems, intelligence, equipment and operations will now be interoperable in the way we now conduct Joint military operations.

This proposed agency creates no "additive" structure. We are not proposing a highly centralized and unresponsive federal bureaucracy. We are not proposing to spend vastly more money than we are spending now. Though all change is feared and can be disruptive, our guess is that this particular moment, when a sense of national and community unity is at its highest in years, such a transition would be relatively easy. Finally, creation of such an organization would put in place a credible partner in the national security community that is sorely needed at this time.

We did not give the NHSA authority over the budgets of others, but we envisioned providing the agency with the resources needed to cover costs for cooperative efforts. We wanted legislation to establish its charter, with parameters for authority and responsibility. We wanted the Congress to have a voice in creating this entity, and felt it necessary for the Congress to provide proper oversight to ensure that civil liberties are guaranteed. Anyone seriously interested in civil liberties should be concerned about how the government has addressed this matter in the past few years. It is the absence of effective strategies and organizations that is a threat to civil liberties. The best way to ensure that we violate the U.S. constitution is to not organize, plan, and train for this mission. This realignment will result in a highly professional and sustainable organization with clear priorities and focus.

The need to transform our nontraditional security bureaucracies is more evident everyday. The status quo is not acceptable and delay in change is not acceptable. The vector between our growing vulnerability over the next decade and our organizational capacity to respond is widening. We know that we are calling for significant, politically difficult change, and we are not unmindful of what it would mean to implement our proposals. We know that what we are proposing requires complex Congressional action. Taken together, the proposals before you stretch over the jurisdiction of several committees of the House and Senate. So let me again express my gratitude for the opportunity to be here today, and for you to listen to my views.

Statement of
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Before the
Committee on Governmental Affairs
United States Senate

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I am Stephen Flynn, a Senior Fellow with the National Security Studies Program at the Council on Foreign Relations where I have been directing a project on "Protecting the Homeland: Rethinking the Role of Border Controls." I am also a career U.S. Coast Guard officer and a member of the Permanent Commissioned Teaching Staff of the U.S. Coast Guard Academy in New London, Connecticut of which I am a proud graduate. I am speaking to you today in my capacity at a scholar who has been thinking and writing these past five years about the issue of asymmetric warfare and the vulnerability of the U.S. homeland to a catastrophic terrorist attack. I am honored to be afforded this opportunity to testify on the how government should organize itself to meet the imperatives of Homeland Security. I was in New York City on that tragic Tuesday and like so many who work and live there, I lost someone I knew—Mr. Fred Morrone, Director of Public Safety and Superintendent of Police for the Port Authority of New York and New Jersey. Fred was as decent and committed a public servant as you would hope to find in this great nation. His tragic loss along with the thousands of others who now lie beneath the rubble of the World Trade Center towers has transformed what had been, prior to September 11, an academic issue for me. Now it is a deeply personal one. On the Monday following the attack, I stood at ground zero and saw a sight I hope never to bear witness to again. I commend this committee, and your leadership, Mr. Chairman, in holding this hearing today. There is no more vital issue before this country then getting Homeland Security right.

I have read the President's Executive Order Establishing the Office of Homeland Security and the Homeland Security Council. I have examined S. 1449 and the bill to establish the National Office for Combating Terrorism, and HR. 1158, the bill to establish the National Homeland Security Agency. I am familiar with the work of the Gilmore Commission having been afforded the opportunity to brief that commission on my research findings last April. I have also been honored to work in support of the Hart-Rudman Commission for which I served as a consultant on the Homeland Security issue.

I am pleased that the President has taken the important step of appointing Governor Tom Ridge to spearhead an effort to develop and coordinate the implementation of a comprehensive national strategy to secure the U.S. homeland from all forms of terrorism. Such a strategy is long overdue. I am also gratified that the legislative branch is weighing in on homeland security. As the President has said, the war on terrorism will be a long struggle. In light of that fact, it is vitally important we vigorously examine and debate where we should be heading and how we can best organize ourselves to get there. In the spirit of informing that enterprise, I offer the following.

As this nation struggles to come to grip with our new sense of insecurity and vulnerability, it needs to accept three things as givens. First, no matter how successful our current military efforts in Afghanistan, for the foreseeable future, there will continue to be anti-American terrorists with global reach. Second, these terrorists will have access to the means—including chemical and biological weapons—to carry out lethal and catastrophic attacks on U.S. soil. Last, the economic and societal disruption created by the September 11 attacks has opened Pandora's box. Future terrorists bent on challenging U.S. power will draw inspiration from the seeming ease at which America could be attacked and they will be encouraged by the mounting costs to the U.S. economy and the public psyche associated with the ad-hoc efforts to restore security following that attack.

These realities highlight a central fact that strikes at the very core of how this nation has organized itself to deal with national security for the five decades following World War II. Quite simply, we have built our defense and intelligence communities to fight an away game. But on September 11, America's new adversaries have sent an unequivocal message: they intend to wage their war on our home front. They also have indicated that they prefer to fight us asymmetrically by attacking the American people, our landmarks, and critical infrastructure. In so doing, they have redefined who will be the nation's new foot soldiers in the battle to protect this country from catastrophic terrorism. Those new foot soldiers are the front-line inspectors and agents working for the Customs Service, INS, Border Patrol, USDA, FAA, Coast Guard, and state and local law enforcement officers and first responders. Equally important are the private sector owners and operators of the nation's physical plant, telecommunications, power, water supply, and transportation sectors upon which our way of life and quality of life depends. They must all make security a fundamental priority.

For the past two years I have made field visits at crossings along the U.S.-Canada and U.S.-Mexico borders, to many of this nation's seaports and airports, as well as overseas in mega-ports such as Rotterdam and Hong Kong. My research question has been this: given the cascading tide of peoples and goods moving across international borders, can we intercept that which is illegal and dangerous, while facilitating that which is legitimate and benign? The answer I have arrived at has sobering implications for our post-World Trade Center world. Stated succinctly, this nation has no credible means to filter the bad from the good within the transportation networks that link the U.S. economy with the world. This has three very serious implications relevant to the national emergency we find now ourselves facing.

First, if the President and his national security team believe the odds are low for detecting and intercepting a catastrophic terrorist attack on U.S. soil, they will inevitably feel all the more pressure to quickly track down, arrest, or eliminate the perpetrators. Since an overseas manhunt requires some form of an international posse, the pressure to act with dispatch may lead to the cutting of deals with friends and foes alike that may carry a very costly price-tag over the long run. Combating terrorism will be a prolonged struggle. Therefore, policy makers need all the breathing room they can get in building a diplomatic, military, and economic strategy. Key to achieving this will be restoring a sense that terrorist threats on the United States can be managed.

Second, a sense of defeatism that once in transit, terrorists or the means of terrorism cannot be stopped, places a heavy burden on domestic policing and civil defense that may ultimately endanger fundamental liberties. If the assumption is that terrorists will always be able to slip through and set up shop on American soil, then the argument for allowing law enforcement more intrusive surveillance technologies becomes a compelling one. The case for reducing the barriers for the intelligence community to engage in domestic collection efforts also gathers more force. In addition to the loss of privacy protections, domestic counter-terrorist efforts can be used as a basis for justifying more restrictions on freedom of movement, and imposing a larger "security tax" on virtually all aspects of modern life.

Third, the absence of a credible capacity to filter illicit from licit cross-border activity places U.S. commerce at frequent risk of disruption. This stems not so much from acts of terror as it does from the U.S. response to it. In the hours following the Sept. 11 terrorist attacks, the combined result of grounding the commercial aviation fleet, stopping all inbound ships arriving in the nation's major seaports, and moving from Alert Condition 4 to Alert Condition 1 at the land border was to place a tourniquet around the transportation arteries that feed the national economy. This blunt response was prudent given the initial uncertainty surrounding the attacks. Any plane, train, ship or truck could have been a bomb. But, there is some risk that taking such drastic measures may now become standard procedure not just in the wake of a future attack, but whenever the government is presented credible intelligence about a threat of catastrophic terrorism.

For example, imagine that a covert human intelligence operation has successfully penetrated a terrorist cell and discovered that a container has been loaded with a chemical weapon and destined for an importer in the United States. At present, the U.S. government has virtually no means to identify the location of a container until it reaches its final destination port. Once it has left an Asian port it could be placed on a coastal freighter and then mixed among the more than million containers handled each *month* by Hong Kong or Singapore. There it could be loaded aboard a container ship destined for Vancouver, Seattle, Tacoma, Oakland, Los Angeles, Long Beach, or even the Panama Canal where it could enter the United States through any of the seaports on the Gulf or Atlantic coasts. Given this situation, the President would face the unhappy choice of effectively creating maritime transportation gridlock so as to allow each container to be examined when it arrives, or praying that the container does not get diverted or the weapon is not activated before it can be detained at its final destination.

In the post-World Trade Center world, two things can be accepted as certainties. First, there exists a heightened risk of another attack either by adversaries or terrorists who are inspired by the example of September 11 or in retaliation to the U.S. response. Second, stepped-up counter terrorist intelligence work will inevitably produce more warnings of possible attacks; i.e., the more the intelligence community looks, the more they are likely to find threats that should be taken seriously. In both instances, we face the likely prospect routinely imposing an embargo on our own economy as a preventative measure to protecting the homeland. Over time, this has the potential to advance the primary aim of the terrorist: to weaken the United States by creating profound economic and societal disruption.

What does all this mean for the way we organize ourselves for homeland security?

First, it means that we need to fix some very broken front line agencies. The Customs Service, INS, Border Patrol, USDA, and Coast Guard simply lack the manpower, data management tools, communications equipment, and collaborative mechanisms to protect our borders. A few facts make the case:

-- Despite the fact that Canadian Security and Intelligence Service (CSIS) believes that there may be as many as 50 terrorist groups with a foothold in Canada, as of August 2001, the U.S. Border Patrol had just 330 agents supported by a single analyst. Their monumental task is to detect and intercept illegal border crossings along the vast open spaces of the 4000-mile land and water border with Canada.

-- U.S. trade with Canada climbed from $116.3 billion in 1985 to $409.8 billion in 2000, but U.S. Customs has only 700 inspectors assigned to the northern border—200 less then it had twenty years ago. On the border crossings in the State of Washington, Montana, North Dakota, Minnesota, Michigan, New York, Vermont and Maine, routinely half of the existing primary inspection booths remain closed solely because of the understaffing of U.S. Customs and INS inspectors.

-- After a decade of budgetary neglect, the U.S. Coast Guard which is tasked to maintain port security and patrol 95,000 miles of shoreline, has had to reduce its ranks to the lowest level since 1964 and to routinely cannibalize its decades-old cutters and aircraft for spare parts to keep them operational. In the 1990s, the Coast Guard did assemble six specially trained "Port Security Units." But these units are manned by reservists and funded by the Department of Defense to serve *overseas* so as to protect military forces operating in foreign ports.

-- These frontline agencies cannot effectively talk with each other. For example, imagine there is a ship with a shadowy record of serving in the darker corners of the maritime trade. Its shipping agent sends notice that it will be importing a type of cargo that does not square with its homeport or its recent ports of call. It is manned by crew members some of which are on an intelligence watch list because they are suspected of having links with radical Islamic fundamentalist organizations. This ship is scheduled to arrive on the same day that a tanker carrying highly volatile fuel is also arriving in port. It would be reasonable for the American public to expect that a ship with a shady past, carrying suspect cargo, and manned by a questionable crew would be identified, stopped and examined before it could enter U.S. waters with potentially tragic consequences. However, under the current border management architecture, odds are this would not happen because none of these red flags would be viewed simultaneously. The Coast Guard is likely to know something about the ship and will know also about the scheduled arrival of a tanker carrying hazardous cargo. Customs will receive some advance cargo manifest information. INS may or may not know that much about the crew—depending on the kind of visas the sailors are holding and the timeliness with which the shipping agent faxes the crew list. In addition, none of the frontline inspectors in these agencies are likely to have access to national security intelligence from the FBI or the CIA. And all of these agencies will have more people,

cargo, and ships that spark their interest and concern than they have the manpower to intercept and inspect.

We need to ask how these front-line agencies could be so broken? The answer lies in no small part because their parent departments, congressional appropriators, and OMB reviewers have failed to appreciate the vital security role these agencies play.

Finally, we need to ask how can we fix this—and soon. "Better coordination" alone will not answer the mail. Coordinating broken entities that have not been well served by their parent departments will not provide the nation with the kind of robust border management capability the country requires to prevent terrorists attacks on U.S. soil. These agencies will need a serious long-term infusion of resources to man, equip, and train them to operate in the more complex security environment within which they must perform. They will require a powerful advocate in the executive branch, and strong allies on Capitol Hill. The best way to achieve that is to assign these agencies to a new home in the U.S. government under one roof.

September 11 was a watershed event. Many of the people I rode in with early that morning on the commuter train to New York never made the return trip home to their husbands, wives, children, and parents. There is much more we could have done prior to September 11 to prevent terrorist and the means of terrorism from being able to target this nation. There is much we can do and now must do to reduce the risk of another catastrophic event on U.S. soil. When it comes to rethinking how to organize the U.S. government to meet the vital homeland security imperative, everything should be placed on the table.

Thank you for this opportunity to present my thoughts before you. I welcome your comments and questions.

STATEMENT OF

THOMAS H. STANTON

Mr. Chairman, Senator Thompson, and Members of this distinguished Committee:

Thank you for the invitation to testify today on legislative options to strengthen national homeland defense. It is a great honor to be able to contribute to this discussion of an issue of importance to all of us.

I am a Washington, DC, attorney. My practice relates to the capacity of public institutions to deliver services effectively, with specialties relating to government organization and design, implementation of federal programs, federal credit and benefits programs, and regulatory oversight. I am also a Fellow of the Center for the Study of American Government at the Johns Hopkins University and teach on the law of public institutions. I am a former member of the federal Senior Executive Service and serve as Chair of the Standing Panel on Executive Organization and Management of the National Academy of Public Administration. My comments today represent my own personal views, and not necessarily those of the National Academy. However, a number of other Academy Fellows, with extensive experience in the field of federal organization, have contributed to this testimony.[1]

Summary and Overview

The Committee's letter of invitation requests that witnesses address two bills. One bill, S. 1449, to Establish a National Office for Combating Terrorism, would create a statutory basis for the current Office of National Homeland Security and would strengthen its powers and role in coordinating the activities of federal, state, and local agencies whose activities contribute to homeland security. The second bill, currently in discussion draft form, would create a Department of National Homeland Security by consolidating the activities of four major organizations, the Federal Emergency Management Agency (FEMA), the Customs Service, the Border Patrol, and the Coast Guard, into one cabinet department.

In my testimony today, I would like to make five points about these and similar proposals:

1. The President's creation in the Executive Office of the President of an Office of National Homeland Security represents an important first step in promoting the coordination of federal, state, and local activities that is essential in the current emergency.

2. The enactment of legislation along the lines of S. 1449 would help to strengthen the authority of the Director and the Office. The ability to review the budgets of federal agencies that relate to functions of the office

[1] NAPA Fellows Murray Comarow, Alan Dean, Mortimer Downey, Matthew Holden, Dwight Ink, Herbert Jasper, Bernard Martin, Ronald Moe, and Harold Seidman have contributed to the Standing Panel's deliberations on organizational options relating to national homeland security. However, time did not permit the Standing Panel to review and adopt this testimony. Therefore, all responsibility for these comments is solely mine.

is likely to be especially useful, provided that the role of the office vis-à-vis the Office of Management and Budget (OMB) is clarified.

3. It is important to avoid mixing the goals of these two bills. In particular, care is required to assure that the same person does not gain authority both to carry out coordinating functions and also to implement direct operational responsibilities as a department secretary. Combining an interagency coordinating role with the role of leader of a major department inevitably will raise concern that the head of the department is using the coordinating role to further the interests of his or her own organization. This will tend to undermine the position by fostering perceptions of partiality.

4. The complex issues surrounding national homeland security need to be carefully assessed before enacting a far-reaching organizational change such as is envisaged by the discussion draft of the bill to create a Department of National Homeland Security. Transferring operating functions from four existing agencies to a new department could well create more problems than it solves. It will likely take some time before all of us fully understand and can debate the implications of a major restructuring so that such a response might be devised. Because of the urgency of the problem, the approach of S. 1449 would provide much more rapid action and provide time to determine whether more structural steps are necessary, and if so, what they might be.

   Merging of disparate organizations such as the Federal Emergency Management Agency, Customs, the Border Patrol, and the Coast Guard, will increase the priority that national security is given in these organizations. On the other hand, each of these agencies has important functions that do not relate to national security that must be considered in any reorganization proposal. Moreover, many other agencies that are critical to national homeland security would not be included in a merger such as is contemplated by the draft bill.

5. If this committee ultimately does decide to seek an organizational consolidation such as is envisaged by the draft bill to create a Department of National Homeland Security, then it would be beneficial to use the vehicle of a reorganization act to propose to the President that he submit legislation to make such a change. The Executive Branch has access to the detailed information needed to make careful tradeoffs that attempt to maximize the benefits of a particular reorganization and minimize the costs.

   This committee is in a position to enact a reorganization act along these lines because of your traditional jurisdiction over general reorganization matters. A copy of a tentative general reorganization bill, drafted by

several members of the NAPA Standing Panel on Executive Organization and Management, is appended to this testimony for your consideration. This language is intended to replace the current reorganization authority that was affected by the *Chadha* decision of the Supreme Court.

Comments on S. 1449

Let me now supplement these points concerning the two bills before the Committee. S. 1449, the bill to create a statutory basis for the current Office of National Homeland Security, addresses one of the major issues that cannot be addressed in the discussion draft bill to create a new Department. Many of the agencies most concerned with homeland security – and the FBI and the Bureau of Consular Affairs of the State Department come to mind here as examples – are not included in the proposal to create a new Department. By contrast, the coordination function authorized by S. 1449 will include all agencies, federal, state, and local, that must cooperate on the issue of terrorism prevention and response.

S. 1449 is an improvement over the present Office of Homeland Security that the President has created by Executive Order. The bill would give statutory basis to the office and thereby would help to strengthen the hand of the Director in attempting to coordinate the activities of many different departments and agencies. Perhaps most beneficial, the bill would provide the office with the statutory responsibility to coordinate the development of a comprehensive annual budget for the programs and activities that are a part of the national strategy that the office will develop. This too will strengthen the hand of the Director in his coordination activities, although the relative roles of this Office and OMB need to be clarified. OMB needs to remain the President's primary budget arm. To have two co-equal budget coordinators would give rise to enormous problems of confusion and internal strife.

Comments on the Discussion Draft Bill

In organizational design, the key is to fit appropriate organization form to the desired outcome. Although the exercise is not always easy, it is important to define the problem with care before reaching for an organizational solution. This is an essential task because of the risk that some organizational answers can complicate rather than solve the fundamental problems that beset an agency or program. Harold Seidman, the nation's leading authority on government organization, points out that there is no organization that cannot be made worse through a poor reorganization.

Organizational solutions may be appropriate to help address specific types of problem, such as the need (1) to combine disparate governmental units to provide an organizational focus and accountability for carrying out high-priority public purposes, (2) to help assure that information flows to the proper level of government for consideration and possible action, and (3) to assure that resources are more properly allocated to support high-priority activities.

Here, the deliberations of the United States Commission on National Security/21st Century are helpful in understanding the considerations behind the draft bill to create a Department of National Homeland Security. The Commission proposed the creation of a National Homeland Security Agency and identified the following requirements:

- A single person, accountable to the President, should be responsible for coordinating and overseeing US government activities related to homeland security;
- Selected homeland security activities, related to securing the borders of the United States, should be consolidated, to improve their coherence and effectiveness;
- Planning mechanisms should be established to define clearly specific responses to specific types of threats; and
- Appropriate resources and capabilities must be available.[2]

After analyzing these needs, the commission argued that a new agency was required that would combine (1) FEMA's capacity to respond to crises and emergency planning scenarios, and (2) the border security responsibilities of the Border Patrol, Customs, and the Coast Guard. In particular, the commission pointed out, "the three organizations on the front line of border security are spread across three different cabinet departments....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."[3]

A threshold problem is one of composition. On the one hand, the new agency would not include many agencies whose activities are essential to effective homeland security. On the other hand, the commission did not explore the consequences for non-security functions if the proposed reorganization took place. The Coast Guard, for example, has many responsibilities – for safety, search and rescue, maritime pollution, high seas fishing, and oceanographic research, for example – that have little overlap with enforcement of the security of the nation's borders. According to one rough estimate only perhaps one-fifth of Coast Guard functions may relate directly to homeland security. By contrast to the commission's recommended consolidation of agencies, S. 1449 retains flexibility for policymakers to include or exclude agencies and functions as the definition of the problem of assuring homeland security continues to evolve.

Another issue involves the role of field offices and the commission's sense that the new Homeland Security Office should somehow try to integrate the activities of each of the constituent agencies – FEMA, the Border Patrol, Customs, and the Coast Guard. The reorganization could be quite disruptive if it included an attempt to integrate these agencies in any fundamental way. As Harold Seidman points out, "[M]easurable and

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[2] United States Commission on National Security/21st Century, *Road Map for National Security: Imperative for Change*, February 15, 2001, pp. 14-15.
[3] *Ibid.*, p. 15.

immeasurable costs may be substantial because reorganizations are disruptive and often require transfers and geographical relocation of personnel, facilities, and records"[4]

It is not clear that the United States could afford to wait in the current war because of the disruption caused by any major reorganization. On the other hand, if the four major agencies were retained within the new department largely in their present autonomous structures, then the benefits of reorganization in fostering interagency cooperation would be limited.

Finally, the commission did not extensively analyze whether less rigid organizational solutions, such as are suggested in S. 1449, could alleviate most of the identified problems, for example of resource constraints. To its credit, the commission published its report before September 11 and therefore could not have known how border security would become an urgent national priority, even without consolidation of four agencies into a new office.

Clearly, such considerations call for analysis, judgment and balance, and the commission's reorganization recommendation is instructive in this regard as well. The commission did not simply call for the Congress to enact legislation to authorize and direct the desired reorganization. Instead, the commission called upon the President to propose such legislation. I would like to echo this emphasis on the responsibility of the Executive to generate a reorganization plan and would urge that any such plan be based upon careful analysis of the detailed information needed to make careful tradeoffs that maximize the benefits of a particular reorganization and minimize the costs.

The draft general reorganization bill attached to this testimony would create a formal statutory context for inviting the President to submit legislation to create a new Department or Agency of National Homeland Security. Under this draft reorganization bill, the President's proposed reorganization plan would be considered under expedited procedures and with an up-or-down vote in each house, without amendment. Negotiations undoubtedly would take place that would give stakeholders an opportunity to affect the plan before it was actually submitted for congressional consideration.

Mr. Chairman and members of this Committee let me again thank you for holding these hearings and for the opportunity to contribute to the discussion of these issues that are of such critical importance to our country.

Attachment

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[4] Harold Seidman, *Politics, Position and Power: The Dynamics of Federal Organization*, fifth edition, New York, NY, Oxford University Press, 1998, p. 12.

PROPOSED EXECUTIVE REORGANIZATION STATUTE

Title 5 – Government Organization and Employees
Part 1 – The Agencies Generally
Chapter 9 – Executive Reorganization

Sec. 901. Purpose

(a) The Congress declares that it is the policy of the United States

(1) to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;

(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the effectiveness of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

(c) It is the intent of Congress that the President should provide appropriate means for broad citizen advice and participation in restructuring and reorganizing the executive branch.

(d) The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section.

Sec. 902. Definitions

For the purpose of this chapter -

(1) "agency" means -

(A) an Executive agency or part thereof; and
(B) an office or officer in the executive branch; but does not include the General Accounting Office or the Comptroller General of the United States;

(2) "reorganization" means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title; and

(3) "officer" is not limited by section 2104 of this title.

Sec. 903. Reorganization plans

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for -

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(3) the consolidation or coordination of part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(4) the authorization of an officer to delegate any of his functions; or

(5) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions. The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session, except that no more than three plans may be pending before the Congress at one time. In his message transmitting a reorganization plan, the President shall describe any improvements in management, delivery of Federal services, execution of the laws, and increases in effectiveness of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan. The President shall also submit such further background or other information as the Congress may require for its consideration of the plan.

(c) Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution described in section 909 has been ordered reported in either House, the President may make amendments or modifications to the plan, consistent with sections 903-905 of this title, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this chapter. The President may withdraw the plan any time prior to the conclusion of 90 calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

Sec. 904. Additional contents of reorganization plan

A reorganization plan transmitted by the President under section 903 of this title -

(1) may, subject to section 905, change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its

head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and one or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished. A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than four years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

Sec. 905. Limitation on powers

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of -

(1) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(3) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress; or

(4) increasing the term of an office beyond that provided by law for the office.

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress (in accordance with section 903(b)) on or before December 31,2006.

Sec. 906. Effective date and publication of reorganization plans

(a) Except as provided under subsection (c) of this section, a reorganization plan shall be effective upon approval by the President of a resolution (as defined in section 909) with respect to such plan, if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the resolution.

(b) For the purpose of this chapter -

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

Sec. 907. Effect on other laws, pending legal proceedings, and unexpended appropriations

(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed by the plan.

(b) For the purpose of subsection (a) of this section, "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within twelve months after the reorganization plan takes effect, showing a necessity

for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) The appropriations or portions of appropriations unexpended by reason of the operation of the chapter may not be used for any purpose, but shall revert to the Treasury.

Sec. 908. Rules of Senate and House of Representatives on reorganization plans

Sections 909 through 912 of this title are enacted by Congress -

as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress; and they supersede other rules only to the extent that they are inconsistent therewith.

Sec. 909. Terms of resolution

For the purpose of sections 908 through 912 of this title, ''resolution'' means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: ''That the Congress approves the reorganization plan numbered transmitted to the Congress by the President on ____, 20__.'', and includes such modifications and revisions as are submitted by the President under section 903(c) of this chapter. The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than one reorganization plan.

Sec. 910. Introduction and reference of resolution

(a) No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under section 903, a resolution, as defined in section 909, shall be introduced (by request) in the House by the chairman of the Government Reform Committee of the House, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(b) A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 75 calendar days of continuous session of Congress following the date of such resolution's introduction.

Sec. 911. Discharge of committee considering resolution
If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 910 (or, in the absence of such a resolution, the first resolution introduced with respect to the same reorganization plan) has not reported such resolution or identical resolution at the end of 75 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

Sec. 912. Procedure after report or discharge of committee; debate; vote on final passage

(a) When the committee has reported, or has been deemed to be discharged (under section 911) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

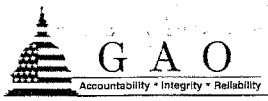
(c) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(d) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(e) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then -

(1) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(2) the vote on final passage shall be on the resolution of the other House.



Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

GAO STATEMENT
AUGUST 6, 2001

GAO is seeking certain information relating to the National Energy Policy Development Group. We are reviewing the Vice President's August 2 letter to Congress in which he declined to provide GAO with the information we have requested. However, at this time, a few basic points warrant clarification.

GAO firmly believes that it has clear statutory authority to perform this review, and to obtain the information we are seeking. We are requesting information from the Vice President in his capacity as Chair of the National Energy Policy Development Group. The information we are requesting is purely factual in nature and relates solely to the process used by the group. We are also asking the National Energy Policy Development Group to supply additional information concerning the costs of its activities. Both types of information are commonly provided to GAO.

Contrary to the Vice President's statements, we are not interested in obtaining his daily schedule or reviewing communications involving the President, the Vice President, the President's senior advisors and others. We have made this clear in several communications to the Vice President's representatives. We are simply asking for facts that the Vice President, as Chair of the National Energy Policy Development Group, or others representing the group, would be in a position to provide to GAO.

In an attempt to resolve our differences, GAO officials have engaged in numerous conversations with the Vice President's representatives and others. In addition, Comptroller General David M. Walker attempted to speak with the Vice President last week without success. According to Walker, "We will continue to attempt to resolve this matter in a reasonable and timely manner. However, if necessary, we are prepared to issue a formal report on this matter to Congress, the President, and other executive branch officials to obtain the information we are seeking." This report serves as a preface to any potential certification by the executive branch or possible suit by the GAO.

STATEMENT OF SENATOR DIANNE FEINSTEIN
October 12, 2001

Thank you Mr. Chairman, for inviting me to testify this morning on what I believe to be a crucial initiative in organizing our nation to fight against the looming menace of terrorism.

Last Spring, along with Chairman Graham of the Senate Select Committee on Intelligence, as well as a number of my colleagues, we took a long hard look at our nation's current efforts to combat terrorism. We reviewed testimony, classified and unclassified, developed through numerous hearings and briefings conducted by the Intelligence, as well as the Judiciary, committee. We studied the work of a number of commissions which have been asked to review our terrorism efforts. We compared terrorism to earlier efforts to respond to pressing problems of critical import, most notably the American experience after Pearl Harbor.

The result of our efforts was chilling. It was absolutely clear that there was, in fact, no national terrorism policy, no coherent organization to combat terrorism, an no well-thought out plan of action. Worse still, it was clear that there was nobody in charge.

The lack of central authority was evident even in our efforts to conduct oversight and provide resources for the fight against terrorism - it was impossible to call any single witness to describe, yet alone justify, the amounts spent on terrorism, and the allocation of resources between and among the more than 45 agencies and departments responsible for countering terrorism.

All of this was before the terrible events of September 11. I do not yet know whether that tragedy could have been avoided, or whether there was a failure of intelligence. Perhaps there was. What I do know is that the lack of coordination, the absence of central leadership and the fundamentally fragmentary nature of our strategy and response invited a failure.

Before September 11 this discussion was seen as largely academic. The spectre of mass destruction has moved the discussion from the seminar room to the situation room, and I am pleased to see that President Bush recognizes the issue as a central one. I believe he has taken the critical first steps in appointing Governor Ridge to lead an effort to coordinate our terrorism efforts.

The Graham-Feinstein Bill, which would establish a "National Office to

Combat Terrorism" would lend statutory structure, and the legitimacy that comes from the spoken will of the People, to the commendable efforts already made by the Administration.

The Graham-Feinstein Bill will do four critical things:

It would establish, in a single individual, the responsibility to develop a national strategy to combat terrorism.

It would empower that individual to coordinate the efforts of the many agencies and departments charged with carrying out that strategy

It would allow that individual to certify, and if necessary, decertify, the budgets of these agencies and departments, giving him the power to ensure that coordination is effective;

It ensures that this individual, trusted with so much responsibility, is accountable to the Congress, subject to oversight, and can receive the ongoing approval of the legislative branch that can come only from vigorous, but constructive, oversight.

Some have asked whether this law is needed, given the President's appointment of Governor Ridge, and his issuance of an Executive Order structuring his office.

My answer is yes. In fact, I have reviewed that Executive Order, and it is exactly what I would have hoped would have been issued if the Graham-Feinstein Bill had passed last month, and been signed into law. This is because the bill does not seek to micromanage to Executive Branch, or prescribe, in detail, the structure and nature of the coordinating role. Rather, our intent in drafting this Bill was to provide Congressional direction, in the broadest terms, to a critical change in our Government's organization.

It is no exaggeration to say that today, as I speak, terrorists are plotting another attack. Perhaps this threat has always been with us, and we just did not think about it. We can no longer ignore it. Without a centralized, coordinator, America's counter-terrorism efforts are doomed to fragmentary ineffectiveness.

This is simply not acceptable.

I strongly urge this Committee to consider, with the utmost seriousness,

the need to create, through statute, a functioning, powerful and effective office, that can make sense of the kaleidoscopic efforts of our counterterrorism program, and create a rational, coherent strategy to guide our actions.

Again, I wish to thank the Committee, and the Chairman and Vice-Chairman for the leadership on this critical issue. I think that there is no more important function for this body at this time in our nation's history, than to turn its attention to the legal framework which underpins the organization of America's response to the vicious attacks of last month.

STATEMENT BY THE HONORABLE JIM GIBBONS (R-NV)
Presented to the Senate Committee on Governmental Affair
October 12, 2001

I would like to thank the Committee for the opportunity to testify on behalf of H.R. 3026, legislation which has bipartisan support. I am pleased this panel is considering this legislation which will give Director of Homeland Security the budget authority necessary to accomplish his job while maintaining the our statutory congressional oversight and making permanent the Homeland Security Council.

Without budget authority, the new Director will be required to "coax" the other agencies to help him with his requests. He will also have the delicate job of coordinating many agencies with competing interests and agendas. This will be more difficult as he ties together the Federal, State, and local agencies involved with intelligence collection.

Ash Carter of the Boston Globe noted: "White House czars have historically been toothless, unable to control the activities of Cabinet bureaucracies. To be effective as homeland security czar, Ridge will need... influence over the budgets." H.R. 3026 gives the Director of Homeland Defense real "teeth" by granting him the authority to approve or reject any budget that pertains to the National Homeland Security Strategy in collaboration with the Office of Management and Budget.

H.R. 3026 also provides necessary congressional oversight by requiring Senate confirmation. It will also require an annual report to Congress, certifying the budget as it pertains to homeland defense. This certification will be submitted in the President's annual budget request to congress outlining the Director's support as it pertains to the National Homeland Security Strategy.

Finally, it makes permanent not only the position of the Director of Homeland Security through legislation, but also the Homeland Security Council. H.R. 3026 would make the Director of Homeland Security a cabinet-level position by establishing it as an executive schedule I pay rate; the rate which is held for cabinet positions. It would establish the Director as the Chairman of the Homeland Security Council. The Homeland Security Council would include all relevant cabinet members, intelligence agencies, FEMA, CDC, and other officials deemed necessary by the Chairman.

Tom Ridge and his successors need H.R. 3026 to succeed in his new role as Director of Homeland Security by giving him the budget authority he requires. Congress needs H.R. 3026 to maintain the statutory oversight necessary to maintain our role and responsibility. America needs this legislation because we can not afford to let this office be another well intended idea that gets dragged down to inconsequence by the weight of bureaucracy.

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Committee on Transportation and Infrastructure

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Honorable Steven C. LaTourette
Chairman of the U.S. House of Representatives
Subcommittee on Economic Development, Public Buildings and Emergency Management

Statement for the Record
Before the Senate Committee on Governmental Affairs
October 12, 2001

I would like to thank the Committee, Chairman Lieberman and Ranking Member Thompson for inviting me to submit testimony for the record of this important hearing. In April of this year, as Chairman of the Economic Development, Public Buildings and Emergency Management Subcommittee, I held a similar hearing on three counter terrorism bills introduced in the House.

The hearing examined, H.R. 525, introduced by Congressman Wayne Gilchrest, H.R. 1158, introduced by Congressman Mac Thornberry and H.R. 1292, introduced by Congressman Ike Skelton. In short, while all of the proposals contain valuable concepts, hearing testimony revealed that the critical element of any proposal is the inclusion of a national strategy. Only two of the proposals include this component, H.R. 525 and H.R. 1292. H.R. 1158, while recognizing the need for a strategy, does not place responsibility for developing or identify the essential elements of a strategy.

While I commend my colleagues for their recent vigor to introduce counter terrorism legislation, I believe it is the proposals introduced before the attacks of September 11 and those introduced to support the structure created by the Administration that have the most merit. Moreover, legislation that calls for huge budget increases without requiring a reasoned plan for utilizing the funds is not a useful expenditure of our

tax dollars. History has shown that the success or failure of a newly created office hinges upon the support of the Administration. Therefore, hearings like this one that provide a forum for an extensive review of legislative proposals concerning the national counter terrorism effort are necessary. Again, I would like to commend you for your efforts in bringing together leaders on this issue from both the House and Senate.

Presidential Decision Directive 39, issued during the Clinton Administration, described the responsibilities of lead federal agencies in the aftermath of a domestic terrorist attack. The Federal Bureau of Investigation (FBI) is in charge of crisis management, or law enforcement activities, and the Federal Emergency Management Agency (FEMA) is in charge of consequence management, or recovery and rescue operations. Through its jurisdiction over FEMA, the House Transportation and Infrastructure Committee has oversight responsibility over these activities.

At the beginning of the 106th Congress, nearly three years before the terrorist attacks of September 11, the Committee began a review of the federal programs created to train and assist the Nation's 11 million state and local emergency personnel in dealing with the consequences of terrorist attacks. At that time, intelligence reports indicated that a terrorist attack possibly using a weapon of mass destruction would occur in the United States within ten years. In the process of its review, the Committee held five hearings during the 106th and 107th Congresses and reported legislation (H.R. 4210 and H.R. 525) to assist in the organization of these programs.

H.R. 4210 was introduced by Congresswoman Tillie K. Fowler during the 106th Congress and passed the House under suspension on July 25, 2000. The bill would have made necessary amendments to the Robert T. Stafford Act and created an office in the Executive Office of the President to organize all federal efforts regarding domestic preparedness and consequence management, however, the Senate did not act on the measure. During this Congress, Congressman Wayne Gilchrest reintroduced the Fowler bill as H.R. 525 (S. 1453 as introduced by Senator Smith). As amended during Subcommittee markup, the bill would make necessary amendments to the Robert T. Stafford Act and authorize the Office of National Preparedness (ONP) within FEMA. Both Congressman Gilchrest and I have worked closely with the Administration to support and authorize the ONP as created by the President in a statement he made on May 8, 2001. The bill is also supported by the International Association of Fire Chiefs, the National Emergency Management Association, the National League of Cities and the Joint Commission on Accreditation of Health Care Organizations.

To date, more than 40 departments and agencies have established programs to assist state and local emergency personnel in responding to terrorist attacks. The programs primarily equip or train state and local officials how to recognize and respond to a terrorist attack or create federal response teams that can assist once an attack occurs. Federal funding for counter terrorism programs has nearly doubled from a total of $6.5 billion in FY 1998 to a FY 2002 budget request of $12.8 billion. Currently, there are close to 100 federal training programs and more than 100 federal response teams. The

Office of Management and Budget estimates that of the $12.8 billion requested in FY 2002, approximately $1 billion will be spent on preparedness and response programs.

Unfortunately, these programs were created in the absence of a national strategy and with little or no coordination among the agencies. The lack of coordination has resulted in a number of serious problems. First, the multitude of programs is confusing to those they are intended to help. During a hearing held by the Committee in May of this year, Arlington County Virginia Fire Chief Edward Plauguer noted the confusion he experiences when working with the federal programs. "...[W]e need focus... We have got to stop the confusion. ... As I try and have repeatedly tried to work within the federal family, it is not only confusing, but it is often times contradictory." Second, too many of these programs duplicate other programs wasting precious preparedness funding. Third, there are no established standards for training or equipment, which causes further confusion and waste. Finally, because there are no defined goals or a defined level of preparedness, we do not know how effective these programs are at preparing our communities for a terrorist attack.

Each of the Committee's five hearings included the testimony from Administration officials, local and state emergency responders, organizations with memberships involved in emergency response or management, and subject matter experts. The Committee has also worked closely with the Executive Office of the President, federal agencies, independent experts, Congressionally authorized panels, the General Accounting Office and the Congressional Research Service. The substance of the Committee's review revealed major flaws within the system created to protect and prepare our state and local emergency personnel when responding to terrorist attacks. H.R. 525 contains elements to address all of the Committee's findings.

Specifically, the Committee found that:

(1) There is no national strategy for preparedness against terrorist attacks;
(2) Despite the multitude of existing federal preparedness programs, there is no defined end-state to determine at what point communities are prepared for a terrorist attack involving a weapon of mass destruction;
(3) Federal efforts are not coordinated resulting in fragmented, overlapping and contradictory programs;
(4) Emergency responders insist there must be a single entity in charge of coordinating federal preparedness efforts; and
(5) The coordinating entity must have authority over other relevant federal agencies;
(6) Federal counter terrorism budgets have increased dramatically since FY 1998 contributing to turf battles between agencies to create more programs regardless of their purpose or value.

In response to the first attack on the World Trade Center and the Murrah Federal Building in Oklahoma City, we – Congress and the Executive Branch -- created a

jumbled mass of programs to address what were then considered emerging terrorist threats. Unfortunately, the bulk of these programs were created with no overarching plan and with no communication between responsible agencies. The confusion has contributed to the turf war between agencies over budgets and responsibilities for preparedness.

What we risk in the aftermath of the Nation's most recent terrorist attacks is repeating the mistakes of the past. Congress must take a thoughtful and reasoned approach to addressing this very broad problem. We must allow the Executive Branch an adequate, but brief, amount of time to provide a structure they can work with and to produce a strategy that will identify what is broken and what can work better with some fine-tuning. Once that strategy is identified, Congress should then address how to work with the President to facilitate this effort.

Now is not the time to force the Administration to reorganize the structure of our federal agencies. Our focus should be to identify gaps in the federal counter terrorism effort agency by agency and program by program. Nor should we assume that Administration positions stated prior to September 11 have changed. The Administration continued its review of the federal counter terrorism effort through the Vice President's task force. That review has culminated in the creation of the Office of Homeland Security headed by former Pennsylvania Governor Tom Ridge. It should be the task of this office to determine what, if any, new structures should be created. Obviously, it will take time before the Executive Order, issued Monday, October 18, can be fully implemented. However, it outlines a detailed and thorough approach for assessing the federal structure and its capabilities. It is premature to restructure a handful of federal agencies until we know exactly what we are dealing with and which agencies are involved.

Our focus must now be to improve law enforcement and intelligence gathering and to make sure our communities can respond to the entire range of terrorist threats. We know now that we are vulnerable. It is our responsibility to address these problems and fix them.

Over the past several years multiple Congressionally authorized panels and independent research groups have studied this issue. Several of these panels were represented during a hearing before the House Subcommittee on Terrorism of the Select Committee on Intelligence in the weeks following the attacks. During the hearing, each of the witnesses were asked how they would change the findings of their reviews based on recent events. Each of the witnesses stood fast to the conclusions drawn prior to September 11, 2001. The best and most comprehensive work is not conducted in a reactionary fashion. We cannot afford to let knee-jerk reactions guide the work of Congress.

Organizing for Homeland Security

Statement Prepared for

The Committee on Governmental Affairs
United States Senate

October 12, 2001

By

Ivo H. Daalder and I. M. Destler

The authors are, respectively, a senior fellow at the Brookings Institution and a professor at the School of Public Affairs, University of Maryland. They are co-directors of Project on the National Security Council, co-sponsored by Brookings and the Center for International and Security Studies at Maryland.

Organizing for Homeland Security

The war on terrorism has produced a fundamental reorientation across a wide range of U.S. policies—from defense and foreign affairs to fiscal and monetary policy to law enforcement and intelligence collection. Shortly after the horrific attacks of September 11, President George W. Bush announced that from that point forward the anti-terrorism campaign would be "the focus of my administration."[1] In subsequent weeks, the Pentagon revised its quadrennial defense review and declared defense of the U.S. homeland to be "the Department's primary mission."[2] The social security "lockbox" of campaign 2000 fame was thrown out by Democrats and Republicans alike, as Congress passed a $40 billion relief package and prepared to stimulate a rapidly deteriorating economy with budget allocations of many billions more. Law enforcement and the intelligence community refocused their efforts, feverishly sifting through the evidence in an effort to determine what had happened, while simultaneously trying to head off potential new attacks. And throughout the United States, at harbors, ports, border crossings, and major installations—from nuclear power stations and hydroelectric dams to tunnels and bridges to computer networks and electricity grids—enhanced security measures became the singular focus of activity.

This reprioritization of U.S. policy will go a long way to focus the nation's energies on fighting the evident threat of global terrorism. But ultimate success in this effort will at least in part depend on how the U.S. government is reorganized to reflect this new priority. As Dwight D. Eisenhower famously remarked at the end of his long and distinguished career, although "organization cannot make a genius out of an incompetent, … disorganization can scarcely fail to result in inefficiency and can easily lead to disaster."[3] The Bush administration moved swiftly to begin the process of reorganization, with the president using his address to a joint session of Congress on September 20 to announce the creation of the Office of Homeland Security (OHS) as the central coordinating mechanism within the White House. The duties of this office are spelled

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[1] George Bush, "Remarks in Telephone Conversation with New York Mayor Giuliani and New York Governor Pataki" (The White House, Office of the Press Secretary, September 13, 2001)

[2] *Quadrennial Defense Review Report* (Washington: U.S. Department of Defense, September 2001), p. 17.

[3] Dwight D. Eisenhower, *The White House Years: Mandate for Change, 1953-1956* (Garden City, NJ: Doubleday, 1963), p. 114.

out in an executive order signed by President Bush on October 8, 2001. That same order also announced the creation of a Homeland Security Council (HSC), which, like the National Security Council on which it is modeled, consists of the president, vice president, and key cabinet members and agency heads with responsibility for advising and assisting the president with respect to all aspects of homeland security.[4]

President Bush's organizational designs have, from the get-go, been derided as inadequate to the task. Although Bush's decision to appoint Pennsylvania Governor and former Congressman Tom Ridge as head of the new OHS has been widely welcomed given Ridge's record and long-standing personal connection to the president, many fear that Ridge lacks the leverage and authority to get the job done. As Democratic Senator Joseph Lieberman (D-CT) put it, "This is the most important responsibility the federal government will have in the near future, and to give Mr. Ridge less power in this office than he has as the governor of Pennsylvania is just not what the nation needs."[5] Lieberman's Republican colleague, Senator Richard Shelby (R-AL), agreed, noting that while Ridge was a good choice for the job, "he's got to have power to do things—budgets, demand accountability [from agencies], everything."[6] A number of bills have been introduced on the Hill to give Ridge more authority—by making his position subject to Senate confirmation, providing the director with responsibility for spending money, and/or centralizing some or all of the homeland security functions within OHS and thus under Ridge's direct control.[7]

Most of these legislative initiatives—and the commission proposals on which they are based—sound better in theory than they are likely to prove in practice. The basic reason is that

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[4] "Executive Order Establishing the Office of Homeland Security and the Homeland Security Council" (The White House, Office of the Press Secretary, October 8, 2001).

[5] Quoted in Sarah Lueck and Yochi Dreazen, "Rifts Begin to Open Up Between Lawmakers Over Powers of Counterterrorism Czar Ridge," *Wall Street Journal*, October 5, 2001.

[6] Quoted in Eric Pianin and Bradley Graham, "New Homeland Defense Plans Emerge," *Washington Post*, September 26, 2001, p. A4.

[7] See, *e.g.*, *Preparedness Against Domestic Terrorism Act of 2001*, H.R. 525, 107 Cong. 1 sess. (introduced by Rep. Wayne Gilchrest, February 8, 2001); *National Homeland Security Agency Act*, H.R. 1158 107 Cong. 1 sess. (introduced by Rep. Mac Thornberry, March 21, 2001); *Homeland Security Strategy Act of 2001*, H.R. 1292, 107 Cong. 1 sess. (introduced by Rep. Ike Skelton, March 29, 2001); and *To Establish the National Office for Combating Terrorism*, S. 1449, 107 Cong. 1 sess. (introduced by Sen. Bob Graham, September 21, 2001).

centralization of all the functions involved in homeland security is a practical impossibility—as all advocates of this process recognize, at least implicitly. Responsibility for preparing, preventing, protecting against, and, if necessary, responding to and recovering from a terrorist incident is not only widely dispersed across the executive branch, but also among federal, state, and local authorities. Homeland security is in its very essence a highly decentralized activity—dependent for its success on hundreds of thousands of individuals, from border guards and customs agents to doctors and policemen making the right decisions. These functions simply cannot be brought into a single agency.

What is needed instead is leadership, coordination, and mobilization of the responsible agencies and their leaders—at the federal, state, and local level. That is the task President Bush has handed Gov. Ridge—and given the number of agencies, interests, and people involved, it is a task of truly mammoth proportions. But it is a job that must be done. Past experiences in similar coordinating efforts—of national security and economic policy, for instance—provide some lessons on how Ridge should go about the task. Within such a coordinating context, some consolidation of activities makes sense—as would enhancing Ridge's authority over budgetary matters and perhaps making his position subject to Senate confirmation. But on their own, the structural reforms championed by many critics of the current arrangement will make little, if any, practical difference.

Problems Reorganization Seeks to Solve

Before embarking on any organizational change, whether minor or major, it is crucially important that we ask what the problems are that we are trying to solve in making these changes. Organizational adjustments are wrenching—and often prove unresponsive to the need at hand, in part because the problems identified are not readily resoluble through organizational tinkering. This may well be true of organizing for homeland security.

Prior to September 11, a major reason why a succession of government commissions and legislators called for organizational changes in the homeland security area was to draw attention to the problem of terrorism and the need to respond. Advocates of change argued that terrorism constituted a very real threat to U.S. security—yet, this threat did not receive the priority attention of

the U.S. government that they believed it deserved.[8] Consolidating homeland security functions would give it that priority—by creating what the General Accounting Office called a "focal point."[9] Most proposed placing the new organization within the Executive Office of the President in an effort to make homeland security a White House priority.

Clearly, before terrorists turned commercial jetliners into conventional weapons of mass destruction and killed more than 5,000 people on U.S. soil, homeland security was not a top priority for the U.S. government. To be sure, successive presidents had talked about the threat of terrorism. Clinton frequently worried, often publicly, about a germ weapons attack by terrorists on U.S. soil. Bush mentioned the threat of terrorism during his campaign, and continued to talk about the threat as president (although often as an argument for developing missile defenses). Spending on counterterrorism activities also increased dramatically—from $6 billion in 1998 to well over $10 billion in 2001. And with the appointment of a national coordinator for security, infrastructure protection, and counterterrorism in 1998, there was an attempt to improve coordination among the myriad of agencies and interests involved in preparing for, preventing, and responding to terrorist attacks.

But even with heightened presidential interest, increased funding, and improved coordination, the terrorist threat had not moved to the top—or even near the top—of the daily agenda of the president and his senior national security advisers. The national coordinator was a special assistant to the president and senior director on the NSC staff, reporting to the national security adviser—not the president. And while the issue of terrorism was rising in importance in every agency with a role to play in guarding against the threat, terrorism remained just one among their many concerns. For the Pentagon, preparing to fight two major theater wars remained the

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[8] See, for example, *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, co-chaired by Gary Hart and Warren B. Rudman; *First Annual Report to the President and the Congress: I. Assessing the Threat*, Report of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, December 15, 1999, and *Second Annual Report to the President and the Congress: II. Toward a National Strategy for Combating Terrorism*, December 15, 2000, chaired by Gov. James S. Gilmore III; and *Countering the Changing Threat of International Terrorism*, Report of the National Commission on Terrorism, pursuant to Public Law 277, 105th Congress, June 2000, chaired by Amb. L. Paul Bremer III.

[9] General Accounting Office, *Combating Terrorism: Selected Challenges and Related Recommendations*, GAO-01-822 (Washington: General Accounting Office, September 2001), pp. 34-43.

priority—and in the distance loomed the rise of China and acquisition of long-range missiles by nuclear-armed rogue states. The customs agents searched luggage and shipments coming across borders—to sniff out illegal drug shipments more than germ weapons. Foreign service officers working their first tour of duty in consular sections in U.S. embassies abroad, and Immigration and Naturalization Services personnel at U.S. ports of entry, worried more about preventing entry of people who wished to stay for good than keeping out people who wished to do the U.S. harm. The FBI tracked federal criminals at home and sought to garner evidence that could stand up in U.S. courts against terrorists abroad, but did not take the initiative to track people that might terrorize our nation. And the list goes on. In each and every case other critical agency functions were, for very understandable reasons, given priority over countering the terrorist threat.

September 11 changed all that. Now, for each and every person, agency, and department at every level of government involved in securing the U.S. homeland, the terrorist threat stands front and center. The newly installed director of the U.S. customs service told the *New York Times* that "terrorism is our highest priority, bar none. Ninety-eight percent of my attention as commissioner of customs has been devoted to that one issue."[10] Similar reprioritization has occurred in other agencies—down to the Internal Revenue Service, which has shifted some of its criminal investigators to assist others in helping determine how terrorist groups are funded.

It is a sad, but very real fact, that no amount of organizational surgery could have forced agencies to focus on the terrorist threats as much as the actions of nineteen individuals did on September 11. For now, the lack of priority attention is not an issue—though some organizational changes may be necessary to sustain interest in countering terrorism in the years to come.

The second main reason for considering any organizational adjustments has been the fact that responsibility for homeland security is widely dispersed. The number of federal departments, agencies, and offices involved in the task is nearly impossible to quantify. According to the Office of Management and Budget, nearly 70 agencies spend money on counterterrorist activities—and that

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[10] Robert Pear and Philip Shenon, "Customs Switch Priority from Drugs to Terrorism," *New York Times*, October 10, 2001, p. B11.

excludes the Defense and State Departments as well as the Intelligence community![11] One organizational chart of federal government agencies involved in responding to terrorism compiled by the Center for Nonproliferation Studies contains 151 separate boxes.[12] Even by more discriminating accounting standards, anywhere between 40 and 50 agencies are believed to be involved in the homeland security effort—ranging from the departments of defense, treasury, justice, transportation, health and human services, and agriculture, to intelligence agencies like the Central Intelligence Agency and National Security Agency, to law enforcement agencies like the Federal Bureau of Investigation, the Secret Service, the Drug Enforcement Agency, and the Bureau of Alcohol, Tobacco, and Firearms, to agencies monitoring points of entry into the United States like the Border Control, the Coast Guard, the Custom Service, and the Immigration and Naturalization Service, to agencies responsible for responding to an attack, like the Federal Emergency and Management Agency, the Centers for Disease Control, the National Guard Bureau, and the Pentagon's Joint Task Force for Homeland Defense.

This diffusion of responsibility is inherent in the problem these entities seek to tackle. Homeland security is, by its very nature, a highly decentralized activity—one where decisions at the outer edges of activity are at least as crucial to success as decisions made at the center. Success in the fight against terrorism depends on a multitude of individuals making decisions. The customs service agent who sensed something amiss with a car traveling from Canada to the United States in December 1999 and discovered a car loaded with materials to make explosives designed to blow up LAX in Los Angeles at the turn of the millennium made a split-second decision that was arguably more important to success than any decision her superiors might have made. The flight instructor had to find it suspicious that a student was interested only in steering a commercial jetliner, not in taking off or landing, and then report his suspicion to law enforcement authorities. It was important that the firefighter yell at people coming up from the World Trade Center subway station to go back down, before himself climbing up the stairs to the fires burning on the 75th floor of one of the towers. Ultimately, the security of the American homeland depends upon the decisions of these

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[11] Office of Management and Budget, *Annual Report to Congress on Combating Terrorism* (August 2001), available at http://www.whitehouse.gov/omb/legislative/nsd_annual_report2001.pdf (accessed October 2001)

[12] "Organizational Chart for Terrorism Response," available at http://www.cns.miis.edu/research/cbw/domestic.htm#wmdchart (accessed October 2001).

people—and the millions of others like them. Managing, coordinating, leading, and mobilizing these people so that their individual decisions add up to a nation more secure, better prepared, and more responsive to the terrorist threat is the organizational challenge of homeland security.

Why Centralization (Alone) Won't Work

The fundamental precept behind nearly all proposals for organizing homeland security activities is centralization: the consolidation of functions now scattered across numerous organizations under a common organizational roof. As one astute commentator put it, "there is nothing that has the force of an uncompromising and powerful new entity. A Department of Homeland Security, with power and budgets and subordinate agencies, is also the only way to avoid the disconnected roots of Sept. 11. Only a department would have the ability to set changing priorities between a terrorist and non-terrorist focus, and prepare and respond accordingly."[13]

Among the earlier and more prominent proposals for centralization is that of the Hart-Rudman Commission, released in early 2001. Prophetic in its anticipation of an "end [to] the relative invulnerability of the U.S. homeland to catastrophic attack," the commission put forward "organizational realignment" as its centerpiece recommendation.

> 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. . . . 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.[14]

This proposal was put forward in legislation by Representative Mac Thornberry (R-TX) earlier this year and has since the September 11 attack been endorsed in slightly different form by Senator Lieberman, chair of the Senate Committee on Governmental Affairs. At hearings that Lieberman

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[13] William M. Arkin, "Protecting the United States," *Washingtonpost.com*, October 7, 2001, available at *http://www.washingtonpost.com/wp-dyn/articles/A21218-2001Oct7.html.*

[14] Hart-Rudman Commission, xiii, 13, 14.

called ten days after the attacks he called for consolidating and integrating many of homeland security activities in a "permanent, statutory agency" whose director would be a member of the president's cabinet. This should be "a robust agency, with budget and line authority, that could pull together anti-terrorism resources that are now widely scattered across government."[15]

Critics are right about the problem, but their solution is inadequate to the task. Within the bold Hart-Rudman Report rested a fundamental contradiction: homeland security was the paramount challenge facing 21st Century America, but it was to be secured by pulling three significant but second-order operations—the border control, the customs service, and the coast guard—into an enhanced FEMA, a well-regarded agency whose prime role has been response to natural disasters. Inevitably, most of the 40-plus federal offices with pieces of the problem would be left outside the walls of the new entity.

More important, institutions and functions that are critical to the task *could not*, by their nature, be included. The FBI would necessarily remain in the Justice Department (and resistant to *its* authority). The Centers for Disease Control, indispensable to combating bioterrorism, would remain (also loosely) within the Department of Health and Human Services. Perhaps most important, the intelligence arms of domestic law enforcement, and the vast and relevant resources of the CIA and the NSA, could not possibly be brought under the direct authority of Governor Ridge or any Cabinet-level homeland security official. This means that the absolutely critical information about which individuals, groups, and materials require priority border (or immigration) attention will have to come from outside any conceivable homeland security agency.

The intelligence connection is part of a daunting broader reality—the need for any domestically-oriented security authorities to coordinate with international policy agencies and activities under the aegis of the National Security Council. And looking in the other organizational direction, it has to link up effectively with police, health, rescue, and other units under the authority of governors and mayors throughout the land.

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[15] "Lieberman Supports Creation of National Homeland Security Agency," Press Release, September 21, 2001, available at *http://www.senate.gov/~lieberman/press/01/09/2001921C21.html.*

And even for organizational units brought within a new agency, formal inclusion does not guarantee effective integration. Upon his appointment, Ridge alluded to the problems of intra-governmental conflict when he declared, "The only turf we should be worried about protecting is the turf we stand on."[16] This warning, alas, applies inside as well as outside organizational walls. Even the Hart-Rudman commission inadvertently sounded a cautionary note when it recommended integration with a caveat: "transfer of the Customs Service, the Border Patrol, and Coast Guard" should be undertaken "*while preserving them as distinct entities*" (emphasis added).[17] Units brought into the Department of Energy under President Jimmy Carter in 1977 remained dispersed for years across the capital area in separate offices, operating substantially as they did before. Almost twenty-five years later, integration at DOE is far from complete.

The Fundamental Need: Leadership, Coordination, and Mobilization

Recall the basic organizational need: to address activities that are highly diffuse and decentralized. How to ensure the border guard makes the right decision is more important than whether his boss is responsible directly to a central homeland security official. In the end, the need is less for central direction, than having the right people in the right place working together in ways that make their individual efforts larger than the sum of their parts.

This requires senior government officials working together, and a process that maximizes incentives for them to do so. It therefore requires homeland security adviser Ridge to play his role so as to engage and reinforce his senior colleagues in their efforts to make their departments instruments of presidential counterterrorism policy. The attorney general, for example, is an absolutely critical player in homeland security, with oversight over the FBI, the INS, and law enforcement generally. He is likely to see himself as the plausible government-wide leader in the domestic response to September 11, just as the secretary of state sees himself, not without cause, as the leader (short of the president) in U.S. foreign policy. And he could well be threatened by how the homeland security adviser plays his role, just as successive secretaries of state have waged bitter

[16] "Remarks of Governor Ridge at his Swearing in to Lead Homeland Security Agency," October 8, 2001, available at http://www.whitehouse.gov/news/releases/2001/10/20011008-3.html (accessed October 2001).

[17] Hart-Rudman Commission, p. 14.

battles with the Henry Kissingers or Zbigniew Brzezinskis who operate thirty seconds' walk from the Oval Office. If Governor Ridge appears to be challenging AG John Ashcroft's role, the prospects for an effective, integrated campaign against terrorism will plunge precipitously.

Fortunately, the executive order creating Ridge's position also established the Homeland Security Council, and tasked it with "advising and assisting the president with respect to all aspects of homeland security [and] ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies." The HSC is headed by the president, and the attorney general is prominent among its members.[18] The homeland security adviser is simultaneously a council member and the official tasked with managing the HSC process. This offers him a vehicle for engaging senior colleagues, the AG above all, at a time when he has maximal presidential support and attention.

A highly relevant model is the role played by Robert Rubin at the beginning of the Clinton administration. Like Ridge, he was appointed presidential assistant in an area of top administration priority—economic policy in his case. Like Ridge, he was assigned responsibility for a new coordinating council—the National Economic Council (NEC)—created at the same time as his new position. And like Ridge, he was tasked to get government moving in a policy area peopled with senior officials holding strong mandates and strong views. Had Rubin seen his role as the new president's "economic czar," one of issuing orders for other Clinton economic officials to carry out, his governmental life might have proved nasty, brutish, and short. Instead, he took the initiative in organizing internal debate on key issues, with a process designed to force presidential decisions, but one that assiduously reached out to the secretary and deputy secretary of the Treasury, the director of the Office of Management and Budget (OMB), and the chair of the Council of Economic Advisers. He gave them key issues to present at a pivotal, pre-inauguration meeting with the president-elect in Little Rock, Arkansas. The meeting ended with one key decision made, with all

[18] The language is from the executive order. Others named as full members are the vice president, the secretary of defense, the secretary of health and human services, the secretary of transportation, the director of FEMA, the FBI director, the director of central intelligence, and the assistant to the president for homeland security.

the Cabinet and deputy-level economic players engaged, and with Rubin's NEC neatly ensconced at the center of the economic policy process.[19]

Rubin gave the leaders of the economic agencies something they wanted and needed—visible participation in, and influence over, the most important decisions of Clinton's early presidency. In so doing, he strengthened their credibility and influence within their agencies, and in Washington generally. Moreover, this seems to have been a conscious, calculated strategy on Rubin's part: rather than the sparring for turf typical of all too many debates among senior officials, he wanted a positive-sum process in which all would come out feeling like winners even though they couldn't, of course, win all of the policy arguments.

Ridge and the HSC can do likewise. By using this vehicle, by taking the initiative but exercising power collegially, the homeland security adviser can achieve much more in coordinated anti-terrorist action than he can through any conceivable organizational consolidation.

His job is, to be sure, harder than that of his national security and economic counterparts in one crucial respect: they could target, mainly, presidential decisions and actions, whereas he must concern himself, mainly, with how the system operates at ground level. They could focus primarily on relations with a few key countries, or what the balance in the budget should be; he must concern himself with building a system that will make airplanes and food and water distribution facilities and public buildings and entire communities across the land less vulnerable to attack. They can concern themselves with the top. He must look to the periphery. It is a daunting task.

But it is not his alone. The attorney general needs to assure that the FBI and the INS take timely preventive action or pass information on to others who can do so. The HHS secretary needs the CDC to raise the priority it gives to preparing for, detecting, and countering biological weapons threats. By helping them connect these tasks to the president's anti-terrorism program, which he and they will craft together, the homeland security adviser can strengthen their abilities to influence

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[19] I. M. Destler, *The National Economic Council: A Work In Progress* (Institute for International Economics, Policy Analysis No. 46, November 1996), p. 14; Bob Woodward, *The Agenda: Inside the Clinton White House* (New York: Pocket Books, 1995), chap. 11.

those below them. The AG can, in turn, help the FBI director bring about necessary changes in that organization's deeply imbedded culture.

Learning from the NSC

The Bush administration can also learn from the experience of the oldest and most successful of White House-based coordinating councils, the NSC. To be sure, the HSC's problems are harder in three crucial respects:

- Its primary impact must be at the bottom of the organizational pyramid, not the top.
- Its family of agencies lacks a culture of cooperation such as the NSC has nurtured over its fifty-plus years.
- Its effectiveness will depend on effective linkage with activities—like foreign intelligence—that will remain in the NSC, not the HSC, orbit.

Nonetheless, there are concrete lessons to be gleaned. One lesson is for Ridge to emulate the best of national security advisers, Brent Scowcroft, by broadly engaging the leaders of key federal agencies and helping them connect to the president and his agenda. We have shown how another presidential assistant (Robert Rubin) did this for another newly created council in an area of presidential priority. In Ridge's case, however, he must add to this effective mechanisms for federal-state-local cooperation, exploiting relationships he developed while governor of Pennsylvania.

Drawing on past NSC experience, Ridge should use the HSC as an umbrella to establish a network of formal and informal interagency coordinating structures. Of critical importance is establishing his formal authority as the chief coordinator of the interagency process. Accordingly, Ridge should convince the president to establish a process akin to the NSC structure for the HSC, consisting of: a Principals Committee, chaired by Ridge and composed of all HSC members aside from the president and vice president to make recommendations for a presidential decision; a Deputies Committee, chaired by Ridge's deputy and composed of the deputies of all departments and agencies that have a seat on the HSC, to handle operational coordination of priority initiatives and review problems and disputes referred to them from lower levels; and Policy Coordinating Committees, chaired by senior officials on Ridge's staff, to coordinate, at the assistant-secretary level, policy areas such as law enforcement, intelligence, protection of critical infrastructures,

bioterrorism threats and responses, cybersecurity, response and recovery, etc. By adopting this interagency model, Ridge and his team would, as the NSC case has shown, quickly gain the authority necessary for making effective coordination and mobilization possible.

The NSC experience also suggests the importance of supplementing formal channels of cooperation with informal channels. The best NSC processes worked well because the national security adviser worked closely and often informally with his or her key counterparts at State, Defense, and, sometimes, the CIA. When Colin Powell was national security adviser in the last year of the Reagan administration, he met with Secretary of State George Shultz and Defense Secretary Frank Carlucci each day at 7:00 a.m. in his office to coordinate their day. Condoleezza Rice talks to Secretaries Powell and Rumsfeld by phone in a daily morning call at 7:15 a.m. And nearly all NSC advisers since Brzezinski have convened weekly lunches or breakfasts with their counterparts to work issues in a less formal setting. Ridge should institute a similar set of regular, informal meetings with his key counterparts, including especially the attorney general and perhaps also the defense and treasury secretaries.

Finally, Ridge and his top White House colleagues need to address the unique coordinating challenges of dealing with a transnational phenomenon like terrorism with organizations that are structured along the foreign-domestic divide. A step in this direction has already been taken with the appointment of two officials—General Wayne Downing as a deputy national security adviser for combating terrorism and Richard Clarke as special adviser to the president for cybersecurity—who will report directly to both the homeland security adviser and the national security adviser. But there must also be good coordination at the top, suggesting that Rice and Ridge meet and talk frequently. There is also room for regular "CRR" (Card-Rice-Ridge) meetings in the White House, connecting the two key assistants with the president's chief of staff.

Ridge can further emulate national security advisers by using a device they have found particularly effective early in their tenures—commissioning analyses of first-order issues requiring presidential decision. This would involve the issuance of Homeland Security Study Directives (HSSDs) tasking interagency groups to present specific options, defined not as agency preferences but as real, alternative ways of addressing key problems. Some HSSDs could address questions of structure and process (organization, budget authority, intelligence-collection and sharing and

analysis). Some could address particular broad tasks—prevention, damage-limitation, countering particular threats like biological and chemical agents, cooperative law enforcement, etc. Such studies would be discussed and debated at HSC meetings chaired by the president, followed by his choosing among the options presented—which would then be codified in a Homeland Security Presidential Directive (HSPD).

Commissioning such policy reviews in the early months of the new office and council serves several related goals. It gives the adviser the initiative in policy development. It engages other departments and agencies in the critical task of formulating realistic choices. It increases the chances for wise policy. And it connects the adviser/HSC to the president at a time when the chief executive is giving top priority and attention to homeland security issues.

As these specifics show, what the homeland security director most needs to do is to embrace and exploit his role as cross-government coordinator and mobilizer. He must conceive of himself not as a "czar" issuing orders, but as a leader working with and energizing his peers in doing their common work. Within this framework, however, three additional steps should be considered. One is limited organizational consolidation. A second is oversight of home-security-related agency budgets. A third is statutory authority.

Organizational and Budgetary Reform

Conventional reorganization cannot be the *main* route to effectiveness for Governor Ridge, for it is impossible for him to secure direct authority over more than a fraction of the activities his office must seek to shape. Hence a coordination-mobilization strategy is essential. Within that framework, however, the homeland security assistant's influence might be enhanced by some formal organizational changes.

In this context, the Hart-Rudman recommendation, inadequate as the main solution, bears revisiting as a supplemental measure. Consideration should be given to combining, in one agency, the customs service, border patrol, Coast Guard, and perhaps the likely-to-be-federalized function of airport security. The director of this new agency should have a seat at the HSC table, and its staff must be an integral part of the Ridge-led HSC coordination process. Farther out on the range of

possibilities for organizational transfer are the immigration and visa-granting functions of INS and the Department of State. Another possibility worth investigating in more detail is the possible creation of a new intelligence service for counter-terrorism.

The homeland security assistant might be given a strong role in the executive branch's budget process. Working with the OMB director, he might be directed by the president to review the budgets of counter-terrorism units across government and make changes, subject to override by the OMB director (or in the strongest version, only by the president himself).

Finally, the president might accede to congressional interest in statutory action by agreeing to legislation establishing the HSC in law (rather than, as present, just by executive order). In the current political environment, the administration might well be able to get a relatively clean law free of unwanted congressional add-ons. If this is a possibility, the president will want to consider whether he would like the office Ridge heads to be formally like some other EOP units (OMB, USTR) whose heads are subject to Senate confirmation and who testify regularly before the legislature. This could well enhance his ability to deal with members of Congress and other elected officials—from governors and mayors to county commissioners. Balanced against this is the danger Ridge would become over-encumbered with demands from Capitol Hill, thereby reducing his flexibility and usefulness as a presidential adviser.

Conclusion

Leading the homeland to greater security against terrorism is a daunting challenge. Any new leader and organization would have to, simultaneously, act boldly to establish their authority and feel their way as they learn what works and what does not. For reasons detailed above, it is best to conceive of the task *not* as one of organizational centralization and consolidation, but rather cross-governmental coordination, mobilization, and leadership, with priority to establishing collaborative, positive-sum personal relationships at senior levels.

If the task is undertaken in this manner, there is room for cautious optimism. With the support and attention of the president—and the nation—Governor Ridge and his Bush administration colleagues could make real headway in strengthening our capacity to meet the first great challenge of our 21st century.

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