

PROPOSAL TO CREATE A DEPARTMENT OF HOMELAND SECURITY

HEARING BEFORE THE SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS SECOND SESSION

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JULY 9, 2002
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PROPOSAL TO CREATE A DEPARTMENT OF HOMELAND SECURITY

TUESDAY, JULY 9, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:15 a.m., in Room 2141, Rayburn House Office Building, Hon. Lamar Smith [Chairman of the Subcommittee] presiding.

Mr. SMITH. [Presiding.] The Subcommittee on Crime, Terrorism, and Homeland Security will come to order. I just want to say at the outset that I am pleased by the attendance we have by Members of the Subcommittee this morning. This is an early hour, there are many conflicts, and yet this is, I think, the best attendance we have had in a number of hearings.

The procedure this morning will be that I'll recognize Members, including myself, for opening statements. And after that, we'll move very quickly to hearing testimony from our witnesses today.

On June 6, 2002, the President addressed the Nation to request support for the creation of a Homeland Security Department. He stated, "We face an urgent need, and we must move quickly this year, before the end of the congressional session."

This Committee and Congress are responding to that request. We understand the importance of H.R. 5005, the Homeland Security Act of 2002. This hearing focuses on the proposed transfer of the Coast Guard, Customs, Secret Service, and Transportation Security Administration to the Department of Homeland Security.

The Administration's goal for the creation of a Homeland Security Department is to improve the country's ability to prevent, prepare for, detect, and disrupt terrorist attacks within the United States. As the Gilmore commission noted in 2000, "The national strategy against terrorism should be geographically and functionally comprehensive. To be functionally comprehensive, the national strategy should address the full spectrum of the Nation's threats against terrorism: intelligence, deterrence, prevention, preemption, crisis management, and consequence management."

This can only happen with the successful integration and coordination of officials involved.

This hearing will examine how each of the agency's missions and functions fit within the proposed Department of Homeland Security. While the proposed department will have a strong law enforcement role, this role is distinct from that of the Federal Bureau of

Investigation, which is the principal investigative arm of the United States. The law enforcement role of the Department of Homeland Security will focus on border security and the training of State and local officials to prepare for and respond to terrorist attacks.

The mission of this new department cannot be accomplished without the successful coordination of various Federal agencies and law enforcement units. We will hear testimony today from four of five invited witnesses, who will discuss H.R. 5005 and how each of their agencies improves the strategic framework and coordination of the Department of Homeland Security.

One witness, the Hon. Joe Allbaugh, Director of the Federal Emergency Management Agency, was invited but apparently decided that this hearing was not a priority. I am disappointed by the Director's absence, as this was an opportunity for the Director to explain how FEMA plans to provide training for law enforcement and other emergency responders in crisis and consequence management at the new Department of Homeland Security.

I assume we have representatives of FEMA in the audience. If so, will they stand and identify themselves?

How about raising your hand? Is anyone here from FEMA?

Okay, that's a double disappointment, because we understand that it was possible for the Director to attend; he chose not to. I don't consider that a personal affront against Members of Congress; I do consider it a personal affront against the American people, who have every reason and need and desire to want to know how FEMA would respond to terrorist attacks.

So I am disappointed that Mr. Allbaugh did not attend, and, if FEMA individuals are here, that they did not recognize themselves or attend at all.

That concludes my opening statement. The gentleman from Virginia, the Ranking Member of the Subcommittee, Mr. Scott, is recognized for his.

Mr. SCOTT. Thank you, Mr. Chairman. I am pleased to join you in convening this hearing concerning law enforcement agencies and operations affected by H.R. 5005, the Homeland Security Act of 2002.

There are a considerable number of unanswered questions and concerns regarding how these agencies will operate with a new setting of the Department of Homeland Security, especially the question of what problem are we solving and how will DHS solve it, and what money will be spent in transition and new responsibilities. I would like to hear from the agencies we've invited as to their understanding of what their role will be with DHS.

I would also like to know any concerns or problems they foresee in providing greater security for our Nation while preserving at least the current level of law enforcement services traditionally provided by their agencies. I am particularly concerned to know how any impact they foresee from the proposed changes on the ability of—the effect on law enforcement entities to maintain their traditional law enforcement capabilities while doing their part to enhance overall security.

Most localities are already hard hit by the cost of increased demands on what they've had to do by prudence, as well as the Fed-

eral Government, to increase their vigilance. Of course, any disaster is ultimately the local and first responders' responsibility, so I want to see how the local responders will be incorporated into DHS's responsibilities.

In this regard, I join the concerns of the Chairman, that we're not hearing from FEMA. As the Chairman noted, the bill calls for the Office of Domestic Preparedness at Justice to go to FEMA. This is a vital piece of the law enforcement resource network, because it provides for the training, equipment, and other assistance they'll need in learning how to operate and cooperate under the new department.

I'm also concerned that in our rush to establish the structure for Homeland Security, which the bill provides, we don't run the risk of trampling over well-established civil rights and civil liberties, sunshine government and civil service protections, and would like the witnesses to give us assurances in these areas as well.

So, Mr. Chairman, I look forward to hearing from the witnesses, and I appreciate you convening the hearing.

Mr. SMITH. Thank you, Mr. Scott.

Are there other Members who wish to make opening statements? The gentleman from Wisconsin, Mr. Green, is recognized for his opening statement.

Mr. GREEN. Thank you, Mr. Chairman.

Very briefly, first off, I want to express that I share your concerns and disappointment about FEMA not testifying, given that FEMA's role in the newly proposed agency is so very important, and I think one of the sets of issues that we wanted to explore. I am also greatly disappointed that FEMA has chosen not to be present here today or be represented here today.

From the perspective of northeastern Wisconsin, I think one of the great concerns we have is with respect to the Coast Guard. And while I support the Coast Guard's inclusion in the new agency, Admiral Collins, I am hoping that you will be able to address for us today specifically how the Coast Guard will be able to continue and maintain its current operations and its current mission, especially with maritime safety in mind, given this transfer. That I think is the great concern that I have.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Green.

Other Members who wish to have opening statements? The gentlewoman from Texas, Ms. Jackson Lee, is recognized for an opening statement.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman, for holding this very important hearing this morning.

I believe that as we celebrated our Nation's Independence Day, the incident that occurred in LAX exposed additional vulnerabilities of this Nation. Though we have not designated that particular act in any particular category, certainly it suggests that we need all of our agencies and all of our wits about us as we attempt to pursue and define what homeland security is.

I am very grateful for the presence of these witnesses. And, Mr. Chairman, in order to keep our refrain on one page, let me also express the disappointment that I have in the lack of presence of FEMA. Let me also acknowledge, of course, coming from Texas,

that certainly we are appreciative, as I believe all Americans are, in the immediate response that FEMA already shows as it relates to disasters. We are facing one in Texas again, and certainly FEMA will play a very large role.

That may be why it is even more important to have an understanding of how they would match those very important responsibilities, immediately responding to disasters. My 16-year-old asked, "How does FEMA get everywhere?" as it will relate to issues dealing with homeland security.

I would also like to acknowledge that we will have several questions on how the agencies will synergize under a new department. Surely there will be many conflicts within Congress as to how this new department should work. I think that, structurally, the offered Homeland Security Department will need much work. Though many of the organizations included in the bill focus on the similar principles of the Homeland Security Department, it is clear that their overall goals are not in sync with the department itself.

One of my most central concerns again lies in the Federal Emergency Management Agency. This agency has played a pivotal role in assisting my fellow Texans deal with the terrible floods that have besieged Texas. According to information supplied by FEMA, approximately 75 percent to 95 percent of the agency's budget constituted disaster relief assistance. In the encounters that I have had with them, they have indicated that, in many instances, it's not been enough.

With such a significant portion going to this effort, how will FEMA be recognized or reorganized within a Department of Homeland Security, and will this mean a decrease in the disaster relief operations? Texans, Americans, and others want to know this answer.

Another area that raises concern for me is the role of the Secret Service in the Department of Homeland Security. The mission of the U.S. Secret Service is twofold. First, it is charged with the protection of the President, Vice President, their families, and heads of state. Second is the enforcement of laws related to counterfeiting of obligations and securities.

However, the Secret Service strives to prevent counterfeiters and presidential assassinations, not terrorists or other things. Though an assassination attempt could be construed as an act of terrorism, it is clearly of a different flavor.

The Secret Service does not appear to have a close nexus to the investigation of terrorist threats, nor does it appear that their primary mission is being given to another agency.

The Coast Guard as well I know played an enormous—or, had an enormous impact as related to staffing up our various ports right after September 11, and we thank you for that, as I might thank all of the agencies present.

We realize, as Admiral Collins said, that nearly 40 percent of the Coast Guard's current operating budget is directly related to the core missions of the proposed department. Well, what about the remaining 60 percent? Admiral Collins claims that the rest contribute indirectly, but I fail to see—though I appreciate it, coming from waterways, your help in drunken boaters; that's important

work—how we can ensure that we use you in the best and most effective way.

As I close, Mr. Chairman, let me mention several key issues that I think we should be concerned about: border and transportation security; Mr. Magaw, you will note that I will be talking about whether or not we should have a distinct area for border security. I have a special interest in it and will be probing that question.

The real question is, how do we secure or ensure the work of the Transportation Security Administration and how do we secure the border and the border patrol responsibilities.

Lastly, we know that this plan has good intentions. We appreciate the President presenting this plan, and we know the importance of congressional oversight. We intend to participate and to seriously look at our work, and to present to the American people what works. But I want to put on the record my concern about Miranda rights; whistleblower protection; utilization of employees; and as well, are we talking about crime-fighting or something else?

With that, Mr. Chairman, I look forward to the testimony of the witnesses, for the job that we have to do this morning. I yield back.

Mr. SMITH. Thank you, Ms. Jackson Lee.

To my right, the gentleman from North Carolina, Mr. Coble, is recognized for an opening statement.

Mr. COBLE. Thank you, Mr. Chairman. I want to think aloud for a moment or two, and perhaps get the witnesses' response as we hear from them.

I apologize for sounding like a broken record, but I want to echo what you said. I think FEMA's conspicuous absence is glaring, indeed.

I see the glass half-filled, Mr. Chairman, always, so I believe this homeland security operation will work. I think elevating it to Cabinet status was the right idea. I can see the elimination of duplication, hopefully, by bringing these different agencies under one umbrella.

Now, maybe I'm too optimistic when I say this, Mr. Chairman, but it ought to be, if properly implemented and executed, it ought to be close to revenue-neutral, it seems to me. I realize in this town revenue-neutral oftentimes doesn't play harmoniously, but I can see that merging these different agencies together, I think it is a sound proposal.

Mr. Chairman, I want to be sure that it is clearly defined, as we move along, as to what constitutes an emergency. And I'm not convinced that that has been clearly defined. Perhaps when I hear from the witnesses, it will illuminate to that end. But I think that is essential, that that must be clearly laid out, not just for the benefit of the agencies involved, but for the populace as well.

The gentleman from Wisconsin mentioned a situation that I have heard discussed on the Hill, and that is some fear, Admiral Collins, that the Coast Guard may be put in a position of compromising your other duties: search and rescue, aid in navigation, drug interdiction, port security. The U.S. Coast Guard has managed to juggle various assignments since 1790, and you've done it pretty well. I think you pulled a couple from a sister service out of the drink yesterday, down in Virginia, in record time. So I think you can do it, but I do think that is a problem that needs to be on the screen,

Mr. Chairman, and we don't want to put the Coast Guard or the other agencies, for that matter, in a position of compromising duties that they now perform, and at which they are indeed adept.

Thank you all for being with us.

Mr. Chairman, thank you, sir.

Mr. SMITH. Thank you, Mr. Coble.

I want to note that Mr. Coble is the only Member of the Committee who is a veteran of the Coast Guard, which might have been clear from his comments as well.

I've also noticed the presence of the Ranking Member of the full Judiciary Committee, Mr. Conyers of Michigan.

And, Mr. Schiff, if it's all right, I'll recognize Mr. Conyers for an opening statement, if he has one.

Mr. CONYERS. Thank you, Mr. Chairman. I don't have an opening statement right now, but could I reserve my time? I don't know how long this is going to be this morning.

Mr. SMITH. Absolutely, Mr. Conyers. We'll be happy to recognize you whenever you want to be recognized.

Mr. CONYERS. I appreciate that very much.

Mr. SMITH. To my right, any other Members who wish to be recognized? The gentleman from Ohio, Mr. Chabot, is recognized for an opening statement.

Mr. CHABOT. Thank you, Mr. Chairman. And I'll be brief, because I know we want to get on with the witnesses here, so we actually have an opportunity to hear from them and question.

My principal and particular concern—and I'll be able to question the Undersecretary, Mr. Magaw, and so I appreciate his presence here today—and that's the recent undercover tests, particularly those at the Greater Cincinnati-Northern Kentucky Airport, in which only in 42 percent of the cases were weapons able to be detected, which the reverse of that means that 58 percent of the time, the weapons were not detected.

And there was no great effort made to conceal these weapons. And I think it's safe to assume that terrorists would not be so accommodating, that they would make every effort to conceal, to hide weapons or bombs or other items which could do harm to the public.

And this does not instill a great deal of confidence in the traveling public. To be quite frank, it's absolutely miserable and should be an embarrassment. And something has to be done to make sure that the people who travel the skies of this Nation are safe.

And that's just totally unacceptable, and I'll be interested to hear some details relative to that.

And with that, I'll yield back the balance of my time.

Mr. SMITH. Thank you, Mr. Chabot.

The gentleman from California, Mr. Schiff, is recognized for an opening statement.

Mr. SCHIFF. I thank the Chairman for yielding, and I want to join the Committee in welcoming the witnesses here today and extend a special welcome to Commissioner Bonner, who not only was the former head of the DEA and a former Federal judge, but was also a former U.S. attorney who had the ill judgment to hire me in 1987, and I'm very grateful you showed that poor judgment back then. [Laughter.]

But I did want to add, beyond that welcome, what a dramatic task that you all have before you and just reinforce the idea that the job that we have to do won't end this year, won't end with the passage of this bill, won't end with the formation of a new department. It really will only begin then.

And the challenge will be to have this new entity develop the capability of talking to each other, both over the phone and technologically; have the ability to integrate functions to the degree that they'll be efficient, to a degree that we have not been able to get our agencies to work together in the past.

We will have, under one roof, almost 75,000 armed agents, which is an extraordinary number. It is, in some respects, the size of a national police force, although it is not intended to act as such. But the challenge I think will be twofold. It will be to have an entity that large at the same time be efficient and work together and root out the problem of terrorism as it's intended to do and secure the homeland. At the same time, it will have the equal challenge of not intruding on the rights of the American people in the process. And that challenge will be all the greater because of the size and the power of this new department.

So I know the Committee will continue its job long after the passage of this bill, and I look forward to continuing to hear from you over the months and years to come about how that responsibility is being undertaken.

I yield back, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Schiff.

The gentleman from Georgia, Mr. Barr, is recognized for an opening statement.

Mr. BARR. Thank you, Mr. Chairman.

FEMA's absence notwithstanding, we have a very, very distinguished panel today. I look forward to hearing from them and reviewing their written statements. I'm confident that what we'll hear are very substantive and appropriate responses, not bureaucratic responses, and I appreciate that very much, the gentlemen looking at these issues with the professionalism that has characterized their careers.

The threat that this Nation faces, of course, is many faceted. Tomorrow, I believe, on the floor of the House, we'll be taking up the issue of arming airline pilots, or at least providing some authority. I know Mr. Magaw disagrees with us on that. For the life of me, I cannot understand why we would not want to have an appropriate mechanism to protect passengers and airplanes and those on the ground by appropriately providing authority for arming pilots, but hopefully the Congress will do that.

But there are many, many aspects of this. But ultimately, Mr. Chairman, as you know, and as these gentlemen and others know, the mechanism itself is not as important as the people who are administering the system. And we can set in motion very, very sophisticated mechanisms, we can change bureaucracies and change legal authorities, we can appropriate billions of dollars, but if the people on the ground carrying out those missions and expending those dollars on the ground don't care about what they are doing, are not properly trained, are not properly motivated, and are not held accountable, then it's all for naught.

I would recommend to each of the witnesses a study and a hearing that we held in Atlanta a couple of months ago, pursuant to an undercover investigation by GAO to determine whether or not security at several Federal facilities in Atlanta, which, as you gentlemen know, has one of the largest presences of Federal offices outside of the Washington, D.C., area, was adequate or not. What these undercover investigators found was absolutely startling in the lack of appropriate security and accountability and concern for even minimal standards of security. Undercover agents were able to falsify, with off-the-shelf technology, a number of badges, where were never appropriately or even cursorily scanned. They were never required to go through metal detectors. They were given security codes without authorization, enabling them to get into any Federal building that they attempted to secure entrance to in the Atlanta area, including the Federal judiciary, the building that houses DEA, FBI, IRS, virtually any agency that they wanted.

And this is why I think that the new department has to have sufficient flexibility to address security lapses and security concerns like that. I know none of these gentlemen would tolerate such security lapses in their agency, and we have to make sure that, likewise, we set up a mechanism so that they are not tolerated in the new department.

But I would recommend that study and the hearing that we held in Atlanta a couple of months ago to the witnesses. I intend to refer to it not only in this hearing but others considering different aspects of homeland security.

I would like to echo the statements of other Members, again thanking these very distinguished Members of the executive branch for their presence here today, their careers, and for caring enough about these issues, unlike FEMA, to be here today to share their thoughts and answer questions.

Thank you.

Mr. SMITH. Thank you, Mr. Barr.

The gentleman from Florida, Mr. Keller, is recognized.

Mr. KELLER. Thank you, Mr. Chairman.

Yesterday, the President of the United States gave an important speech, and he outlined three things he wants the Congress to do right away. First, he wanted the emergency supplemental appropriation bill passed; second, the defense appropriation bill passed to help us win the war on terrorism and fund our troops; and third, establish this Department of Homeland Security.

The House has already acted to pass the first two of his requests, and so this becomes our top priority now, establishing this Department of Homeland Security. And with that in mind, I am very appreciative of all the witnesses who are here.

I know sometimes it's human nature to complain about who is not here, instead of appreciate those who are here. I can remember in my first campaign, I had to have 20 volunteers show up to help me distribute signs. And 18 people showed up, and I spent the whole time complaining about the two guys who told they'd be there but weren't there, instead of thanking the 18 who were there.

So thank you so much for being here today. And I understand you recognize the importance of what President Bush said yesterday.

With that in mind, one of the things I would like to hear from the witnesses about, and particularly Mr. Magaw, is so much has been said about the efficiencies that will be created by eliminating overlap here and having one-stop shopping with respect to homeland security, which is certainly a critical element of establishing this department, and that's why I'm a co-sponsor of this legislation.

There hasn't been a lot of talk about, once the left hand knows what the right hand is doing, in terms of the Government agencies—for example, INS, FBI, and CIA, and your agencies communicating, then taking that information and distributing it to private transportation entities. And that certainly is a weak link in our system.

Just to give you one example, we have the two terrorists, Al-Midhar and Al-Hamzi, who the CIA had information about, the FBI did, the INS did at certain points. And all three collectively, even though these men were on a watch list, never shared this information with American Airlines. And so these two bad guys got on American Airlines Flight 77, and the plane slammed into the Pentagon.

That is certainly a weak link that needs to be fixed. And I'm curious as to what, if anything, this Government reorganization will do to impact that weak link.

Again, thank you so much for the witnesses who are here, and we welcome your testimony.

Mr. Chairman, I yield back.

Mr. SMITH. Thank you, Mr. Keller.

Let me introduce the witnesses, and they are, in alphabetical order, the Hon. Robert C. Bonner, Commissioner, United States Customs Service; Admiral Thomas H. Collins, Commandant, United States Coast Guard; the Hon. John W. Magaw, Undersecretary of Transportation for Security, Transportation Security Administration; and Mr. Brian L. Stafford, Director, United States Secret Service.

Again, we welcome you all, and we will begin, Mr. Bonner, with your testimony.

**STATEMENT OF ROBERT C. BONNER, COMMISSIONER,
UNITED STATES CUSTOMS SERVICE**

Mr. BONNER. Good morning, Mr. Chairman and Members of the Subcommittee.

Mr. SMITH. Is your microphone on?

Mr. BONNER. Yes, now I have it on. I think I'm ready to go.

Good morning to all of you. I want to thank you for this opportunity to testify and appear this morning before the Committee to discuss President Bush's proposal to create a new Department of Homeland Security. As you know, President Bush's proposal is to transfer the entire U.S. Customs Service to the new department.

I believe that the adoption of the President's proposal will result in a more effective, a more focused—I believe it will result in a better-coordinated and linked, and even a more efficient defense of America and the American people against the very real and continuing terrorist threat posed by international terrorist organizations, such as the al Qaeda.

It will also, by the way, establish something that's very important in Government, and sometimes we don't see, and that is clear responsibility and accountability in one Secretary in one department.

Since September 11, I can tell this Committee, that the number one priority of United States Customs Service has been counterterrorism. It has been protecting the Nation against the terrorist threat at all 301 ports of entry into the United States. These are ports of entry at our land borders, at our international airports, and at our seaports.

The Customs Service is and has been doing everything possible to keep both terrorists and terrorist weapons from entering our country. But we have been doing so, I might say, without choking off the flow of trade that is so vital to the economy of our country.

I would like to just briefly describe to you a few key initiatives that the United States Customs Service has developed and implemented since September 11.

First of all, in October, within a few weeks of the attacks on our country, we formed, at the U.S. Customs Service, Operation Green Quest, which is a Customs-led but a multi-agency task force that targets terrorist financing. Operation Green Quest has already opened several hundred investigations into terrorist financing and has aggressively moved against terrorist funding sources. These efforts, through Operation Green Quest, have already led to the seizure of millions of dollars in suspected terrorist assets.

We have also established Project Shield America, and this is using Customs' unique investigative jurisdiction, where Customs agents are monitoring exports of strategic weapons and materials from the U.S., to prevent international terrorist organizations like al Qaeda from obtaining sensitive U.S. technology, weapons, and equipment that could be used in a terrorist attack on our Nation.

With another initiative, the Container Security Initiative, which we began implementing earlier this year, U.S. Customs is entering into partnerships with other governments, with foreign governments, to identify high-risk cargo containers and pre-screen those cargo containers at foreign ports before they are shipped to the United States.

I recently returned from a very productive trip to Europe, just the week before last, during which the governments of the Netherlands, Belgium, and France signed agreements with United States Customs to participate in the Container Security Initiative. Singapore, one of the largest ports in Asia—and also, actually, the largest port in the world, in terms of the transshipment of cargo containers to the United States, principally to the West Coast—has also indicated that it will participate with U.S. Customs in the Container Security Initiative. So, very soon, for shipments of cargo containers from these countries, and specifically from the ports of Rotterdam, Antwerp, LeHavre, Singapore—four of, by the way, the top 20 ports, in terms of shipments of containers, cargo containers to the United States by container vessel—very soon U.S. Customs and host governments will be pre-screening those containers headed to the United States.

And I can also tell you that I'm very optimistic that agreements with other governments covering more of the major ports of the world will be entered into very soon.

Let me say that I believe that any effort to improve our border security must include the direct involvement and input from the trade community. And in that connection, last April, Governor Ridge, Secretary O'Neill, and I stood with many CEOs of major U.S. importers, and announced the Customs-Trade Partnership Against Terrorism. We did that in Detroit.

Customs-Trade Partnership Against Terrorism is a unique partnership with U.S. importers, with carriers, customs brokers, and others in the trade community to substantially improve security along the entire supply chain, while expediting the flow of legitimate commerce into the United States.

To date, I am pleased to advise this Subcommittee that we have over 250 companies participating in the Customs-Trade Partnership Against Terrorism.

The success of programs like CSI, the Container Security Initiative, and the Customs-Trade Partnership Against Terrorism demonstrates how Customs balances its dual role, its dual missions, if you will, between security on the one hand, security and enforcement on the one hand, and trade facilitation on the other. We have to maintain that balance.

Mr. SMITH. Mr. Bonner, if you could bring your testimony to a conclusion, we'd like to be able to fit everybody in the 5-minute time.

Mr. BONNER. I'll do that, Mr. Chairman. Thank you.

Just to make the final point that the trade functions of Customs and the functions of security and enforcement are interlinked in many ways. And let me just say to the Subcommittee that I am very, very proud of the men and women of the Customs Service for the role they've played since 9-11 in protecting our Nation, and the role that they'll continue to play in defending our homeland.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Bonner follows:]

PREPARED STATEMENT OF ROBERT C. BONNER

Good morning, Mr. Chairman and members of the subcommittee. Thank you for this opportunity to testify.

I am pleased to be here on behalf of the U.S. Customs Service to discuss President Bush's proposal to create a new Department of Homeland Security. As you know, President Bush's proposal is to include the entire U.S. Customs Service and all of its functions in the new Department. The U.S. Customs Service is proud of its long history as a bureau within the Department of the Treasury, but we fully and unequivocally support the President's proposal and strongly believe that the new Department of Homeland Security will play a key role in safeguarding the American people. Secretary O'Neill also fully supports the President's proposal.

For over 200 years, the U.S. Customs Service has defended our country's borders and facilitated legitimate international trade and travel. Since September 11th, at the direction of the President, the top priority of Customs has been responding to the continuing terrorist threat at our land borders, seaports, and airports. The Customs Service is doing everything possible to keep terrorists and terrorist weapons from entering the United States, while still moving goods and people efficiently across the border. I would like to briefly describe for you a few of the key programs the Customs Service has implemented since September 11th that respond to the new threat our country faces.

In October, we formed Operation Green Quest, a Customs-led multi-agency initiative that targets terrorist financing. Operation Green Quest has already opened

hundreds of investigations, aggressively moved against terrorist funding sources, and led to the seizure of millions of dollars in suspected terrorist assets.

Under Project Shield America, Customs agents are monitoring exports of strategic weapons and materials from the U.S., to prevent international terrorist groups from obtaining sensitive U.S. technology, weapons, and equipment that could be used in a terrorist attack on our nation.

With the Container Security Initiative ("CSI"), which we began implementing earlier this year, U.S. Customs is entering into partnerships with other governments to identify high-risk cargo containers and to pre-screen those containers at foreign ports, before they are shipped to our ports. I recently returned from a very productive trip to Europe, during which the governments in the Netherlands, Belgium, and France signed agreements with U.S. Customs to participate in CSI. Singapore, one of the largest ports in Asia, has also indicated it will participate in CSI. Soon, for shipments of cargo containers from the ports of Rotterdam, Antwerp, LeHavre, and Singapore, four of the top 20 mega-ports, U.S. Customs and the host government will be pre-screening containers headed to the United States. Agreements with other governments covering more of the mega-ports are imminent.

Customs also strongly believes that any effort to improve our border security must include the direct involvement and input of the trade community. On April 16th of this year, Governor Ridge, Secretary O'Neill, and I stood with many CEOs of major U.S. importers, as we launched the Customs-Trade Partnership Against Terrorism ("C-TPAT") in Detroit. C-TPAT is a unique partnership with U.S. importers, carriers, brokers, and others to improve security along the entire supply chain, while expediting the flow of legitimate commerce into the United States. To date, we have over 150 companies participating in C-TPAT, and we continue to roll out C-TPAT to new constituencies every month, including carriers, brokers, and ports.

The success of programs like CSI and C-TPAT demonstrates how Customs effectively and efficiently balances its dual missions of security enforcement and trade facilitation, dual missions that are inextricably linked. With C-TPAT, for example, Customs has been successful in inducing companies to join the program and make additional investments in supply chain security solely because Customs can offer those companies the benefit of expedited clearance at the borders. The same is also true for CSI, which offers expedited processing at U.S. ports for pre-screened cargo from CSI ports. These programs underscore how Customs is capable of meaningfully increasing security at the borders without choking off the critical flow of trade into and out of the United States.

Another example of how Customs' functions are intertwined comes from looking at the synergies that exist between Customs inspectors and special agents, who work closely with each other to enforce our anti-smuggling and trade laws. When Customs inspectors make a substantial drug seizure at the border using resources such as canine enforcement teams and non-intrusive inspection equipment, they hand the case over to Customs special agents, who can then conduct a follow-up investigation, including, for example, a controlled delivery to find the source of the drugs and to broaden the investigation. This cooperative effort between inspectors and special agents is a seamless one precisely because of Customs' dual missions. The same is true with other border-related enforcement matters, such as intellectual property piracy. The close cooperation between inspectors and special agents enables an infringement identification to quickly and efficiently become an investigative effort.

I would like to mention at least two additional points that further illustrate how Customs' functions are intertwined. First, is the fact that the personnel who perform trade enforcement and compliance activities at the border are the same personnel who perform inspections for security and other enforcement purposes. Second, is the fact that the information Customs receives from trade compliance examinations and manifests is the same information used to assess security risks for shipments. This information is the cornerstone of many of Customs' anti-terrorist efforts.

Recognizing the synergies and efficiencies that exist from the way Customs currently carries out its dual missions, the President has proposed that the entire Customs Service move in its entirety to the new Department of Homeland Security. Under the President's plan, Customs will continue to administer and enforce our Customs laws, protect our borders against terrorists and terrorist weapons, and facilitate the flow of legitimate commerce.

Mr. Chairman, I am proud of the vital role the men and women of the Customs Service have played, and will continue to play, under the President's plan in defending our nation's homeland. Thank you again, Mr. Chairman and the members of the subcommittee, for this opportunity to testify. I would be happy to answer any questions you may have.

Mr. SMITH. Thank you, Commissioner Bonner.
Admiral Collins?

**STATEMENT OF ADMIRAL THOMAS COLLINS, COMMANDANT,
UNITED STATES COAST GUARD**

Admiral COLLINS. Good morning, Mr. Chairman, distinguished Members of the Subcommittee. It is a honor to join you today to discuss the particulars of the President's proposal to establish a Department of Homeland Security.

The events of September 11 changed everyone's world of work. It changed our perspective on how we look at security issues. And the threat remains today and into the future. Our maritime transportation system, in particular, remains both critical to our economic prosperity—

Mr. CHABOT. Mr. Chairman, could you ask the witness to pull the mike a little closer so that everyone can hear?

Mr. SMITH. I don't think I need to ask him. I think he heard you.
[Laughter.]

Admiral COLLINS. How about that?

Mr. SMITH. That's much better. Thank you.

Admiral COLLINS. Our maritime transportation system, in particular, is both very valuable to our economic prosperity and remains very vulnerable to the acts of terrorism.

Under the leadership of President Bush, I think we've all leaned forward to increase our vigilance, and we've stiffened our resolve and allocated our resources to the greatest risk areas. And I think much has been accomplished, as summed up particularly by Commissioner Bonner. And the same type of activities have been pursued throughout each one of our organizations.

From the Coast Guard's perspective, the President is taking the next logical step, the next necessary change. And we think the time has come to put the reorganization issues on the table, in addition to resource and authority issues and policy issues.

Clearly, from our perspective, the reorganization will bring unity of effort, unity of command, to homeland security efforts; clear lines of authority to get the job done. It will enhance the awareness of threats and vulnerabilities, so effective preventative actions can be instituted. It will minimize the impact of a terrorist act, should a response be required. And I think the key word is alignment; it will ensure alignment of personnel, strategy, policy, and resources to the very highest priority areas in the area of homeland security.

As the lead agency for maritime homeland security, as both a military and law enforcement service, the Coast Guard is both a logical and a necessary component of the proposed department. Almost 15 percent of our current operating budget is directly related to the core missions of the proposed department. The bulk of the remaining missions contribute indirectly to the overall security interests of the Nation. And as I have detailed in my written statement, we also have a unique set of competencies, capabilities, and authorities that will add considerable value to the department.

I think the time is now. I think there are some critical stipulations, from the Coast Guard perspective, that have to be met, to define success here as we reorganize. One is that we remain intact as an organization; that we retain our essential attributes as a

maritime, military, and multimission service; and that all range of our missions are supported robustly, actively in the new department.

I think that last stipulation may need a few explanatory notes. I know it's of interest to many of the Subcommittee Members. From a system's perspective, the threats to the security of our homeland extend well beyond overt terrorism: countering illegal drug smuggling and other contraband in the transit zones and in the source countries; preventing illegal migration through maritime routes; preserving living marine resources from foreign encroachment. These are all included in critical elements of homeland security, from our perspective. They are all responsibilities of the United States Coast Guard. And this mission set was recognized and validated by a recent interagency task force on Coast Guard Roles and Missions in 1999.

I think our full range of missions, all critical in nature, will continue to be supported under the President's proposal in a very robust way.

Again, I am aware that it's stated in some quarters here in the Committee and on other areas of the Hill—there is concern of our ability to attend to all the missions if we are moved to the new department; that we will not be attentive to our efforts against drug smuggling or fisheries violators as we were before September 11; and others even worry about us not being responsive in our search and rescue missions in the future years as we've been in the past.

I understand those concerns, and let me attempt to put at ease some of those that are skeptical. First of all, I can assure you that we will continue to save lives every single day. We saved two yesterday off Virginia Beach, as a F-14 plane went down and pilots ditched.

In fact, we have increased our efforts with regard to protecting life and property at sea. This year we are adding 100 billets, new positions, to our small-boat stations, and these new people will also have new boats and new equipment to use, and very soon. SAR (Search and Rescue) is and will remain a priority for us.

Second, we have seized more cocaine on the high seas already this year than we did last year at this time, despite the events of last fall. We are using new technology, tactics, and intelligence in very creative ways to increase the effectiveness and efficiency of our patrols. And that goes for fisheries enforcement as well.

Third, and most importantly, I believe with absolute confidence that the improvements that we are about to make to our inventory of ships, boats, aircraft, command and control systems will strengthen, not weaken, our capabilities in every mission. In the final analysis, we will emerge as a more capable and more responsive service than ever before.

At the heart of the matter, maritime homeland security is about preventing harm to the American public. Primarily, it is done best by firmly and diligently enforcing the laws of the United States. That is what we began to do in 1790, and that is what we will continue to do as long as the Coast Guard flies its ensign.

I'll be glad to answer any questions at the appropriate time, Mr. Chairman.

[The prepared statement of Admiral Collins follows:]

PREPARED STATEMENT OF ADMIRAL THOMAS COLLINS

Good afternoon Mr. Chairman and distinguished members of the Subcommittee. It is a pleasure to appear before you today to discuss the President's proposal to create the Department of Homeland Security.

The events of September 11 clearly changed our security focus as a nation. Today we face a substantial threat of terrorism, a reality that will continue well into the future.

With his plan to create a Department of Homeland Security, the President has taken the next logical step to ensure an effective posture of readiness for our nation. From the Coast Guard's perspective it is a necessary change, whose time has come. The proposed organization will bring unity of effort and unity of command to homeland security, with clear lines of authority to get the job done. It will serve to enhance awareness of threats and vulnerabilities so that effective preventative actions can be instituted. It will minimize the impact of a terrorist act and help align strategy, resources, and personnel to the highest priority. The Coast Guard is a logical component of the proposed Department. To maximize the Coast Guard's effectiveness in the new Department, it is essential that the Coast Guard:

- Remain intact.
- Retain essential attributes as a military, multi-mission, and maritime service.
- Retain the full range of Coast Guard missions.

Nearly forty percent of the Coast Guard's current operating budget is directly related to the core missions of the proposed Department and the remainder of our missions contribute indirectly to the overall security and economic viability of the nation. The Coast Guard is the lead federal agency for Maritime Homeland Security and we have a game plan to protect America's waterways and ports. The Coast Guard's multi-mission assets, military role as an Armed Force, and maritime presence and authorities bridge security, safety, and response capabilities between federal, state, local and private organizations as well as other military services. We have been the leader for non-DOD maritime security needs of our nation since 1790 . . . it was the reason we were formed 212 years ago.

The Coast Guard possesses extensive regulatory and law enforcement authorities governing ships, boats, personnel, and associated activities in our ports, waterways, and offshore maritime regions. We are a military service with 7x24 command, communication, and response capability. We maintain, "at the ready", a network of coastal small boats, aircraft, and blue water cutters, and expert personnel to prevent and respond to safety and security incidents; and we have geographic presence throughout the country, coasts, rivers, and lakes, both in large ports and small harbors. Although the President's proposal does not authorize the new Secretary any additional authority to engage in military activities, it does not change the Coast Guard's status as a military service and branch of the armed forces of the United States or the Secretary's role as a military service chief. The Coast Guard would continue its traditional operations, including using Coast Guard forces to safeguard U.S. ports throughout the country.

We are also a formal member of the national foreign intelligence community. We partner with other government agencies and the private sector to multiply the effectiveness of our services. The Coast Guard remains the recognized leader in the world regarding maritime safety, security, mobility, and environmental protection issues. These multi-mission, military, and maritime attributes form the core of our organization and maximize our ability to prevent and respond to incidents.

It is also important to recognize the threats to the security of our homeland extend beyond overt terrorism. Countering illegal drug and contraband smuggling, preventing illegal immigration via maritime routes, preserving living marine resources from foreign encroachment, preventing environmental damage and responding to spills of oil and hazardous substances can all be included as critical elements of national and economic security and they are all Coast Guard responsibilities. This mission set was recognized and validated as recently as 1999 by the Presidential Interagency Task Force on Coast Guard Roles and Missions. Our full range of missions, all critical to the nation, would continue to serve America in a robust way under President Bush's proposal.

The Coast Guard is well positioned to move into the new Department and respond to the nation's future maritime needs. The Integrated Deepwater System contract has been awarded. This program will re-capitalize the Coast Guard's cutters, aircraft, and offshore Command and Control network to help push out the U.S. borders and increase our Maritime Domain Awareness (MDA). It is a scaleable and flexible program, able to meet emerging requirements for maritime security. The National Distress and Response System Modernization Project contract will be awarded in

September. The maritime 911 system not only provides a distress network, but also provides an integrated Coastal command and control system breaking down communication barriers experienced between cooperating agencies when responding jointly to emergencies. We will award Response Boat small and medium contracts this year to replace our multi-mission station boats with more effective assets. These programs are at the heart of providing a ready Coast Guard with the competencies and capabilities to respond to a multitude of future threats and missions.

The greatest danger to any Coast Guard mission would be to fracture the Coast Guard. Our multi-mission assets are critical to each of our five fundamental roles: Maritime Security, Maritime Safety, Maritime Mobility, Protection of Natural Resources, and National Defense. These roles overlap, as Maritime Security and Maritime Safety are two sides to the same coin of protecting Americans. The same cutters, boats, aircrafts, and personnel that maintain Maritime Mobility also provide Maritime Safety and Security as well as Protect our Natural Resources. The Coast Guard has always met its full set of responsibilities, regardless of Departmental location. Whether in war, national crises or "peacetime steaming" we will answer the call.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

Mr. SMITH. Thank you, Admiral Collins.
Secretary Magaw?

**STATEMENT OF JOHN W. MAGAW, UNDERSECRETARY OF
TRANSPORTATION FOR SECURITY, TRANSPORTATION SECURITY
ADMINISTRATION**

Mr. MAGAW. Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today on a matter of critical importance to our Nation. The logical consolidation of Government resources by the way of the President's proposed Department of Homeland Security is the proper way to go, I believe.

Due to time restraints, I have submitted a more detailed written statement for the record. I acknowledge that I am in good company as a member of this panel, indeed, highly professional company that I have been privileged to work with on a continuing basis for over 33 years as a team with the Coast Guard, Customs Service, and the Secret Service, all working together to protect our great Nation from harm in so many very different ways.

But this new proposal, the proposal by the President, as already stated by Commissioner Bonner, gives clear accountability for the entire effort. I fully support the President's proposal to create a Department of Homeland Security and to include the Transportation Security Administration within this new department. I see the President's plan as an effective and efficient fusion of resources and allies. With a mission to ensure the freedom of movement for our people and commerce in all modes of transportation, TSA is a logical and critical component of the proposed department.

TSA's mission involves security in-depth, a balance of regulatory compliance, intelligence, law enforcement, and security operations. Every TSA dollar and every TSA employee directly supports the core missions of the new Department of Homeland Security. We are a sure fit in this new organization.

To ensure TSA continues to meet its date-specific congressional mandates, and continues to serve its customers with excellence, TSA must be transferred to the new department in its entirety, with all its parts and functions. I am convinced that it will happen just that way and with very little disruption in meeting our specific goals in the next few months.

May I clearly emphasize, though, that the personnel of the Department of Transportation, and in particular Secretary Norman Mineta, have continually embraced the TSA challenges, provided us outstanding leadership, and supported our needs every step of the way.

In addition to hiring and deploying thousands of security screeners nationwide, we're also in the midst of an ambitious program to hire and train uniformed Federal law enforcement officers and Federal Air Marshals. This team will enhance aviation security laws and the regulations through detection, deterrence, arrest, civil enforcement, and prosecution.

We will continue to work closely with State and local law enforcement agencies, as well as the Department of Justice, the United States Attorneys, and all Federal law enforcement and intelligence agencies.

The horrific events of September 11 and the use of commercial airplanes as deadly weapons set the high priority that we must give to protecting our airways, but also our waterways, our railways, our transit systems, and our pipelines.

Although TSA is aggressively addressing the aviation-related mandates of the Aviation Transportation Security Act, we are also pressing forward on our statutory responsibility to secure all modes of transportation. We are working closely with our partners in Homeland Security and the executives represented on this panel.

Some terrorist threats originate overseas and cross our borders using the transportation systems that connect our cities and communities. With the united efforts of the proposed new department's complementary agencies, we can build a seamless transportation security infrastructure to protect people and commerce from their point of origin, prior to entry into the United States, all their travel throughout the United States, and to their exit points, and everything in between.

Linking TSA with all agencies involved in both securing our borders and gathering intelligence information enhances our ability to dismantle terrorism plots in their planning stage, and that's really what we're all working toward, rather than react and respond to a terrorist attack. And I say protection through prevention.

One area where TSA needs immediate assistance is funding. I realize that this Committee does not appropriate funds, but as we all know, you vote on the appropriations. And I urge the distinguished Members of the United States House of Representatives to support President Bush's full request for emergency funding, in order to carry out our statutory obligations, the success of which is based on our ability to continue to fund operations already in high gear. I echo the President's words of yesterday: Any further delay for us becomes intolerable.

I cannot close without mentioning the tragic shooting at Los Angeles International Airport on Independence Day. This incident clearly demonstrates that TSA's scope goes beyond the checkpoint and the aircraft. We are responsible for securing throughout the airport. We intend to work with local and State law enforcement to coordinate the best security for each airport. TSA will retain the flexibility, the capability, and the vision to adapt to new threats.

We will continue to raise the security bar as we federalize airport security in 429 airports nationwide.

And I also would like to pay my respects to our TSA personnel. They have come out of the woodwork since this house passed the bill and the President signed it. They've come from retired ranks. They've come from other agencies. They've come from the private sector. They've come from every entity of transportation which we're dealing with, so that we have experts who have grown up in those areas. And I congratulate all of them and thank them for their patriotic duty.

Mr. Chairman, that concludes my statement, my personal remarks, and I'm happy to join the panel for answers as you deem appropriate.

[The prepared statement of Mr. Magaw follows:]

PREPARED STATEMENT OF JOHN W. MAGAW

Good morning Mr. Chairman and distinguished members of the Subcommittee. It is a pleasure to appear before you today to discuss the President's proposal to create the Department of Homeland Security, to briefly discuss the responsibilities of the Transportation Security Administration (TSA)

The events of September 11 clearly changed our security focus as a nation. Today we face a substantial threat of terrorism, a reality that will continue well into the future.

With his plan to create a Department of Homeland Security, the President has taken the next logical step to ensure an effective posture of readiness for our nation. From the TSA's perspective it is a necessary change. The proposed organization will bring unity of effort and unity of command to homeland security, with clear lines of authority to get the job done. It will serve to enhance awareness of threats and vulnerabilities so that effective preventative actions can be instituted. It will minimize the impact of a terrorist act and help align strategy, resources, and personnel to the highest priority. TSA is a logical component of the proposed Department, as part of a Division of Border and Transportation Security. To maximize TSA's effectiveness in the new Department, it is essential that all missions and functions that are assigned to TSA be transferred to the Department of Homeland Security.

The entirety of TSA's budget, personnel, and focus is directly related to the core missions of the proposed Department—protecting the security of our air, land, and sea borders and the security of our inter-connected transportation systems. TSA has the statutory responsibility for security of all modes of transportation and TSA directly employs transportation security personnel. TSA uses various tools to execute its assigned missions including intelligence, regulations, enforcement, inspection, screening and education of carriers, passengers, and shippers. TSA's present focus on aviation security will not slow the government's pace in addressing the security needs of other transportation modes. The incorporation of TSA into the new Department will not slow the pace of addressing the security needs of America's transportation systems. It will also allow the Department of Transportation to remain focused on its core mandates of safety and ensuring that the nation has a robust and efficient transportation infrastructure that keeps pace with modern technology and the nation's demographic and economic growth.

The attacks on September 11, which used components of the transportation system as weapons, demonstrated the high priority that must be given to protecting the nation's transportation sector. The task can best be accomplished within the Department whose principal mission is protecting Americans from terrorist attacks.

As part of the Department of Homeland Security, TSA will have ready access to the Department's intelligence architecture to support our efforts to prevent terrorists from using the transportation system as a target, or using the transportation system to deliver or use a weapon, such as by aircraft, railroad train or tanker. Combining TSA with established organizations brings mature services to our fledgling agency, allowing us to focus on accomplishing mandated goals. Also, combining TSA with fully staffed agencies, the new Department will allow the leveraging of staff, research capabilities, resources and facilities to address critical vulnerabilities. By including TSA as an important component of the Department of Homeland Security, we will be better able to support standardized practices and reporting requirements and integrated information technology systems, the control and direction of

investigative resources, the coverage of National Special Security Events (NSSE) and responses to heightened alert levels and critical events.

The security of our borders is intertwined with transportation security. The nation's air, land, and seaports are critical nodes of the national transportation system. They interconnect international transportation systems with our expansive domestic transportation system. The continuity of security from our borders throughout our transportation system is essential. The protection of these modes and the passengers, cargo, and conveyances traveling through them is a responsibility that must be shared by border-management agencies and TSA. TSA's ability to coordinate with border-management agencies will be enhanced if it is part of the same organization and has access to shared systems. The ports of entry are not limited to our continental borders. They include international airports throughout the country. The coordination of effort between TSA, INS, Customs and other DHS elements is critical to insure the comparability of security across all entry sites, whether internal or on the boundaries of our country.

I would now like to turn to a brief discussion of TSA's functions and its law enforcement responsibilities.

First, I would like to provide a brief overview of TSA's missions and functions. The Aviation and Transportation Security Act (ATSA) that Congress passed and the President signed into law last November created TSA. ATSA established my position as the Under Secretary of Transportation for Security and gave me the immense responsibility to ensure the security of the transportation of people and property throughout the United States transportation system. Specifically, in the area of aviation security, Congress established ambitious mandates and standards that we are implementing in federalizing all passenger and baggage screening at 429 airports in the United States.

To give you an idea of the enormity of this task, when the Senate confirmed me on January 28 of this year, we had approximately 15 employees in TSA. By the end of December, when we will have federalized passenger and baggage screening at all U.S. commercial airports, we expect to have between 60-65,000 employees. We are working hard, under enormous pressure, to federalize passenger-screening functions by November 19 of this year, and to federalize checked baggage screening by December 31 of this year. We will ensure that there is no disruption in this schedule as a result of a transfer to the Department of Homeland Security.

We are also in the midst of an ambitious program to hire and train Law Enforcement Officers (LEOs), and Federal Air Marshals (FAM). Together, these law enforcement team members will give us an effective capability to enforce aviation security laws and regulations through a combination of deterrence, arrest, civil enforcement, and prosecution. We will work closely with state and local law enforcement, the FBI, Department of Justice, the United States Attorneys, and other federal law enforcement and intelligence agencies to prevent criminal acts against the transportation system and ensure the prosecution of those that occur.

Notwithstanding our understandable focus on aviation security because of ATSA requirements, TSA is also actively engaged in ensuring the security of transportation over land and sea. We are focusing on the inter-modal aspects of moving people and goods, such as transportation from truck to rail to ship, for example. We are developing procedures, and will seek to implement them, to prevent any mode of transportation from being exploited by terrorists. We are working closely with our partners in homeland security, especially the Coast Guard and the Customs Service to protect against such exploitation.

TSA will utilize existing modal relationships and infrastructure to implement unified, national standards for national transportation security. These standards and initiatives will range from:

- Credentialing of transportation workers;
- Qualification and certification of transportation security workers;
- Expansion of the Coast Guard Sea Marshal program;
- Establishing Transportation Security Conditions as the link between the Office of Homeland Security threat conditions and the national transportation system;
- Shipping container security;
- Hazardous material transportation security;
- Operational and other intelligence fusion for risk assessment;
- Grant awards to mitigate the vulnerabilities; and
- National exercise program for response capability for security incidents and terrorism prevention evaluations.

TSA's ability to leverage requirements and resources across different transportation modes accommodates modern intermodal transportation, reduces redundancy, and improves the effectiveness of the security measures that we are developing.

In cooperation with many other agencies within the Federal Government, TSA is working with international organizations such as the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO) to develop an international consensus to combat terrorism. The White House announced in a press release on June 26, 2002 an agreement among the Kananaskis Summit participants regarding transportation security. President Bush secured G-8 agreement on a major new U.S.-proposed Transport Security Initiative designed to enhance our security while growing our economies. G-8 countries account for over 50 percent of the world's trade, approximately two-thirds of the world's passenger aircraft fleet, and 13 of the world's 25 busiest international airports. The U.S. proposed in March that the G-8 cooperate in addressing these challenges by advancing key transport security initiatives within G-8 countries, and in multilateral bodies such as ICAO, the IMO, and the World Customs Organization. The initiative will lead to more effective screening of people and cargo before transit; increased security for ships, airplanes, and trucks while in transit; and enhanced security at airports and seaports. By deploying modern technology, the initiative will push the security perimeter beyond physical borders, strengthen security, and expedite the movement of legitimate cargo and travelers.

When Congress created TSA, it vested it with security functions that are preventive in nature, and with law enforcement responsibilities. The security related functions occur through a variety of methods including the development and use of intelligence databases; clear and well-communicated rules on prohibited items for passengers, carry-on baggage, and checked baggage; training and deploying a force of federal screeners of passengers and checked baggage; the purchase, installation and use of explosives detection systems; credentialing of airport and other transportation workers; securing the perimeters around ports and airports; and the installation of secure cockpit doors on aircraft.

On the law enforcement side, TSA has staffed every airport-screening checkpoint with a uniformed Law Enforcement Officer (LEO) from State, local and airport authority police and security forces. These officers have a two-fold purpose—to deter any threat to the secure zone beyond the checkpoint and to enforce federal laws with respect to aviation security. Hiring, training, and deploying Federal LEOs to replace the state and local law officers is on going, but remains a challenging task.

TSA is also responsible for the Federal Air Marshal (FAM) program. The program has expanded vastly over that which existed before September 11. Our FAMs are highly skilled individuals who are willing to put their lives on the line to stop a hijacking and prevent the use of a commercial airliner as a weapon of mass destruction. They are critical in assuring the zone of safety that we are building around the cockpit. We have increased our FAM training at our facility in Atlantic City, New Jersey so that we can place more FAMs on flights. We are on target with our goals of hiring, training and deploying FAMs.

One area where TSA does need assistance from Congress is funding. I realize that this Committee does not appropriate funds, but all of you do vote on appropriations. TSA needs \$6.8 billion this fiscal year to carry out its statutory obligations. Over half of this amount is contained in the President's request for emergency supplemental appropriations. The House version of this bill not only drastically cut this funding request but also earmarked a substantial amount of the remainder in a manner that would make it extremely difficult for TSA to meet its statutory requirements for airport conversion. I urge the House to support the President's full request for emergency TSA funding, and to remove any earmarks that would inhibit our ability to effectively spend those funds in accordance with the Administration's priorities and meet the demands of our already active airport rollout plan.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

Mr. SMITH. Thank you, Secretary Magaw.
Director Stafford?

**STATEMENT OF BRIAN L. STAFFORD, DIRECTOR,
UNITED STATES SECRET SERVICE**

Mr. STAFFORD. Good morning, Mr. Chairman. I would like to thank you and the Ranking Member, Mr. Scott, and other Members.

Mr. SMITH. Pull your mike up a little bit, if you would.

Mr. STAFFORD. How about that?

Mr. SMITH. Much better.

Mr. STAFFORD. Good morning. I would like to thank you, Mr. Chairman, the Ranking Member, Mr. Scott, and other Members of the Subcommittee for giving me this opportunity to discuss the Administration's reorganization proposal, including the future of the Secret Service.

While the Secret Service is proud of its 137-year legacy as a bureau of the Department of Treasury, we strongly support the Administration's plan to transfer our agency to the new Department of Homeland Security. The proposal envisions a prominent role for the Secret Service in fortifying both our Nation's homeland and economic security.

For over a century, the Secret Service has maintained investigative and protective missions. They are the cornerstones of our agency. Since 1901, our mandate to protect the President has expanded to include the Vice President, other Government and foreign officials, and, in recent years, national events, such as the Winter Olympics and the Super Bowl.

But our investigative mission to protect our financial payment system and critical infrastructure predates our protective responsibilities by nearly 4 decades. Today, these dual missions are inseparable and complementary, and each is a multitude of connections to the objectives of homeland security.

The bedrock principle of the Secret Service's dual missions is our focus on prevention. The theme of prevention is ingrained in our culture, and it is infused into the minds of our employees from the day they enter our training facility.

When the Secret Service was created by Abraham Lincoln, our charter was to prevent the production of counterfeit currency before it could be circulated and create economic chaos in our country. Today, our methods detect incidents before they occur, through intelligence analysis, meticulous advance work, and countersurveillance tactics. Our electronic crimes task forces provide training to hundreds of local law enforcement and private sector partners, aiding them in efforts to shield critical systems from cybercriminals and cyberterrorists. These capabilities are accomplished through our 135 domestic field offices and additional 19 offices overseas. We believe that the core philosophy of the Secret Service prevention mirrors that of the new department. Our common goal is to anticipate and prepare, through clear threat assessments and analysis of the intelligence information that is consumed by our intelligence division and our field offices.

Since 1865, the Secret Service had developed a unique capacity to build strong and trusted partnerships with local, county, and State law enforcement, in furtherance of our dual missions. These partnerships involve information-sharing, open communication, and perhaps most critical, mutual trust. It is clear the Department of Homeland Security will be built on the pillars of prevention and protection. These are the very words found throughout our strategic plan. They define the mission and culture of the United States Secret Service.

On behalf of the men and women of the Secret Service, we stand ready to continue our mission of protecting our leaders, our critical infrastructure, and the American people. Our personnel have dedicated their careers and their lives to making a safer America.

Mr. Chairman, thank you for this opportunity. And I also will be happy to answer any of your questions.

[The prepared statement of Mr. Stafford follows:]

PREPARED STATEMENT OF BRIAN L. STAFFORD

Good morning, Mr. Chairman. I would like to thank you, as well as the distinguished Ranking Member, Mr. Scott, and the other members of the subcommittee for providing a forum to discuss the Administration's legislative proposal, including the future of the Secret Service and the other agencies represented here today.

On June 6, 2002, President Bush announced his proposal to create a new Department of Homeland Security. Included in that plan is the transfer of our agency and all of its functions and assets to the new department. While the Secret Service is proud of its 137-year legacy as a bureau of the Department of the Treasury, we strongly support the President's proposal to transfer the Secret Service to the new department.

The role of the Secret Service, as envisioned under the Administration's plan, will allow us to draw upon our unique experience and expertise to fortify both our homeland security, including the protection of our elected leaders and national events, and our economic security, vital to the stability and strength of our nation.

Should Congress enact the Administration's proposal and transfer the Secret Service to the Department of Homeland Security, it will become a watershed moment in our agency's storied history. As you know, Mr. Chairman, the Secret Service was created in 1865 as a small bureau within the Treasury Department to stem the flow of counterfeit currency that had saturated our nation's monetary system.

It was not until 1901, following the assassination of President McKinley, that the Secret Service began the mission that we are best known for today, protecting the President of the United States. This mission was expanded in subsequent years to include other government and foreign officials, and, most recently, events of national significance.

For over a century, the Secret Service has maintained investigative and protective missions; the cornerstones of our agency. They are inseparable and complementary, and each has a multitude of connections to the mission of homeland security and the objectives of the new department.

HOMELAND SECURITY: A PREVENTION-ORIENTED MISSION

In considering the potential transfer of the Secret Service to the Department of Homeland Security, it is important to understand the basic philosophy of our agency. The bedrock principle of the Secret Service's dual protective and investigative missions is our focus on prevention.

This core philosophy is prevalent throughout our agency's history. The theme of prevention is ingrained in our culture and pierces every facet of the Secret Service. It is infused into the minds of our agents from the day they enter our training facility. It is the undercurrent of our daily investigative and protective work, and is truly what makes the Secret Service different from all other law enforcement entities.

Our preventative focus is rooted in our investigative mission, yet it is also a core of our protective mission. That focus began with our original mandate to suppress counterfeiting, when the Secret Service adopted the goal of preventing the production of counterfeit currency before it was circulated. Over 137 years later, we are still conducting what we refer to as supply house canvases, where our field personnel work closely with paper and ink manufacturers and suppliers to determine if there is any inordinate demand for the materials used to produce quality counterfeit currency.

Prevention has also become an integral part of our efforts today to work with local law enforcement, other federal agencies, and the private sector to protect our critical infrastructure and financial payment systems from intrusion and compromise.

Our protective agents are trained to detect incidents before they occur through meticulous advance work and countersurveillance tactics. Threat assessments developed by our Intelligence Division identify any existing dangers to the officials we are protecting. Our Technical Security Division analyzes and addresses any vulnerabilities in a physical security plan. Our electronic crime task forces provide

training to hundreds of our local law enforcement and private sector partners, aiding them in efforts to shield critical systems and networks from cyber criminals and terrorists.

We believe that our core philosophy mirrors that of the new Department of Homeland Security. Like our agency, the new department will be prepared to respond to incidents and infiltration. Our common goal is to *anticipate and prepare*, through robust threat assessments and analyses of the intelligence information that is made available to us. We are a consumer of the intelligence community. Continuing that role in the new department will allow us to take the necessary steps and precautions to minimize opportunities for our adversaries, and to *prevent* any loss of life or the destruction or disruption of the institutions we depend on.

PROTECTING OUR ELECTED LEADERS AND NATIONAL EVENTS

Mr. Chairman, most Americans have some knowledge of our protective responsibilities. In recent decades, this mission has expanded beyond the protection of the President, the Vice President and their immediate families. Today, in addition to those officials, we are mandated to provide personal protection to the President-elect, the Vice President-elect and their immediate families; major Presidential and Vice Presidential candidates and their spouses; visiting foreign heads of state or governments; former Presidents, their spouses and children under the age of 16; and other government officials as designated by the President. Authorization for this protection can be found in our core statute, Section 3056 of Title 18 of the United States Code.

A significant component was added to our protective mission in 1999, when Congress further amended Section 3056 to authorize the Secret Service to plan, coordinate and implement security operations at events of national significance, as designated by the President. This authority was a natural evolution for the Secret Service, as we have led security operations at large events involving the President dating back to our first protective mandate in 1901. Our longstanding expertise at planning these events and coordinating security with our local, state and federal law enforcement partners provides a platform for the Secret Service to perform this mission. Since 1999, the Secret Service has led security operations at 13 of the National Special Security Events (NSSEs) designated by the President, including the 2000 Republican and Democratic National Conventions, the 2000 IMF/World Bank Meeting, the 2001 United Nations General Assembly, and, most recently, the 2002 Winter Olympics and Super Bowl XXXVI.

The actual planning and coordination of these events requires an intensive, sustained effort, sometimes taking months or years. The volume of both financial and human resources required to develop and execute a sound physical security plan for a NSSE can be immense. The 2002 Winter Olympics in Salt Lake City, for example, involved an unprecedented *interagency collaboration* between federal, state, and local law enforcement, as well as the military, working with the Salt Lake Organizing Committee, the Utah Olympic Public Safety Command, the International Olympic Committee, the State of Utah, and other entities. Security for the competition and ceremonies was provided for a four-week period, 24 hours a day, for an estimated 65,000 daily spectators, including 2,500 athletes in 15 protected venues. These venues stretched over an area covering 900 square miles, slightly smaller than the state of Rhode Island. It was the largest and most comprehensive coordinated security event in the history of American law enforcement.

Advances in technology and the world's reliance on interdependent network systems have also changed our protective responsibilities. No longer can we rely solely on human resources and physical barriers in designing a security plan; we must also address the role and inherent vulnerabilities of critical infrastructures upon which security plans are built. When a protectee visits a hotel, for example, we can assume that the utilities, ventilation and elevators on site are all controlled electronically. That is why the Secret Service has specialists, stationed in our field offices across the country, who have the experience and expertise to secure critical infrastructures that are part of our security plan. It is precisely these skilled personnel in our field offices who can be of enormous value and benefit to the municipalities, private companies and local law enforcement agencies in the cities and regions we serve.

INVESTIGATIONS—HOMELAND SECURITY AND ECONOMIC SECURITY

Beyond our protective responsibilities, the Secret Service is a major contributor to other aspects of our homeland security. For 137 years, the Secret Service has been safeguarding our currency and financial infrastructure, pre-dating our mission to protect the President by nearly four decades. And while today the Secret Service

remains the sole federal investigative agency responsible for enforcing our counterfeiting statutes, our investigative mission has broadened to include all aspects of the nation's financial infrastructure. As financial payment methods and systems have evolved, from paper to plastic to digital, so has our investigative jurisdiction. Since 1984, our investigative responsibilities have expanded to include crimes that involve identity theft, access device (credit card) fraud, false identification documents, computer fraud and cyber crime, and financial institution fraud.

In recent years, financial crimes have targeted both American industry and American consumers. Thousands of Americans are victimized each month as they learn their identities have been stolen, Social Security numbers compromised, and bank accounts emptied. The private sector, most notably the financial services industry, has also fallen prey to these criminal elements, as fraudulent credit and debit cards and counterfeit checks have become more and more prevalent in the marketplace.

Even more troubling, stolen identities, false identification documents, and fraudulent credit cards have become the tools of the 21st century terrorist, typically operating in cyberspace and often outside the physical boundaries of the United States.

Our currency and financial payment systems are primary targets for terrorists and other criminal enterprises, yet our critical infrastructure is equally vulnerable. A serious compromise of these electronic networks could wreak havoc on our economy, law enforcement, military, health care, transportation and emergency services.

The Secret Service is a leader of federal law enforcement efforts to investigate electronic crimes and safeguard our financial and critical infrastructure. This is accomplished through our vast network of field offices, including 135 throughout the United States and 19 additional offices overseas.

Our field offices have developed strong, information-sharing partnerships with the multitude of local police organizations and private companies they work with on a daily basis. These field offices are leading criminal investigations and task force initiatives, but they are also resources for the communities they are serving. Because of the availability of our skilled personnel and the relationships already established with municipalities and state governments, these field offices can take a lead role in protecting critical infrastructure on a local level, assessing vulnerabilities and training our local partners how to protect their networks and systems.

As with our protective mission, we continue to focus on preventative measures to shield the American people and these essential networks from terrorists, cyber criminals, and other attackers. We have committed ourselves as an agency to developing new tools to combat the growth of cyber terrorism, financial crime and computer fraud.

First, the Secret Service began its highly regarded Electronic Crimes Special Agent Program (ECSAP). This program provides specialized training to select agents in all areas of electronic crimes, and qualifies these personnel as experts in the forensic examination and preservation of electronic evidence and in the protection of critical infrastructure. We have placed these trained agents in each of our field offices across the country, and they have become invaluable resources, both for our own investigations, as well as for our local and federal law enforcement partners. From coast to coast, the demand among our local law enforcement and private sector partners for investigative or prevention-based assistance from our ECSAP agents is overwhelming, and we are striving to expand this program and training within our agency as resources allow.

Another important effort to secure our financial and critical infrastructure is the development of the Secret Service's electronic crime task forces. Several years ago, the Secret Service recognized the need for law enforcement, private industry and academia to pool their resources, skills and vision to effectively combat criminal elements in cyberspace and protect our nation's critical infrastructure. In New York alone, our task force is composed of over 250 individual members, including 50 different federal, state, and local law enforcement agencies, 200 private companies and 9 universities. The innovative approach our task forces have adopted allows various local, state and federal law enforcement agencies to combine their resources and experience with that of others, particularly private industry, to detect and prevent electronic crimes.

The Secret Service applauds the leadership of the House and Senate Judiciary Committees, who recognized the value of this initiative and included language last year in the USA/PATRIOT Act to authorize our agency to expand these task forces to cities and regions across the country. We have received strong and enthusiastic support for this program from the scores of local law enforcement agencies we work with, as well as our private sector partners, who are all excited about the potential of this exciting new endeavor.

Again, these ECSAP agents and electronic crime task forces are stationed throughout our field operations. From physical to financial to critical infrastructure

protection, these field offices have the expertise to extend the preventative mission of the Department of Homeland Security to communities across the country.

The prevalence of counterfeiting, network intrusions, identity theft, credit card fraud, and other such crimes leaves little question that the mission of protecting our financial and critical infrastructure is central to the mission of homeland security. Consequently, the Secret Service's dual protective and investigative missions, as well as our skills and expertise, will reinforce the primary mission of the new department.

THE DUAL MISSIONS OF THE SECRET SERVICE

Mr. Chairman, the coexistence and interrelationship between our protective and investigative responsibilities will be of tremendous value to the new Department of Homeland Security.

Our protective and investigative missions strengthen and complement each other. Since 1865, the Secret Service has developed a unique capacity to build strong and trusted partnerships with local, county and state law enforcement in furtherance of our investigative mission. It is important to note that these are partnerships in their truest form. They involve information sharing, open communication, and, perhaps most critical, mutual trust. These relationships are built over time, on the premise that our agency, by itself, cannot complete its mission without the cooperation and contributions of our local partners.

Building an atmosphere of trust and cooperation with local police is not only central to our criminal investigations and prevention-oriented partnerships, it is also the keystone to fulfilling our protective mission. The importance of these partnerships, developed entirely through our field offices, to our protective responsibilities cannot be overstated. When any of our protectees travels outside of Washington, D.C., the Secret Service executes our security plan with the cooperation and resources of the local police in the area, as coordinated by our field office.

The cooperative atmosphere that has already been established between our field office and local law enforcement with regard to our investigative duties breeds successful interagency collaboration during presidential and other protectee visits. Simply put, there is already a relationship in place between the parties that need to cooperate and coordinate their efforts, and the Secret Service builds on that relationship to prepare for and provide a seamless, safe and secure environment for our protectee.

Moreover, the associations we have established with our local law enforcement counterparts have provided a blueprint for our agency to follow in building *private sector partnerships* as well. We have learned that developing relationships with private industry, particularly those in the financial services, telecommunications and online industries, provides the Secret Service with additional expertise and ideas in preventing electronic crimes and protecting our critical infrastructure. The contributions of private industry, as well as academia, have become essential to our electronic crime task forces. Their expertise and knowledge in many ways surpasses that which we possess in law enforcement.

Mr. Chairman, our investigative mission is essential to our protective mission. Not only is there a connection between our investigative responsibilities and the protection of the President, but the strength of our protective capabilities is *dependent* on our investigative mission.

Every agent who is assigned today on a protective detail began their career in the Secret Service as a criminal investigator attached to a field office, where they spent considerable time developing their skills and expertise by working counterfeit cases, financial crime investigations, protective intelligence cases or protecting critical infrastructure.

A Secret Service agent is among the most skilled law enforcement operatives in the world, and this is due in large part to their investigative training and experience. This experience provides an opportunity to develop analytical skills, investigative expertise, maturity and judgment. These are the building blocks necessary for the transition of our agents into the next phase of their careers—protecting our nation's highest elected leaders.

Because of this investigative experience, our protective agents are multi-dimensional, relying on an array of skills and instincts to protect our nation's highest elected leaders. We draw upon those individuals who have years of experience in the field, who not only have acquired the requisite skills, but have been tried and tested under difficult circumstances, and have proven decision-making and other abilities that are crucial to protective missions.

As you can see, Mr. Chairman, our protective and investigative responsibilities are thoroughly intertwined and interdependent. They are the heart and soul of the

Secret Service, and complement each other in a manner that is truly unique among law enforcement today.

Under the Administration's proposal, the Secret Service would fall under the direct oversight and management of the Office of the Secretary and Office of the Deputy Secretary of Homeland Security. The Secret Service strongly supports this element of the Administration's proposal, which recognizes that the Secret Service has protective and investigative responsibilities that transcend all operational parameters.

A principal objective of homeland security is to ensure our highest elected leaders and events of national significance are protected from terrorist and other threats. In support of our responsibility for protecting the President, Vice President, visiting world leaders and NSSEs, the Administration's proposal provides maximum operational flexibility and direct communication to the Secretary. Moreover, the Administration's proposal allows the Secret Service to draw on the expertise and resources of each departmental division in support of our protective mission.

The Secret Service has a proud tradition of serving in the Department of the Treasury. However, our support for transferring the Secret Service to the new department is grounded in the capabilities, expertise and resources our agency can bring to the homeland security table.

For example, our National Threat Assessment Center (NTAC) has perfected models for identifying potential assassins, attackers and others capable of violence. Beyond their contribution to our mission to protect our highest leaders, NTAC has produced groundbreaking studies and provided prevention-based training on such issues as school violence and workplace violence. Under the Administration's proposal, the methodologies used by the National Threat Assessment Center can now be used for all homeland defense vulnerability assessments.

The Secret Service's world-class Forensic Services Division (FSD) has proven to be an invaluable resource for our local law enforcement partners and others, such as the National Center for Missing and Exploited Children, in investigations involving handwriting analysis, ink analysis, polygraph examinations, fingerprint analysis and similar services. Our FSD could be used in the future to provide forensic examinations for either the department as a whole or to smaller entities within the department.

In announcing his proposal to create a Department of Homeland Security, the President said the following:

"America needs a unified homeland security structure that will improve protection against today's threats and be flexible enough to help meet the unknown threats of the future. The mission of the new Department would be to prevent terrorist attacks within the United States, to reduce America's vulnerability to terrorism, and to minimize the damage and recover from attacks that may occur."

It is clear the Department of Homeland Security will be built on the pillars of prevention and protection. These are the very words found throughout our own strategic plan. They define the mission and culture of the United States Secret Service.

On behalf of the men and women of the Secret Service, we stand ready to continue our mission of protecting our leaders, our infrastructure and the American people. We know this is a daunting mission. We are up against criminals and terrorists who have committed themselves to disrupting that which we depend on, destroying that which we have built, and taking the lives of those that we love. But I assure this subcommittee that the Secret Service can and will meet this challenge. Our people have the skills, the experience and the training to rise to any occasion. They have dedicated their careers and their lives to making a safer America.

Mr. Chairman, thank you again for the opportunity to appear before the subcommittee. This concludes my prepared statement. I will be pleased to answer any questions you or the other members of the subcommittee may have.

Mr. SMITH. Thank you, Director Stafford.

Commissioner Bonner, let me address my first question to you, and this is really a question that could be asked in similar form to all witnesses today, and it is this, that in many instances when we are talking about transferring a service or an agency or department to the new Department of Homeland Security, not all functions of that service or agency or department are necessarily directly connected to homeland security. For example, in the case of Customs, you have both responsibility for border security, but you

also have responsibility for trade. So my question really is, I can understand the need for enforcement to be transferred to the new department, but what is the need for trade to be transferred to the new department?

Mr. BONNER. Thank you, Mr. Chairman, for that question. I think it would be a serious mistake if the trade function, so to speak, of the U.S. Customs Service were split out, or there was an attempt to split them out or carve them out of the rest of the Customs Service. First of all, we're not organized in a way that easily lends itself to doing that. And the reality is, particularly in the field, it's the same personnel that are involved in doing inspections for enforcement purposes and security purposes that do the trade function, that review goods to determine whether they're admissible and dutiable and the like. So it's the same people.

But more fundamentally, it seems to me that it would be very unwise to try to separate out these two functions because the security function and the trade function, let's call it the trade facilitation function of U.S. Customs Service, are not only interlinked, but I think it would be a terribly bad idea to, let's say, send over to a new Department of Homeland Security a Customs Service that no longer had a trade function. It's the fact that we have a trade function and a function to look at trade and trade facilitation that requires the U.S. Customs Service to balance security with trade facilitation. If you remove the trade function from Customs, you simply now have a security agency whose only responsibility is border security.

That would be a mistake because of this: It's really pretty easy, in a way, to provide security at all our ports of entry. If you want absolute security, you just shut them down. We don't want that. We want an agency—the U.S. Customs Service is such an agency, because it has these dual roles and missions—that will be mindful of and balance the need to make sure that we provide the security that's necessary against the terrorist threat, but we do so without choking off the flow of trade. And we've done that through the partnership against terrorism with the trade and some other programs we've initiated.

So for that reason, it seems to me it would be terribly unwise to split out or carve up the Customs Service.

Mr. SMITH. Thank you, Commissioner.

Admiral Collins, in your written testimony, you make the point that the threats to the security of our homeland extend to countering illegal drug and contraband smuggling, preventing illegal immigration via maritime routes, and so on. My question is this, are those very important missions of the Coast Guard going to be in any way diminished or reduced as a result of your emphasis on homeland security?

Admiral COLLINS. Let me answer it this way, Mr. Chairman, clearly in the immediate aftermath of 9–11, we did in fact allocate resources, multimission resources, multitask resources, the capability to do the wide range of our missions away from fisheries, away from counterdrugs in the Caribbean, into our ports and waterways and coastal areas, to deal with what at that time was an unknown magnitude of threat.

We have since reallocated those longer range resources, our larger ships and aircraft, back into those missions. And we are within about 5 percent or so of the pre 9–11 resource allocation, in terms of fisheries and counterdrugs.

I think that, on steady state, we will, thanks to Congress' support, the President's support, Secretary Mineta's support, our '03 budget is the largest increase—now under consideration on the Hill. It's the largest increase in recent history for the Coast Guard, recognizing this wide range of missions.

Mr. SMITH. So in other words, your resources that are dedicated, say, to stopping drug smuggling are actually going to increase as far as personnel, as far as funding goes?

Admiral COLLINS. We're not at the same level right now as pre 9–11. We're probably within 5 to 10 percent of the resources allocated to the counterdrug mission.

Mr. SMITH. You anticipate getting back to at least where you were if not increasing?

Admiral COLLINS. That will be done over a multiyear basis, Mr. Chairman. And the first installation, of course, is within the '03 budget. It represents the——

Mr. SMITH. So in that case, you're really saying that there is a reduction in the number of personnel and the amount of funds dedicated to some of these other missions, like stopping drug smuggling.

Admiral COLLINS. Sir, there is definitely a capacity issue here.

Mr. SMITH. My concern is that there's a reduction in the resources that you're dedicating to these other missions. That's a real concern, that that is occurring, that you're not going to be spending as much, not assigning as many personnel to, say, drug smuggling as you had been.

Doesn't that concern you?

Admiral COLLINS. I think in terms of the missions that had to be reduced, in our fisheries mission, in our counterdrug mission—and now that's around 5 to 8 percent of pre 9–11 levels.

The search and rescue mission in our waterways and ports, waterways and coastal areas, remains a priority. And in fact, the investments that we're making through the '02 supplemental and the '03 budget actually puts a greater presence in those areas than before.

Mr. SMITH. Okay.

Admiral COLLINS. Drove by 2,000 people, the vast preponderance of that increase goes to our ports and the coastal areas just where the greatest degree of search and rescue demand is.

So I think when you invest in security through what we're doing in our initiatives in our '03 budget and our supplemental, you're investing in safety at the same time.

Mr. SMITH. Okay, thank you, Admiral Collins.

The gentleman from Virginia, Mr. Scott, is recognized for his questions.

Mr. SCOTT. Thank you, Mr. Chairman.

I wanted to follow up. You said 5 to 8 percent of pre 9–11 levels?

Admiral COLLINS. That's correct.

Mr. SCOTT. Are you talking about 95 percent drop?

Admiral COLLINS. No, no, no. No, we're within 5 percent to 8 percent of—

Mr. SCOTT. Of the level.

Admiral COLLINS [continuing]. The allocation of resources, in aircraft hours and ship hours that we allocated prior to 9–11.

Mr. SCOTT. Okay. When Mr. Ridge was here, I submitted several questions in writing. I'm not aware that we've gotten a response yet. Let me just ask if anyone can express any need for sabotaging civil service provisions, undermining whistleblower protections, significant changes in Freedom of Information or Federal Advisory Committee Act legislation, or significant changes in the way inspector generals generally work? Is there any reason that we need to change the law in those areas? Can anybody articulate a reason?

Mr. BONNER. I know that—I think it's very important, Mr. Scott, that the new Secretary have a significant amount of management flexibility in terms of organizing this. But I can't really address the specific issues that you're raising.

Mr. SCOTT. Well, every manager needs some flexibility. But we've had civil service protection for at least decades if not centuries. I just wanted to know whether or not we're going to use this as an excuse to make fundamental changes in that law, and I don't hear any articulated reason why we need that or undermining the whistleblower protection that's so important.

Let me ask another question, pretty much the same lines as the Chairman, because after all is said and done, you're going to have the same people doing the same job, just doing it under another Secretary.

Mr. Magaw, where is your office now, physically?

Mr. MAGAW. TSA's office, now mine, is in the Transportation building.

Mr. SCOTT. And how far are you from Secretary Mineta?

Mr. MAGAW. Fifty yards. We're on the same floor.

Mr. SCOTT. Okay.

Mr. MAGAW. Just about 50 yards from the Secretary's part of that area. But the rest of my personnel, or most of the rest of them, are in three or four buildings close by. And that is something we are struggling with now, in terms of space.

Mr. SCOTT. Okay, now, after the reorganization, are you going to have to pick up your office and move it somewhere?

Mr. MAGAW. Well, I'm going to have to pick it up and move it before then, because we have sometimes offices that are supposed to house two people that have six in them. So I am just busting at the seams, and I can't find any more building space close by. So I've been conferring with the Secretary, and also will confer with homeland—

Mr. SCOTT. After this reorganization, you will be reporting to a different Secretary?

Mr. MAGAW. That's correct.

Mr. SCOTT. What will that do to things like airport screening? Which Secretary will be doing that?

Mr. MAGAW. We would still be doing airport screening, TSA—

Mr. SCOTT. And you're going to be doing that in another secretariat?

Mr. MAGAW. That's correct. All of TSA's responsibilities today would move in total, as a block, nothing left behind at Transportation, as I understand it now.

Mr. SCOTT. Well, yes, but there's a lot—airport security, a lot of that is going to be airport management. The management of the airport is going to be in one secretariat; security of the airport is going to be in another secretariat.

Mr. MAGAW. Management of the airports are independent. That's not under—

Mr. SCOTT. Well, I mean—

Mr. MAGAW. But we will be coordinating with FAA, as we have been from the very beginning, to make sure we're working—

Mr. SCOTT. Where is FAA going to be, after all of this is done?

Mr. MAGAW. FAA has one building of its own and is refurbishing another one. And so they're side-by-side within a block of the Transportation building.

Mr. SCOTT. And they're going to still be in Transportation or are they—

Mr. MAGAW. They'll still be in Transportation. The only—

Mr. SCOTT. So FAA would be in Transportation, and you're going to be in another secretariat.

Mr. MAGAW. Right. The only part of FAA that would not continue to be in FAA is the security group, which is 1,400 that are stationed virtually all over the country, some here in Washington. They move to Transportation.

Mr. SCOTT. Let me ask another question, Mr. Bonner, following up the Chairman, part of the problem with Customs is that you are dealing with trade, and the better job you do on security, the more problems occur in trade. After all is said and done, how is that balance going to work out?

Mr. BONNER. Well, first of all, it's very important that we maintain that balance. And the legislation that's before the Congress that the President proposed, as I think you know, Mr. Scott, includes a specific provision that provides that not only is the border security function to maintain security at the border, but that it will also have a responsibility—a priority of the new department will be that we move legitimate commerce and trade efficiently.

So that's a role that I've had to balance since September 11. I can tell you, on September 12 and 13 and 14, I had this exact problem, and the problem was that we had gone to Level 1 Alert at U.S. Customs, at all the border ports of entry into the United States, which is a much higher level of security. And within about a day or two, we had 10- or 12-hour wait times for commercial trucks trying to get across the border into the U.S., but principally our northern border.

So one of the things that I've had to grapple with is how do we maintain a very high level of security, which we are and we will, but to do that in a way that doesn't choke off trade, that allows the commerce to flow smoothly or relatively smoothly into the U.S. And we achieved that in about a week.

But the reason I was able to do that is that I had both roles. I had a role of security, but I also had a role of trade facilitation. And my point is, the worst thing we could do, trade's worst nightmare, is that if you take out the trade functions from Customs and

leave them behind someplace, and now you have somebody that's in charge of securing our borders that is only interested in security.

So we have to maintain this balance. And the President's own proposed bill, by the way, suggests that these are both priorities, that they need to be balanced, they need to be harmonized. And we've done a pretty good job of that, so far, at U.S. Customs, I would submit to you.

Mr. SMITH. Thank you, Mr. Scott.

The gentleman from Wisconsin, Mr. Green, is recognized for his questions.

Mr. GREEN. Thank you, Mr. Chairman.

Admiral Collins, in your written testimony, you state that the Coast Guard remains the recognized leader in the world regarding maritime safety, security, mobility, and environmental protection issues. I agree with you.

Your office is probably aware that I have some concerns and some suggestions on the search and rescue mission portion of your responsibility. What I would like to do is, if you would be willing to contact my office directly in the next day or so—I won't distract the Committee with some of those questions. So if you would be willing to do that, I'd appreciate it very much.

Admiral COLLINS. Glad to do that.

Mr. GREEN. Thank you.

A couple of questions that I have—I agree with what you have stated as to the importance of the Coast Guard remaining flexible and multitasked. Will that cause you to consider new design types in your vessel requests, in your vessel programs going forward into the future?

Admiral COLLINS. We have already initiated a procurement that's underway right now to purchase additional small boats for our search and rescue stations and a new unit that we're just creating, a maritime safety and security team. The first one was commissioned in Seattle on the 3rd of July. It's a 70-person team. We have six of those funded through the '03 budget. They will be dispersed around the country, and they're to provide search capability in our ports and coastal areas.

That is another plus for safety, by the way, and search and rescue, because it's additional presence. It takes the heat off, or the pressure off, some of our stations and their assets.

In terms of the larger assets that we're requiring, our Integrated Deepwater Systems project has just been awarded. It was awarded on the 25th of June. It's going to recapitalize our major—our major fixed-wing and helicopters.

And most of the capability gap that we envision post 9–11 we envisioned in the pre 9–11, quite frankly. And that was C4ISR. It was sensors, communications, secure communications, interoperability and connectivity, which is the absolute centerpiece to the deepwater project. That will give us much, much needed capability to have the awareness in the maritime environment we need to ferret out threats and push our borders out, so that we don't—we're not caught in this linear view of border security, where we're only inspecting at a port of entry or a linear type concept of a border.

Pushing the borders out, having a layered, in-depth strategy is a fundamental ingredient, I think, of the future of our homeland security, and these acquisitions give us that.

Mr. GREEN. How about having to go back and retool some of your existing vessels? Will you have to do that, bolster their equipment and capabilities?

Admiral COLLINS. Part of the Integrated Deepwater System project is, again, a recapitalization over a number of years. And that contract, the acquisition strategy calls for the contracting team, which is Lockheed Martin and Northrop Grumman, in this case, in a joint venture, to not only manage the acquisition of new assets in this system, but also develop a migration plan from the legacy assets to the new, and invest in the legacy systems as appropriate as part of this migration plan. So that will be an inherent part of the contract strategy that unfolds as we speak.

Mr. GREEN. In your written testimony, you state that the Coast Guard is a formal member of the national foreign intelligence community. Could you help me understand that, and that relationship and how you work with other—

Admiral COLLINS. That's a fairly recent development. It was a piece of legislation that was enacted last fall. It puts us at the seat at the formal intel community, at the table in terms of collection requirements and priorities and the like. So we're a member along with the CIA, the FBI, NSA, Department of Defense intelligence apparatus.

And it builds off of prior relationships, particularly with the Office of Naval Intelligence in the United States Navy, and sharing information and setting priorities. We are in many places, far-flung from our coast as well as on our coast. We do have collection capability and so forth to add value to that community. And it provides us the interplay, exchange of information interplay in the setting of priorities that is so very, very important to us to function across the wide range of our missions.

I think that's a very distinct—it's one of those value propositions that we bring to the new department, that we in fact are a member of the intel community.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Green.

The gentlewoman from Texas, Ms. Jackson Lee, is recognized for her questions.

Ms. JACKSON LEE. Thank you very much.

Let me, again, for the record, acknowledge both my appreciation for the presence of the witnesses, but also my appreciation for their service.

Mr. Magaw, your service is in previous responsibilities, but it is to be or ongoing at this point. And I thank you for taking on the challenge.

And certainly Mr. Stafford knows—we've worked together in the past, and appreciate very much the work of the Secret Service and the Coast Guard and, of course, the U.S. Customs.

And might I just say as well that my interest in FEMA's presence is because it does have such a vital role. And I do want to say for the record that I know Joe Allbaugh, and I know he's a good man, and that he has done good work. And I hope that he will ac-

cept the Chairman's invitation to come before us, even though our time is short, maybe in the near future. But I do respect the fact that we in the State of Texas have had our share and our needs as it's related to FEMA, and they've always been very prompt and appropriate in serving us. And I do want to state that for the record.

Let me try to pose my questions in the frame of the dilemma that I foresee us trying to attempt to respond to, and that is that the group that is before today have both civil and criminal responsibilities, if you will, or security and civil responsibilities that you have had previously. And now you're being put under a department called Homeland Security. And I think that is a dilemma that we will face even with the President's proposal, as we make our way through trying to formulate a department that will work.

Let me raise some initial questions, if you'll take some notes and want to respond to—I'll want to have a response to.

First of all, Mr. Bonner, let me just say that in traveling during the summer, you're doing an able job, but there are lines that are lengthy as it relates to the intake or the points of entrance that you have to check on individuals coming into this country. And we've heard, I'm sure, from airports around the country, long lines.

The other point that I want you to be able to comment on is, of course, we've had some concerns previously with U.S. Customs regarding allegations of racial profiling and issues that have been either resolved or litigated. And those are not diminished by putting you under the U.S. Homeland Security Department, and how will you comport those issues as we move forward? And that's the conflict between this new heightened security and law enforcement.

The Coast Guard, I will not make light of the fact that we who are in States with waterways are certainly very cognizant of the excellent work that you do as it relates to protecting those ports and making sure that there are not drunken boaters. How do we comport or mix that responsibility with the enormous responsibility that you're going to have or that we'll be looking to you to enhance with the security issues? I think they're extremely important.

And then, Mr. Magaw, I would hope that you would look at—being a new department, I hope that you would look at a proposal that I have that takes from the border and transportation security some of these what I consider straight immigration services and have a new division called “immigration, security and services” that talks about immigration, security—includes immigration security and immigration services.

One of my concerns, as it relates to immigration, that I constantly include, is that immigration does not equate to terrorism, and we should be very cognizant that there are people coming here, accessing—attempting to access legalization, contributing taxes, trying to work and be part of the American process. And so I think that there should be a fifth division. I'd like your consideration of that.

And as well, I'd like your consideration of making sure that your TSA department is enormously—or, diverse, these front-line individuals. And let me compliment the staff or the security people that we've had preceding you at Houston Intercontinental Airport and Hobby Airport. These are fine people. I hope that they will be

able to be hired or have the opportunity to be hired. And I hope you will be concerned about diversity in the hiring of them.

And finally, Mr. Stafford, I am confused as to how you will stretch your responsibilities to deal with the new instructions that you will be getting under homeland security and hope that you will be answer these questions.

It's been a mouthful, of course, but I think this is so important as to how America will see these departments move into each other and balance civil and criminal responsibilities. Would you be kind enough to answer those questions for me?

Mr. BONNER. Let me just start very quickly by telling you that, first of all, I am concerned about wait times. Actually, on the 13th or 14th of September, for the first time, I asked U.S. Customs Service to post the wait times at all ports of entry into the United States, at our land border ports of entry, and we've been doing so.

The good news is that—this is a generalization, but I think we've been able to provide a high level of security without significantly increasing wait times at our land border ports of entry. And we've been able to do that by doing things like partnering with the trade and, as Admiral Collins said, pushing the border, our zone of security, outward, so that our physical border is the last line of defense, not the first line of defense.

On the other hand, there undoubtedly are going to be some wait times that will be encountered because of security requirements, and I think that we have to understand that. But we are trying to do everything possible to manage that issue.

The second thing you asked me about was the racial profiling issue. And I think you know that I can't claim credit for it; it was my predecessor that instituted I think a very good policy with respect to personal searches that addressed this issue head-on. And I fully expect that the personal search policy that was instituted at the U.S. Customs Service is going to continue, whether we're in the Department of the Treasury or we're moved to a new Department of Homeland Security.

Admiral COLLINS. The question was posed about the safety and security mix of missions in the Coast Guard. I might submit that mixing safety and security is not like mixing oil and water. They are very synergistic. I see them as flip sides of the same coin. And when you invest in security, you invest in safety. When you invest in safety, you invest in security.

Security is not a new mission for the United States Coast Guard. We were formed for that very reason in 1790, and we've been doing it for 212 years, both as a military organization and as a civil law enforcement organization, and that makes us unique in the Federal Government.

It's very synergistic. When we invest in our search and rescue—they're called search and rescue stations, but they're multimission stations. Every member of those stations has law enforcement authorities, every petty officer in those stations.

So when we invest in, under homeland security urgency, when we invest in new boats for our coastal ports and waterways for security purposes, we're also providing increased presence for safety at the very same time.

As I mentioned earlier, we're creating maritime safety and security teams 70 people strong, active duty, augmented by 30 Reserve personnel, and we have about 8,500 Selected Reserve in the United States Coast Guard. They provide increased presence in our ports and waterways for the very purpose—and it is safety as well as security.

And it's very consciously done in their name. They're called maritime safety and security teams. They have the competencies and the skill sets to do both safety and security, as do all our platforms. All our ships, all our aircraft, are all multimission since 1790. And they have the competencies and the skill sets to do both.

So I think all our missions are going to be enhanced by the attention on security and our waterways. I think it's going to be a positive across all our missions.

Mr. SMITH. Secretary Magaw and Director Stafford, if you would respond very briefly to the question?

Mr. MAGAW. In terms of the question on immigration services, I know that the Office of Homeland Security is very concerned that the—in setting this homeland security up, that the good people are not delayed from getting their due process.

And the TSA diverse workforce, this is the first opportunity that I've had in almost 40 years now of public service to start an organization. And I guarantee you, it's going to be diverse. If you look at my top staff, if they walked in here today, you would be pleased. There's Asians, there's African-Americans, there's Hispanics. I could go through the whole thing.

But we will do that throughout the ranks, throughout the whole organization. And I guarantee you that.

And the good people of Hobby and Bush International Airport, every airport in the country, those people who are performing well and can pass the screening and the testing and the training will be hired into the new organization.

Ms. JACKSON LEE. Thank you.

Mr. STAFFORD. We've always been too small to do our job alone. That's why we form partnerships. Every day the President leaves the White House, we're too small to do that, and we form partnerships with local, State, county police departments.

Should this department materialize, it's 170,000 strong, so I would envision not only imparting our methods and our methodology within the department, of prevention, but also looking to the rest of the department for human resource needs and also for any other needs the Secret Service may have.

Ms. JACKSON LEE. Thank you.

I thank the Chairman.

Mr. SMITH. Thank you, Ms. Jackson Lee.

The gentleman from North Carolina, Mr. Coble, is recognized for his questions.

Mr. COBLE. Thank you, Mr. Chairman.

Let me try to get my questions in before that red light illuminates.

Admiral, the bill before us has deemed the Coast Guard as a distinct entity, with the commandant reporting directly to the Secretary. Yet the legislation also provides for the transfer of Coast

Guard functions to the Undersecretary of Border and Transportation Security. How will this play out logistically?

Admiral COLLINS. Clearly, the devils are in the details there, and the details—one of the reasons for putting together agencies that have common purpose, as we do, is to drive through some of those issues and resolve those issues. So it would be really preliminary at this point to be able to have a crystal ball on that.

Mr. COBLE. I was going to say, my question may be premature right now.

Admiral COLLINS. I think that, clearly, as the wiring diagram has us now, we are part of the transportation-border division of the new department, reporting through the undersecretary. That's the proposal on the table.

And, again, exactly how the mechanics of interrelationships and all that is going to play out is—I think will play out. And that's one of the roles of the new Secretary, to figure all that out.

Clearly, the intent of the proposal going forward is to move the Coast Guard intact, as a separate entity. Those words are used—distinct entity. Those words are used. And that implies that our current functions, our current authorities, our current responsibilities, and our current structure will remain intact as an entity, distinct entity, within the new department.

Mr. COBLE. And you can probably answer that better, Admiral, 5 or 6 weeks down the road, and I'll talk to you again subsequently.

Mr. Bonner, in my opening statement, you recall, I indicated the desire to eliminate duplication. With that in mind, what are the distinction and similarities between Customs and INS? And are there any areas where you would consider them identical, or nearly identical, within the two agencies?

Mr. BONNER. Well, that's sort of a big question, but let me just start off by saying that the distinctions are that U.S. Customs Service is responsible for enforcing many different laws, not only Customs laws and trade laws, but actually about 400 different statutes on behalf of 40 Federal agencies. So we have a huge responsibility in terms of people, goods, commerce, vehicles crossing the border.

The Immigration Service obviously has very significant responsibilities that are quite distinct, and that is the determination as to who can legally enter, I mean, the admissibility issue, particularly if you're a noncitizen.

So the actual responsibilities, I would say, of the two agencies are distinct in many ways.

Where they overlap is not the responsibilities or functions, per se. I think where you see—you do see two agencies clearly. Every American knows this. You see two agencies that are generally at every border port of entry into the United States, whether that's an international airport, where you go through Immigration and then Customs, or whether that's at our land borders, where you're going through, in many instances, U.S. Customs or you may be going through Immigration.

So I think they're distinct in terms of the laws they're enforcing. Immigration obviously is enforcing Title 8 of the United States Code, which is the immigration code. Customs is enforcing Title 19

and a lot of other provisions and a lot of other laws that Customs has responsibility for enforcing.

Mr. COBLE. I got you.

Mr. Magaw, the same question could apply with the Coast Guard and TSA. Do you want to insert your oars into these waters, on where there may be identical duties or distinctions?

Mr. MAGAW. Well, it's clear in my discussions with the Office of Homeland Security that as these units are brought together and working in one secretariat, that any duplication will be worked out. So I'm one that wants to be very careful in duplication, and will continue to be very observant as I go along, so that the TSA is not doing things that are duplicative.

Mr. COBLE. Thank you, sir.

Mr. Chairman, I'm told that you may have another question, and I will yield the balance of my time to you.

Mr. SMITH. How nice, Mr. Coble. I didn't know you were going to do that. Thank you for yielding.

Mr. Magaw, I am going to squeeze a question in here, just to follow up on what you've been talking about. You mentioned in your testimony that your intent to place more of the Federal Air Marshals on flights, and you say: We are on target with our goals of hiring, training, and deploying FAMs.

I'm not sure lightening is going to strike twice. I'm not sure terrorists are going to use commercial airlines again. However, what are the goals that you're talking about, as far as deploying the Federal Air Marshals? What percentage of commercial flights to you expect or intend to have the Air Marshals on?

Mr. MAGAW. If I could answer that question for you—

Mr. SMITH. Just real quickly, if you could.

Mr. MAGAW [continuing]. In a classified—if I talk the number, I'm playing right into the hands of those terrorists. So, Mr. Chairman, I'd like to discuss that with you, but do it in a private session, or with any Member.

Mr. SMITH. Fair enough. And I'll comment on another subject in passing that strikes me as worthy of note. I notice that you say you had 15 employees as of last January; you expect to have 60,000 to 65,000 employees by the end of the year. I think that's a new record for growth in a Federal agency or department. And by my reckoning, that's a 400,000 percent increase. [Laughter.]

I think it's justified because you're talking about the baggage screeners, but even people who want to increase the size of the Government might be impressed with that magnitude of increase.

You don't need to comment. That was just an aside, because I haven't seen those figures before.

Again, Mr. Coble, thank you for yielding.

And the gentleman from California, Mr. Schiff, is recognized for his questions.

Mr. SCHIFF. Thank you, Mr. Chairman.

It seems to me that the challenge of this new department is going to be to provide seamless security for the country, in the sense that if you had a terrorist plot involving the conveyance of weapons material, whether chemical, biological, radiological, or, God forbid, nuclear in a cargo container of a ship, and you had a timing mechanism conveyed in a pleasure craft, and you had some

of the terrorists applying for a visa to come into the country, you would want a seamless web where each of your respective agencies can play its part, can communicate with each other, can identify the threats, and prevent or deter the threats.

This I think will require a very strong level of authority for the new Secretary, to have the ability to allocate resources among your various agencies, to reallocate them. And that raises two questions for me. One is whether you anticipate and are prepared to have a Secretary that can tell you, "Here's where the weak link is. We need greater staffing in Customs, and we're going to move people from the Coast Guard to Customs." Or, "We need greater assistance in the INS, and we're going to have to cut the budget in one of the agencies to raise the budget of INS."

Do you anticipate that the Secretary will have that authority and use it, notwithstanding the fact that some of your agencies are being moved into this department in their current form, in their current structure?

And a further question is, what will the budgetary impact be? Now the Administration is proposing, I think at least for the short term, that this proposition, this new department, be budget-neutral. I think that while that is theoretically possible in this calendar year, in future calendar years that is highly, highly unlikely. And the costs could be enormous.

How would it be even possible for this new department to function in a budget-neutral way? How would your agencies be able to talk with each other? Won't this necessitate the development of completely new information systems, so that your computers can talk with each other, and your personnel can as well? Where are the likely additional new costs going to be for your respective agencies?

Mr. BONNER. It's a huge question. I'm going to let Director Magaw answer it. I just wanted to say, though, for the record, that Congressman Schiff actually was one of my best hires as a U.S. attorney. [Laughter.]

And I wanted the record to reflect that.

Now, I'll defer to Undersecretary Magaw.

Mr. MAGAW. I believe it's clearly the intention to make sure that this Secretary does in fact have that authority. And I would support that. You cannot have a national homeland security if he or she can't take assets from me and give them to somebody else as situations arise.

So I see that as a very important position, and I am under the full understanding, without specifically asking that question, that that person would have that authority, because that's the bottom line of this. If they don't have the full authority to do that—and that's why you sometimes haven't had the cooperation that we've wanted in the past. They have to have that authority. And I suspect that this Secretary would be given that authority.

In terms of information systems, in terms of those kinds of things, for TSA, we're right in the process of trying to find space and communication equipment, so we're going to be, without getting ahead of Congress, we're going to work very closely with Homeland Security and Secretary Mineta, in terms of these assets

as we move forward, so that we don't have a bunch of new systems that won't be compatible.

Mr. BONNER. If I could just join in that and say that it is absolutely necessary for the Secretary to have this authority. It will give him the authority to rationalize the process by which budget requests are made. And the Secretary ought to make decisions. If that means moving resources out of Customs to Coast Guard or TSA, that's what should be done if that's where the resources are necessary to protect America and protect the American people.

And that's true of even IT systems, which are enormously expensive systems, but this will give an opportunity for a Secretary to look and make sure that we have the right information technology platforms so that we can link up our databases.

And I would suggest to you this, that if this is done right—and I'm not saying this is easy—but if this is done right, I think we will produce efficiencies. And I think we will produce efficiencies that lead to cost savings that can be plowed back into homeland security, I hope, or some other area.

But I think we actually can do this in a revenue-neutral way, if the Secretary has the appropriate powers and authorities, because you'll eliminate some duplicative overhead and that sort of thing, as you consolidate agencies and move them under one Department of Homeland Security.

Admiral COLLINS. Just a few comments to add to that. Clearly, the '03 budget that's now before Congress reflects the Office of Homeland Security imprint and review. And that was part of the process. I would suspect that the '04 budget, particularly, will be viewed through the lens of an integrated department. And those are all good things.

We mentioned one of the real advantages of this new department was unity of purpose, and I think unity of purpose goes to policy, strategy, resources, and structure. And we'll get that I think with the new department.

As far as IT is concerned, as Governor Ridge articulated last fall, he had four major first things he wanted to focus on, and it was bioterrorism, and first responders, and so forth. One of them was IT, and clearly that has been an imperative within the policy Committees, within the Office of Homeland Security. I think it will be carried forth in a very robust way into the new department, to consider how IT is used effectively in an integrated way.

And I might submit that we are partnering very, very closely with Customs on sharing information and developing and contributing—you know, "What data elements do we need as you develop your system, Customs?" And it's done in a very collaborative, cooperative way, and making a great deal of progress.

And I see that just carrying on, twofold, threefold, fourfold, as we get into the new integrated department.

Mr. STAFFORD. Just a few quick things. We currently have IT projects underway with Customs and with TSA, even before this announcement. So if it does materialize, I think those projects will transfer very well.

Mr. SMITH. Thank you, Mr. Schiff.

The gentleman from Ohio, Mr. Chabot, is recognized for his questions.

Mr. CHABOT. Thank you, Mr. Chairman.

As I mentioned before my opening statement, I'd like to direct my questions to Undersecretary Magaw.

Mr. Magaw, as you may know, 3 weeks ago, security screeners at the Greater Cincinnati-Northern Kentucky Airport failed to detect fake guns or real handguns enclosed in plastic four out of six times in undercover tests performed by the Transportation Security Administration. I've been concerned about security at the Cincinnati airport even prior to September 11 and have previously written to the Department of Transportation, expressing my concerns.

With passage of the Aviation and Transportation Security Act, there's a greater responsibility and accountability on the part of the Government. I'd like to know why the Cincinnati airport fared so much worse than other areas around the country. And what steps does the Transportation Security Administration plan on taking to improve security at the airport? And how long do you anticipate that this process will take? And finally, if the security problems are not resolved, what specific actions will be taken? And what assurances can you give to the people flying into and out of the Cincinnati airport that they are safe?

Mr. MAGAW. The concern that I had a number of months ago, in first coming on board to undertake this task, was: What is getting through the airports, and why? Why is it getting through these checkpoints? What does it look like? Can you position a weapon in a certain place, in a certain way, that's very difficult to be picked up? And if so, we need to make sure, in our training, we teach them to look for those kinds of things.

So in terms of finding the weaknesses throughout the country, it's now provided the basis for the training that we're giving the Federal force as we're bringing them on board.

The concern that I have is that I want to continue, as soon as that Federal force is in, or even while these other units are in, we're calling their attention to the shortfall. We have people on board there now from TSA, who are giving them extra training if necessary, discharging them if necessary, doing the discipline that you're referring to here.

But my concern was, early on, what is the problem out there? And we've identified them. I'm sorry that that report got out, because it also identifies them to the terrorists. But by identifying them, we're going to eliminate them. We're going to stay ahead of trying to—in Europe last week, the week before last, discussion with the authorities over there about how to position weapons, how to position knives, how to position explosives in baggage. All of that is a huge concern to me. And I want to know where the problems are. I want to know what is being done, so that we can circumvent it in our training.

We have people now in Cincinnati. We are recruiting in Cincinnati. We are looking at the checkpoints in Cincinnati, as we are in virtually all the airports in the country now—I think over 300 of them we're in by next week, and 429 by a few weeks after that.

And the Federal force is going to start arriving in these airports, so that we are going to meet that November deadline. But in the meantime, this Federal force coming in, I want them trained. And

we're not going to stop there. We have not only our inspector general, which I've had discussions with, but also an inspection team that I have set up since arriving there, that is going to do continuous screening throughout the country to see how we're doing.

Mr. CHABOT. Thank you. It just seems to me that the performance of the security at the airport, according to these tests, it's just pitiful. With only a 42 percent success rate, I mean, you ought to do at least that well by accident.

Mr. MAGAW. Well, and almost by accident—sometimes they only have 8 or 10 hours of training before they're put on that line.

Now, we have changed that. And we have caused them—even though some of them are still contractors, we have caused them to upgrade their training, and we're doing observation at these checkpoints every day.

Within a few weeks now, and certainly within those couple of months, we are going to have a Federal force at virtually every airport.

Mr. CHABOT. And I can see my time is running out here, but, again, it just seems to me—and I appreciate your responses—but your agency just has to do a better job. And when you consider that—I've often heard it said that, in the war against international terrorism, we have to be successful every time.

Mr. MAGAW. Every time.

Mr. CHABOT. The terrorists, particularly when you could be dealing with weapons of mass destruction or God only knows what could be used against this country, they only have to be right once. So we have to do a lot better job than we have thus far.

Thank you.

Mr. SMITH. Thank you, Mr. Chabot.

The gentleman from Georgia, Mr. Barr, is recognized for his questions.

Mr. BARR. Thank you.

Undersecretary Magaw, with regard to the incident, I believe it was on July 4th at Los Angeles International, that perpetrator—terrorist, very likely—was taken out by an El Al security agent who was armed. Is that correct?

Mr. MAGAW. Yes, that's correct.

Mr. BARR. The last line of defense at a ticket counter for somebody coming in are the people behind that ticket counter. Is that correct?

Mr. MAGAW. And some local law enforcement is there in some cases, but no TSA personnel.

Mr. BARR. You certainly don't have any problem with the last line of defense being appropriately protected by trained, armed personnel, do you?

Mr. MAGAW. The responsibility of TSA is to secure that entire airport.

Mr. BARR. He was killed and stopped from killing or harming additional people, which he apparently would have done, very clearly would have done had that El Al agent not been armed and shot him to death. Is that correct?

Mr. MAGAW. That's correct. Yes, sir.

Mr. BARR. So given the fact that that last line of defense, the person behind the point to which the terrorist is attempting to go

or from which he's operating—in this case, the ticket counter—there's nothing wrong with having people there that are armed, is there?

Mr. MAGAW. There's nothing wrong with having people there that are armed, and that's what we are going to do with the airport family at every airport—the general manager of the airport, the security people—is do a complete survey: Where are the weaknesses? Is it in the sewer system—

Mr. BARR. What I'm trying to do—and I think you know where I'm going. I'm trying to draw an analogy to the cockpit of an airplane.

Why are you so adamantly opposed to providing pilots, who operate in essentially the same way as that agent there, that security agent, in a position where they have an opportunity, a unique opportunity, to stop somebody from continuing to kill people? Why don't you want that person to be armed? Why are you so adamantly opposed to that?

Mr. MAGAW. Well, that, to me, is an altogether different circumstance. I spent an awful lot of time looking at the pros and the cons of arming the pilots in the cockpit, and I came to the conclusion that they need to maintain control of the aircraft, regardless of what happens in the back. So in order to do that, I'm moving forward to secure that cockpit with the doors and making it secure. Give them rearview mirrors, so to speak—

Mr. BARR. Well, the pilot—there are two people in that cockpit.

Mr. MAGAW. Can I finish?

Mr. BARR. If they're faced with the following scenario, either they allow the terrorists to take over the plane and crash it into a building or the ground, or to divert their attention from crashing the plane for a few minutes to shoot that terrorist, why wouldn't you want them to shoot the terrorist?

Mr. MAGAW. I propose that won't happen, because if your cockpit is secure, and we put cameras back in the aircraft so that that pilot has a rearview mirror, they very quickly need to control the aircraft and get it on the ground.

And what also was told to me by very many pilots, that safely, as they're moving, they can see what's going on back there and safely—

Mr. BARR. Doesn't that take away their attention from flying the plane?

Mr. MAGAW. As they're flying that plane with control, they can tip a wing to the right or to the left, very safely, stick the nose up or down. And the person or persons who are trying to do harm back there, or trying to get in the cockpit, they won't be able to find, excuse my expression, their bottom with both hands, let alone get a handle on that and open that door.

And then the Air Marshals—so the screening outside the aircraft, making the cockpit safe, giving them rearview mirrors, and—but I am looking very hard now and trying to consider all the possibilities in terms of giving them a less than lethal weapon. And I hope that that—

Mr. BARR. So we hurt the terrorist while he's taking over the aircraft.

Mr. MAGAW. He's not going to—

Mr. BARR. All I'm saying is—and I know you obviously have absolute faith that there will never be a situation like September 11. I don't think that we can tell the American people that we can absolutely guarantee that there will never be a situation where the terrorist makes his or her way to the cockpit.

Obviously, we have a difference of opinion on this. I think there is a very clear analogy to what happened on July 4th, in terms of that final perimeter and having the people behind that final perimeter armed and ready to take these people out.

Mr. MAGAW. See, the airlines' procedure and the procedures before 9–11 were to cooperate with the terrorists, because "they're only going to take the plane someplace," "they only want to make a statement," even "allow them in the cockpit, if necessary." That whole philosophy now has—

Mr. BARR. The time has expired. Can I just ask one final question?

Mr. SMITH. Please proceed, Mr. Barr.

Mr. BARR. Okay, thank you very much.

Mr. SMITH. If it's a brief question and a brief answer, I should say.

Mr. BARR. Thank you.

I'd like to give you an opportunity to clear up something for the American people and something that I hear on a regular basis, and it has to do with checking people before they get on the planes. We may have a lot to fear from Members of Congress, but hijacking an airplane I don't think is one of them, yet you see Members of Congress, you see airline pilots searched, you see military uniforms—military officers in uniforms searched and so forth. Yet you see other people that get on that seem to fit a profile, a legitimate criminal profile, perhaps, not.

Is your agency and are the airport security personnel refusing or not taking proper steps to identify people that really do potentially pose a threat? Not an airline pilot, not a military or four-star general—I've seen that—not a Member of Congress, but somebody that might seem to fit a profile.

Mr. MAGAW. Well, profiling is a subject that we're working with, with the Department of Justice, now.

But let me just mention to you, if you remember the United Airlines flight that was coming back from South America before we got the doors totally reinforced, that stuck his head through there. You know, that person would have been able to qualify for a frequent flyer pass.

The pilots the other day, if they had had a quick pass, and that person hadn't stopped and talked to them, they never would have smelled the alcohol.

I'd have to be exactly sure, but it's somewhere between five and seven pilots have been stopped and had weapons loaded on them as they went on that plane to fly it.

As I've talked to people around the country, all through Europe and Asia, who have worked with these issues, you have to search everyone; you have to treat everyone as equal as they go through. Otherwise, the terrorists are going to watch this incident; they're going to place things in handbags as people set them down; they're going to find all kinds of ways to circumvent your system.

So I'm trying to do the best job I can in that area.

And I'm sorry I was so long.

Mr. SMITH. That's fine.

Thank you, Mr. Barr.

The gentleman from Florida, Mr. Keller, is recognized.

Mr. KELLER. Thank you, Mr. Chairman.

Mr. Magaw, let me ask you a question relating to the sharing of intelligence information that a person is on a Federal terrorist watch list with the airlines. And my concern is, as I mentioned in my opening statement, we had these two guys, Al-Midhar and Al-Hamzi, who were on the Federal watch list, known by the FBI, CIA, and INS, as of at least August 23, right before September 11. And this information was not shared with American Airlines.

So you have two guys who were on the Federal terrorist watch list with known links to Osama bin Laden who go up to the ticket counter, use their real names, real IDs, guys had their names in the phonebooks. They say welcome aboard, and then the plane slams into the Pentagon and kills 190 people.

So much of what we've talked about is sharing information among the Government agencies. I'm concerned about sharing the information that people are on a Federal terrorist watch list with the airlines. And so when we passed the PATRIOT Act, the antiterrorism bill in October, we required that the FBI report back to us within 120 days on the feasibility of allowing airlines to do some sort of computer check to see if they're on a terrorist watch list.

El Al does that using information from Israeli intelligence sources already, so we know it's feasible.

The time period expired in February, and we haven't heard back from them. And when I ask Justice and FBI why, they say, "Well, we're working with TSA to gather the information, and we're just not ready yet, for your report."

Can you tell me now, as we sit here, are we checking for people on the Federal terrorist watch lists before they get on our airplanes?

Mr. MAGAW. What the Justice said is that they're still working on the watch lists. There are two lists. There is a no-fly list, what we call a no-fly list. That's a list of people that, for one reason or another, this country, either the FBI or one of the other agencies—or they are a terrorist threat. If they're on that list, then that list is—when their name is punched in at an airline now, that will show up. And they then are given numbers to call and information.

We have to do a better job, though, of getting the information to the airline personnel themselves. Part of it, in the past, has been clearance problems. Part of it has been communication problems. That's the biggest one, being able to communicate to them in a quickly and a timely manner.

Homeland Security, as it's proposed and in the structure, you will see a section there which does just that in terms of intelligence. It collects it from everywhere. It then has the responsibility to get it so the people who need to know it, to include small general aviation.

So that is a huge problem. Clearly you've identified it. We are working on it. I expect to get that corrected, sir.

Mr. KELLER. All right, let's take the example you gave, the Federal no-fly watch list. Evidently, that wasn't being done before September 11, because these guys' names presumably would have come up when you punched in their names.

Mr. MAGAW. To my knowledge—again, that's before my time. But to my knowledge, they were not on the no-fly list.

Mr. KELLER. Okay. When you say put their names into the system, are you talking about the CAPS system?

Mr. MAGAW. No, it's a no-fly list. And it's available—as soon as a name comes in there that's on that list, it will alert both the airline and FAA. And we had that happen just a few weeks ago, and that's why the individual was arrested in Chicago when he arrived.

And so still much work to be done, but it's clear that all the loopholes have to be closed. And Homeland Security does that with that fifth part of the organization.

Mr. KELLER. Okay. Mr. Stafford, let me ask you a question. Today, President Bush is in New York, announcing, appropriately, how our country is going to get tough on cracking down on white-collar financial crimes. Many people think of the Secret Service as the folks who protect the President and the Vice President, and of course they do that. And it's the most important thing, I think. But they do a lot more, such as investigating counterfeiting and other white-collar financial crimes.

How will putting the Secret Service under the umbrella of the Department of Homeland Security change the role that the Secret Service has in investigating counterfeiting and other white-collar financial crimes?

Mr. STAFFORD. Well, I hope it doesn't change the role at all. As you know, we were created in 1865 specifically for investigative reasons. And at that time in our history, a third to a half of all the money in circulation was counterfeit and there was financial chaos in our country. That's why the Secret Service was created.

We've done a tremendous job throughout the 137 years. In 1990, when we recognized that technology-based crime was driving just about everything we did—whether it be counterfeiting or identify fraud or credit card fraud, telecommunications fraud, cybercrime—we developed a program called the Electronic Crimes Special Agents Program, and we have specially trained forensic agents in every one of our field offices. That's an effort that we're very proud of. It's one that served us well, not only on the investigative side, but on the protective side.

We now not only have to safeguard the President physically, setting up barriers and human resources, but we also have to safeguard him from cyberattack. Any hotel, as you know, is driven by electronics, whether it be the ventilation system, the elevators, the escalators, or the rooms. So that's a huge component for us, and it's crosscutting for us.

Mr. KELLER. Thank you, Mr. Chairman. I yield back.

Mr. SMITH. Thank you, Mr. Keller.

Mr. Stafford, I just want to thank you for addressing the subject of cybercrime in your testimony and you just alluded to it right there. I think that's an important subject. We've had more hearings on that subject than any other, as a Subcommittee. And I appreciate your mentioning that in your testimony.

The gentleman from Virginia, Mr. Goodlatte, is recognized for his questions.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Director Stafford, recently one of the major national news magazines did an investigative report on the Secret Service that skewered the agency pretty severely. It cited literally dozens of various types of problems within the agency, everything from security lapses to embezzlement or theft, sex scandals, barroom brawls, morale problems.

I don't want to turn the hearing into a review of all the allegations that are made in that story. I do want to give you an opportunity to tell us how the agency is responding to that, whether you're addressing any of the concerns raised in that article, and, most importantly, how you think this transfer of the Secret Service from the Treasury Department to the Department of Homeland Security will affect any efforts that you are undertaking to reform the agency.

Mr. STAFFORD. That article was yellow journalism. I think anytime you go back in any agency's history over 30 years, which is what they did—it wasn't an investigative report. It was taken directly from—

Mr. COBLE. Can you pull that a little closer? I'm having difficulty hearing.

Mr. STAFFORD. It wasn't an investigative report on the part of that magazine. It was taken directly from a 28-page document that was submitted anonymously, I might add, by people who may have been fired by the Secret Service, by people who may be suing the Secret Service, by people who are sinister and have motives of revenge.

The Secret Service today is stronger than it's ever been. It's an outstanding organization. We have tremendous people. Our people are there for the right reasons. They work extremely hard. They have character. They have integrity.

That article, they took some truths, again, going back over 30 years, mixed that with some distortions and a number of untruths. I can't explain to you why they did that. You'd have to ask that media outlet. But I can tell you that they came to us 3 months ago, saying that they wanted to do a very positive article about the Secret Service, all along having that document and all along going a very different direction.

Mr. GOODLATTE. Let me ask you this, one of the things that has been alleged is that there has been a significant loss of personnel to other Government agencies, particularly to the agency represented by the gentleman sitting next to you, the Transportation Security Administration, and there've problems with maintaining the staffing levels that you need to maintain as a result of Secret Service agents leaving to do work for TSA.

Now, I certainly respect the need of TSA to have good, qualified people. I would argue that what the Secret Service agency does is, in some respects and at some points, a higher level, requiring, in many instances, very sophisticated and talented people. And I'd like to know what effect this has had. And again, I'd like to know what effect having you both within the same department will have.

Will it be a positive influence, if you are not in two different Cabinet departments, the raiding that's been going on?

Mr. STAFFORD. I look to Mr. Magaw to draw on those former Secret Service employees whenever we can.

But, again, if you're referring to that article, it's untrue. They didn't do their homework. Our attrition rate is about 2.5 percent for the agents. I think any company in America would like a 2.5 percent attrition rate. And if you add the retirements in, it about doubles to a little over 4 percent for the agents. The retirements we had planned for. The demographics really spoke to those numbers retiring in the last year to 18 months.

We have lost a number—in fact, we've lost about 131 of our 1,100 Uniform Division officers to TSA.

Mr. GOODLATTE. That's substantially higher than 2.5 percent.

Mr. STAFFORD. Well, I was speaking to the agent ranks, which I thought you were referring to initially.

Mr. GOODLATTE. I was.

Mr. STAFFORD. That was 2.5 percent.

The Uniform Division officers are up about 13 percent right now, the attrition rate, and it's going to go higher. Many of them find the TSA Federal Air Marshal position attractive. And many of them are moving in that direction.

Mr. GOODLATTE. Are there things that need to be done to make you more competitive and able to retain officers, as opposed to losing them to other Government agencies or the private sector?

Mr. STAFFORD. In the Uniform Division ranks, there is. We can't compete pay-wise right now with Federal Air Marshals. I think that may change in the near future and slow down, that migration in that direction.

Mr. GOODLATTE. Thank you.

Mr. Magaw, would you like to say anything in regard to that?

Mr. MAGAW. Well, thank you for asking. I spent 26 years in this organization, in the Secret Service, and I sat in the same position that Brian is today. Not only do I know him to have great integrity, the whole organization has great integrity. And I would agree and not repeat what he has just said about the article, about the way they went about it. It's not an investigative report. You see it's had no legs. And I am personally offended by it.

And while I hope I'm not stepping on ground that I'm not welcome, I support the Director in every comment that he's made.

Mr. GOODLATTE. Thank you, Mr. Magaw.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Goodlatte.

The gentleman from Indiana, Mr. Pence, is recognized for his questions.

Mr. PENCE. Thank you, Mr. Chairman, and thank you for holding this very informative hearing on issues that we will all be wrestling with this month.

I want to address a question to Mr. Magaw, largely based on your testimony a few moments ago, in response to the gentleman from Georgia. You said that in the aftermath of the July 4th incident at LAX, that there was—and I don't want to put words in your mouth, Mr. Magaw, but you said there was a review underway right not that the charge of the TSA is to secure the entire

airport. I came in from having done a series of parades on a very hot day in Indiana, and, like every other American coming in from a picnic, was deeply concerned about what we saw on television that day. But to the extent to at least the evidence now continues to support a conclusion that this was not a coordinated attack, this may well have been an isolated incident—perhaps a person motivated by terrorist intent but not coordinated by terrorist resources.

My question to you is, what should the public, what should Congress anticipate in the way of changes to airport security in the wake of LAX, if any?

Mr. MAGAW. While it is true that TSA, by authority that this body has given us, has the responsibility for the security of the entire airport, we intend to work with the entire airport family, in that we look at our key responsibility as the checkpoints in terms of the Federal force and also the baggage examination.

Having said that, with the assets that are there at the airport, coordinating with the local law enforcement, with airport manager, we want to do a survey of every airport—in fact, some of them have started—to include the sewer system, to include every possible way that security can be—that there’s a loophole in security.

And with all of those entities, figure out, at each airport—you’ve seen one airport, you’ve seen one airport; they’re all different. And so we want to figure out at each airport—and that Federal security director, along with the airport manager, along with the local law enforcement, we’ll go through that entire survey and together they will figure out how to close these loopholes.

We don’t intend to put a Federal force throughout the airport. We do expect to have a few of our law enforcement personnel assisting the State and locals in observation, in maybe some interviews of people that don’t appear to be acting correctly, those kinds of things. But it’s going to be a team effort. It is not a case, though, where we’re going to put a Federal force at these ticket counters.

Mr. PENCE. A question for Director Stafford. I am a great admirer of the Secret Service and of your work, in particular. And I appreciate your comments about the magazine article. My question has to do more with structure.

I’m a limited Government conservative. I, frankly, think it’s a good thing when police agencies and investigative agencies of the Federal Government are not particularly coordinated, in some instances, in terms of the survival of our liberties. Does it make any sense to you or anyone at the Secret Service, does it make more sense for the Secret Service to move into the Justice Department as opposed to moving into the Department of Homeland Security? Is the Justice Department perhaps a better fit than either Treasury was or Homeland Security would be, in your judgment? And if not, why not?

Mr. STAFFORD. The Justice Department move really has never been proposed. As you know, we’ve been in Treasury since 1865. I think it made sense in 1865, for the reasons I mentioned earlier, for counterfeiting. And we were the only game in town for law enforcement—an investigative law enforcement agency in 1865.

Now it does make sense to make some moves. Homeland security for us, our mantra, what we teach our agents: prevention. We can tactically respond to just about anything. Our people are well-

trained. But that's not a place we want to be. We want to prevent things from happening, whether that's an attack on the President, whether that's an attack on the Vice President, whether that's an attack at the Super Bowl or the Olympics, both of which are the first two athletic events that the President assigned the Secret Service to safeguard this past year.

So we focus on prevention. We do a tremendous job in the intelligence division in consuming intelligence information. Our analysts do a tremendous job analyzing it and putting together threat assessments that are clear and threat assessments that we can respond to and we can put countermeasures in place to safeguard those we're charged with safeguarding.

You can take that same methodology that we have and do the same thing on any level. Right now, we're traveling around the country with Secretary Paige, the Secretary of Education, imparting our research and our knowledge, through our national threat assessment center, of what we've studied on school violence. And we're the only ones that have ever done an operational study on school violence and how to prevent shootings at schools. And we found some very interesting things that have already helped schools prevent violence and shooting at schools.

We think we can do that same thing for the Nation in the Department of Homeland Security.

Mr. PENCE. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Pence.

The gentleman from Virginia, Mr. Scott, is recognized for a quick question to Mr. Magaw.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Magaw, in response to the question on arming pilots, has your office done an analysis of the pros and cons of arming pilots, that we could have the benefit of?

Mr. MAGAW. We'll put pros and cons together for you, yes, sir.

Mr. SCOTT. Thank you.

Mr. SMITH. Okay, thank you, Mr. Scott.

That concludes our hearing.

Ms. JACKSON LEE. Mr. Chairman?

Mr. SMITH. The gentlewoman from Texas?

Ms. JACKSON LEE. May I ask a question to get back in writing?

Mr. SMITH. If you would submit your question in writing, as I have questions and other Members have questions. We'd appreciate the witnesses responding to us within a week, if at all possible.

Let me say to Members—

Ms. JACKSON LEE. Thank you.

Mr. SMITH [continuing]. That we cannot have another round of questions because this room needs to be vacated so another Subcommittee can have a markup that actually begins in 6 minutes. We were supposed to have vacated the room about 10 minutes ago.

But that does conclude our hearing. And I want to thank our witnesses for their testimony, which has been very, very helpful. I also want to say again that I regret that Mr. Allbaugh, the Director of FEMA, did not find the time to testify today, because I think the American people would have greatly benefited from hearing what FEMA would do to both respond to a terrorist attack or anticipate a terrorist attack.

But, gentlemen, we certainly appreciate your testimony, which was very informative and benefited us and those who are watching as well. So thank you very much.

And the Subcommittee stands adjourned.

[Whereupon, at 11:26 a.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE LAMAR SMITH, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF TEXAS

On June 6, 2002, the President addressed the Nation to request support for the creation of a Homeland Security Department. He stated “[we] face an urgent need, and we must move quickly, this year, before the end of the congressional session.” This Committee and Congress is responding to that request.

We understand the importance of H.R. 5005, the “Homeland Security Act of 2002.” This hearing focuses on the proposed transfer of the Coast Guard, Customs, Secret Service and Transportation Security Agency to the Department of Homeland Security.

The Administration’s goal for the creation of a Homeland Security Department is to improve the country’s ability to prevent, prepare, detect, and disrupt terrorist attacks within the United States.

As the Gilmore Commission noted in 2000, “The national strategy [against terrorism] should be geographically and functionally comprehensive. [. . .] To be functionally comprehensive, the national strategy should address the full spectrum of the nation’s threats against terrorism; intelligence, deterrence, prevention, preemption, crisis management, and consequence management.” This can only happen with the successful integration and coordination of officials involved.

This hearing will examine how each of the agencies missions and functions fit within the proposed Department of Homeland Security.

While the proposed Department will have a strong law enforcement role, this role is distinct from that of the Federal Bureau of Investigation, which is the principal investigative arm of the United States. The law enforcement role of the Department of Homeland Security will focus on border security and the training of state and local officials to prepare for and respond to terrorist attacks.

The mission of this new Department cannot be accomplished without the successful coordination of various Federal agencies and law enforcement units.

We will hear the testimony of four of five invited witnesses who will discuss H.R. 5005 and how each of their agencies improves the strategic framework and coordination of the Department of Homeland Security. One witness, the Honorable Joe M. Albaugh, Director of the Federal Emergency Management Agency, was invited but apparently decided that this hearing was not a priority.

I am disappointed by the Director’s absence as this was an opportunity for the Director to explain how FEMA plans to provide training for law enforcement and other emergency responders in crisis and consequence management at the new Department of Homeland Security.

**ADDITIONAL VIEWS BY THE HONORABLE LAMAR SMITH
CHAIRMAN OF THE SUBCOMMITTEE ON CRIME,
TERRORISM AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY**

July 11, 2002

As Chairman of the Subcommittee on Crime, Terrorism and Homeland Security, I fully support the actions taken by the Committee on Judiciary with regard to the transfer of only the Office of National Preparedness from the Federal Emergency Management Agency (FEMA). It is important that neither FEMA nor the new Department of Homeland Security are distracted from its core mission. FEMA has an important role to play when a natural disaster occurs. Its core mission is to provide assistance to states and local officials to address needs after a flood or hurricane. Moving the entire agency over to the Department of Homeland Security will also distract FEMA from this core mission.

FEMA is well-equipped to perform the duties and functions that it has traditionally performed, training first responders to address the aftermath of a disaster. However, it is not well-equipped to provide training for law enforcement and other first responders in how to recognize and disrupt possible terrorist threats.

Several first responders groups have expressed concerns about FEMA being the agency responsible for such training. The National Sheriff's Association testified before this Committee's Subcommittee on Crime, Terrorism and Homeland Security, "[t]he prevention, detection and apprehension of terrorists are law enforcement functions, and it is not appropriate for training and coordination to be assigned to the FEMA regime, where there are no such responsibilities. In the tragic event that there is a terrorist attack, that crisis is also a law enforcement responsibility. Sheriffs and Chiefs of Police are shocked that OMB would propose that FEMA should assume responsibility in these areas, where there is neither experience nor legal authority to act."

These same views have been reiterated by the International Brotherhood of Police Officers (IBPO). In a March 8, 2002 letter to the Subcommittee on Crime, Terrorism and Homeland Security the IBPO stated that it "is concerned that FEMA does not have the experience or understanding that a law enforcement agency has when investigating terrorism."

Additionally, the Police Executive Research Forum (PERF), a national organization of police executive professionals, that serves more than 50 percent of the country's population, explained that while it respects and values FEMA's role in disaster mitigation, it was troubled about FEMA assuming a new role in training in antiterrorism efforts by state and local law enforcement. PERF explained:

[t]he mission of FEMA and its area of expertise are based on disaster response and mitigation. While law enforcement, firefighting, emergency medical services, and HAZMAT agencies could all be first responders to a critical incident, the role

of law enforcement is unique in its crisis prevention, detection activities, and apprehension of suspects. Police agencies have primary responsibility for local intelligence gathering, public safety and maintaining public order before and during a crisis. They do this through combinations of community policing, criminal investigation, and emergency response. All of this must be done while meeting the day-to-day demands of a local police department. These efforts require [F]ederal support that is based on extensive experience and knowledge of local police operations and challenges. . . . The knowledge that comes from this experience cannot be easily transferred to an agency that is relatively new to law enforcement issues.

FEMA's experience and expertise have traditionally been in other areas of public safety and welfare than law enforcement. They have little history of effective partnership with local law enforcement on proactive efforts. Additionally, **FEMA** has indicated that regardless of where it is transferred in the Federal government, it will **not provide training in crisis management** for first responders; it will continue to provide **training in consequence management only**.

Last week, an article in the New York Times outlined in detail how the lack of a coordinated response, or coordinated communication systems, between state and local law enforcement and firefighters could have caused additional avoidable tragedies on September 11. We must make sure that any future terrorist threats are addressed with a coordinated response. The Department of Homeland Security can ensure this type of response by allowing the transferred **Office of Domestic Preparedness** to continue to provide the coordinated training for all state and local first responders in **both crisis and consequence management**.

I support the decision by the Committee on Judiciary to allow FEMA to continue to perform its mission as a separate agency. This will ensure that the creation of the new Department of Homeland Security will not detract from the important services the Federal government has traditionally provided for the American people after a natural disaster.

VIEWS AND ESTIMATES CONCERNING PROGRAMS WITHIN THE JURISDICTION OF THE
COMMITTEE ON THE JUDICIARY FOR FISCAL YEAR 2003 BUDGET, SECTION ON
HOMELAND SECURITY

HOMELAND SECURITY

The President's budget proposes to increase Homeland Security spending from \$19.5 billion in fiscal year 2002 to \$37.7 billion for fiscal year 2003. The Committee on the Judiciary is the Committee in the House of Representatives with jurisdiction over "subversive activities affecting the internal security of the United States." With responsibility over home land security issues, the Committee shares the President's concerns and supports the President's overall goals. As part of our oversight and legislative responsibility, the Committee has been reviewing homeland security issues for some time.

The Committee, while supporting the underlying goals of the Administration has raised specific questions about the President's proposals. One area of concern is that the President's budget proposes to transfer the Department of Justice's counterterrorism programs to the Federal Emergency Management Agency (FEMA). The Administration points out that "[w]hile Department of Justice grants are reduced by a net total of \$1.2 billion, this is more than offset by the budget's proposal for \$3.5 billion in the Federal Emergency Management Agency assistance to improve the terrorism preparedness and crisis response capabilities of State and local first responders, including police, fire, and rescue personnel."

The Committee applauds the Administrations demonstrated support for the state and local first responders who will most likely confront a terrorist attack before any Federal official. The Committee is concerned, however, with the proposed transfer of counterterrorism grants from the Department of Justice to the Federal Emergency Management Agency. The Office of Domestic Preparedness in the Office of Justice Programs is charged with establishing federal domestic preparedness programs and activities to assist state and local governments prepare for and respond to terrorist incidents, including attacks involving weapons of mass destruction. The Appropriations Committees have provided authorization for these duties through the last few appropriation bills. Moreover, after the September 11, 2001 terrorist attacks this Committee passed and Congress enacted Public Law 107-56, the Patriot Act. Section 1014 of the USA Patriot Act authorized the Office for State and Local Domestic Preparedness Support of the Office of Justice Programs in the Department of Justice to provide State grants that enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction. The name of this office was changed to the Office of Domestic Preparedness.

Specifically, the Department of Justice under congressional statutory mandates provides training, technical assistance, equipment and exercises in crisis and consequence management to first responders through the Office of Domestic Preparedness (then named the Office of State and Local Domestic Preparedness Support) in the Office of Justice Programs. The Department of Justice also provided coordination for federal terrorism crisis and consequence management planning and execution for state and localities through the National Domestic Preparedness Office in the Federal Bureau of Investigations. These offices coordinated crisis and consequence management responses between the agencies in preparation for biological, nuclear, chemical or other terrorist attacks. In August 2001, the functions of the National Domestic Preparedness Office were transferred over to FEMA without any prior consultation with this Committee. Those transfers were ill-advised.

The Committee is concerned that FEMA is not the appropriate agency for these responsibilities. A terrorist attack is a criminal event, not a natural disaster. The response to such an incident is divided into two main phases: crisis management and consequence management. According to the January 2001 United States Government Interagency Domestic Terrorism Concept of Operations Plan, known as the CONPLAN:

1.Crisis Management

Crisis management is predominantly a law enforcement function and includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. In a terrorist incident, a crisis management response may include traditional law enforcement missions, such as intelligence, surveillance, tactical operations, negotiations, forensics, and investigations, as well as technical support missions, such as agent identification, search, render safe procedures, transfer and disposal, and limited decontamination. In addition to the traditional law enforcement missions, crisis management also includes assurance of public health and safety.

The laws of the United States assign primary authority to the Federal government to prevent and to acts of terrorism or potential acts of terrorism. Based on the situations, **a Federal crisis management response may be supported by technical operations, and by consequence management activities**, which should operate concurrently.

2. Consequence Management

Consequence management is predominantly an emergency management function and includes measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism. In an actual or potential terrorist incident, a consequence management response will be managed by FEMA using structures and resources of the Federal Response plan (FRP). These efforts will include support missions as described in other Federal operations plans, such as predictive modeling, protective action recommendations, and mass decontamination.

The laws of the United States assign primary authority to the State and local governments to respond to the consequence of terrorism; the Federal government provides assistance, as required.^{67b}

The Department of Justice is clearly authorized to provide grants to states and locals for crisis and consequence management training, equipment and technical assistance. FEMA does not appear to have the same authorization. More importantly, FEMA is not in the business of crisis management and the Department of Justice is. Because of the primacy of crisis management, the Department of Justice has been designated the lead agency in establishing a single entity to oversee both crisis and consequence management in the event of a terrorist attack.

A case has neither been made for the current proposed transfer of the Office of Domestic Preparedness nor for the prior transfer of the National Domestic Preparedness Office. Accordingly, the Committee believes it would be appropriate to direct the \$3.5 billion to the Department of Justice for coordination, training, technical assistance and equipment for state and local first responders.

Committee supports full funding for Homeland Security programs and initiatives. In the area of Identification of Individuals Crossing US Borders (biometrics, holograms, laser visas, etc.); Biometrics Technology Support; Increased Numbers of Border Patrol and Immigration Officers; Increased Security in Issuing and Monitoring Visas; Preventing Persons Appearing on Law Enforcement "Watch Lists" From Entering the United States; Tracking Visa Overstays and Investigating Offenders (SEVIS); In the area of Using 21st Century technology to defend the Homeland these include: Information Sharing Between the Immigration and Naturalization Service and Consular Officers Abroad.

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ONE HUNDRED SEVENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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May 20, 2002

The Honorable C.W. Bill Young
 Chairman
 Committee on Appropriations
 H218 Capitol
 Washington, D.C. 20515

Dear Chairman Young:

I am writing to thank you for allocating \$175 million in funding for the Office of Domestic Preparedness (ODP) at the Department of Justice as part of the 2002 Supplemental Appropriation. As you know, ODP plays an essential role in the security of our nation. It is an effective grant-making office, which currently offers the only integrated program that provides needed funds for training, equipment and technical assistance to first responders for *crisis management* and *consequence management* in the event of a terrorist attack or planned attack. ODP has the unique role of assisting all first responders, including law enforcement and firefighters.

Congress recognized the importance of this office after the September 11, 2001 attacks when the Congress authorized ODP to carry out these coordination and grant management functions in the U.S.A. Patriot Act that the President signed into law on October 26, 2001.

I also want to commend you for supporting the Federal Emergency Management Agency (FEMA) in its consequence management role. It is my understanding that the supplemental bill provides FEMA with approximately \$2.75 billion in disaster relief, another \$23.3 million for disaster assistance, and \$151.7 million for Emergency Management Planning Assistance. The Emergency Management Planning Assistance contains money for \$32 million for National Urban Search and Response and \$50 million for "Citizen Corp."

Efforts to transfer either functions or appropriations from ODP to FEMA, whether in FY 2003 or as part of the 2002 Supplemental Appropriation, are misguided. FEMA does many things well in the important, yet limited, realm of consequence management, but it simply does

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not have the expertise to oversee a comprehensive national strategy to provide the integrated training of crisis management that includes essential law enforcement and consequence management components. A terrorist attack is a criminal event that always requires law enforcement response and often requires the supporting consequence management. The Office of Domestic Preparedness understands the need to, and in fact, does train firefighters and other first responders *along with* law enforcement. This coordinated planning and training is essential to prepare for and prevent a terrorist attack.

As the Congressional Research Service described in a February 4, 2002 memorandum to the Subcommittee on Crime, Terrorism, and Homeland Security, ODP was charged with establishing Federal domestic preparedness programs and activities to assist state and local governments prepare for and respond to terrorist incidents, including attacks involving weapons of mass destruction (WMD). The memorandum details the responsibilities of ODP as follows:

ODP provides [F]ederal funding to states and localities for equipment acquisition, provides technical assistance to state and local first responders, and coordinates training in crisis and consequence management. ODP's training courses place an emphasis on preparing for terrorist incidents, responding to incidents involving the use of WMD, and recovery and restoration after such incidents. ODP also provides domestic preparedness support to state and local first responders through its six national training centers under the National Domestic preparedness Consortium (the Consortium is a partnership between DOJ, Department of Energy and several universities that support ODP efforts by providing expertise, training, and exercise programs to state and local first responders). The training centers, used by all levels of first responders, including law enforcement agencies, fire departments, Hazmat teams and state and local emergency personnel, provide resident training in specialized areas of terrorism crisis and consequence management.

Unlike the Department of Justice, FEMA, has no expertise in law enforcement or crisis management. Moreover, in responses to my inquiries, FEMA has specifically disavowed any intention to perform crisis management functions. The transfer of functions or appropriations from ODP to FEMA would leave a gaping hole in our nation's counterterrorism efforts.

The placement of ODP within the Department of Justice was deliberate on the part of Congress and is essential to assuring that state and local law enforcement components are properly trained, equipped and ready to respond in the event of a terrorist attack. A terrorist attack is a Federal crime and a crisis event, which requires a response different from a response to a natural disaster or any other type of non-terrorist and non-criminal incident. ODP provides

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essential law enforcement and specialized skill training including: intelligence gathering and analysis; coordination procedures with Federal law enforcement and intelligence counterparts (to identify and prevent an attack in the first place); perpetrator apprehension (including shutting down or monitoring both entry and escape routes); preservation of a crime scene; evidence recognition and collection; sight and perimeter security; identification and prevention of secondary attacks; and appropriate use of SWAT teams and bomb squads to prevent or derail an attempted incident, or prevent secondary ones.

As David Muhlhausen, policy analyst for the Heritage Foundation, testified before the Senate Judiciary Committee on March 21, 2002, "[g]iven the nation's continuing susceptibility to future terrorist attacks, the [F]ederal government has the responsibility to assist state and local law enforcement in their efforts to detect, prevent, and respond to terrorism. FEMA's traditionally reactive approach to disasters is not well suited for the needs of law enforcement in responding to prospective terrorist threats."

As the National Sheriff's Association testified before this Committee's Subcommittee on Crime, Terrorism and Homeland Security, "[t]he prevention, detection and apprehension of terrorists are law enforcement functions, and it is not appropriate for training and coordination to be assigned to the FEMA regime, where there are no such responsibilities. In the tragic event that there is a terrorist attack, that crisis is also a law enforcement responsibility. Sheriffs and Chiefs of Police are shocked that OMB would propose that FEMA should assume responsibility in these areas, where there is neither experience nor legal authority to act."

These same views have been reiterated by the International Brotherhood of Police Officers (IBPO). In a March 8, 2002 letter to the Subcommittee on Crime, Terrorism and Homeland Security the IBPO stated that it "is concerned that FEMA does not have the experience or understanding that a law enforcement agency has when investigating terrorism." IBPO went on to state that "[t]he men and women we represent are on the domestic frontline in the war against terrorism. They know that a central coordinating office such as the Office of Domestic Preparedness serves local law enforcement agencies as an information clearinghouse for [F]ederal assistance programs. We urge you to oppose any efforts to transfer this agency over to FEMA."

Additionally, the Police Executive Research Forum (PERF), a national organization of police executive professional, that serves more than 50 percent of the country's population, explained that while it respects and values FEMA's role in disaster mitigation, as do I, PERF is troubled about FEMA assuming a new role in antiterrorism efforts by state and local law enforcement. PERF explained:

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[t]he mission of FEMA and its area of expertise are based on disaster response and mitigation. While law enforcement, firefighting, emergency medical services, and HAZMAT agencies could all be first responders to a critical incident, the role of law enforcement is unique in its crisis prevention, detection activities, and apprehension of suspects. Police agencies have primary responsibility for local intelligence gathering, public safety and maintaining public order before and during a crisis. They do this through combinations of community policing, criminal investigation, and emergency response. All of this must be done while meeting the day-to-day demands of a local police department. These efforts require [F]ederal support that is based on extensive experience and knowledge of local police operations and challenges. DOJ has overseen important grant programs to state and local police agencies for over three decades. The knowledge that comes from this experience cannot be easily transferred to an agency that is relatively new to law enforcement issues.

FEMA's experience and expertise has traditionally been in other areas of public safety and welfare than law enforcement. They have little history of effective partnership with local law enforcement on proactive efforts.

Similarly opposing the transfer, the International Association of Fire Fighters (IAFF) in a March 28, 2002 letter to the House and Senate Appropriation Committees stated that:

DoJ's first responder training program has been a great benefit to America's fire fighters. The IAFF and our fire fighters have developed a strong partnership with the Office for Domestic Preparedness in DOJ that has produced what we consider to be the finest terrorism response curriculum for fire fighters. To move the Office for Domestic preparedness will unnecessarily delay the delivery of this critically needed program to the detriment of our nation's fire fighters. Simply put, the purported benefits of housing all [F]ederal programs under one roof for the sake of bureaucratic ease are far outweighed by the harm these moves will cause. The IAFF opposes such moves. We urge this committee to be likewise skeptical and ensure that fire fighters get the best training available.

It is clear that an office that serves all first responders must provide support for both consequence and crisis management. As the General Accounting Office described in its

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September 1997 report on Combating Terrorism "[c]onsequence management can follow crisis management, but these two activities usually occur simultaneously or overlap, depending on the nature of the terrorist incident." [p. 56]. It goes without saying that first responders must receive training, equipment, and exercises for both crisis and consequence management to be adequately prepared for today's terrorist threat. ODP does this and FEMA will not.

Indeed, FEMA has acknowledged that it will not perform these vital functions now performed by ODP. The Director of the Office of National Preparedness (ONP) at FEMA stated in a January 30, 2002 letter to the Subcommittee on Crime, Terrorism and Homeland Security that ONP was created to perform duties relative to consequence management. He further stated that FEMA's mission and function in no way interfere with, or compromise the authority of, the Department of Justice or its various departments or programs to carry out its mission with regard to crisis management.

In a March 13, 2002 letter, the Director of FEMA was even more emphatic that FEMA and ONP would not handle crisis management or law enforcement training, technical assistance, exercises and equipment. The Director stated that "While FEMA will coordinate grants and assistance to first responders, it will not assume any law enforcement functions, nor will FEMA provide law enforcement training – training on investigative techniques, evidence collection techniques"

There is no question, that a pressing need exists for greater coordination among the nation's counterterrorism programs, including Federal programs for first responders. This Committee would have thought that the Office of Homeland Security is better suited than FEMA to oversee comprehensive coordination of the various agency components, given FEMA's important, but limited, historic focus on consequence management. However, the need for coordination cannot mask the stark reality that the proposed transfer of ODP will eliminate the only centralized and dedicated Federal program effectively integrating both crisis and consequence management components to prepare first responders for a terrorist attack.

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Again, thank you for recognizing and supporting the vital role performed by the Office of Domestic Preparedness and for assuring additional appropriated funds to carry out its mission. I look forward to working with you on these important issues.

Sincerely,



E. JAMES SENSENBRENNER
Chairman

cc: The Honorable Dennis Hastert

CHRONOLOGY OF CONTACTS BETWEEN THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND THE SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

- 1) June 21, 2002—Witness invitation letter was faxed to FEMA Office of the Director and a Full Committee intern made a phone call to FEMA to let them know an invite letter was being sent.
- 2) June 24, 2002—Signed invitation letter was mailed to FEMA.
- 3) June 24 or 25, 2002—Subcommittee clerk received a phone call from FEMA Congressional Affairs on either that Monday or Tuesday, looking for a witness list.
- 4) June 24, 2002—Followup phone calls made to the agencies to ensure the invitation letter was received.
- 5) June 26, 2002—The witness list was faxed to FEMA Congressional Affairs.
- 6) June 27 and 28, 2002—Subcommittee Clerk called once each day to find out if FEMA would be attending.
- 7) July 1, 2002—Subcommittee Clerk called FEMA Congressional Affairs Monday morning to find out if FEMA would be attending. Subcommittee Counsel also called in the afternoon because the Subcommittee still had not received a response.
- 8) July 2, 2002—Subcommittee Counsel left two messages for FEMA Congressional Affairs on Tuesday with no response.
- 9) July 2, 2002—Subcommittee Counsel called Director Allbaugh's office and left a message for his Executive Assistant late Tuesday.
- 10) July 3, 2002—Subcommittee Counsel called back to FEMA Wednesday morning and was transferred to Legislative Affairs—left a message. Legislative Affairs called back Wednesday afternoon and spoke to Subcommittee Counsel with questions regarding why the Subcommittee needed the Director Allbaugh to testify. In that conversation, FEMA Legislative Affairs told the Counsel she would let Counsel know by the end of the day whether the Director would agree to testify. This conversation was relayed to the Subcommittee Chief Counsel. Subcommittee Counsel never received a response.
- 11) July 5, 2002—Followup letter from Chairman Smith was faxed to the FEMA Director's office, the Office of Legislative Affairs, and the White House Office of Legislative Affairs. This letter was also mailed.
- 12) July 8, 2002—FEMA informs the Committee on the Judiciary that the Director will not attend the Subcommittee hearing.

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 June 21, 2002

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The Honorable Joe M. Allbaugh
 Director
 Federal Emergency Management Agency
 Federal Center Plaza
 500 C Street, SW
 Washington, DC 20472

Dear Director Allbaugh:

The Subcommittee on Crime, Terrorism, and Homeland Security will hold a legislative hearing on the proposal to create the Department of Homeland Security, on Tuesday, July 9, 2002, at 9:00 a.m. in Room 2141 of the Rayburn House Office Building.

I would like to invite you to testify at this hearing. Please prepare a written statement for submission to the Subcommittee 48 hours prior to your appearance. The written statement may be as extensive as you wish and will be included in the hearing record. Please number all pages of your written statement. Your oral testimony at the hearing, including answers to questions, will be printed as part of the verbatim record of the hearing. Only transcription errors may be edited. To allow sufficient time for questions at the hearing, please briefly highlight the most significant points of your written statement in an oral presentation lasting no longer than five-minutes.

To facilitate preparations for the hearing, please send a facsimile copy of your draft statement. The Subcommittee's fax number is 202-225-3737. In addition, the Subcommittee requests that you provide 100 copies of your written statement and *curriculum vitae* by 12:00 p.m., Wednesday, July 3, 2002, to 207 Cannon House Office Building, Washington, D.C. 20515. Should you intend to introduce a published document or report as part of your written statement, I ask that you provide 50 copies for the hearing. Should such material be available on the internet, please prepare a page containing citations to such material and provide the Subcommittee 100 copies.

The Rules of the House require a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) which is relevant to your testimony and was received, by you or entity which you represent, during the current fiscal year or either of the two preceding fiscal years.

Director Allbaugh
June 21, 2002
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The Committee would also like to publish your testimony on our Web site and requests a copy of your statement, including your *curriculum vitae* and any supporting graphs or charts, on a DOS formatted 3.5 inch diskette, in either Word Perfect, Word or ASCII text. If you prefer, you may send it via E-mail to: Sharon.Atkinson@mail.house.gov.

If you have any questions concerning any of these matters, please contact Beth Sokul, Counsel for the Subcommittee on Crime, Terrorism, and Homeland Security at 202-225-3926.

I look forward to your participation in the hearing.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

Enclosure
BS/sa

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July 5, 2002

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The Honorable Joe M. Allbaugh
 Director
 Federal Emergency Management Agency
 Federal Center Plaza
 500 C Street, SW
 Washington, DC 20472

Dear Director Allbaugh:

I am writing you in regard to the letter Chairman Sensenbrenner sent you, dated June 21, 2002, in which he invited you to testify as a witness in a legislative hearing on H.R. 5005, before the Subcommittee on Crime, Terrorism, and Homeland Security. The hearing, to be held on Tuesday, July 9, 2002, concerns the creation and organization of the proposed Department of Homeland Security.

In conjunction with the Administration's proposed Department of Homeland Security, the President stated, "[we] face an urgent need, and we must move quickly, this year, before the end of the congressional session."¹

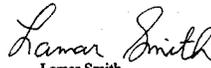
The Committee on the Judiciary has responded to the President's call by clearing pending matters before it in order to consider this important legislation in an expeditious manner. In furtherance of that effort, we scheduled the July 9th hearing to which you, and the heads of other agencies proposed to be transferred to the new department, have been invited. The Commandant of the Coast Guard, the Director of the Transportation Security Agency, the Commissioner of Customs, and the Director of the Secret Service will attend and will testify about the need for the transfer of their agencies to the new department. In contrast to the other agency heads, your lack of response to our invitation to appear and testify is remarkable in light of the President's statements concerning the overriding importance of the creation of the new department.

¹Remarks by the President in his *Address to the Nation*, Cross Hall, June 6, 2002.

The Honorable Joe M. Allbaugh
July 5, 2002
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I am hopeful that you will accept the Committee's invitation to appear and testify, as outlined in Chairman Sensenbrenner's letter to you of June 21, 2002. Please contact Beth Sokul, Counsel to the Subcommittee on Crime, Terrorism, and Homeland Security at 202-225-3926 to confirm your acceptance, or should you have any questions regarding this matter.

Sincerely,



Lamar Smith
Chairman
Subcommittee on Crime, Terrorism,
and Homeland Security

c. The Honorable Robert C. Scott

