

TRANSPORTATION AND BORDER SECURITY

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

APRIL 9, 2003

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COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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TRANSPORTATION AND BORDER SECURITY

WEDNESDAY, APRIL 9, 2003

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:00 a.m. in room SR-253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. The Committee meets today to examine issues relating to transportation and border security. I welcome Secretary Ridge, who is here to update the committee on the Department of Homeland Security's ongoing homeland security efforts and progress made in organizing the new department.

I would like to congratulate Secretary Ridge for the job that he has done. He has gained the confidence of the American people in the very difficult task that he has undertaken since September 11th, and I know that he has major challenges ahead, many of which he will describe to us this morning.

Secretary Ridge, I would just like to mention one aspect of your responsibilities this morning and as you know, it is not often that I discuss issues that relate to my home State. But I did have the privilege of accompanying Deputy Under Secretary Asa Hutchison, another outstanding public servant, to the Arizona-Mexico border a few weeks ago, with other Members of the delegation, including Senator Kyl and House Members. And I invite you to come when things calm down a bit because I think it is important for you to be able to see long, long distances of border which are unsecured between our two countries.

There are many dimensions to this problem, ranging from the incredible healthcare costs that our healthcare facilities on our border and across the State are forced to bear, to the human tragedy of 134 Mexican citizens dying in the desert trying to cross into the United States last year, to the plight of the ranchers and citizens who live down there who are constantly subjected to an incredible situation where people in SUVs are just driving through the fences and across their property. Some of them are drug smugglers, some of them we have no idea who they are.

And I know you agree with me that one of our first responsibilities is to secure our borders.

And may I just add an additional comment. If it were just securing our borders, then I think your task would be easy. But like the

case with drugs, we are creating a demand. There are jobs that Americans will not do, so Mexican citizens will try to come across, and Central Americans and others, will try to come across our borders so they can be able to feed themselves and their families. This consequently argues for amnesty programs, guest worker programs, et cetera. And I think that this has to be a priority of the Congress and the Administration, because I do not believe, as we have proven in the war on drugs, that we are ever going to keep people from crossing our borders as long as there is an incentive for them to come across.

But I do not have to tell you, Mr. Secretary, the potential this has for the ability of people with evil intentions to come into the United States of America and do bad things. So, I hope that you will join me in your appreciation, I know you do, and maybe make a few comments today about that necessity. But it is not simple, because of this demand that is going on which is creating the trafficking, not only of drugs but of human beings and perhaps other things.

And in addition to that, I think it is important to praise the work our very brave Customs, INS, and Border Patrol agents are doing. We have had people killed, we have had gunfights down there. We have had people with AK-47s. Recently there were some smugglers that painted vehicles exactly like Border Patrol vehicles so they could help disguise their intentions. And they are in a war down there, and at great risk, and they are performing heroically, and we are all proud of them.

So, I do not usually make that long an opening statement, but I do think that it is a very serious issue. I am sure that there are equal challenges along our northern border, but it is one that I think we need to address if we are going to assure the American people that we are indeed providing them with homeland security.

And I thank you for coming today, and I thank you for your continued willingness to serve the Nation.

Senator Hollings.

**STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator HOLLINGS. Let me thank you, Mr. Chairman, and join in your commendation of our distinguished Secretary. I'm looking forward to working with him.

Mr. Secretary, you are the Chairman of the Joint Chiefs for the terror war, and in that light we have just, for example, appropriated \$180 million for those Code Oranges and so forth, just for the rest of this fiscal year. We find no money in the 04 budget for those particular alerts back at the local State level.

Otherwise, with the Coast Guard. By law, we've found—well, the Coast Guard has estimated some \$4.8 billion necessary to comply with the requirements of homeland security.

Otherwise, the States have \$1.2 billion requested right there before the Coast Guard, but we don't have the monies to do those things. And yet at the same time, we have the President in the White House this morning, he's just steaming to get tax cuts and spending to stimulate the economy, whereas we've got required spending over here that we're not providing for. We could easily

provide for the troops in the terror war, namely your troops that we're not providing for, rather than causing a deficit, that loss of revenue, that waste of increasing the deficit and the high interest costs.

I just don't understand why we just don't calm down and say wait a minute, we've already required—by the way, it's bipartisan, like port security. We passed it 100 to nothing, all Republicans, all Democrats. Chairman Breaux here has all the hearings all over the country, and Admiral Loy was joining in, Administrator Bonner from Customs. There's a lot of work that has been done, but they're looking for the help in Washington because by June, you're supposed to have those security cards.

We argued with the unions ad nauseam, and we finally got them to come around, they've agreed to it, we've got the requirement, and they've got to have that card by June. They don't see your department responding.

Otherwise, you've got to comply by July of next year with not only the assessments but the compliance of all these, particularly the 55 major ports. You only provide in your budget for some 13 assessments. Instead of a 6-day or 6-week war, we're going to have a 100-year war for the terror war at that rate. And I just can't understand why we're just determined to lose the revenue that could easily be spent to stimulate the economy with your terror war, and I need to say it, everybody agrees on it, it's required by law. And I'll get my chance to ask some questions.

But I welcome you, because I think you are going to be able to get around Ridge, I think he's headed to Indiana or whatever, to go back home. Or not Ridge, what's his name?

Staff: Daniels.

Senator HOLLINGS. Daniels, Mitch Daniels, yeah, that fellow. I think you are with us but you can't get past him. But get that new fellow Johnson or something that's coming on, and let's start working and doing the Lord's work.

You are the chairman of the joint chiefs in this terror war, and we're not backing the troops. We're not backing the troops and the troops are out there struggling.

The CHAIRMAN. May I say, Mr. Chairman, Senator Hollings, that's quite a promotion from a former Sergeant, as Secretary Ridge was.

Senator Wyden.

**STATEMENT OF HON. RON WYDEN,
U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you very much, Mr. Chairman. I too want to welcome an old friend, Tom Ridge, and have a number of areas I want to talk with him about, but I want to mention one specifically that I hope our colleague will talk about in his opening statement.

That is this question of privacy. The American people clearly want their Government to fight terrorism ferociously, and at the same time to do it in a way that doesn't gut our civil liberties, our basic freedoms. And I'm very concerned when you look at some of the programs that have been rolled out recently, the total information awareness program, the CAPPs II program with respect to

airline screening, that our Government is not striking the right balance.

For example, in the homeland security legislation, it calls for the establishment of a privacy officer. I'm not clear as to whether even that person has been named at this point, and perhaps you can enlighten us on it.

But what concerns me is, I want to make sure that privacy issues are dealt with up front, that they don't just become an afterthought and basically after all the policies are made, then somebody says well, holy Toledo, we ought to think about civil liberties questions at some point before we roll everything out. And if you could, address your approach with respect to privacy.

There will be other issues that I want to ask you about, particularly some of the reports of waste and mismanagement, and I'll get into that in questions. But I'm particularly concerned about how we're going to strike a balance between pulling out all the stops to fight terrorism and protecting our citizens, while at the same time being sensitive to these questions of privacy.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Breaux.

**STATEMENT OF HON. JOHN B. BREAUX,
U.S. SENATOR FROM LOUISIANA**

Senator BREAUX. Thank you, Mr. Chairman, for having these hearings. Mr. Secretary, thank you for coming before the Senate.

We had made an effort last week when the Appropriations Supplemental Bill was on the floor to try and spell out in greater detail how the funds were going to be spent for homeland security. There were many who felt that, I think the President had requested \$1.5 billion for counterterrorism, I think the Committee mark was about \$1.35 billion, but the concern that some of us had was that it was not really designated as to where it was going to go.

As an example, I think with regard to the Coast Guard, the President requested \$580 million and the Committee included \$580 million for the Coast Guard, but \$400 million of it was going to Operation IRAQI FREEDOM overseas. There were many of us who felt that we have some obligations right here at home.

We looked at, as Senator Hollings said, port security problems right here at home in all the major ports. They are immense. And while I know it is necessary to have money for the Coast Guard's involvement in Iraq, it is also critically important to have enough money involved in the Coast Guard here in America's defense, and I think that it is not sufficient what we have.

And I think the other thing is not that anyone mistrusts you or the Department, but I mean, some of them likened it to the fact that we were just going to take \$1.35 billion and toss it up in the air in the general direction of homeland security, and hope that it falls down in the right places. And there are many in Congress who felt that we have the obligation to appropriate funds, but we also have an obligation to help direct where those funds that we are asking the taxpayers to pay are going to be spent. This is an age old argument about who decides where the money is going to be spent.

I mean, we lost that fight. I hope that you will pay attention to the debate and look at what we were encouraging these monies to be spent for. It may be that you would agree with us totally, and that's fine. But what we have basically given you is a lot of money to spend on homeland security. And as many of us had felt that certain amounts should be allocated clearly to the Coast Guard, the border security, to the Bureau of Customs, et cetera, we were trying to say here's what these various departments, or agencies within your department needed. So, we hope that that debate is noticed, and hopefully we can work together on that.

Thank you, Mr. Chairman.

The CHAIRMAN. General Ridge.

[Laughter.]

**STATEMENT OF HON. TOM RIDGE, SECRETARY,
DEPARTMENT OF HOMELAND SECURITY**

Secretary RIDGE. Thank you, Mr. Chairman. Good morning, Chairman McCain, Senator Hollings, and my former colleagues, distinguished Members of the Committee. Thank you for the opportunity to join you this morning to describe the efforts of the Department of Homeland Security to secure our Nation's transportation systems, borders, and ports of entry. And thank you for the opportunity to hear your concerns, many of which you have addressed in your opening remarks, and I suspect will get into a little deeper during interrogation and questioning. And thank you for the opportunity to discuss with you the substantial challenges that the Department and Congress face in the months and years ahead as we set up the Department and work together to secure America.

We at the Department of Homeland Security are committed to working closely with the Congress of the United States, State and local Governments, as well as private industry, to address these challenges and ensure that America's future is both prosperous and secure.

In protecting our systems of commerce and transportation, we basically face a two-pronged challenge. Safeguard our homeland, but at the same time ensure that the free flow of people, goods and commerce is not disrupted. The Department of Homeland Security is leading the effort to reach this objective but it will not be achieved strictly within the new Department.

It will require, from our view, a sustained and coordinated effort by Government and private partners. It will require investment by all parties, the development of new approaches, and the application of new technologies. It will require us to make difficult decisions, critical assessments, and work to find the elusive balance point between the substantial and measurable costs of security and the even more substantial and immeasurable costs of insecurity.

Since the terrorist attacks on September 11th, we have made significant strides to protect the national transportation system. Congress created the Transportation Security Administration and empowered it to manage transportation security in all modes of transportation. TSA will play a strategic role in developing the national transportation system security plan, a key portion of the national strategy for homeland security.

Two other key components within the Department include the United States Coast Guard as lead in the maritime domain, and the Bureau of Customs and Border Protection in dealing directly with the movement of people, goods and cargo across our borders.

In February, Admiral Loy appeared before this Committee and provided you with a comprehensive overview of TSA's progress on aviation security. I would like to add several recent successes.

Under the purview of the FAA, approximately 95 percent of the 6,000 commercial airliners will have hardened cockpit doors as of today. On February 25th, we initiated the Federal Flight Deck Officer Program. The first training session will begin next Monday at the Federal Law Enforcement Training Center.

Additionally, we continue to make progress in deploying explosive detection systems at the few remaining airports where not all baggage is screened using this technology.

We continue to develop the next generation of computer assisted passenger prescreening system, and I suspect this will be a matter of discussion with the individual Members of the Committee, but particularly Senator Wyden, I think you're referring to that, and it's a critical discussion that we have. That's one of the things about the democracy in which we live, these discussions are transparent, they're public, and very appropriately so. And I would just assure you that while we have not identified a privacy officer publicly, we've got a good one in mind and we are just making sure that all the paper work is in order before we submit her name to you and to the public.

We will continue to work with the TSA and the CAPPs II program because we think it's a critical element in their system of systems of protection, and we believe it will effectively enhance the screening of airline passengers, moving the screening further from the gate, but at the same time safeguarding their civil liberties.

Along our Nation's coasts and in our seaports, the Coast Guard, TSA, the Bureau of Customs and Border Protection, the Department of Transportation's Maritime Administration, and the St. Lawrence Seaway Development Corporation, all play a role to provide increased security at our ports. These efforts were furthered with the passage of the Maritime Transportation Security Act last November. I assure you we will be taking steps to ensure that the Act is implemented in an integrated and timely manner.

The Coast Guard and TSA continue their progress on conducting port security assessments in coordination with our Directorate of Information Analysis and Infrastructure Protection. TSA, in conjunction with the Coast Guard and MARAD, awarded an initial round of \$92 million in port security grants last summer to 51 different seaports.

In the cargo container security arena, the Department is providing security for the nearly 6 million containers that enter our ports each year by partnering with other countries and the private sector to push our zone of security outward. We would like to push that perimeter of safety further and further offshore.

One program to implement this strategy includes the Container Security Initiative, or CSI, which identifies high risk cargo containers and partners with other Governments to prescreen those containers at foreign ports before they are shipped to America.

The Department has been working with and will continue to work closely with the Department of Transportation and the many stakeholders in the railroad industry to enhance rail security. We will leverage the industry's relationships and regulatory structure that the Federal Railway Administration has long developed. As an example of this cooperation, TSA and the FRA recently collaborated in reviewing Amtrak's security plan and advised this committee of the results of that review.

The Department of Homeland Security is following a similar approach for mass transit security, including rail, inner city buses, and ferries. Security in these modes presents a continuing challenge due to the general lack of security, as well as the public's desire and the public's need for the freedom to move through each mode of travel.

Highway security is an additional challenge that we are beginning to address, and cooperation with the Federal Highway Administration and the States is absolutely critical. The enhancement of the Critical Infrastructure Information Act of 2002 assists this effort by protecting information that is voluntarily submitted to the Federal Government.

The thousands of miles of pipeline throughout America represent another unique challenge. In order to secure a vast network, the communications between our Federal, State and industry partners has been streamlined. The TSA and the Department of Transportation's Research and Special Programs Administration continue to focus on implementing coordinated risk based protocols to ensure operators are putting security practice into place at critical facilities.

Mr. Chairman, transportation security is a collaborative effort, and must be a collaborative effort between our Department, other Federal agencies, State and local Governments, the private sector, as well as individual Americans. Together we have made great advances in securing our transportation systems while protecting civil liberties and insuring the free flow of people and commerce. But clearly clearly, we recognize as you do that more needs to be done.

The Department of Homeland Security is dedicated to accomplishing the objectives set forth in the President's national strategy. This strategy provides the framework to mobilize and organize the nation. We are proud of our efforts thus far and are eager to press forward with the mission of building a safer and more secure future for our country.

This concludes my prepared statement. I certainly thank you for the opportunity to speak before you, and look forward to the continuing opportunity as well as responsibility that we have in the Department to shape the new Department, with the assistance and collaboration and input from our colleagues in the legislative branch who were so instrumental in accepting the President's proposal and creating the Department in the first place. So I am very pleased to be here, and look forward to responding to questions that you might have.

[The prepared statement of Secretary Ridge follows:]

PREPARED STATEMENT OF HON. TOM RIDGE, SECRETARY,
DEPARTMENT OF HOMELAND SECURITY

Good morning Chairman McCain, Senator Hollings and other distinguished Members of the Committee. It is a pleasure to be here with you this morning to discuss the efforts of the Department of Homeland Security to secure our nation's transportation systems, borders and ports of entry. Thank you for providing the opportunity to discuss the Department's efforts on these fronts.

As the President has stated, "the United States government has no more important mission than that of protecting the homeland from future terrorist attacks. The threat to America takes many forms, has many places to hide, and is often invisible. Terrorists wish to attack us and exploit our vulnerabilities—as we saw in the attacks of 9/11—because of the freedoms we hold dear." Your good efforts last year significantly advanced our ability to meet the terrorist threat by creating the Department of Homeland Security (DHS). We at the Department are committed to working closely with you, the Congress, state and local governments, and private industry to continue this effort and ensure the security of the Homeland.

The Department was created in order to bring the 22 agencies with a homeland security mission under one roof, to focus their activities, achieve efficiencies and eliminate redundancies. DHS has a two-pronged challenge in the transportation and border arenas—protecting the homeland while ensuring that the flow of goods and commerce that makes our economy strong is not disrupted. This is crucial in the transportation sector, where changes in the environment can have significant impact on local, regional and even national economies. Because we recognize this reality, DHS is fostering a communicative approach with our state and local, and private sector partners. We routinely engage in discussions with those potentially affected by heightened enforcement measures, and are developing partnerships with public and private sector entities to tap their extensive expertise and technological resources to advance our security mission without unduly impacting commerce. Much must be done in the months and years ahead, and fostering these partnerships will prove invaluable in achieving our goals and protecting the homeland.

Mr. Chairman, you have asked me here this morning to discuss the security of our transportation sector, borders, and ports of entry. As you are keenly aware, since the terrorist attacks on 9/11, the Federal Government has taken great strides toward effectively protecting the national transportation system, including our ports and borders. We now have all of the key component agencies under one roof to manage this effort effectively. The U.S. Coast Guard and Bureau of Transportation Security (BTS), including the Bureau of Customs and Border Protection and the Transportation Security Administration, will all play key roles, as will the new Information Analysis and Infrastructure Protection Directorate.

The U.S. Coast Guard, reports directly to me and serves as lead agency in the maritime security domain, and the BTS Directorate is working to ensure the safe and secure passage of people, goods and cargo across our borders. The Information Analysis and Infrastructure Protection (IAIP) Directorate supports the effort to secure our transportation sector by undertaking vulnerability assessments and mitigation measures for critical infrastructure components of our transportation system, ports and borders. IAIP will utilize requested funding to work across infrastructure sectors and address the highest priority assessment and mitigation initiatives. The Science and Technology (S&T) Directorate will support this effort by assessing and developing technologies that will meet our security needs.

TSA will continue to focus on aviation security and work with other DHS organizations to develop and implement an effective transportation security program in other areas. TSA has been and will continue to work closely with the Department of Transportation and its constituent Operating Administrations. I want to personally thank Secretary Mineta for the devotion that he has shown toward ensuring that this endeavor succeeds.

I am aware that ADM Loy appeared before this Committee in early February, and provided you with a comprehensive overview of the progress that TSA has made in the area of aviation security. I refer you to his detailed written testimony to describe those efforts. Since his appearance though, I would like to add several additional successes. Under the purview of the Federal Aviation Administration, approximately 95 percent of 6,000 passenger airlines will have hardened cockpit doors by April 9, 2003. Those that do not have the hardened doors will not fly. On February 25, the Federal Flight Deck Officer (FFDO) program was initiated to permit the arming of pilots. The first training session will begin next Monday at the Federal Law Enforcement Training Center (FLETC), also within the BTS Directorate, leading to the first group of deputized pilots. After reviewing the effectiveness of the training program for this initial class, TSA will begin regular training in July and will be able

to train more pilots this fiscal year based on what funds are available. The President has requested \$25 Million for this program in FY04.

In the General Aviation arena, on April 1, the so-called "12-5" rule took effect. It applies to operators of aircraft with a maximum certificated takeoff weight of 12,500 pounds or more in scheduled or charter service, carrying passengers, cargo, or both. The 12-5 Rule requires the implementation of a standard security program to include restricted access to the flightdeck and a fingerprint-based criminal history records check on flight crewmembers.

As you are aware, TSA did meet the 12/31/02 deadline to screen all checked bags for explosives and is using electronic screening, or other congressionally approved methods. Now, as TSA reports to you each month in a classified report, the agency continues to make progress in deploying electronic explosives detection systems at the few remaining airports where 100 percent electronic screening was not in place by January 1. We fully intend to meet the revised deadline of December 31, 2003 to install necessary remaining electronic EDS machines.

We continue to address the additional security issues that exist in the aviation sector. As an example, TSA is in the process of developing a strategy to "right-size" its workforce. In some airports there is overstaffing and in other locations understaffing. The staffing needs of the more than 400 commercial airports must be harmonized, even as TSA works to also develop a model workplace.

We recognize the threat of Man Portable Air Defense Systems (MANPADS) to commercial aircraft. We have completed preliminary vulnerability assessment maps of all major airports in the United States and sent interagency teams to 22 of the largest airports to provide detailed vulnerability assessments. In conjunction with other Federal law enforcement agencies, we are reviewing the results of these vulnerability assessments and working through our Federal Security Directors with airport authorities and local law enforcement agencies to identify specific areas of concern and to minimize the risk around the airports. That translates to more effective surveillance including more frequent and focused patrols keyed to available intelligence. TSA has also developed training materials and guidelines for identifying and reporting possible MANPADS threats, and TSA is distributing this information to its Federal Security Directors to share with airport security officials and local law enforcement officials. We will continue to work closely with these officials in order to ensure that any and all information concerning this threat is quickly shared and that our efforts to prevent a missile attack are well coordinated. I am aware of calls for the immediate installation of countermeasures on all commercial aircraft. An interagency working group has been developing the appropriate strategy to address this continuing threat. The group is exploring all tactical and technical solutions to the MANPADS threat.

I would also like to address an issue that has received much attention lately—the development of the next generation of the Computer-Assisted Passenger Prescreening System (CAPPS II). TSA staff has previously met with some of the Members of this Committee, and staff to most of this Committee's personal offices, to highlight, to the extent possible in an open briefing, what CAPPS II is, and is not. TSA has also met with advocates of privacy rights and civil liberties to listen to their concerns and gather their input, and will continue to do so.

Our goal is for CAPPS II to enhance the screening of airline passengers. CAPPS II will not degrade the civil liberties of Americans. TSA will rarely see the background information checked by the computer. TSA will have access to this information in the extremely rare instances that a particular traveler has been identified as having known links to terrorism. TSA will only see the aggregated threat assessment of the data used to determine whether, based on current information on foreign terrorist activities, the passenger is a possible terrorist threat to civil aviation security. This assessment will be synthesized into easily understood color codes—Green, Yellow, and Red, which will be transmitted to TSA only shortly before the passenger's flight, and purged from the computer immediately after the passenger's flight is completed.

Not only will the CAPPS II system improve aviation security, but the system will reduce the likelihood of innocent persons being misidentified or confused with similarly named persons who may have foreign terrorist links. CAPPS II will dramatically reduce the number of passengers required to undergo additional screening at airports as "selectees" under the current CAPPS system. DHS and TSA will continue to work with this Committee as CAPPS II is further developed.

As a final note in the area of aviation security, I would like to address the need for additional efforts in the air cargo security arena. Recognizing that this is an area of that needs to be addressed, the President requested a total of \$30 million for an air cargo security pilot program in FY2004. Of this amount, \$20 million is requested for the design and development of a random, risk-weighted freight screening process

and the expansion of the TSA “known” shipper program. An additional \$10 million is requested for further research and development to explore new air cargo technologies. As ADM Loy advised you in his February 5 testimony, TSA has established a working group that is using a threat-based and risk-managed approach, in coordination with the cargo industry.

I would now like to turn to the other 80 percent of the transportation sectors, maritime and surface transportation. Their reach is vast. There are 3.9 million miles of public roads, which account for 2.7 trillion miles of travel by car and truck each year. There are 11.2 million trucks and almost 2.4 million rail cars coming into the U.S. each year. There are 120,000 miles of rail owned by the major railroads accounting for 700 million rail freight miles annually. There are 2.2 million miles of pipelines. Mass transit accounts for 9 billion commuter trips each year. The United States has 25,000 miles of commercial navigable waterways. Finally, there are 51,000 port calls made by 7,500 foreign flag ships to our 361 ports.

The Department has adopted a risk management approach as a cornerstone policy for developing risk-based regulatory standards for the various modes of transportation. Under this approach, there are three primary elements of good risk management: a threat assessment, a vulnerability assessment, and a criticality assessment. In support of its risk-based regulatory approach, the Department, through IAIP, the Coast Guard, and BTS will continue to develop consistent vulnerability templates not only across the various transportation modes, but also across all critical infrastructure sectors, such as utilities and food and water supply. The very long-term goal of future security standards will be to link vulnerability model-generated relative risk to the homeland security advisory system (e.g., the color coded threat system).

DHS’s plan for maritime homeland security has three major components:

- Container security, to facilitate trade while improving security;
- Coast Guard operations, to ensure the safety of our ports and waterways; and
- Vulnerability assessment and mitigation, to target resources to the highest priority assessments and protective measures across infrastructure sectors.

The Maritime Transportation Security Act (MTSA), which Congress passed last year, addresses each of these components. The MTSA provides a framework for ensuring the security of maritime commerce in our domestic ports. Among other security measures, it requires:

- Vessel and facility security and response plans
- Foreign port assessment to ensure supply chain security
- Implementation of a system to collect, integrate and analyze vessel, cargo and crew information
- Certain vessels in U.S. waters to carry automatic identification systems
- Development of credentials to ensure only known and trusted transportation workers are permitted access to our maritime transportation system’s sensitive areas

The Coast Guard, BTS and our industry partners are working hard to meet the requirements of MTSA to improve the security of our maritime transportation system. However, resourcing this initiative will require a public-private partnership to define responsibilities clearly and enable us to use our limited resources wisely. Implementing MTSA is part of the Department’s comprehensive maritime strategy, which implements the maritime component of the President’s plan.

In addressing container security, excellent groundwork was laid in the establishment, after 9/11, of a multi-agency Container Working Group (CWG). The Coast Guard, BTS components of TSA and BCBP, and the Office of the Secretary of Transportation currently participate in the CWG, in addition to a large number of private sector participants including, in part, the American Trucking Association, the Association of American Railroads, the World Shipping Council, the Pacific Maritime Association, the National Association of Waterfront Employees, the Marine Transportation System National Advisory Council, and the International Mass Retailers Association. The CWG’s charter focuses on addressing key components of the process through which a container is packed, secured, loaded, and transported to the United States, ensuring the integrity of the shipment at all points in the international transportation chain.

The result of this effort is to improve the overall security of containers by: establishing security standards and criteria for identifying high-risk containerized cargo (including trucks), implementing a prescreening process to target containerized cargo before it is shipped to the United States; developing and deploying technology to prescreen identified high-risk containers; developing procedures and deploying

technology to secure containers as they are transported to the United States; and improving cargo security during domestic transportation, particularly high consequence cargoes.

Also in the cargo container security arena, the Department is using an approach to ensure the security of the nearly 6 million containers that enter our ports each year that involves partnering with other countries and the private sector to push the zone of security outward by utilizing advance information to pre-screen all containerized cargo and ultimately inspect 100 percent of containerized cargo that is determined to be “high-risk.”

One program to implement this strategy is the Container Security Initiative, or CSI, which identifies high-risk cargo containers and partners with other governments to pre-screen those containers at foreign ports, *before* they are shipped to our ports and ensure they are not tampered with between ports. The BTS Directorate administers CSI, and within BTS, the Bureau of Customs and Border Patrol has the policy and operational lead, and the Bureau of Immigration and Customs Enforcement (BICE) and TSA participate by providing data that is reviewed by BCBP’s Automated Tracking System (ATS), a sophisticated, rules-based system that sorts and processes vast quantities of information to pick up “red flags” and ensure that 100 percent of all high-risk ocean-going cargo is subjected to inspection. The U.S. Coast Guard not only provides data to support the CSI initiative, but also participates on an operational level, by interdicting vessels determined to be carrying high risk cargo before they reach our ports.

The Department’s efforts to provide additional security in the maritime arena also facilitate the sharing of information and expedite the movement of legitimate goods into our ports and across our borders. For example, the Customs-Trade Partnership Against Terrorism, or C-TPAT, administered by BCBP, involves the trade community—U.S. importers, customs brokers, carriers, shippers, and others—to protect the *entire supply chain*, against potential exploitation by terrorists or terrorist weapons. The more than 2,000 companies that participate in C-TPAT perform comprehensive self-assessments of their supply chain and agree to make security improvements based on guidelines developed jointly with the trade community. Those companies then receive expedited processing through our land border crossings, through our seaports, and through our international airports. This partnership enables us to spend less time on low-risk cargo, so that we can focus our resources where they are needed most—on higher risk cargo.

Operation Safe Commerce (OSC), a cooperative effort between the Federal Government and the non-federal sector that includes some of the top seaport “load centers” in the United States—Seattle/Tacoma, New York/New Jersey, Los Angeles/Long Beach. Its purpose is to explore commercially viable options that support cargo management systems that keep pace with expanding trade, while protecting commercial shipments from threats of terrorist attack, illegal immigration, and contraband. Using \$28 million in grants, being administered by TSA, to the designated load centers, OSC will analyze existing supply chains and current security practices, and provide a test-bed for potential solutions and improvements in the security and movement of container cargo. OSC will ultimately develop procedures, practices, and technologies that help secure and monitor cargo from point of origin to point of destination. These pilot projects will provide a proof of concept that will ultimately improve the security of the international and domestic supply chain.

The BCBP’s Automated Commercial Environment (ACE) will use computer technology to assist with the targeting of high-risk cargo and expedite the vast majority of low-risk trade. One important, fully integrated component of ACE is the International Trade Data System (ITDS), an e-Government strategy designed, developed, and deployed as an integrated, government-wide system for the electronic collection, use, and dissemination of the international trade transaction data required by the various trade-related federal agencies. ITDS will simplify and streamline the regulation, promotion, and analysis of international trade. It will also enhance enforcement of international trade and transportation regulations and laws, while improving commercial functionality to importers, exporters, carriers, and brokers through unified business processes. There are over 100 agencies to be integrated through ITDS with ACE, of which 48 have been identified as having admissibility and export control responsibilities at the border.

Through ACE, the ITDS will be capable of linking the government’s law enforcement and other databases into one large-scale relational database that tracks all commerce crossing our borders. ITDS will bring together critical security, public health, public safety, and environmental protection agencies under a common platform, and allow businesses to report data through the use of a single, harmonized data set.

Successful targeting of high-risk goods transported through other transportation modes is as important as successful targeting of high-risk goods transported by sea. As with oceangoing cargo, good information received early in the process is key to successful targeting and to the application of sound risk management principles. With the Trade Act of 2002, Congress recognized the importance of such advance information by mandating presentation of advance manifest data on *all* transportation modes, both inbound and outbound. The Department is in the process of working through the consultative process called for in the Trade Act of 2002 to determine the most appropriate advance manifest requirements for cross-border shipments by land, rail, and air cargo. Once the rules for cross-border shipments for land, rail, and air cargo are in place, we will be able to carry out the same national targeting strategy for those modes that we currently employ with respect to sea cargo.

DHS is in a unique position to use other innovations, including both new and off-the-shelf technologies, to improve security and enhance commerce across the modes. The Department deploys a range of technology to effectively inspect people and goods entering our maritime and land ports, including Non-Intrusive Inspection Technology—large-scale x-ray and gamma-ray imaging systems, portal radiation monitors, and a mixture of portable and handheld technologies to include personal radiation detection devices that greatly reduce the need for costly, time-consuming physical inspection of containers and provide us a picture of what is inside the container for detecting weapons of mass destruction, explosives, chemicals, and contraband. The right equipment and systems access increases the number of inspections, minimizes risks to our personnel, and enables more effective processing.

The Coast Guard serves as the lead federal agency for port security. Since 9/11/01, Coast Guard has conducted more than 36,000 port security patrols, 3,600 air patrols, and 10,000 vessel boardings. It has launched two new programs to ensure the security of our ports: Sea Marshals, which are Coast Guard officials placed on commercial ships entering ports to prevent them from being hijacked, and Maritime Safety and Security Teams, which are deployable fast-response units to protect ports.

Implementing and enforcing a security regime aligned with international standards is also of paramount importance in this effort. For that reason, the Coast Guard successfully gained adoption of amendments to the Safety of Life At Sea (SOLAS) Convention and the International Ship and Port Facility Security (ISPS) Code at the International Maritime Organization (IMO). These very important agreements contain strong, comprehensive, worldwide measures to enhance maritime security around the world.

The adopted ISPS Code substantially strengthens security measure of ships on international voyages and port facilities serving them. It requires ships on international voyages and port facilities serving these ships to (1) conduct a security assessment, (2) develop a security plan, (3) designate security officers, (4) perform training and drills, and (5) take appropriate preventive measures against security incidents.

The United States is on record as enthusiastically supporting July 2004 as the implementation date of the new SOLAS amendments and the ISPS Code. The ISPS Code has a Part A—or mandatory—Section, and a Part B—or guidance—Section. The Department's intent is to mandate both Parts A and B to meet the requirements of MTSA.

Finally, DHS is focused on vulnerability assessment and mitigation in the maritime environment. The Coast Guard is working to conduct port vulnerability assessments at the top 55 economically and militarily strategic ports. This effort has been underway since August 2002, and will be continued, in cooperation with BTS, and the Directorate of Information Analysis and Infrastructure Protection (IAIP), the organization within DHS that has overarching responsibility for critical infrastructure protection.

Given the risk, importance and visibility of the Radiological Dispersal Device (RDD/"Dirty Nuclear Bomb") and the Improvised Nuclear Device (IND), the Department of Homeland Security will also continue the excellent work begun by the Office of Homeland Security and the National Security Council's RDD/IND Working Groups. The efforts of these working groups will move forward as a joint effort under DHS/HSC/NCS. I have directed Under Secretary Hutchison to coordinate the RDD/IND efforts currently underway in various regions of our country. These Federal, State, and Local RDD/IND efforts will be integrated into a Defense in Depth network across all modes of transportation from our borders inland. By coordinating current efforts, expanding our program to include modes of transportation that have been overlooked and then physically networking the system together, DHS will greatly increase the probability of stopping the RDD/IND threat through a Defense

in Depth posture. However, Defense in Depth alone is not enough when dealing with a threat with this level of consequence. Therefore, DHS is also working with our Federal, State, and Local partners to improve preparedness, prevention, detection, response, mitigation, and recovery through training, equipping and coordinating from a broad perspective that only DHS can bring to the table.

Moving to the land side of the equation, the approach we are taking to ensure the security of the containerized cargo coming into our ports is very similar to that used to ensure the security of goods and cargo coming across our borders and traveling throughout the country. In the area of rail security, the BTS Directorate's TSA has been working with and will continue to work closely with the Federal Railroad Administration (FRA) of the Department of Transportation, and the many stakeholders in the railroad industry to leverage industry relationships and regulatory structure that FRA has long developed. Now, BTS in cooperation with IAIP will establish transportation security regulatory guidelines for the rail sector along the principles of the threat based and risk management approaches that I have already discussed. These guidelines will be based on critical rail infrastructure risk assessments, and input from the FRA and industry. Amtrak's security plan was recently reviewed in this fashion, and this Committee was apprised of the results of that analysis. We have also reached an agreement with the Canadian Customs and Revenue Agency (CCRA), the Canadian National Railway (CN), and the Canadian Pacific Railway (CP) to implement a process for targeting, screening, and examining rail shipments transported into the United States from Canada by two major cross-border rail carriers. This is a major step forward in addressing the potential terrorist threat for rail shipments coming into the United States from Canada.

DHS is following a similar approach in addressing mass transit security needs including rail, inter-city buses, and ferries, and over-the-road buses. Again, existing relationships, assets, and authorities of the DOT Operating Administrations such as the Federal Transit Administration (FTA) and the Federal Motor Carrier Safety Administration (FMCSA) will be utilized by BTS (through TSA) and IAIP. There is much that we can do to enhance security, including assessing vulnerabilities, improving security at critical access points, acting on specific threat intelligence, monitoring conditions, improving emergency communications, increasing law enforcement presence where needed, or when the national threat level is increased, and developing contingency and response plans.

Providing for security on the Nation's highway system is an additional challenge we are now beginning to address. Cooperation is essential not only with the Federal Highway Administration but with the state Departments of Transportation throughout the country. IAIP is beginning efforts to assess critical bridge and tunnel vulnerabilities. The enactment of the Critical Infrastructure Information Act of 2002, part of the Homeland Security Act of 2002, will assist this effort not only in the area of highways, bridges, and tunnels, but in all areas of critical infrastructure vulnerability by protecting information that is voluntarily submitted to DHS and other federal agencies.

One area in which we have made progress is the Free and Secure Trade, or FAST, program, administered through the BTS Bureau of Customs and Border Protection. Through FAST, importers, commercial carriers, and truck drivers who enroll in the program and meet agreed-upon security criteria are entitled to expedited clearance at the Northern Border. Using electronic data transmission and transponder technology, we expedite clearance of approved trade participants to focus our security efforts and inspections where they are needed most—on high-risk commerce—while ensuring that legitimate, low-risk commerce faces no unnecessary delays. Similar programs including NEXUS and SENTRI are being used to expedite the processing of people on the Northern and Southern borders, by enabling pre-screened travelers to use dedicated lanes at various ports of entry, including Blaine, Washington; Buffalo, New York; Detroit, Michigan; Port Huron, Michigan; El Paso, Texas; and San Ysidro, California.

Security for the transport of hazardous materials, including explosives, over the Nation's highways by truck requires coordination of complex laws enacted under the Safe Explosives Act (included as part of the Homeland Security Act of 2002) and the USA PATRIOT Act of 2001. Under the Safe Explosives Act, additional restrictions on the carriage and receipt of explosives fall under the jurisdiction of the Bureau of Alcohol, Tobacco, Firearms and Explosives unless the Department of Transportation regulates the area. Under the provisions of Section 1012 of the USA PATRIOT Act, the Department of Transportation is charged with the responsibility of overseeing issuance by the states of hazardous materials endorsements to Commercial Drivers Licenses (CDL). BTS through TSA, determines whether a CDL holder poses a security risk that warrants denial of the license, and will work with DOT to ensure this is taken into consideration for approval of a CDL license. This re-

quires conducting Department of Justice background checks on the many HAZMAT drivers throughout the country. The Department together with DOT, acting through the Research and Special Programs Administration (RSPA) and the FMCSA, are collaborating on a series of regulations that will provide uniform standards for the conduct of background checks and threat based security determinations.

These regulations will end the uncertainty within the trucking industry as to what standards and rules will apply to the transportation of explosives. Because I know a number of Members have expressed concern about the timeframe in which the rules are being developed, it is important to note that despite the complexity of the statutory requirements governing their issuance, and the sheer volume of background checks the governing statutes will require, we are seeking to ensure maximum security with minimal economic impact. These rules are in the process of final review within the Administration, and we hope to issue them in the near future.

To keep pipelines secure to the maximum extent possible, the communication process has been streamlined with our Federal, State and industry partners to ensure that security information and threat warnings are available on a real-time basis. BTS, IAIP, and DOT continue to focus on implementing a coordinated, appropriate set of protocols based on threat assessments for inspectors to use to verify that operators are putting security practices into place at critical facilities. Again, the Critical Infrastructure Information Act of 2002 will provide an added tool in assisting federal agencies, including DHS, to receive and assess critical infrastructure information from state and local governments and from the private sector.

Mr. Chairman, as you well-know, transportation security is a collaborative effort between the Department of Homeland Security, other federal agencies, state and local governments, the private sector, and individual Americans. Together we have made great advances in securing our transportation systems, protecting civil liberties, and ensuring the free flow of people and commerce, but we recognize that more needs to be done and we will continue to make progress every day. The Department of Homeland Security is dedicated to accomplishing the objectives set forth in the President's National Strategy for Homeland Security. This strategy provides the framework to mobilize and organize the nation—Federal, state and local governments, the private sector, and the American people—in the complex mission to protect our homeland. We are proud of our efforts thus far and are confident that our transportation systems, ports and borders are more staunchly protected than ever before.

Mr. Chairman and Members of the Committee, this concludes my prepared statement. I thank you for the opportunity to speak before you today.

The CHAIRMAN. Thank you very much, Secretary Ridge.

I think it is generally accepted that the efforts we've made on airport security have been largely successful. Would you agree with that?

Secretary RIDGE. Yes, I would.

The CHAIRMAN. Secretary, I wish we could convince the traveling public that the enhanced measures at the airports, beginning with the hardened cockpit doors, the new TSA, and the baggage screeners, and the technology and the people at the airports, perimeter security, additional air marshals, that the commercial aviation is far safer and more secure today than it was on September 10, 2001. Do you believe we have made that same progress as far as railway stations are concerned?

Secretary RIDGE. I do not. I think one of the big challenges we have at the outset, Mr. Chairman, is that the Congress in setting up very appropriately the TSA, sent a very strong signal that the highest priority, almost in a prescriptive sense, was aviation security. But clearly, Congress also—

The CHAIRMAN. Which is understandable, given the events of September 11.

Secretary RIDGE. Absolutely. But I think Congress was also clear that it's an intermodal transportation system that they sought TSA to work to secure, and Admiral Loy and I are committed to making

sure that in the following months and years ahead, that we restore some of the balance, continue to work on aviation, but we've got rail freight, we've got pipelines, we've got highways, and we've got considerable additional transportation infrastructure that we need to secure.

The CHAIRMAN. What about port security?

Secretary RIDGE. Mr. Chairman, I believe that we've made a great leap, a monumental difference with the support of Congress and some of the initiatives undertaken within the Department of Homeland Security by individuals and agencies even before they were grafted in the Department.

The enhanced security with the Coast Guard and the continued commitment of Congress to the Deep Water acquisition program that will provide additional infrastructure vessels and technology and the like, the 2004 budget enables them to hire and bring in an additional 2,000 men and women. They have clearly enhanced security at the ports.

The cargo security initiative, where through a targeting process, a nonintrusive technology in cooperation of our partners overseas, we can identify and actually inspect some of this cargo for security purposes before they even load the ships.

The 24-hour rule that gives us the passenger lists and the cargo manifests, so we can do some of this targeting. And the enhanced sea marshal program, additional inspections of high interest vessels.

So again, we have done a great deal. Is there more to do? Certainly. The Maritime Security Act talks about vulnerability assessments. We are in the process of doing that, and obviously down the road there will have to be physical enhancements at our domestic ports as well.

The CHAIRMAN. I know that you know that there has been some money wasted because of the rapidity with which the TSA had to be set up. I hope you will work with Mr. Meade, the IG of the Department of Transportation. He has identified some of these areas. We regret when a single dollar is wasted. There has been some waste and some abuse, and I hope that you can come back to us at a certain time and make sure that these have been remedied and won't happen again.

Could I talk about the border a second?

Secretary RIDGE. Yes, sir.

The CHAIRMAN. I don't think that I have the knowledge or expertise that a lot of your experts do. I do believe that I have some knowledge because of my involvement and visits and information that I've received from a broad variety of sources. But it seems to me, that particularly on our southern border, although we need to hire additional personnel and some of that activity is already taken, that we really are going to have to take advantage of the high tech capabilities that our military has proved so effective.

I don't think we will ever have enough vehicles of people to patrol the 200-mile border between Arizona and Mexico. But I do believe that a UAV could do a very good job in that respect. And I believe that some of the other technology that we have, that the military has developed—you know, there's a great cry now that they want to send the military to the border. People think that is

an answer, and obviously it's not, for a variety of reasons. But I do believe that we could take advantage of a lot of the technology that has been developed by the military, particularly as far as surveillance is concerned, and use that equipment to great effect.

And I don't want to keep beating on this issue, but when you meet the guy that's been running a wildlife refuge on the U.S.-Mexico border for 18 years that says Senator, I can tell you that I no longer have control of your wildlife refuge, and a park ranger is shot and killed at the Organ Pipe National Monument by some people who are coming through illegally, this gets to be a huge problem. And one of the effects of it has been, and a bit understandably, is vigilante groups forming because they believe that the Government is not doing it, so therefore they will, and some of them are even arming themselves. That sets up a potential for a very dangerous situation, as you know.

So I hope, maybe you could comment on that aspect of border security. And my understanding is that your next priorities are rail and port security, after aviation and airport security. Is that basically correct?

Secretary RIDGE. Correct. Senator, your recommendation, or your reminder, that there exists some technology that has a military application that has a surveillance application at the borders is a suggestion and a recommendation that we're taking very seriously in the new Department.

Our science and technology unit, just recently stood up, will be looking at the available technologies of the UAVs out there. I had a good conversation with the Undersecretary for Border and Transportation Security, Asa Hutchison. Because if we can take this technology, it certainly—and the eyes over the horizon, we obviously have to change tactically and operationally how we use the additional manpower that Congress has given us the past couple of years.

But I think one of the advantages of the new Department is, one, at the border there is a single chain of command. As you know, we've got some of the INS and Customs and AFS people together. Border Patrol is an integral part of our operation. But, I think that we need to equip them with this kind of technology if our expectations legitimately are risen due to combat terrorism. And we want them to cover more territory.

And you point out the humane side of being able to identify some of these men, women and children trying to work their way to this country for understandable reasons. And so your suggestion about the technology is one that we take seriously and we have begun the process of looking at the application, hopefully with a pilot or demonstration project sometime this year.

The CHAIRMAN. Thank you. Senator Hollings?

Senator HOLLINGS. Thank you, Mr. Chairman.

Mr. Secretary, like the Tale of Two Cities, you've got the best and the worst. Let me cover first the worst, and that's the Immigration Administration. And I'm not being critical because you only have an acting director there, but years back I even called the President and asked for a replacement.

It's not a money problem. You can ask Senator Gregg or any of the others, we have been on that appropriations Subcommittee for

years, and you keep pouring money, and it's one grand bureaucratic snarl. Get your hard nosed general or admiral like Loy, get your tough fellow like yourself, and get that thing cleaned up. I mean, you've got a cancerous operation there. Everybody will agree. That's a bipartisan comment.

On the other hand, you've got the finest in the United States Coast Guard. To tell you how uninformed I was, I came up here in 1966 and saw all that brass up on the hall over in the Dirksen Building at the time and I said you all are mistaken, the Armed Services is back down on the next floor. And then when Chairman Magnuson got ready to give the promotions for the Coast Guard, he said where are they, and I'd sent them down to the wrong place. So I've learned to take care of the Coast Guard over the years.

And there's an ongoing little conspiracy. You begin being underfunded. You will find that Chairman Ted Stevens now, and Senator Inouye and myself, we've served on that Defense Appropriations Subcommittee for the last 30-some years, and we have to take out of that 050 defense, and transfer \$350,000,000 back to the Coast Guard. We've been doing that for years, because we just don't have—you're underfunded right this minute.

And they're doing, like Admiral Collins says, the finest job they possibly can, but taking all of those personnel, ships and everything else and putting them in the gulf just—in the newspaper, I think it was Monday, he had a column in there to the effect that he's 68 percent cut now from his drug task, from his fisheries task and everything else of that kind. So he's doing an outstanding job, but we just haven't put the money to it.

With respect to the ports, you've got the GAO report, and rather than reading the whole thing, I mean, you had just this present year a \$697 million need and only appropriated some \$93 million. So we've got to play catch-up ball financially with respect to the Coast Guard.

With respect to the Immigration Service, you've got to catch up administrator-wise as a personnel thing.

And you've got a difficult thing. You left the other day when Secretary Rumsfeld was there, and I was telling him he didn't have to worry about a money supplemental because everybody is going to give him the money. What he needed was a personnel supplemental. He's got 12 peacekeeping, now he's added the war in Iraq, and he's taking all of my National Guardsmen, Reserve and everything else, and he's got them, and then you're trying to grab them.

Last week when you had Code Orange, the Republican governor of South Carolina had to get parole officers to put around the ports. I mean, these folks are out there struggling and they need money, and let's use the revenues that we're going to cut, and give it to Secretary Ridge. That's my main thrust, Mr. Chairman. Thank you very much.

The CHAIRMAN. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman. Mr. Secretary, obviously you have a tremendous amount on your plate and going back to—

The CHAIRMAN. Senator Wyden, before—did you want to respond?

Secretary RIDGE. Just—

Senator HOLLINGS. I've got a list of questions.

Secretary RIDGE. If I just might, thank you, Mr. Chairman.

First of all, I think the way Congress restructured the INS in the new Department of Homeland Security is an appropriate prelude to doing more and doing better. As you know, we now have a Citizenship and Immigration Affairs Services unit. We've got an extraordinary individual who's going to task that, head that unit, Eduardo Aguerri, who himself is a naturalized citizen, understands the process, and is the kind of hard charging leader that is necessary to bring not only discipline, but I think respect back to a group of people who have historically worked pretty hard, but you know, their successes are never celebrated but their failures are certainly publicized.

So we know we've got some work to do there. But by in large, I think most of those people go to work every single day trying to do a good job. It's just our responsibility to help empower them, sometimes with more people and with better technology, and perhaps even some decision making authority at a lower level that heretofore didn't exist.

The Congress has also helped us. I think we're in our second if not third year toward our goal of the six-month standard, that all immigration benefits regardless of kind be handled within six months. And I think you gave us \$100 million last year, we're looking for that same installment in 2004.

So you did that, and then you gave us an opportunity on the enforcement side, and we've got some good people that are going to manage that.

So one, I think that you've given us a good structure and you've been supporting us with the appropriate dollars, and hopefully in the months ahead you can say you're beginning to see a noticeable and a very positive change.

The Coast Guard in the 2004 budget, Senator, there's a request for a 10 percent increase. It will enable Admiral Collins to attract, and I'm sure he will be able to attract 2,000 more men and women. You and I have the same high regard for this extraordinary agency, I think probably one of the most undervalued under appreciated assets in the Federal Government.

They can do from top to bottom, from the raw recruit to the leadership. They are cross trained. You put the same people on the same vessel, and depending on the day, they can do five or six different things, and they do them well.

I think that you're going to find that the supplemental will give us—again, I know Senator Breaux talked a little bit about it—one of the reasons we came up looking for about \$600 million for the Coast Guard is we felt that about \$400 million was needed because of the deployment of ships and crew, and the need to bring in about 6,000 reservists during Operation IRAQI FREEDOM. But about \$200 million was for the additional port security during this period of time.

You've also given us the money and we have begun some procurement of about 700 more small fast boats to use for our port security, the contract was just a couple days ago. So again, I look forward to working with you to continue to support this extraordinary organization.

The CHAIRMAN. Thank you. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Secretary, you've got your hands full, an enormous amount on your plate, and having worked with you for a lot of years, I know how you tackle these issues in a professional way, and I appreciate it.

My concern about the CAPPS II program is really highlighted even by what we've talked about this morning. The CAPPS II program is arguably one of the biggest background checks this country has ever had. I mean every time you get on a plane, you're going to go into this color coded system, green, yellow and red, and as far as I can tell, the major decisions are now being made on CAPPS II without a privacy officer being on deck. And that in effect reflects my concern.

What I've always wanted is to make sure that these privacy issues are dealt with up front, that the privacy officer is at the table, you know, making the case for how we're going to fight terrorism aggressively and at the same time be sensitive to civil liberties. And yet, these decisions are being made now without the privacy officer being in place.

When do you think such a person—you touched on in your opening statement would be on deck as the law envisions?

Secretary RIDGE. Senator, I would think that we would be able to make an announcement in the next week or two, and I think the individual will be well recognized to you and you will be comforted by the individual's experience and background in this arena.

I should also tell you, however, that Admiral Loy and I share the notion that when a Department has a privacy officer, it is our responsibility to integrate that office and those individuals at the front end as we begin to discuss programs and policies. Because we did not have the privacy officer on deck yet, Admiral Loy a couple weeks ago convened a group, several groups from the community of interest on privacy matters, groups from the political right, political left, you name it, a broad spectrum of individuals representing national organizations concerned with privacy, to sit down, listen to their concerns, address them or at least show how in the pilot that we are presently developing, those concerns were addressed, and to identify those areas where we may have to continue to do some work before we implement the pilot program.

So, I would be very pleased to provide very specific information as to who participated in those meetings, and look forward to the introduction of the privacy office to you and your colleagues in Congress, because I think you will be very well satisfied.

Senator WYDEN. Now, what was published in the Federal Register with respect to the program originally, that was done back in January, I think it's fair to say does not resemble what you have described on page 4 in your testimony. For example, you talk on page 4 about how data would be purged from the computers immediately after the passenger's flight ended.

Secretary RIDGE. Right.

Senator WYDEN. And the notice back in January said, that some of this data could be kept for 50 years, which certainly, you know, struck people as a bit far fetched.

When do you think there would be a new notice in the Federal Register so that the public could weigh in again on any other proposed revisions? For example, I want to see—again, in your statement you talk about TSA will rarely see the background information checked by the computer. One of the things that's concerned me is what happens if the information is inaccurate, because there has certainly been a lot of inaccurate information in private sector databases and we have seen problems stemming from that.

So, my question here is, when would there likely be a new Federal Register notice on CAPPS II so that the public could have another shot to comment?

Secretary RIDGE. Senator, I can't give you a certain date, but before there would be, there is a new federal notice, it would be my intention to have the program initially as designed, without the personal and professional involvement of the privacy officer to review it before there's any additional public communication.

I think it's critical to the credibility of the pilot program. We think that the approach that is being developed will significantly enhance aviation security. We believe strongly that it can be done in a way that safeguards the rights of the individual passengers. We are aware that from time to time the sources of information that we would be using that are commercially available may not have, may not always be either complete or totally accurate, and trying to basically set up an algorithm or a system somehow that accepts that possibility and deals with it in a private nonintrusive way is certainly a part of the challenge we have with the system.

Senator WYDEN. Let me see if I can get one other question, but know that I'm anxious to work you on this. As you know, with the support of Chairmen McCain and Hollings, I was able to add legislation—

The CHAIRMAN. The Secretary has to leave in about a half hour, so please make it quick.

Senator WYDEN. May I ask one other question?

The CHAIRMAN. Yes.

Senator WYDEN. All right. One other question with respect to waste and inefficiency. This week the Los Angeles Times published a very disturbing story about possibly \$250 million worth of waste at the TSA. And my concern is that given the fact that we've got this on the record with respect to TSA, your department is embarking essentially on very much the same sort of challenge, how to deal with tackling these issues in a very quick way with relatively few kind of precedents to deal with.

How are you going to prevent at your agency similar kinds of problems that they saw at TSA involving hundreds of millions of dollars?

Secretary RIDGE. Well, first of all, Admiral Loy has withheld substantial payment to some of the—or to at least one of the contractors of which I'm aware, pending discussions with regard to their use of some of these dollars.

Secondly, through our Undersecretary of Management, we look to establish our own acquisitions review committee and own auditing committee. And you know, there are some agencies within the Federal Government, DoD and others, that employ practices and have

boards that we can look to for assistance, or at least for a template as we design an internal auditing mechanism ourselves.

It was prompted, I think in large measure, by the speed required by meeting the mandates. That doesn't excuse it. That does explain in part why they ran out and secured contractors, probably with—again, I don't know the specific details of any or single one or all the contracts, but if you've got to get equipment in place and baggage screeners in place, and personnel screeners in place, and you've got less than a year to do it and you don't have the resources because at the same time you're setting up your own new department, you rely on contractors.

And if we find that they've taken advantage of the contract language and have misused those dollars, we will fight to regain every penny. And as I said before, Admiral Loy has withheld payment pending our inquiry of their request for final payment.

Senator WYDEN. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Smith.

Senator Smith.

**STATEMENT OF HON. GORDON SMITH,
U.S. SENATOR FROM OREGON**

Senator SMITH. Thank you, Mr. Chairman, and Mr. Secretary, welcome.

The CHAIRMAN. Senator.

Senator SMITH. Mr. Chairman, I would ask an opening statement be included in the record.

The CHAIRMAN. Without objection.

Senator SMITH. And I apologize for my late arrival. I found myself, Mr. Chairman, delayed in my departure from home glued to the television set, watching what I think is truly an historic moment, the coalition of the willing. And right now, Saddam Hussein's statue has a rope around it, an American tank is filled with cheering Iraqis who are for the first time tasting freedom. And I for one am thankful that we have a military as capable as this and a Commander in Chief that had the courage not to listen to Hollywood or the New York Times, or the French.

[Applause.]

Senator SMITH. Some have predicted for every—that this action would create 100 Osama bin Ladens. I think today on the streets of Baghdad there are tens of thousands of new freedom fighters. It's a great American moment, and I celebrate that.

You are part of an Administration now tasked with not just winning a conflict abroad but keeping us safe at home, Mr. Secretary. And I think we have just come through a supplemental last week where we were struggling to know just what your Department needed. Senator Hollings had an amendment, and I think well motivated, to add more money to port security. I think what I want to know is what's enough and what's too much, what is wise and what is unwise?

And my question is, is what's coming out of conference, are you a part of that and is it enough to protect our ports?

Secretary RIDGE. Senator, we sent up a dollar amount that we thought was very appropriate for the needs, the short-term needs, because we took a look at the dollars that are available in many

instances from previous appropriations, including the 2003 budget. If you add it on to the request for the supplemental, and being of an optimistic sort, believing that Congress will get its appropriations bills completed this year by the end of the year, and looking at the budget request that I believe when it comes to Homeland Security at a very minimum, the Congress will honor, that in that continuum of those dollars available to mayors and to governors and to others, there was 7 to \$8 billion.

There were sufficient dollars for us to begin some of the critically needed demonstration and pilot programs that we need as we tackle some rather unique challenges with infrastructure protection both publicly and privately held.

You've given us some reprogramming authority that we've begun to use already under the 2003 budget, to commence research in dealing with weapons of mass destruction countermeasures, dealing with means of technology of detection for biochem agents.

So I think in the scheme of things as we set up the Department, looking at the flow of funds that we would have available to use this year, and to begin to develop our partnerships with the rest of the country, we felt it was adequate.

We knew that we were on perilous ground and as a former Member of Congress, knew we were on perilous ground looking for a little flexibility on some of the appropriations, because as I well know, the Congress takes and holds very appropriately and very dearly its constitutional authority and responsibility to oversee the expenditure of every dollar. Therefore, there's a much stronger preference to the legislative branch to say to the executive branch, tell us specifically what you need and we'll give it to you.

Well, we tried to provide some of that specific information but at the same time, I think obviously we were looking for 4 or \$500 million to deal with unanticipated needs in the next month or two.

Senator SMITH. And did you get that? Are you getting that? Are you confident you'll have sufficient funds?

Secretary RIDGE. We will deal with the dollars. I think we're going to get the dollars we wanted, probably not going to have quite the flexibility that we wanted. But again, when you set up the Department of Homeland Security, you gave us a little transfer authority and we do have a little wiggle room. And to the extent that we will be able to use it appropriately under the authority Congress has given us, it's our job to make it work.

Senator SMITH. Mr. Secretary, I appreciate knowing that, and I want you to know, we want to know what you actually need, because I think there is a lot of will on the part of the Congress to get you that. And obviously, we hope you won't ask for what is surplus. We've got to be careful with our budget.

Secretary RIDGE. Right.

Senator SMITH. But I would hope you would use these resources to address the tension that will exist between providing increased security in our ports without sacrificing efficiency in our ports.

Portland, Oregon would cease to be a port if we make it so difficult to trade that its commerce is choked off. So whatever you can do to work with our trading companies to make sure—because I know they are committed to security as well, so I'm pleading with you to look for opportunities to provide for the security of the

American people without sacrificing the efficiency of American commerce.

Secretary RIDGE. That's our challenge, and I think working with Congress we will be able to meet it.

If I might just comment, Senator, your colleagues Senator Breaux and Hollings also talked a little about the dollar figure. And what I would like to share with you and with the Chairman and other Members of the Committee, I do think that it's one thing to say to our first responders and to our governors and our mayors, here's a sum of money, and feel comfortable about the dollar amount.

I do think that it will be important for the Department to work in a bipartisan way with the Congress to see to it, particularly around the 2004 budget, that the formula by which billions of dollars are presently allocated to states and locals is reviewed and modified so that it can reflect the threat and vulnerability in the critical infrastructure responsibilities that states and mayors have. So I think a lot of the dollars we're going to distribute through a formula that's been in existence for three or four years through the Office of Domestic Preparedness, but I've talked in both chambers and to leaders of both parties, I think it would do us all well if we sat down and thought reflectively, is there a better way to get these dollars out, and to target them more specifically to meet the needs of the country.

Senator SMITH. Thank you, Mr. Chairman.

[The prepared statement of Senator Smith follows:]

PREPARED STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

Thank you Mr. Chairman for holding this very timely and important hearing on the status of transportation and border security. I would like to welcome Secretary Ridge before us today.

Secretary Ridge, I want to commend your efforts as you merge 22 agencies into "one" Department of Homeland Security to provide a unified structure capable of responding to current and future threats. As your Department works to provide the necessary federal funding for airport and seaport security, I want to emphasize the importance for your Department to address the specific security and funding needs at the local level.

I also wanted to bring to your attention some specific issues that are important to me and my state of Oregon:

(1) Trade industries in Oregon are very serious about their sense of duty to make our homeland safer and they are working diligently to prepare and implement the proposed security legislation, particularly on cargo security. As you continue the regulation process (specifically, the electronic transmission of cargo information prior to arrival as required in the Trade Act of 2002) in order to implement it without delay, it is imperative that your agency continue to work with the trade industry and implement a realistic business model that provides an efficient flow of commerce to the United States, while keeping our shores safe and secure.

(2) Mr. Secretary given your background in state government, I know that you are keenly aware of the need for training at the state and local level and hope you agree that there is a significant need for training the men and women who lead our nation's first responders. I believe you are aware of a program in Oregon called the National Center for Disaster Decision Making which trains senior civilian leaders (like mayors, governors, emergency management officials) to address critical decisions during a crisis and encourage your Department to provide the necessary funding to continue this important partnership with NCDDM.

Thank you Mr. Chairman.

The CHAIRMAN. Senator Breaux.

Senator BREAUX. Thank you, Mr. Chairman, for having the hearing, and thank you, Mr. Secretary, for being with us. I too would join others in an unanimous statements about the good job that you're doing and the support that we have for the importance of your tasks.

I share with Senator Smith the good news out of Iraq, the men and women and the good work that they are doing there. However, I do feel that after that conflict over there is over, we are going to be much more vulnerable over here because people who are unsuccessful in Iraq will look to the United States as an opportunity to get revenge and to do more types of terrorist activity over here, and unconventional types of warfare. So your duties and your responsibilities, and all of our responsibilities, are going to increase after the war over there is over, and we have to fight the fight here in this country against terrorist type of activities. I'm very pleased that you are at the helm of the ship.

With regard to port security, this Congress has instructed the Coast Guard to be the lead agency in coming up with port security plans for every major port in the United States. It is my understanding that work is ongoing but that the Coast Guard in fact is behind schedule. Can you bring us up to date on where we are with those port security plans?

Secretary RIDGE. I think your information is accurate with regard to, and I think Senator Hollings mentioned it as well. The Coast Guard has been tasked, therefore the Department of Homeland Security has been tasked with port vulnerability assessments. We've taken a look at the immediate larger 55 strategic ports. I can't tell you whether or not they're on Admiral Collins' time table. I do know that he wants to accelerate that time table.

You have given—well, you haven't done it yet, but in the 2004 budget, we have a request in the area of information analysis and critical infrastructure protection for a sum in excess of, I think \$800 million. And if we could add or—some of those dollars we want to direct to the Coast Guard so they can speed up their vulnerability assessments pursuant to the responsibilities given to them under the Maritime Transportation Security Act.

Senator BREAUX. That's exactly what we were trying to do in the supplemental, which was not successful. They say some of that money needed to be directed to domestic port security and operations here. And apparently you're requesting now in the 2004 budget money for increase in domestic operations?

Secretary RIDGE. Well, what was done I think, and I think it's a fairly good decision, TSA wanted some critical infrastructure vulnerability, the Coast Guard wanted it, and we just aggregated the sum. I think it's in excess of \$800 million that would go to that. And then based on needs, et cetera, we would sit down with these different leaders of the different units and allocate some of these dollars so they can continue their vulnerability assessment studies.

Senator BREAUX. Well, it's high priority and it really needs to get done.

Maybe you can clear up for me the conflict between the law establishing the Department of Homeland Security that provides, the Border and Transportation Security Directorate will be responsible for, among other things, Number 2, for securing the borders, the

territorial waters, the ports, the terminals, the waterways, and air, land and sea transportation systems of the United States. I think Asa Hutchison and Admiral Collins have both indicated that the Coast Guard is the lead federal agency for maritime homeland security. The law seems to say border patrol, sea transportation, maritime waterways, terminals.

I mean, I'm not sure we gave a very clear direction. I think the intent certainly was to have the Coast Guard do the ports, waterways, and sea security. Is that your understanding?

Secretary RIDGE. That's correct. That is our understanding. It is the lead agency, but they have a collaborative responsibility to work with the Border and Customs Protection.

Senator BREAUX. But you've got to have someone in charge. Is that the Coast Guard?

Secretary RIDGE. The primary responsibility for ports and maritime domain awareness is the Coast Guard.

Senator BREAUX. Yeah, because they could cooperate with everybody but if everybody is in charge, as I've said, nobody's in charge.

Secretary RIDGE. Nobody's in charge if everybody's in charge.

Senator BREAUX. I've heard some terrible rumors which I hope you can disavow me of, that the Department of Homeland Security has been discussing plans to move the 8th District Coast Guard from New Orleans to somewhere else. And also, the 17th Coast Guard District out of Aleut, Juneau, and Alaska. I will assure you that if those rumors are true, you're going to be in for a real dogfight. Are they true or not?

Secretary RIDGE. We've had to deal with a lot of rumors these past months, and I don't believe there is any validity to either one of those.

Senator BREAUX. I won't even go any further, thank you.

I think that—oh, my last question.

Secretary RIDGE. You know, where that may have come up, and I want to—there had been an inference, because we have talked, Senator, about the need to reorganize some of these units that come into the Department out there on a regional basis, because we don't believe you can secure the homeland from Washington, DC So as we take a look at some of the agencies that are working, for command and control purposes and coordination purposes, we are thinking in terms of regions.

But that is, in that context there may have been some people who interpreted that as meaning that we were going to move Coast Guard infrastructure and personnel from present venues. And I assure you, that is not in the plan.

Senator BREAUX. Well, I appreciate that. I agree with the regional concept out of Washington is a good concept, I agree with that.

Final question. Admiral Loy had told us at one time that they were discussing and actually promoting the concept of a frequent flyer card for airline passengers that fly on a regular basis that have submitted themselves to some type of a security background check.

I cannot tell you, I mean it must be my face or something, Mr. Chairman. I mean, every time I'm there, my luggage is completely totally looked through and searched. And I would never ever say,

look, I'm a Member of the United States Congress, don't do this. I mean, I just sit there and bear it but never say anything about it. But it seems like it's sort of a waste of time if we're spending a lot of time doing those type of investigations with people who would clearly hopefully pass a security check.

Is there anything that we're doing in that regard to try and speed up so that we really are spending the time in areas that we need to and less time on things that perhaps would not be a priority to this type of security card or frequent flyer type thing?

Secretary RIDGE. Senator, the program that you referred to, we talked internally as a trusted traveler program, where passengers who fly regularly come forward, share information about them. Reasonable people can draw conclusions that chances are very very good that these individuals are not terrorists or a threat to aviation security in any way. That will give us an opportunity to focus our technology and our human resources on those people and that luggage that we don't know anything about. So that is an initiative that is presently being worked within the Department.

Senator BREAUX. I would encourage you to continue. Thank you.
The CHAIRMAN. Senator Hutchison.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you, Mr. Chairman. I certainly concur with the line of questioning of Senator Breaux, both on the trusted traveler program, which we have discussed would be a great way to expedite lines.

And also, I talked to Admiral Loy about getting the ability for accompanying people to take a passenger inside the terminal, now that things seem to be settling down. As long as longer lines aren't formed, it would be, I think, a comfort to passengers to be able to take someone in and have a meal.

Now I know some airports have meal capabilities outside, but some don't. So, I hope that you will be looking at allowing people to be accompanied. It would make traveling a better experience.

I wanted to talk particularly about the explosion detection equipment situation for checked baggage. We had a deadline of last year, and most airports were able to meet the deadline for screening checked baggage. However, there were a few that didn't, and Congress passed a law that gave a one-year extension to those that were designated by Admiral Loy. Now many of those airports are trying to make the investments that would allow them to meet the deadline of this year, and they have not been able to get letters of intent from Admiral Loy.

I would like to ask you if the Department is going to be helpful to these airports to meet the deadline, or do you think that it's not a priority to meet the deadline, and what are you going to do?

Secretary RIDGE. Senator, it is very much a priority of the Department and of Admiral Loy's, I believe right now. When it comes to aviation security, there isn't a higher priority, because we still have the mandate to get it done in a certain period of time.

I would just share with you that he has been, or we have been working together, taking a look at what assets we might be able to provide him within the Department, as well as working with

OMB and others to see if we can secure the necessary fundings so we can get those letters of intent out.

So it's a very high priority, we're working on it as you and I are speaking today.

Senator HUTCHISON. Well, thank you. I put language in the Senate Supplemental Appropriations Bill that said the TSA would be empowered to issue Lois or report to the Committees of jurisdiction why they are unable to do so. I would like to ask you if you support that and would think that would be a good thing, to either give you the power to do it, or tell us why you can't.

Secretary RIDGE. Well, I think, Senator, that language reflects both the intent of the pre-existing legislation and the requirement imposed on us, and I think you ratify it with that language. Because if we don't get the job done, we're going to be accountable to you, and our first goal is to get it done in a timely way and meet the requirements from Congress.

Obviously you hold us accountable if we don't, but it's something that Admiral Loy is very very much, personally involved in, well aware of the financial commitments that some of the larger airports have to make, and their ability to go to the market to borrow the dollars necessary to install the equipment is contingent upon getting the letter of intent. We're making every reasonable, and I think appropriate effort to accomplish this task here in the very near future.

Senator HUTCHISON. Thank you. I very much appreciate you saying it is a priority, because it certainly is for this Committee.

I'd like to switch gears, if I could, to the border security. With the passage of the Border Security Act last year, non-immigrants are required to have a biometric visa, and I'd like to ask you how that program is working. And the fees have been increased now from \$65 to \$100 for the machine readable visas and I just would like to ask you if you think it's working, if the increase in fees has slowed down the number of people able to get that visa, and is it something that we're looking at for the long term?

Secretary RIDGE. I cannot answer specifically today whether the additional fee has had any impact on visa applications, and I will get back to you with that information.

I will tell you in a larger context, the whole entry-exit system that Congress has mandated and we certainly embrace, it was an initiative the President embraced, will be—it's the right thing to do. It's a technological challenge. You've given us a couple of mandated time frames. The entry-exit system says for seaports and airports, we have to have that system in place with that biometric identifier by the end of the year and at the 50 largest land crossings by the end of next year, and the balance of the system by the following year.

So we have, Asa Hutchison has pulled together an integration team from the other subunits within his department that have to focus on this, including a technology component. There's some policy issues that are relevant that ultimately, I think, end up being discussed within the executive branch and with the legislative branch.

You know, we do have countries that are visa waiver countries, we don't require visas. But we are going to require biometric iden-

tifiers. So it's conceivable that sovereign countries out there that are visa waiver countries may or may not have a biometric identifier of the kind that we want on their passport. So there's some discussion, and some decisions have to be made by this government as to whether or not visa waiver countries, that whole process will continue to exist.

So as we identify the programmatic challenges, the technological challenges, we will engage in very serious and necessary discussions with you and your colleagues who have promoted this approach, which I think Americans embrace. The notion that we need to know that the folks who come into our country are those who they say they are, they stay here for whatever time they are privileged to stay. And we are a nation of immigrants, so we want to continue to be open and welcoming. But when the time is expired, that we monitor the exit.

Additional challenges with the migration from Mexico. We need to think about that. Post 9/11, the borders with Mexico were backed up, commercial traffic, pedestrian traffic. Now we do get some fingerprints from visa applicants from Mexico, but we have to be conscious of the fact that if you have several hundred million citizens going back and forth across the border on a daily basis for school, for work, for play, for family reasons, do we want every single person on every single day, every single occasion they cross, to be stopped so that we can confirm their biometric identifier? Do we take the 40 people out of the passenger bus, stop it and identify it?

So we have some real challenges here that I'm confident that working with Congress we can address. But the entry-exit is a good system, it's necessary. We've mandated and made some time tables, but we have some policy issues we have to work through, and we do.

Senator HUTCHISON. Well, thank you, Mr. Chairman. And I want to say, I think that exercising caution rather than opening things up at this point in the security of our country is the wise thing to do. Thank you.

The CHAIRMAN. Senator Lautenberg.

**STATEMENT OF HON. FRANK LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. Mr. Chairman, I don't know how much time Secretary Ridge has got, but—

The CHAIRMAN. You have five minutes.

Senator LAUTENBERG. Okay. So I would ask, therefore, Mr. Chairman, that my full statement be included in the record.

The CHAIRMAN. Without objection.

Senator LAUTENBERG. And I would just make this point. And that is, it's obvious we've come a long way, and I commend you, Mr. Secretary, for the work you're getting done even as you build this organization. It's going to be recorded in history because I'm sure it will get done, but how it gets done is going to be a very interesting study. But keep going, and don't weaken along the way here.

We are concerned not only in the State of New Jersey, which by any measure is a highly vulnerable place, the transportation hub

that we are, whether it's on highways, whether it's aviation, with Newark Airport being one of the largest in the country, or huge port activity, one of the largest container ship transfer stations in the world. So we've got to pay attention to those other modes of transportation as well, and I hope that we will have a chance to discuss that at another time.

But it points out a problem that we have, and I was looking at a previous Committee hearing, at the list prepared by ODP of the distribution of the funds thus far. And what we found as I looked at it is there's a strange anomaly, a difference in the way states are allocated funds, because we go from—this is by way of example and not to pick on any state, but the equivalent of \$9.78 per person security grants to the State of Wyoming, but only the equivalent of \$1.69 per person to the State of New Jersey, when the average is \$1.98 throughout the country.

And now if you consider the risks of the two places, the risk exposure, it's pretty obvious that New Jersey is a place that has to be wary. We lost 700 of our citizens on 9/11.

So, I would ask, and I understand that by sheer coincidence I interviewed a fellow who works for you in the elevator, we happened to be there at the same time, and I mentioned this. He was very quick. He's at the White House. And he said that it's a problem that you're looking at to try and assess more clearly, the needs and the exposure in a particular state or particular area.

And I wonder if I can just ask you, is that a fact and is that in the loop?

Secretary RIDGE. Senator, the Office of Domestic Preparedness that previously had been in the Department of Justice had a formula that we don't believe is the appropriate, provides the appropriate distribution for counter-terrorism, anti-terrorism prevention dollars. And I talked to the leaders of both parties in both chambers. I think this is an opportunity for the Congress to work together in a bipartisan way to fashion a different distribution mechanism.

The formula as it exists now does not take into consideration critical infrastructure whether it's private, whether they're federal, whether they're national icons. The formula doesn't really take in threat or vulnerabilities. So I think it's an appropriate time for us, we had talked, thought about trying to do something like this in the supplemental, but I think this is going to be—it may be a little contentious because some people obviously with a new formula are going to get a little bit more, and some people are going to get a little bit less. And when you're appropriately down here, you fight for as much as you can for your state or your community.

So I suspect that reconstituting the ODP formula or coming up with something new is something that we hope to achieve some bipartisan support and get it done and then attached to the 2004 appropriations. So, we make a permanent change so that distribution reflects the reality of the needs of communities to combat terrorism.

Senator LAUTENBERG. Thank you, Mr. Chairman. Thanks, Mr. Secretary.

[The prepared statement of Senator Lautenberg follows:]

PREPARED STATEMENT OF HON. FRANK LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY

Mr. Chairman, I think we have come a long way in bolstering *aviation* security since September 11th, although I would note that we still have to complete the task of deploying explosive detection equipment at a number of airports.

But I am very concerned that we are not doing enough to protect other modes of transportation—particularly surface transportation—and port security.

This is a major problem in my home State of New Jersey.

New Jersey contains many vital elements of our nation's intermodal transportation system which are vitally important to the national economy. For instance:

- Port Newark is one of the biggest container ports in America, handling \$82 billion worth of cargo in 2001;
- The Northeast Rail Corridor serves 23.9 million people on the only high-speed rail line in the country;
- The I-95 corridor is a vital passenger and freight link for vehicular traffic spanning the length of the East Coast;
- Hazardous materials move in and out of New Jersey's ports, through pipelines, and over our roads and freight rail lines. Millions of people live near these facilities, which are vulnerable to a terrorist attack.

The State of New Jersey has had to step up security in a number of ways, like putting more police officers on patrol on trains and increasing K-9 patrols to detect explosive devices. These tasks cost the State money—money the State doesn't have because of the current fiscal crisis.

Since the war with Iraq began, New Jersey has spent an additional \$125,000 each day to deploy National Guardsmen and women and State Police at the State's bridges, tunnels, airports, ports, nuclear power plants, and railways to help increase security levels.

These are just a few of the vulnerabilities and problems that concern me. I hope that Secretary Ridge will agree that while we have made some improvements with regard to transportation and border security, we still have a long way to go.

I hope that Congress and the Administration can work together to ensure that DHS has the resources it needs to carry out this vital mission properly.

The CHAIRMAN. I thank you, Senator Lautenberg, and I would like to add my voice to that. We've got to prioritize on your estimate of the basis of the threat, as opposed to any artificial formula, and I look forward to working with you on that. I think the Senator from New Jersey makes a very important point, and we would certainly appreciate your input into that process.

And by the way, there's an additional area of concern that you have. As you know, we passed an appropriations bill that was entitled to fight the war on Iraq and homeland security. You might have a big problem down at the South Pole, because we put \$10 million in for the South Pole, and you might want to consider that area of concern because we had to add \$10 million to the Supplemental Appropriations Bill for the South Pole. Those penguins might have an al Qaeda cell down there, who knows?

So, I thank you for coming, Secretary Ridge, and Senator Hollings would like to make a comment.

Senator HOLLINGS. The National Security Council under President Truman instituted for international threats, were the Secretary of Defense, Secretary of State. Now Condelleeza Rice is not near as steeped in domestic homeland security as you as a former governor, and the Chief Law Enforcement Officer for years there in Pennsylvania.

I hope you are meeting with the National Security Council whenever they meet, because in fact we had an amendment that just missed by two votes that were absent at the particular time, to by law put you on the National Security Council. So, there is no use

to have all of this and have your knowledge and awareness and everything else like that, and still treat the National Security Council like we don't have a terror war here at home. And I hope you continue to meet with that council.

The CHAIRMAN. I see that—I know your time is limited. Senator Dorgan arrived. Senator Dorgan, would you like to make a couple of comments or ask a question?

**STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, I recognize that there's nothing quite so annoying as someone coming in at the last minute but I have been over, we have been marking up an energy bill in the Energy Committee and I was unable to be here.

Senator Wyden, I think, raised one of the issues that we've talked about with respect to some waste issues, and I know you're taking a look at that. I think this is an agency that is at some high risk and is going to require a lot of attention on those issues.

Mr. Ridge, I am pleased at the President's choice. I mean, I think you are the right person in the right place here, and I look forward to working with you.

I did want to mention, if I could, just one point, and that is border security. The 4,000-plus mile border we share with Canada is a big old border and we have had few resources up there for a long time. We've now added some more, but terrorists will look for the weakest link to get into this country. I want to work with you, both using resources, human resources and also technology, because I think a country has to control its borders, especially given the kind of threat of terrorism we have, and I want to work with you on that. I think it's a daunting challenge.

But, Mr. Chairman, you know on the southwest border, we've had something like 10,000 border patrol, and on the northern border we had 500. Well, the reason for the 10,000–500 is because for years we were dealing with immigration and drugs and so on, and we had that difference in resources.

But with respect to terrorists, they will find the weakest link and we have to control our borders. I know that you have had a lengthy hearing, Mr. Chairman, and I thank you for offering me a moment to say a few words and just say to Mr. Ridge, I'm glad you are where you are and I look forward to working with you on these border issues especially.

Secretary RIDGE. Mr. Chairman, if I might comment. First of all, the Congress has provided resources, I think under the Patriot Act, to boost the border patrol at the northern border up to about 1,600. And I think with funding, we're about 80 to 85 percent there. So we're working toward, I think, the very appropriate increase in manpower.

Senator McCain and I have had an interesting discussion about the application of some military technology in a nonmilitary but in a surveillance kind of way, these unmanned aerial vehicles. We think Asa Hutchison and the Border Patrol people think there's a good application there.

Interestingly enough, the Coast Guard in its deep water acquisition program, has a—and I have to be careful how I say this, but

an Osprey like device that actually lifts off the Coast Guard cutter and is eyes over the horizon as well.

So we think more technology will be critical to enhance security and frankly, making the manpower that you put on the border even more effective.

And finally, I think you should know and if you care for a more detailed briefing, we would certainly be prepared to provide it, several months ago when I was in the office, while I was in the White House as assistant to the President, the President directed our shop to look at the border issues and develop smart border agreements with our friends to the north and the south. And my counterpart, Deputy Prime Minister John Manley and I have worked well over a year on a 30-point accord that enhances security but also tries to facilitate commerce and the legitimate flow of goods and people.

There are tremendous improvements we made already, running some demonstration programs based on information shared by passengers as well as supply chain security measures, so that we have dedicated land. So if we know something about you, we know something about the contents of your truck, and as a private sector company you've agreed to certain protocols, based on information risk at the border.

We've begun that same kind of initiative with the government of Mexico, and I will be meeting with my counterpart Santiago Creel, Minister Creel in a couple of weeks, to further the collaborative effort that I think all three of us need to significantly to work on to secure our own perimeters.

We've made a lot of progress. We still have more work to do, but I think we need to engage the governments of both Canada and Mexico in order to maximize our effectiveness at the border.

Senator DORGAN. Mr. Secretary, that's very helpful. Did someone ask whether—on television, on the news this morning they indicated that the Administration or you are looking at the potential of reducing the threat level indication at this point. Has the threat diminished at this point?

Secretary RIDGE. There was an article. I was asked yesterday at a briefing with regard to the urban security initiative, whether or not we were prepared to reduce the threat level and to phase back Liberty Shield. I said we do have plans in place to pull back on Liberty Shield, we have a sequencing arrangement but we're not prepared to do it yet, it's just the kind of assessment we make on a daily basis, and until such time as not only the intelligence community, but there's a consensus among the different agencies that we can pull back on security, we're going to keep it orange and keep Liberty Shield at full force.

Senator DORGAN. Is the threat lessening at this moment, in your view?

Secretary RIDGE. Not enough to, in our judgment, and again, it's an assessment we make every day, and it's never a single day's assessment that causes us to pull back. But we monitor the information we get from multiple sources, and I'm confident sometime in the future we will reduce and then eliminate Liberty Shield, and adjust the national threat warning system, but not today.

Senator DORGAN. Mr. Chairman, thanks for your courtesy.

The CHAIRMAN. Thank you, Secretary Ridge, and we hope to work with you in the future.
[Whereupon, at 11:25 a.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO
HON. TOM RIDGE

General Questions

Question 1. What are the greatest challenges facing the Department of Homeland Security today?

Answer. The Department has made great strides in the few months since its creation. However, our main challenges consist in ensuring that the flow of commerce is not disrupted by steps we take to prevent terrorist attacks, reduce vulnerabilities, and improve our ability to respond; determining how best to leverage available resources to address the security gaps; ensuring smooth integration of departmental components while maintaining the quality of services provided by those components; and ensuring that proper coordination is taking place with departmental components and the variety of federal, state, local and private industry partners with whom we share responsibility for ensuring the security of the homeland.

Question 2. The Department of Homeland Security has received a great deal of criticism over the last several weeks from Members of Congress regarding the lack of justification accompanying its FY 2004 budget request as well as the FY 2003 supplemental request.

a. Why has the Department had such difficulty providing this information to Congress?

Answer. We are trying to provide information to the Congress in a timely manner. The transition of the 22 disparate DHS components under one DHS umbrella occurred after the release of the FY 2004 President's Budget. DHS is a new organization; we are still evolving. Several organizations did not exist prior to the creation of the Department. Moving forward for the mark-up of the FY 2004 Appropriations bill as well as the FY 2005 budget, we hope to be able to work with Congress in a collaborative manner to effectively manage and fund this organization.

b. Have any budgetary savings been realized yet as a result of the consolidation of the agencies in the new Department?

Answer. It is too early to assess any real cost savings due to the transfer of the 22 separate agencies under the DHS umbrella on March 1st. As with any type of consolidation, we do anticipate cost savings from shared services between the organizations. We will be constantly reviewing and reassessing areas of improvement and cost savings and will reflect those types of savings in future budgets to Congress.

Question 3. As part of the transition to the DHS, incoming agencies identified numerous problems areas that would require new agreements with other federal agencies to resolve such problems. For example, prior to moving the DHS, the Transportation Security Administration determined that it would need a new agreement with the Federal Aviation Administration to continue their existing working relationship. While I understand such an agreement has been signed, I understand very few others have been signed. What is delaying the completion of memorandums of understanding between DHS and other federal agencies?

Answer. The Department is actually making quite a bit of headway in establishing memoranda of understanding with other federal agencies and departments (a list is included below). However, as you can imagine, the issues and questions that must be resolved as the Department takes on its new statutory responsibilities are quite complex and these agreements should not be reached in haste. We are working very cooperatively with other federal agencies, some of whose responsibilities have been given to DHS (for example, the Departments of State and Transportation), on both a programmatic and operational level until we can complete the drafting of such memoranda as are necessary. In addition, the Department has entered into a number of MOUs with other executive branch departments that provide

administrative services to various DHS components. Most of these departments are former parental agencies of DHS components. The services provided under these MOUs include such things as payroll processing, and IT support. These MOUs are effective until the end of the fiscal year and include MOUs with the following departments: Agriculture; EEOC; GSA; HUD; DOJ; State; Commerce; Energy; HHS; Interior; OPM; DOT; Treasury; and DoD.

a. What agreements have been completed and what remains to be done in this area?

Answer.

MOU between DHS, DOJ and CIA

Signed by Secretary Ridge on 2/28/2003, Attorney General Ashcroft on 3/4/2003 and CIA Director Tenet on 3/4/2003.

Subject: MOU between the Intelligence Community, Federal Law Enforcement Agencies, and The Department of Homeland Security concerning Information Sharing.

MOU between DHS and DOJ/FBI

Signed by Secretary Ridge on 2/28/2003 and Attorney General Ashcroft on 3/4/2003.

Subject: MOU between DHS and DOJ/FBI regarding the Domestic Emergency Support Team (DEST) Program.

MOA between DHS and USDA

Signed by Secretary Ridge on 2/28/2003 and Secretary Veneman signed but not dated.

Subject: MOA between DHS and USDA to transfer certain agricultural import and entry inspection functions to the Secretary of Homeland Security from the Secretary of Agriculture.

MOA between DHS and DOE

Signed by Secretary Ridge on 2/28/2003 and Secretary Abraham on 2/28/2003.

MOA between DOE and DHS establishes a framework for DHS to access the capabilities of various DOE assets.

MOA between DHS and HHS

Signed by Secretary Ridge on 3/5/2003 and Secretary Thompson on 2/28/2003.

MOA between HHS and DHS concerning cooperative arrangements to prevent, prepare for, and respond to terrorism and major disasters.

MOU between DHS and DOJ

Signed by Deputy Secretary England on 4/17/2003 and Deputy Attorney General Thompson on 5/13/2003.

Subject: MOU INTERPOL: Memorandum of Understanding (MOU) between Department of Homeland Security and Department of Justice pertaining to U.S. membership in the International Criminal Police Organization (INTERPOL) and related matters.

MOA between DHS and DOJ

Signed by Secretary Ridge and Attorney General Ashcroft—both signed on 5/13/2003.

Subject: Memorandum of Agreement between the DOJ and DHS concerning terrorist financing investigations.

MOA between DHS and DoD

Signed by DHS Under Secretary Janet Hale on 5/1/2003 and Samuel Cox on 4/21/2003.

Subject: MOA between DoD and DHS for DoD personnel support services to DHS.

MOU between DHS and USDA

Signed by Secretary Ridge and Secretary Veneman on 6/6/2003.

Subject: MOU between DHS and USDA relating to the transfer of the Plum Island Animal Disease Center (PIADC) from USDA to DHS on 6/1/2003.

TSA and FAA signed a Memorandum of Agreement (MOA) on February 28, 2003. The MOA sets out the general principles of cooperation and consultation that will serve as a guide to relations between TSA and FAA. In addition, in a February 27 letter to TSA Administrator James Loy, Secretary Mineta established that the principles in the TSA/ FAA MOA should guide the interagency relationship in the case of the other modes. Admiral Loy responded and agreed. The MOA construct allows us to retain this DOT connection and coordination. As we move forward, TSA and DOT will benefit from continued close cooperation in the areas of security-related legislation, rulemaking, and budget development.

Question 4. One of the lessons learned from the terrorist attacks of September 11th was that there needs to be greater communication and coordination between agencies responsible for border security enforcement.

a. How will you use the new mandate of the Department of Homeland Security to ensure this takes place?

Answer. The creation of the Department and inclusion of agencies responsible for border security has provided us with a tremendous opportunity to improve communication among those agencies, first and foremost, by bringing them into the same organizational umbrella. Specifically, having officials from both the Coast Guard and the agencies within the Border and Transportation Security Directorate at the table as policies and programs regarding border security are developed has been enormously helpful in ensuring better communication and coordination among those agencies. In addition, one of the first steps undertaken by Under Secretary Hutchison after his confirmation was to reorganize the agencies within the Border and Transportation Security (BTS) Directorate with responsibility for border inspections and investigations. That reorganization has resulted in the creation of U.S. Customs and Border Protection (CBP), which includes inspectors from the legacy Customs Service, Immigration and Naturalization Service (including the Border Patrol), and Animal and Plant Health Inspection Service, and personnel from the Border Patrol; and Immigration and Customs Enforcement (ICE), which contains investigators from Legacy Customs and INS and the Federal Protective Service. The goal of this reorganization is to align the functions of each component agency with its counterparts in the other, streamline operations and communications and coordinate closely with other DHS components like the Coast Guard. The ultimate goal is to provide "one face" at our ports of entry to those seeking to enter or transport goods and to federal, state and local officials from border communities to the north and south.

b. Have you developed new strategies to increase the coordination of the DHS with state, local, and tribal law enforcement agencies, in order to ensure greater cooperation in stemming the illegal crossings of the border?

Answer. The U.S. Border Patrol, now part of the CBP, has developed a strategy for coordinating with state, local and tribal law enforcement.

The Office of Border Patrol works closely with other state and local law enforcement through Project North Star, and Integrated Border Enforcement Teams (IBETs) and Integrated Marine Enforcement Teams (IMETs). IBET(s) have established working groups and coordinated their efforts with Project North Star, in identifying various cross border issues, to include training, carrying firearms, communications and inter-operability, and intelligence. Other concerns include human resources, increased infrastructure, low volume Ports of Entry, and sovereignty issues. One example of coordination with state and local law enforcement was the CBP Offices of Border Patrol and Field Operations coordinated with New York law enforcement officers to incorporate 120 New York State Troopers into border security efforts at and between the ports. State Troopers will serve in a supporting role to front line activities. Along the Southwest Border, Border Patrol participates in High Intensity Drug Trafficking Area (HIDTA) units, multi-agency efforts to coordinate, share information and conduct joint enforcement operations to thwart drug trafficking.

In addition Border Patrol continues to develop and strengthen working relationships and cooperation between Border Patrol and Native American law enforcement personnel. Border Patrol agents have been working with Native Americans on an ad hoc basis since the Patrol was established more than 75 years ago, and the Office of Border Patrol (OBP) is proud of its tradition of working with Native American tribal police towards border security. In January 2002, the USBP sponsored the first ever U.S. Border Patrol—Native American Border Security Conference. Since the January Conference, USBP Sectors have been actively engaged in supporting the Native American Law Enforcement Agencies that fall within their areas of responsibility (AOR). Border Patrol sectors have established sector liaison officers who set up and maintain a regular scheduled meeting with their Native American counterpart(s). A key initiative in these meetings is the emphasis on our commitment to better liaison, cooperation, training, intelligence and resource sharing. Border Patrol has also conducted IBET operations with the Turtle Mountain Tribal Police in North Dakota and with the St. Regis Mohawk Tribal Police in New York. Of special note is the work towards an initiative with Tribal law enforcement to create a Mobile Training Team (MTT) to include BORTAC, the Border Patrol Advanced Academy, and the Bureau of Indian Affairs Indian Police Academy. The MTT will

provide a more consistent training program when responding to requests for training on Native American Lands. BORSTAR training has been planned for the Tohono O'odham Nation this summer on search, rescue, trauma and desert survival techniques.

Surface and Maritime Questions

Question 1. Several sectors of the transportation industry have suggested that federally mandated security regulations are not necessary and that "voluntary compliance" would serve the same purpose. I also note a recent Washington Post article that reports the Administration is pursuing "voluntary compliance" to increase security at our nation's chemical plants.

a. Do you believe "voluntary compliance" can work to sufficiently increase security in the various transportation modes and in industries such as chemical manufacturing?

Answer. Our experience in implementing Operation Liberty Shield security procedures has shown that "voluntary compliance" can work to increase security in the various transportation modes and in industries such as chemical manufacturing. However, such a voluntary system raises concerns that sustainability, consistency, coordination, and accountability may not be sufficiently addressed. DHS believes that a performance based regulatory approach may be more effective in addressing these additional national security concerns than a voluntary compliance approach. However, in addition to establishing a more traditional regulatory framework, DHS is committed to working with industry to explore additional avenues for achieving these same performance thresholds, including voluntary compliance.

b. If "voluntary compliance" is used as a means to increase security, should federal funding be used for improvements to meet voluntary standards or should "voluntary compliance" be the sole responsibility of those industries?

Answer. To carry out Congressional mandates for port, bus and transit security, and first responder training and preparedness among others, DHS has issued a series of grants to support voluntary efforts to enhance security. Subsequent efforts to enhance security (whether voluntary or mandatory) may involve both industry investment and limited federal assistance.

c. Do you currently have the authority needed to establish guidelines for "voluntary compliance" in relation to homeland security?

Answer. DHS has been provided authority under the Homeland Security Act, the Aviation and Transportation Security Act (ATSA) and the Maritime Transportation Security Act, to issue performance based security guidelines for voluntary compliance.

Question 2. Concerns have been raised regarding DHS's progress on the development and issuance of the Transportation Worker Identification Cards which have become known by the acronym "TWICs". Specifically, concerns have been raised on how the background check for a TWIC will be coordinated with the issuance of professional licenses, such as merchant mariner documents, which are processed by the Coast Guard, and commercial drivers licenses, which are processed by state departments of motor vehicles. Further concerns have been raised on how DHS will coordinate these efforts with other agencies, such as ATF, who has regulatory responsibility over explosives, including aspects of explosives transportation, to the extent that the Department of Transportation has not preempted the field.

a. Under DHS's plan, who is going to be required to carry a TWIC?

Answer. While the program is still under development, TSA believes that a Transportation Worker Identification Credential (TWIC) may be required for those individuals requiring unescorted physical and logical access to secure areas of the national transportation system.

b. How does DHS's plan coordinate background checks, and specifically who will have to have a background check in order to receive a TWIC?

Answer. Any individual that receives a TWIC card would receive a background check. DHS will ensure that any background check is not unnecessarily redundant of checks already performed.

c. What are the costs associated with a background check and issuance of a TWIC and how does DHS's plan pay for these costs?

Answer. At this stage, costs and possible cost-sharing options are still being developed. TSA will evaluate the costs associated with background check and credentialing (TWIC) requirements as part of the TWIC technology evaluation and prototyping phases, and will ensure that costs are minimized.

Question 3. U.S. Customs is in the process of installing cargo imaging equipment at certain ports and border crossings. The Vehicle and Cargo Inspection System, known as VACIS (pronounced "vakis"), allows Customs to examine freight cars, trailers, and containers for contraband, weapons, and other potentially dangerous goods. Customs plans to deploy 9 rail VACIS systems at the southern border to cover 100 percent of the southern border rail traffic, and 9 VACIS systems at the northern border to cover 90 percent of the rail volume entering the U.S. from Canada.

a. What is the overall policy with respect to installation of VACIS? Does DHS plan to install VACIS at all ports and truck border crossings?

Answer. CBP proposes to continue deploying multiple large-scale, non-intrusive inspection (NII) systems, including Vehicle and Cargo Inspection System (VACIS) units to the large cargo and passenger vehicle crossing points on the northern border.

There are currently five Rail VACIS units deployed on the southwestern border and three additional systems are slated for deployment by the end of calendar year 2003. These eight systems will provide CBP with the capability to screen 100 percent of the rail traffic arriving in the United States from Mexico.

On the northern border with Canada, Rail VACIS units will be deployed to nine locations, providing CBP with the capability to screen up to 90 percent of the rail traffic arriving in the U.S. from Canada. All nine systems should be operational by the end of April 2004. The technology will further enhance the security of rail shipments bound for the United States while ensuring trade continues to flow between the two countries.

There are currently 23 rail crossings on the U.S.-Canada border and the volume of rail traffic varies significantly by port or crossing. Nine of the crossings account for approximately 90 percent of all rail traffic arriving in the U.S. from Canada. We will assess the need to deploy VACIS equipment to the remaining rail crossings with Canada, which will cover the last 10 percent of rail traffic, once the initial equipment deployment is complete.

b. What are the advantages of VACIS and do you think it is the magic bullet for cargo security? What other measures are necessary to ensure vehicle and cargo security?

Answer. There is no magic bullet. At our borders, we currently deploy multiple technologies to support our layered inspection process. Because of the risk that an adversary can defeat any single sensor or device, we do not rely on any single technology or inspection process. Instead, CBP uses various technologies in different combinations to substantially increase the likelihood that contraband, including a nuclear or radiological weapon or weapons grade material will be detected.

The Vehicle and Cargo Inspection System (VACIS) is just one of several large-scale NII systems in our inventory. VACIS units use gamma-ray-imaging technology to quickly perform thorough examination of conveyances without having to resort to the costly, time-consuming process of manual searches or intrusive exams by methods such as drilling and dismantling. Mobile VACIS units can screen conveyances in both a stationary and moving mode. They provide greater flexibility because they can be quickly and easily re-deployed from one location to another.

CBP also uses computerized tools such as the Automated Targeting System, Automated Manifest System and Automated Commercial System to manage its targeting and examination workloads. Additionally, CBP has put forth regulatory and legislative initiatives such as the 24-hour rule and the Trade Act of 2002 to support the receipt of accurate advance arrival data.

CBP, through its Customs-Trade Partnership Against Terrorism (C-TPAT) initiative, is informed about a business entity's activity to secure its supply chain and take advantage of that knowledge by expediting the review and movement of the legitimate cargo. CBP is also working with TSA to award grants under the Operation Safe Commerce program that will provide additional information on how best to ensure intermodal supply chain security.

c. Canada is also installing VACIS systems at the border. How are our efforts being coordinated with Canada? I hope we are not duplicating the effort and costs of installing this equipment.

Answer. Customs and Border Protection (CBP) has been working very closely with the Canadian government and with Canadian rail companies on a plan for the deployment of Rail VACIS and other non-intrusive inspection technology at rail crossings on the Northern border. CBP is working to finalize this plan and implement its provisions as quickly as possible.

This initiative will substantially enhance the targeting, screening, and physical examination of rail shipments entering this country from Canada, while simultaneously facilitating the flow of legitimate rail cargo.

Question 4. Last year, I co-sponsored legislation with Senator Durbin to improve the security of driver's licenses. As you know, today's patchwork of state laws and procedures for the issuance of driver's licenses make it all too easy to obtain a valid license using fraudulent feeder documents or to pass off a fake license as a legitimate one. The extent of the problem became painfully clear following the terrorist attacks of September 11, 2001, when we learned that a number of the terrorists held valid state-issued driver's licenses or identification cards. Our bill, which we plan to reintroduce, is specifically aimed at making the license more tamper-proof and tightening up the type and verification of documents that can be used to obtain a license.

a. What do you think needs to be done to improve driver's license security and how should this be accomplished?

Answer. Most aspects of driver licensing remains the responsibility of each state. While Congress has required that commercial drivers (trucks and buses) comply with federal standards for commercial driver skills, knowledge, and safety oversight, states continue to decide the form and duration of their respective licenses. The Department of Homeland Security is committed to working with State Departments of Motor Vehicles and driver representative associations to develop appropriate security procedures for drivers' licenses.

b. The Administration indicated last year in its National Strategy for Homeland Security that it believes the effort to improve driver's license security should be led by the states, not the Federal Government. With 50 different jurisdictions trying to reach a consensus, is this realistic? Individual states are tightening up their processes, but progress is not being made across state lines. Senator Durbin and I have proposed that, similar to the Administration's approach, the Federal Government should work in consultation with the states. However, we believe the effort needs to be led by the Federal Government. What are your views?

Answer. I agree that the Federal Government needs to work in concert with the states and representative associations to seek uniformity where appropriate.

Question 5. As you know, in January I requested that the Transportation Security Administration (TSA) and the Federal Railroad Administration (FRA) review Amtrak's security plan, and its *investment* plan for security. I made the request because I had concerns about certain elements of the plan developed by Amtrak's previous president, including proposals to expand Amtrak's aviation unit and to install six cameras on every interlocking on the Northeast Corridor. Unfortunately, TSA and FRA provided comments on a revised Amtrak plan that Amtrak has since discredited as the wish list of a particular Amtrak official [not Amtrak President David Gunn]. I would appreciate it if TSA could remain involved in helping Amtrak develop a credible and affordable plan. The Committee is awaiting a revised plan that can be used as the basis for security legislation. Can I count on TSA's assistance?

Answer. On February 6, 2003, the Transportation Security Administration (TSA) received a revised Security Investment Plan from Amtrak and provided comments to Senator McCain on this "updated" plan in a letter dated February 28, 2003. In the letter, TSA and the Federal Railroad Administration (FRA) agreed that security improvements are needed to help Amtrak protect its infrastructure, equipment, passengers, and employees.

TSA and the FRA continue to work closely with Amtrak to develop a meaningful, system-wide security plan that focuses on prevention, response, restoration of services, and restoring public confidence.

Amtrak provided TSA with the final security plan on April 10, 2003 and TSA, in coordination with the FRA, is currently reviewing this plan.

Question 6. Depending on how DOT, TSA and the Bureau of Alcohol, Tobacco and Firearms (ATF) interpret the Safe Explosives Act, all railroad and trucking company personnel could conceivably be required to go through a background check. The cost to the rail industry alone could be over \$20 million. UPS for example, could face a bill over \$17 million if it has to have all employees checked. I am concerned that carriers will simply refuse to handle explosives rather than incur this kind of cost. In your view, what criteria in terms of the types and amount of sensitive products, including hazardous materials, should govern whether a transportation employee should have a background check?

Answer. With its passage of the USA PATRIOT Act, Congress determined that certain commercial drivers who have histories of violent crimes should not be al-

lowed to transport hazardous materials (HAZMAT). In addition, Congress enacted the Safe Explosives Act and determined that certain individuals (such as aliens, those receiving dishonorable discharges, renunciants) should be prohibited from transporting explosives, unless the Department of Transportation regulates such transportation.

The Transportation Security Administration (TSA), in coordination with the Department of Transportation and the Department of Justice will publish rules and statements of policy that establish the criteria for determining the individuals who must undergo a criminal history background records check, the status or crime that is disqualifying, and procedures for appealing or waiving this security assessment. These regulations apply only to placarded amounts of HAZMAT, which represent the thresholds determined by the Research and Special Programs Administration to constitute a significant security threat.

Question 7. I am concerned that Congress, in the interest of passing security legislation quickly, has in several instances created conflicting or overlapping requirements.

Answer. For example, the USA PATRIOT ACT in 2001 established a requirement for a background check for motor carriers transporting hazardous materials, including explosives. The Safe Explosives Act, however, establishes specific disqualifications for “possessing” explosives, including the transportation of explosives, by all modes. The provisions are not consistent. The same trucker who would be disqualified from handling explosives under the terms of the Safe Explosives Act could, under the USA PATRIOT Act, still handle other equally dangerous hazardous materials.

In addition, while the Homeland Security, which transferred the Animal & Plant Health Inspection Service from the U.S. Agriculture Department to DHS, was being written, the Public Health Security and Bioterrorism Preparedness and Response Act was being enacted requiring the Food and Drug Administration (FDA) to monitor food imports for signs of bioterrorism. This has resulted in the FDA promulgating reporting requirements for food importers that closely mirror requirements promulgated by the Directorate of Border and Transportation Security, which now houses the Animal & Plant Health Inspection Service.

a. What conflicts has DHS experienced and do you have recommendations for Congress about how these should be corrected?

Answer. In its initial months, DHS has encountered a number of statutory conflicts which affect its ability to carry out various Departmental missions. Among these are various technical issues created by the recent enactment of the Homeland Security Act, Pub. L. No. 107–296. DHS desires and appreciates Congress’ willingness to work with the Administration to further the enactment of appropriation legislation to address these and other conflicts which the Department discovers.

b. What actions are being taken to work these issues out cooperatively with the Administration?

Answer. The Department’s Secretarial staff currently is working in cooperation with the various operational elements of DHS to determine any existing statutory conflicts which affect the Department’s ability to carry out its various missions. In all cases, the Department favors resolving these conflicts cooperatively within the Administration, such as through using existing statutory and regulatory authority. The Department is exploring the potential for such internal resolutions with the help of contacts in various executive branch offices, including the White House and its Homeland Security Council and Office of Management and Budget (OMB), as well as other executive branch departments.

c. Can we expect the Administration to submit legislative recommendations to correct the areas that cannot be addressed cooperatively within the Administration?

Answer. In the event that any statutory conflicts cannot be addressed within the Administration, the Administration will submit legislative recommendations to Congress which will correct such conflicts. One example are technical issues created by the enactment of the Homeland Security Act, Pub. L. No. 107–296, including gaps in statutory authority, or other conflicts created by the Act. In order to address these conflicts, the Department has prepared and cleared with OMB a list of recommended statutory changes to the Act, or to other provisions of law affected by the Act. These recommendations are now available to Congressional staff, and we understand that they will be included in a legislative vehicle in the near future. The Administration will continue to supplement these changes with further recommendations as they become apparent.

Question 8. The Maritime Transportation Security Act, under the leadership of Senator Hollings, was signed into law late last year. Since that time the Administration, led by the U.S. Coast Guard, has completed negotiations on an international agreement on maritime and port security. The new law, along with the international agreement puts in place a framework to enhance security on our waterways and at our seaports. However, it remains unclear today which agency with the Administration is leading efforts to secure our nation's ports. Can you tell the Committee what agencies are involved in these efforts and how their actions are being coordinated with DHS and between DHS and the Department of Transportation?

Answer. The Coast Guard, Transportation Security Administration and U.S. Customs and Border Protection are participating jointly in developing a delegation of authority under the Maritime Transportation Security Act (MTSA) that will determine lead and support roles in maritime security. The Maritime Administration also has certain responsibilities under MTSA.

The Coast Guard is the lead federal agency for Maritime Homeland Security and with assistance from U.S. Customs and Border Protection, the Transportation Security Administration, and the Maritime Administration, is developing regulations under the MTSA. As the designated Federal Maritime Security Coordinators, Coast Guard Captains of the Port will ensure comprehensive Area Maritime Security Plans are developed and executed in U.S. ports in accordance with the MTSA. TSA is providing a planning role with respect to how MTSA implementation is consistent with security requirements in other transportation modes.

Due to the complexities involved, a number of other federal, state, and local partners will also be involved in securing the nation's ports. State and local agencies, as well as private stakeholders, will be members of the Area Maritime Security Committees to integrate and coordinate the collective planning and resources. DHS will continue to coordinate with DOT to ensure the entire transportation system, including intermodal links, is secure.

Question 9. I understand the Coast Guard estimates the private sector costs for compliance with the requirements of the Maritime Transportation Security Act to be \$4.4 billion, with annual costs of \$500 million. Since the September 11 attacks, Congress has provided a total of \$348 million for port security grants. While the Administration's fiscal year 2004 budget requests \$38 million for Department Directorate of Border and Transportation Security grants, subsidies, and contributions and \$51 for the Department's Directorate of Information Analysis and Infrastructure Protection for the same purpose, it is unclear what these requests are for. Additionally, it is unclear whether or not these lines items will fund the maritime and port security grants to be awarded in accordance with the Maritime Transportation Security Act.

a. Is this \$4.4 billion figure accurate? If so, what is it based on?

b. How much is the Administration requesting for maritime and port security grants for fiscal year 2004? Which agencies or directorates will be managing these funds?

c. While I understand these funds will not directly be administered by the Coast Guard, what role does the Coast Guard play in awarding these grants? Can you explain how the awarding of these grants will be coordinated with Port Security Assessments being identified but the Coast Guard as part of your ongoing assessments?

d. In light of this \$4.4 billion backlog, do you think the Administration's request is adequate to address these vulnerabilities?

Answer. The \$4.4 billion estimate appears to be taken from an analysis published in the Federal Register on December 30, 2002 and only represents the initial cost estimate of implementing MTSA for facilities. Since that publication, the Coast Guard has received public input on the cost estimates and expects to revise the initial estimates in its MTSA Interim Final Rules, which should be published on July 1, 2003. Implementing the Interim Rule will affect about 5,000 facilities. The first year cost of purchasing and installing equipment, hiring security officers, and preparing paperwork is an estimated \$1.125 billion. Following initial implementation, the annual cost is approximately \$656 million. Over the next 10 years, the cost would be present value \$5.399 billion. The first year cost of implementing all of the provisions of the interim rule (vessels, facilities, OCS facilities, ports, and automatic identification system) is approximately \$1.507 billion. Following initial implementation, the annual cost is approximately \$884 million, with costs of present value \$7.348 billion over the next 10 years. A further detailed breakdown of the costs will be provided in the Interim Rules.

DHS is currently developing a plan to assess security for all critical infrastructure, including ports, and to determine the appropriate federal, state, and industry role in correcting any security deficiencies.

Question 10. Much of the focus on the Coast Guard since September 11th has been on its homeland security role. This role is vital, but we must not forget that we rely on the Coast Guard for many important other functions such as search and rescue, drug enforcement, interdicting illegal aliens, enforcing our fisheries laws and regulations, and protecting our environment. The challenge is to strike the proper mission balance. Section 888 of the Homeland Security Bill mandated the Coast Guard be transferred to the new Department as an intact entity and its non-homeland security missions be adequately protected. Additionally, the Act required the Coast Guard report directly to you, the Secretary, and not the Under Secretary for Border Transportation Security. This was designed to ensure the Coast Guard's non-homeland security missions did not get lost in the shuffle as that directorate wrestles with our country's many border and transportation security challenges.

a. With this in mind, what steps are being taken to ensure the Coast Guard's non homeland security missions are adequately fulfilled and the Coast Guard will continue to accomplish these missions at the levels expected by the American people?

b. What steps are being taken to ensure these missions will be adequately funded in the future and the infrastructure which supports them is properly maintained?

c. How has this language in Section 888 proven to be too rigid and is it preventing the Coast Guard from carrying out its missions? Is it impeding cooperation with the other agencies in the Department?

d. Do you believe modification to this language will be needed and when do you think recommendations will be submitted to Congress?

Answer. Although the Coast Guard does have capacity, capability and operational tempo challenges to sustain mission balance, it will continue to emphasize all of our missions. At the end of the day, the Coast Guard is focused on performance-based results and not only resource hours. The perspective through the performance lens illustrates that its non-Homeland Security missions are not suffering. The Fiscal Year 2003 Report/Fiscal Year 2004 Budget in Brief (BIB) provides documentation of the Coast Guard's high performance levels across its mission spectrum. For example, in Fiscal Year 2002 USCG seized the third highest cocaine total in our history, interdicted or deterred illegal immigration by sea at a rate of 88.3 percent (which exceeded its target of 87 percent), reduced the volume of oil spilled per million gallons shipped to 0.6 gallons (well below its target of 2.5 gallons), and continued to reduce the number of maritime worker fatalities to 4.3 per 10,000 workers which is below its target of 8.7.

A necessary first step is base-lining our maritime Homeland Security (MHS) requirements to help balance our other missions. To accomplish this, the Coast Guard has focused on a Strategy Deployment Plan (SDP) for implementing the maritime component of the President's National Strategy for Homeland Security. Various components of our Maritime Security Strategy Deployment Plan are under development, with the first component to be completed in April/May of 2003.

These MHS requirements will roll into a comprehensive blueprint to achieve overall mission balance. Coast Guard's existing strategic planning process and performance plans will serve as the cornerstone of an integrated approach emphasizing three general areas of effort: Preserving Non-MHS missions, Conducting MHS missions, and maintaining military readiness to conduct

Aviation Questions

Question 1. At most airports, TSA met the requirement to screen 100 percent of checked baggage by using explosives trace detection equipment or EDS installed in airport lobbies. These methods of screening are less efficient and require more screening staff than integrated EDS machines. What plans does TSA have for integrating EDS into baggage systems at the largest airports?

Answer. TSA's current imperative is to ensure that sufficient systems are in place to screen for explosives at locations where electronic screening systems are not fully deployed, and the agency is using the LOI tool to accomplish this goal. The LOIs TSA has implemented or is developing involve the largest airports in the Nation. Beyond these airports, we continue to assess the need for additional LOIs.

Question 2. THE DOT/IG has raised concerns about who will bear the ultimate cost of integrating EDS machines into baggage systems at airports. Do you expect

the Federal Government to fund the conversion, as it is their responsibility to ensure that the process is being done effectively?

Answer. As with other homeland security areas, DHS believes the cost of aviation security must be a shared responsibility. This holds true for putting some EDS in-line with baggage systems, and in fact the Congress supported this concept by providing TSA with LOI authority that mandated airport contributions.

Question 3. One of the most significant issues dealing with the integration of the TSA into Department of Homeland Security was the concern that the security aspect of aviation travel needed to be formulated in conjunction with the policy aspect of aviation to ensure that aviation safety was not being adversely affected. What steps will you take to ensure that DOT is consulted on security issues?

Answer. The Transportation Security Administration (TSA) has worked closely with all of the DOT modal administrations, including the FAA, to identify transportation security challenges and ensure that security and safety are simultaneously addressed in a manner that does not detract from either. First, TSA and FAA signed a Memorandum of Agreement (MOA) on February 28, 2003. The MOA sets out the general principles of cooperation and consultation that will serve as a guide to relations between TSA and FAA. TSA and DOT will benefit from a continued close cooperation in the areas of security-related legislation, rulemaking, and budget development. The MOA construct allows us to retain this DOT connection and coordination. Also, Deputy Secretary Jackson's memorandum accompanying the executed TSA/FAA MOA notes that Secretary Mineta is committed to naming a senior official within the Office of the Secretary to serve as DOT's primary liaison to TSA. Furthermore, there is extensive day-to-day coordination between TSA and FAA at the working level to ensure that aviation security initiatives do not compromise safety. We routinely invite FAA to TSA meetings, and vice versa. Where appropriate, we coordinate cross-agency on memoranda, position papers, and letters when responsibilities overlap. TSA and FAA also hold a bi-weekly executive-level meeting where interagency issues can be raised and addressed promptly.

Question 4. The Airlines have asserted that the security fee imposed upon them is unfair. They assert that ports and borders are not faced with these security fees. Does DHS have a position on the imposition of a user fee to fund its operation?

Answer. DHS does not believe that it is unfair to impose security fees on airlines and passengers. The passenger fee, mandated by the Aviation and Transportation Security Act (ATSA), imposes a charge of \$2.50 per passenger enplanement paid by the passengers. Air carriers collect this fee from passengers and remit it to TSA. The air carrier fee, also authorized by ATSA, is charged to individual air carriers based on each air carrier's costs related to screening passengers and property in calendar year 2000.

Question 5. Does DHS have a position on repealing the airline passenger security fee?

Answer. DHS continues to believe that security is a shared responsibility and the fee should stand.

Question 6. One of the biggest complaints this Committee heard from Admiral Loy was that the earmarks in the appropriations bill took away his discretion to deal with the problems TSA was facing. What will DHS do to combat this problem?

Answer. DHS will make every effort to work with Congress and Committee staffs to provide timely and comprehensive information on budget requests. However, once earmarks are enacted, DHS will make every effort to accommodate them within our funding availability.

Border Questions:

Question 1. The Federal Government's efforts to reduce illegal border crossings in California and Texas have created a funnel effect through Arizona. The U.S. Border Patrol estimated that over 25,000 people were arrested for attempting to cross the border in Arizona during the month of October 2002 alone. These individuals were fortunate to survive—last summer 134 individuals were reported to have died in the desert attempting to enter this country. What will you do to ensure our borders receive needed attention from the Department of Homeland Security?

Answer. Border Patrol has initiated Operation West Desert which is designed to augment the Tucson Sector's border safety efforts. The Border Patrol enhanced operational effectiveness and intensified life-saving efforts through a sector-wide coordinated and proactive enforcement strategy focusing all available resources on high-risk areas during the summer months. Plans include detailing additional BORSTAR agents (in newly outfitted BORSTAR Hummer vehicles), extra Horse Patrol units in the west desert of Arizona, rescue beacons and hot weather kits. In addition, the Shadow Wolves will receive an abbreviated BORSTAR search and rescue course.

The national Tactical Unit, known as BORTAC, has also deployed special tactically and medically trained agents to reinforce the deterrent efforts in this busy corridor. Tucson Sector continues to work with the Mexican government to develop a cohesive strategic plan to address the Sonoran Desert problems, provide training, and develop, in concert with Mexican government, public service announcements for Mexican television and radio distribution.

Question 2. Prior to September 11, the President and Members of Congress were very close to developing a comprehensive immigration reform package. I believe that the only way we are ever going to improve security at our borders and truly address the downstream problems associated with the flow of undocumented immigrants is to enact such reform. Do you agree that comprehensive immigration reform is necessary as a matter of homeland security?

Answer. Creation of the Department of Homeland Security, including the separation of immigration services from immigration enforcement functions, and subsequent action taken by the department to align inspections and enforcement functions within two new agencies in the Border and Transportation Security (BTS) Directorate—U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE)—are very significant immigration reform steps that have already been taken. Until the effectiveness of the new alignment of our immigration enforcement and services resources can be adequately assessed, it would be premature to suggest that additional immigration reform measures be taken.

Question 3. As you know, many Native American tribal lands line our borders. What actions has the Department taken to ensure coordination with tribal governments? Additionally, what federal programs or grants are available to tribal governments to promote border protection and security?

Answer. Eleven of the 21 Border Patrol Sectors encompass Native American lands that either straddle or are adjacent to a U.S. border. Where appropriate, Border Patrol sectors have identified a liaison agent to work with Tribal law enforcement as well as local representatives of the Department of the Interior. These sectors have set up and maintain a regular scheduled meeting with their Native American counterparts. A key initiative in these meetings is the emphasis on our commitment to border security, better liaison, cooperation, training and resource sharing. OBP has provided Officer Survival training to the St. Regis Mohawk Tribal Police, to include Ground Fighting, Advance Pistol and Tactical Pistol training. OBP has established an equipment-sharing program with the various tribal police, and has worked with the Kickapoo Tribal Council to place two remote video surveillance towers on their property. Tucson Sector is continuing progress on the joint Tohono O'odham Substation/USBP Processing Facility. Del Rio Sector is creating a sister-post of the Border Patrol Explorers, hosted by the Kickapoo, which will jointly train with the BP Explorer Post. HQ Border Patrol has also identified a liaison agent at the HQ level who works with tribal law enforcement and the Department of the Interior. The Border Patrol is working with Native American law enforcement agencies to provide the level of support requested, and to maintain the best working relationships possible. The second annual U.S. Border Patrol—Native American Border Security Conference is scheduled to occur October 7–8, 2003. The purpose of the conference is to enhance border security and foster communication with the Native American communities.

Question 4. Last August, a park ranger was killed at the Organ Pipe National Monument in Arizona. This park is experiencing increased illegal immigration, drug and human smuggling, and is quickly becoming the most dangerous portion of our nation's border. Given the diverse nature of the lands that line the border, how does DHS plan to coordinate between the numerous federal agencies with lands along the border, including the Fish and Wildlife Service, the Park Service, the Forest Service, and the Department of Defense?

Answer. The control and security of our borders is a complex problem, and will continue to challenge us in the future. Everyday, our agents put their lives at risk enforcing law in extreme environments and under severe conditions. Coordination and cooperation along the border between federal agencies such as Fish and Wildlife, National Park Service, Forest Service and Department of Defense is very important and efforts are underway in that regard to curb illegal immigration and drug smuggling. Coordination and communication with state and local law enforcement, Tribal land officials, and the general public has also been a major focus for Border Patrol. Officials of Border Patrol, Park Service, Fish and Wildlife and the Forest Service are joining together as appropriate through meetings, intelligence sharing and special operations to develop law enforcement strategies and solutions in that area. Department of Defense personnel have provided valuable support during special operations to Border Patrol through the coordination efforts of the Border Patrol

Special Coordination Center. The safety of undocumented migrants, law enforcement agents, and the public is of paramount importance. As an example of efforts to increase safety, Tucson Border Patrol Sector has instituted border safety initiatives along the Arizona border and has worked to reduce the number of injuries and deaths among those who continue to enter illegally, and law enforcement officials who enforce laws in that area. There are plans to provide a coordinated and proactive enforcement strategy focusing all available resources on high-risk areas in their sector this summer. Representatives of the various agencies charged with stewardship of America's public lands met with Border Patrol representatives in Tucson, Arizona on September 4th to further discuss and formulate cooperative efforts in order to mitigate environmental degradation, while deterring the risk of further degradation brought on by the trafficking of contraband and illegal aliens through these sensitive ecological systems.

Question 5. A dangerous sentiment is developing among some citizens of Arizona, that the Federal Government is failing with regards to border security. The situation has become so tenuous that a number of citizen militia groups have taken up arms to defend the borders themselves. Various local governments and citizen groups such as the Bisbee City Council and Border Action Network have expressed their concern over the actions of these groups. What is being done to ease the fears of the residents along the border and improve enforcement efforts?

Answer. CBP has no specific authority to prohibit private citizens, groups, or landowners from being near the border. All sworn agents do have the commitment via their oath to civil and due process rights. Also residents have their own property rights. CBP realizes the potential for inappropriate action or violations from these groups. Agents that patrol in areas that these groups may be are provided information as to the group's whereabouts, history and potential for encounters. Our focus has been to communicate to those residents who witness illegal activity. We have encouraged these members of the community to call the witness illegal acts. CBP has specific units in certain sectors that prioritize calls from rural residents. These units' liaison and patrol in areas where residents are noticing an increase in illegal border traffic. Town hall meetings, civic events and specific outreach activities provide a context for residents to communicate with Border Patrol Agents. Furthermore the agents, stations and sectors of the Border Patrol supported by headquarters are upgrading deterrence levels and border security with planning, tactics and hard work. The increase of control levels and subsequent reduction of illegal crossings at the border will prevent the perceived need for residents or outside groups to patrol the border. Sectors have also coordinated a response for when local residents or any non-law enforcement officer detains a suspect to turn over to a Border Patrol Agent. The coordination involves notifications to local and federal investigators and prosecutors. These law enforcement partners are afforded an opportunity to verify that the detention did not violate the rights of the illegal aliens. As an illegal alien is processed for removal they are given the opportunity, if they choose to speak to a Consular Official of their country of citizenship. These reasonable safeguards bolster border patrol observations and the Agent's interview, to ensure no violations of civil or criminal statutes have occurred. In March of this year two members of Ranch Rescue were arrested on assault charges after an illegal alien whom they detained near Hebronville, Texas, said they struck him. Although this case is under investigation the safeguards described above proved to assist victims and the prosecuting and investigating agencies in determining if charges are warranted. Ultimately our active liaison with border communities and increasing control levels brought by agents and the resources agents need to patrol the border effectively will prevent groups from finding areas or sympathetic land owners' property to patrol. Protecting the rights of all those involved in these scenarios is equally important.

Question 6. The Omnibus Appropriations bill provided increased funding for important technology programs such as the Entry-Exit System and the INS Chimera IT system, which is to serve as the backbone for the system and to coordinate between the various law enforcement agencies. Both of these systems make important strides in increasing the coordination and technology available to the Department of Homeland Security. What steps will you take to ensure the money allocated for this technology is managed properly and that the systems are interoperable and communicating effectively?

Answer. It is important to point out that the Chimera system is, by statute, intended to contain multi-agency data. Effective communication and interoperability of that system, with other systems, including the Entry-Exit System, are paramount to the success of the DHS mission. The DHS structure includes a provision for shared immigration services, a Chief Information Officer and a department Office of Information Technology to ensure interoperability and proper management. In

addition, the Border and Transportation Security Directorate has established a program office specifically dedicated to implementing the Entry-Exit (now called U.S. VISIT) system in accord with statutory requirements.

Question 7. The Arizona Republic ran an article on the serious labor concerns among those in the Border Patrol. According to T.J. Bonner, President of the National Border Patrol Council, thousands of Border Patrol agents are considering leaving the Border Patrol for new jobs. The potential loss of Border Patrol agents poses an imminent threat to national security.

a. What steps will you take to try to ensure that this does not occur to avoid a sudden loss of Border Patrol officers?

Answer. The Office of Border Patrol (OBP) has taken aggressive steps to deal with attrition of Border Patrol Agents in response to FY02's record attrition (18 percent). First and foremost, OBP was successful in coordinating efforts to raise the journeyman level to a GS-11 (was GS-9). OBP recently convened a retention focus group made up of field representatives. Several key recommendations from the group have been implemented in the field and will serve to enhance future retention. OBP has also focused recruitment efforts on targeting and attracting applicants who would like to make the Border Patrol a career choice. These efforts have begun to pay dividends. For example, the current FY03 attrition rate has dropped to 11 percent. The Border Patrol offered reinstatement to former employees who left the agency during the earlier Federal Air Marshal Service hiring phase and over two hundred employees have applied for reinstatement back to the Border Patrol.

Question 8. As you know, our southern border has been used by illegal drug traffickers for many years. And as with illegal immigration, improved security in other parts of the southern border have funneled illegal drug traffickers through the less populated parts of Arizona, causing substantial disruption to our Tohono O'Odham Nation. What are the Department's plans for coordination with the DEA to stem the trafficking of illegal drugs over the Arizona border?

Answer. Coordination with Tribal land officials has improved in recent years along the Southwestern and Northern Borders. The Border Patrol has begun a project to build a facility on the Tohono O'Odham Nation in southern Arizona. The Tohono O'Odham Police Department (TOPD), and the Border Patrol will be collocated at this facility which will serve as a processing center for the Border Patrol. This processing facility will provide the Border Patrol greater access to the border as well as an opportunity to work closely with the TOPD. Where appropriate, Border Patrol sectors have identified a liaison agent to work with Tribal law enforcement as well as local representatives of the Department of the Interior. These sectors have set up and maintain a regular scheduled meeting with their Native American counterparts. A key initiative in these meetings is the emphasis on our commitment to border security, better liaison, cooperation, training and resource sharing. HQ Border Patrol has also identified a liaison agent at the HQ level who works with tribal law enforcement and the Department of the Interior. The Border Patrol is working with Native American law enforcement agencies to provide the level of support requested, and to maintain the best working relationships possible. Border Patrol has developed a strong working relationship with the DEA over the years along the border. Joint task forces and special operations are commonplace along the border, and coordination between the agencies has produced substantial detection, apprehension and prosecution of illegal drug trafficking.

Question 9. Another downstream effect of the increased numbers of illegal aliens has been auto theft. According to the Arizona Auto Theft Authority, Arizona has the highest per capita auto-theft rate in the country. Many of these vehicles are used for smuggling drugs and illegal aliens across the border. What, if anything is being done to address this problem?

Answer. Customs and Border Protection has installed automatic license plate readers (LPRs) at the majority of our land border crossings. These LPRs are designed to automatically capture and transmit license plate data from vehicles processed at the land border to the Treasury Enforcement Communication System (TECS).

Any vehicle that has been reported stolen to the National Crime Information Center (NCIC) will be automatically referred as a possible NCIC stolen vehicle record match to U.S. Customs and Border Protection. Border Patrol checkpoints, positioned several miles into the United States along major routes of egress from the border area, have been highly successful in recovering stolen vehicles from the organized criminal smuggling elements. CBP and ICE, within DHS's Border and Transportation Security Directorate, work closely with state and local agencies in identifying, locating, and recovering stolen vehicles.

Question 10. As I mentioned, our border states and counties are experiencing a health emergency because of the burden of uncompensated emergency care for undocumented immigrants. Every day, undocumented immigrants arrive at our emergency rooms in need of urgent medical attention and under federal law, our hospitals are required to treat them. As you are aware, immigration is principally a federal responsibility, however, border security personnel (Border Patrol) routinely avoid reimbursing hospitals and ambulance services for their costs. How will DHS address this critical problem?

Answer. Immigration is principally a federal responsibility. Emergency medical care for sick and injured persons in the United States who are unable to pay is an indigent health care issue. Indigent health care responsibility takes place at three levels—the federal, state and local levels. At the federal level, money is disbursed to pay for indigent medical care at the other levels, normally taking place through the Department of Health and Human Services. States and localities have devised a multitude of indigent care systems and multiple ways of financing these systems. The most efficient roles for the Department of Homeland Security to exercise with regard to immigration are the administration of immigration services to facilitate legal immigration and the enforcement of laws and regulations regarding illegal immigration. The payment of indigent health care costs by the Department of Homeland Security would detract from its primary responsibilities with regard to immigration.

An analogy is that state and local police agencies have the responsibility of enforcing traffic laws within their jurisdiction. They regularly encounter traffic accidents that occur because traffic laws were violated and people were injured as a result. The primary responsibility of officers at the scene is to activate local emergency medical service systems and get injured people the care they need. Later, after care is provided, if the person treated is unable to pay, it is an indigent care matter and indigent care mechanisms are searched for the proper source of payment. The law enforcement agencies are not made responsible for payments because it would detract from their abilities to carry out their primary responsibilities.

The Border Patrol does pay for the emergency medical treatment of injured persons who are in its custody at the time treatment is sought.

Question 11. Another problem occurs when undocumented individuals are released from hospitals. Hospitals in my state have told me that the Border Patrol refuses to pick up the undocumented immigrants and return them to Mexico, or simply release the patient. Beyond the unfair burden this practice poses on hospitals, it is clearly a serious security concern. How will DHS address this security concern?

Answer. Hospitals outside of the near border area where the Border Patrol operates should place calls to offices of Immigration and Customs Enforcement. When a hospital calls the Border Patrol about a patient ready for release who has been determined to be fit for travel, the station supervisor will dispatch an agent if it would not leave a critical area uncovered. The station pulls an agent off of his regular patrol duty and sends the agent to determine the patient's alienage and deportability. If determined to be an illegal alien and likely to abscond during removal proceedings, the station takes the subject into custody for processing. The purpose of the response is the removal of persons determined to be illegal aliens who a doctor finds to be medically fit to travel from the United States; it is not to pay indigent medical bills.

Question 12. The former INS maintained a written policy that regarded sick or injured aliens encountered by INS officials, instructing them not to take the undocumented aliens into custody to avoid responsibility for their health care. Rather, the INS agent was instructed to take sick or injured alien to a country public hospital where, under federal law, the hospital must treat the alien. This places the Federal Government's responsibility for border patrol on the shoulders of local government and the local taxpayer. What course of action do you intend to take to remedy this situation?

Answer. The written policy referred to is a 1987 policy memorandum from the Western Regional Director and applied to the Western Region. It does instruct agents not to take obviously sick or injured persons into custody. There is no written policy that covered the entire legacy INS. The unwritten policy for the legacy INS and the current policy for former INS officers is not to arrest or make a determination of citizenship of anyone who is in obvious need of emergency medical care and does not pose a safety risk. If an injury requires transportation, agents call local emergency medical personnel, without regard to citizenship or immigration status. In very remote areas, the Border Patrol may assist EMS in transporting the individual out of rough terrain, but only in extreme emergencies do agents transport injured aliens to medical facilities.

Question 13. A number of environmental issues have come to my attention in relation to our borders. How will DHS coordinate with the Environmental Protection Agency and other federal agencies on myriad environmental issues associated with the border?

Answer. The enforcement activities of U.S. Customs and Border Protection (CBP) are proactive in nature and focus on striving to prevent terrorist-related activities from occurring in the United States. CBP communicates and coordinates openly with many other federal agencies, including the National Park Service and the Environmental Protection Agency, to assess statutory requirements and develop enforcement strategies, including appropriate operational procedures for environmentally sensitive areas. CBP relies heavily upon the expertise and guidance of those other agencies, and views such communication and coordination as essential to the successful completion of its enforcement mission in environmentally sensitive border areas. Like all Federal agencies, CBP adheres to NEPA—the National Environmental Policy Act.

Science and Technology Questions

Question 1. One major issue of controversy during the consideration of the Homeland Security Act concerned the creation of university-based centers for homeland security. What steps are you taking to guarantee that university-based research centers are established on a merit-review process?

Answer. The university-based centers will be evaluated in a peer-review process. DHS(S&T) is working with the National Science Foundation to use their capabilities and processes for this purpose.

Question 2. One of the responsibilities for the Under Secretary for Science and Technology in the Department of Homeland Security is the establishment of a system for transferring homeland security technologies to federal, state and local governments, and private sector entities. The Department of Homeland Security will establish a Homeland Security Advanced Research Projects Agency (HSARPA).

a. Could you please submit to the Committee a prioritized list of research areas that the HSARPA will pursue after it has been established?

Answer. The research activities that we will conduct in HSARPA cut across the priorities for DHS(S&T). Thus, the research activities planned include:

Biological Countermeasures—This includes remediation technologies, and development of the next generation of environmental sensors

Chemical Countermeasures—This includes remediation technologies and development of facilities monitoring and response systems

High Explosives Countermeasures—Included here are activities designed to detect at range large quantities of high explosives (i.e. truck bombs)

Radiological and Nuclear Countermeasures—Included here are new concepts for actively probing for the presence of fissile material, and for taking advantage of long residence times in ship containers to passively detect fissile material

Critical Infrastructure Protection—Included here is reaching out to the academic community to develop and test methodologies for systematically revealing interdependencies among infrastructures

Support to DHS Components—Included here are activities supporting conventional missions of the Department, such as advanced biometrics, and advanced techniques for monitoring the border.

Rapid Prototyping Program—Organizationally, the technology clearinghouse is managed under HSARPA. Thus, the TSWG BAA, and rapid prototyping activities occur here

IT Infrastructure—Included here is developing advanced scalable techniques for organizing extant disparate databases and conducting queries of same efficiently

b. How do you intend to utilize the research of the Homeland Security Advanced Research Projects Agency and the federal laboratories in a way to ensure the efficient transfer of their research to the state and local governments and the private sector?

Answer. Technology transition is a key goal for the DHS S&T Directorate. We are taking a multilayered approach. First, we involve the user community at the outset of any project we undertake in order to develop program goals, and as the program matures, system requirements and operational concepts. Second, we will engage in demonstrations periodically through the development process to generate feedback from the user and to retire technical risk. Finally, and unlike DARPA, HSARPA will engage where appropriate in pilot deployments of the technology, where operators use the equipment in an operational

setting while DHS S&T provides technical support and funds the operations and support costs. This pilot deployment concept retires operational risks to the user, provides insight for product improvement, and allows the user to fund for procurement and support costs with the system at an appropriate level of maturity.

Question 3. How are you integrating the border security technology needs into the Department's research agenda?

Answer. The S&T Directorate has a "customer-supplier" relationship with the Border and Transportation Security Directorate. In order to fulfill this mandate, S&T has a Director for Border and Transportation Security Programs in its Plans, Programs, and Budget office. That person and staff have as their primary responsibility to work with BTS to understand their needs and requirements and develop a research and development agenda aimed at addressing them. Recently, a strategic planning workshop was held in Baltimore with the various operational elements within BTS to initiate the development of this agenda. With regard to border security, S&T is also providing systems engineering advice to Under Secretary Hutchison and Secretary Ridge for the Entry-Exit Program. The S&T Directorate is also, for example, using funds in FY04 for advanced biometrics research, and for developing means to identify potential threats crossing our borders or in our airports.

Furthermore, S&T staff, including the Acting Director for Federal Laboratories and the Border and Transportation Security portfolio manager, continue to meet with Applied Technology and Laboratory officials from U.S. Customs and Border Protection, and TSA's Chief Technology Office staff to discuss ongoing and planned projects, technology capabilities and needs. Visits of S&T personnel, including Under Secretary McQueary, to two of CBP's laboratories have served to further educate S&T personnel on CBP's scientific/forensic border operations.

Recommend G-OCC add MDA

Question 4. Do you feel that three years is a sufficient amount of time for the Homeland Security Institute to accomplish the responsibilities of threat and vulnerability assessments as identified in the Homeland Security Act of 2002?

Answer. We expect that there will be a long-term need—one which will exceed three years in length—for the sort of high analytic quality, unquestioned objectivity, and ability to assess proprietary data and sensitive government information analysts in the Homeland Security Institute will possess.

Question 5. In your efforts to establish a technology clearinghouse institute for the Department as required by the Homeland Security Act of 2002, have you consulted with other federal clearinghouses to determine how best to leverage the Department's resources with their efforts?

Answer. In fact, DHS has partnered with the Technical Support Working Group, an extant federal clearinghouse operated by the Departments of State and Defense, to carry out the mandate.

Question 6. Has a time-line been developed for the activities as required in the Homeland Security Act of 2002 for the Science and Technology Directorate?

Answer. A detailed timeline has not been developed. However, it is our intent that all mandated activities will be carried out as required.

Question 7. First responders have received well deserved attentions since September 2001. One issue of importance to first responders, such as police, firefighters, and emergency medical services is communications interoperability. What programs and strategies does the Department of Homeland Security have to deal with the issue of public safety communications interoperability?

Answer. Primary responsibility for developing interoperability policy and priorities lies with the SAFECOM program which has recently been transferred to DHS. The mission of SAFECOM is to improve communications and communications interoperability among local, state, tribal, and federal public safety agencies. Since an overwhelming share of the nation's communications infrastructure is owned and operated at the local and state level, SAFECOM is focusing a great deal of attention on addressing the issue at those critical levels. At the same time, SAFECOM will be working to address the need for improved communications interoperability among federal agencies and among local, state and federal agencies where appropriate.

The SAFECOM program, in concert with local and state public safety associations through the Coalition for Improved Public Safety Communications, is developing a "systems architecture roadmap" to address this critical issue. As part of this "roadmap," SAFECOM is initiating short and medium term initiatives to pave the way for achieving the longer term objective of enabling public safety agencies to commu-

nicate with other public safety agency when needed, and simultaneously developing long term initiatives to prepare for the future. To implement these initiatives, SAFECOM will leverage already existing federal programs addressing the issue, most critically the “first responder” grants funds administered by the Office for Domestic Preparedness and other federal agencies, the Public Safety Wireless Network, and the National Institute of Justice’s AGILE program. SAFECOM drafted consistent technical guidance for nearly \$150 million in interoperability grants jointly awarded by EP&R and the Department of Justice during FY 2003.

Among other initiatives that SAFECOM is initiating are: identifying and assisting in the implementation of short-term “patch” solutions such as cross-band repeaters; identifying governance models that directly involve the first responders themselves; best practices to improve interoperability; identifying and, where appropriate, developing relevant standards; and the research, development, testing, and evaluating of technologies that can improve communications interoperability. At the same time, SAFECOM, in concert with the public safety community, will work with the Federal Communications Commission to address spectrum management and allocation for public safety agencies.

Additionally, the Standards program within DHS(S&T), working in consonance with Project SAFECOM, is currently developing a communication interoperability workshop with participation from NIST, IEEE, NASA, DOD, IAB, and others. The goal is to plan for integration and coordination of ongoing efforts in various activities of the Federal Government and to work with the private sector and Standards Development Organizations to develop a suite of uniform performance standards for existing COTS technologies. Another goal is to also provide consistent advice to technology developers on requirements for second-generation equipment and protocols.

Finally, in coordination with the Directorate of Science and Technology, the Office for Domestic Preparedness (ODP) will provide funds to assist State and local agencies evaluate and acquire interoperable communication technologies.

Question 8. Currently, the United States Fire Administration (USFA) administers the \$750 million Assistance to Firefighters Grant Program. The USFA was formerly a part of the Federal Emergency Management Agency and is being transferred to the Emergency Preparedness and Response Directorate of the Department of Homeland Security. The Administration’s FY 2004 budget proposes to incorporate the Assistance to Firefighters Grant Program into the \$3.5 billion First Responder Initiative, which would be run by the Office of Domestic Preparedness (ODP) in the Border and Transportation Security Directorate. What is the Administration’s rationale for moving this grant program from USFA to ODP?

Answer. For years, the nation’s emergency preparedness and response community have been urging the adoption of a ‘one-stop-shop’ for Federal preparedness assistance. The Department of Homeland Security agrees that such a step is critical to the improved administration and coordination of its disparate grant programs. The FY 2004 Budget took the first step by proposing the consolidation of Fire Grants into the Office for Domestic Preparedness, and will soon submit a plan for consolidating these and other grants into State and Local Coordination Office, which will also include ODP. This office will be the focal point through which state and local first responder funds will be administered, often in coordination with subject matter experts on other DHS agencies. This proposal will not affect the location of the U.S. Fire Administration within the Emergency Preparedness and Response Directorate, and USFA will continue to assist ODP in administering these funds. The Administration does believe that maximum grant amount should be raised for large metropolitan areas so that they make more effective investments in their preparedness and response capabilities.

a. I have introduced S. 321, the Firefighting Research and Coordination Act. This legislation is cosponsored by Senator Hollings and six other senators. It would conduct the basic research that is required for equipment standardization; authorize the revision of the Federal Response Plan to account for incidents like those that occurred on September 11; authorize the U.S. Fire Administration to develop model mutual aid plans for use by State and Local governments and report on a credentialing system for volunteers; and authorize new courses at the National Fire Academy to utilize new technology and tactics in response to terrorist attacks. What recommendations would you have for this legislation as Congress considers it?

Answer. The Administration appreciates the goals of the Firefighting Research and Coordination Act (S. 321), and notes that this legislation was largely incorporated into a recently enacted reauthorization of the U.S. Fire Administration (S. 1152), that was signed by the President in December.

b. Senator Dodd has introduced S. 544, the Staffing for Adequate Fire and Emergency Response Firefighters Act of 2003. This legislation would authorize a \$7.7 million grant program from Fiscal Year 2004 to Fiscal Year 2010 to allow local fire districts to hire firefighters. What is the Administration's position on this legislation?

Answer. We believe that the hiring of local personnel such as firefighters should be remain as a local matter and responsibility. Offering \$1 billion in Federal grants for the hiring of new personnel leaves these new positions highly vulnerable once the grant has expired.

We agree that fire departments across the nation, volunteer and career, are in need of federal support to prepare for their critical role in Homeland Security. However, the Department believes SAFER grant program risks diverting funds and attention from the more critical role of the Federal Government to provide fire departments with assistance for equipment, training, and exercises to improve their response capabilities for major incidents. Such investments can be made on an annual basis without jeopardizing local budgets.

c. This year the Commerce Committee will consider reauthorization of the U.S. Fire Administration. Do you have recommendations for provisions that should be added to this legislation?

Answer. As noted earlier, legislation reauthorizing the U.S. Fire Administration (S. 1152) was enacted by Congress last Fall, and was signed by the President in December.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK LAUTENBERG TO
HON. TOM RIDGE

Question 1. You have gone on record before the Committee on Governmental Affairs this year that "**Amtrak and freight Railroads are at considerable risk of terrorist attack**" and that you "look forward to working with Congress to support legitimate security enhancements." Over 25 million people a year take Amtrak, our nation's intercity rail carrier, and hundreds of million more ride commuter railroads every weekday. **What has the Department done to improve the security of rail transportation for both intercity travel and commuter service?**

Answer. DHS is working with the Federal Railroad Administration (FRA) and governmental and industry stakeholders to establish best practices and national standards, develop security plans and regulations, better assess security vulnerabilities and identify needed security enhancements to the rail system and related infrastructure. DHS's focus is on developing a national rail security program centered on prevention, response, recovery, restoration of services, and restoring public confidence.

Some specific initiatives include:

1. Coordinating information and threat sharing through the Surface Transportation Information Sharing and Analysis Center (ISAC) managed by the Association of American Railroads (AAR), including deploying DHS personnel to the ISAC;
2. Identifying the gaps in antiterrorism training among rail personnel;
3. Working with AAR, FRA and rail carriers to conduct a pilot project to identify certain bridges that are critical to the rail transportation system;
4. The Chlorine Initiative, which includes a system security review of Chlorine supply chain, threat/risk/vulnerability assessments, developing a prototype to address other hazardous materials, and recommending best practices and performance-based standards;
5. The Radiological Dispersal Device (RDD) Project, a cooperative effort for minimizing risk of illicit trafficking of an RDD;
6. The Food and Feed Stock Security Standards Initiative to develop food security standards in cooperation with the Food and Drug Administration and the U.S. Department of Agriculture; and
7. Developing security standards for intermodal containers.

Question 2. The **Northeast Rail Corridor** is a transportation asset like no other in the country—it links almost 24 million people in a number of major cities and provides access to freight and commuter lines from here all the way to Boston. **Since the Department's creation, what has the Department done to improve security on the Corridor?**

Answer. TSA has been in continuous contact with Amtrak's Chief of Police and other Amtrak security officials to discuss the current threat and intelligence. Routine communication with these key stakeholders is paramount to providing the

Chief of Police the flexibility to focus police officers' attention and presence on areas where the system is most vulnerable.

TSA is working with the FRA and governmental and industry stakeholders to establish best practices and national standards, develop security plans and regulations, better assess security vulnerabilities and identify needed security enhancements to the rail system and related infrastructure. In addition, TSA is developing a national rail security program that focuses on prevention, response, recovery, restoration of services, and restoring public confidence

Question 3. Current funding formulas for homeland security assistance to states only take into account—beyond the minimum guarantees—population share. This produces strange results: we award the equivalent of \$9.78 per person in security grants to the State of Wyoming, but only the equivalent of \$1.69 per person to New Jersey. This is even below the average of \$1.98. While states in the interior of the U.S. enjoy certain security comforts, states like New Jersey are subject to higher security risks. We have to worry about the Port of Newark, the Northeast Rail Corridor, the New Jersey Turnpike, countless petrochemical facilities and nuclear facilities—and it's not just the people who live in New Jersey that are exposed to these risks, but also those who live nearby or are traveling through, or receive freight traveling through. Why did the Department choose to use population share as the basis in which to distribute the remaining (after minimum guarantees of 0.75 percent and 0.25 percent were allocated to states and territories) funds. How can the funding mechanism be changed to more equitably consider such risk factors like population density and infrastructure location?

Answer. The formula used to determine funding distribution to each state and territory was largely mandated by Congress as defined in the USA PATRIOT Act of 2001 (Pub. L. No. 107–56). Further, the Department of Justice's Office of Justice Programs has been using this type of formula since the late 1960s.

There has been a growing concern regarding this formula used to allocate grant funding through ODP. Homeland security preparedness needs differ across the nation, and addressing the conflict between funding the highest threat areas and distributing funds on a wider basis is complicated. Among other factors, during the last ODP nationwide assessment process, states and local jurisdictions reported significant vulnerabilities and threats across the country in all types of jurisdictions.

Starting in FY04, the Department will seek to make changes in how it distributes funding to the states. Each state will continue to receive a base amount as part of the ODP State Homeland Security Grant Program. However, the Department will also use factors other than population share, such as threat and risk assessments, to make determinations on the allocation of these funds. Furthermore, the Department has made aggressive use of the Urban Area Security Initiative to ensure that urban areas and infrastructure at greater risk, in New Jersey and elsewhere, are funded adequately.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERNEST F. HOLLINGS TO
HON. TOM RIDGE

Question 1. The Coast Guard has tremendous new responsibilities for homeland security. After TSA, it is the largest single agency to be moved to DHS. Yet in the FY2004 budget request, only 25 percent of the Coast Guard's operating budget is aimed at the homeland security mission—i.e., protection of our ports, our coastline, and our waterways.

a. How can that possibly be sufficient, Particularly when with each new elevation of the homeland security level, Coast Guard assets are pulled into a high operating tempo, significantly increasing their operational costs and more quickly wearing out their assets?

Answer. The Coast Guard's Ports, Waterways, and Coastal Security (PWCS) mission was redefined as a result of the increased post-September 11, 2001 homeland security responsibilities. PWCS is not, however, a new mission, nor is it the Coast Guard's only homeland security mission. Section 888 of the Homeland Security Act defines Homeland Security missions as follows:

- Ports, Waterways, and Coastal Security (PWCS)
- Drug interdiction
- Migrant interdiction
- Defense readiness
- Other law enforcement

Thus, while the fiscal year 2004 budget includes approximately \$1.2 billion for the PWCS mission, a larger view of the request shows that approximately \$2.1 billion, or 44 percent, of the Operating Expenses budget is attributable to Homeland Security missions.

Due to the unique multi-mission nature of the Coast Guard, any funding applied toward Homeland Security missions also contributes to successes with Non-Homeland Security missions.

The Coast Guard's annual Operating Expenses appropriation works towards the attainment of Homeland Security Advisory System (HSAS) levels of Green, Blue and Yellow. The costs associated with Operations IRAQI FREEDOM and LIBERTY SHIELD, including the subsequent HSAS increase to Orange, were addressed via the Fiscal Year 2003 Wartime Supplemental. Initiatives within the Fiscal Year 2004 budget will bolster the Coast Guard's homeland security capabilities and capacities, which will mitigate the impacts of future elevations of the HSAS threat level on the Coast Guard resource allocation across all missions.

b. What is the increase in costs, per day, for each elevation in threat advisory level?

Answer. Based on Operation LIBERTY SHIELD requirements, the Coast Guard estimates that it cost \$1,600,000 per day to move from the Homeland Security Advisory System (HSAS) level Yellow to Orange and that it will cost an additional \$100,000 per day to move from HSAS level Orange to Red.

Question 2. The FY2003 supplemental calls for \$180 million dollars for heightened Coast Guard operations associated with the code Orange that went into effect when the U.S. went to war with Iraq. Precisely how much of the FY2004 budget is targeted for these "peaks" of security activity?

Answer. The Coast Guard's Fiscal Year 2004 request does not contain resources directed only to the "peaks" of security activity. Rather, the Fiscal Year 2004 request will increase the Coast Guard's overall capacity and capability to perform all of its legislatively mandated missions. Building capacity equates to our need for continued personnel (both Active Duty and Reservists) and asset growth to increase our organic presence while capability speaks to improving the operational effectiveness and readiness of our assets and infrastructure.

The multi-mission resources in the Fiscal Year 2004 budget are critical to the implementation of the President's National Strategy for Homeland Security and to the sustaining of the Coast Guard's high standards of operational excellence across all mission areas. Every Homeland Security dollar directed to the Coast Guard will contribute to a careful balance between our safety and security missions, both of which must be properly resourced for effective mission accomplishment. The Fiscal Year 2004 budget reflects steady progress in our effort to meet America's maritime safety and security needs. This new funding will positively impact our performance in all assigned goals while the increased capacity and capability will enable us to manage future "peaks" of security activity with minimal disruption to our non-Homeland Security missions.

Question 3. What part of the FY2004 budget is specifically aimed at replacing capital assets that are being more heavily used during these periods of increased security?

Answer. Coast Guard's Fiscal Year 2004 budget submission includes funding to both replace and supplement capital assets used to prosecute increased operational tempo since September 11, 2001. The fiscal year 2004 \$500 million Deepwater request will directly contribute to replacement or conversion of legacy assets while increasing capability over the life of the project. Fiscal year 2004 projects aimed at supplementing increased operational tempo include requests for additional Coastal Patrol Boats and the Response Boat Medium project. These projects will not replace current assets but rather increase the capacity and capability to perform our enhanced Homeland Security mission as well as sustain our non-Homeland Security missions.

Question 4. The costs of securing our seaports and harbors are high but not impossible to cover. The Coast Guard has published estimates and held public meetings to discuss the costs. Considering the need for over \$6 billion dollars, \$1.4 billion for this first year alone, why has the Administration not made any move to meet this need in the budget?

Answer. The Coast Guard initially estimated that the cost to industry to implement the port security requirements required by the Maritime Transportation Security Act of 2002 would be \$1.3 billion in the first year and \$6.0 billion over the first 10 years. In the final rules published on October 22, 2003, the Coast Guard revised these estimates to be \$1.4 billion and \$7.3 billion respectively.

For FY 2004, DHS requested substantial resources across the Department for maritime transportation security, including resources in the Coast Guard for ports and maritime security; in CBP for cargo security; in IAIP for vulnerability assessment, intelligence, and infrastructure protection; and in EP&R/FEMA for emergency response. The Coast Guard was appropriated over \$1.5 billion in support of the Ports, Waterways, and Coastal Security mission in FY 2004. In addition, \$62 million was appropriated specifically for U.S. Customs and Border Protection's Container Security Initiative and \$14 million was appropriated for CBP's Customs-Trade Partnership Against Terrorism (C-TPAT). Finally, \$125 million was appropriated for port security grants.

While clearly there is a governmental role in providing port security, owners and operators have a shared responsibility to provide port security measures. The requirements contained in the final Maritime Transportation Security Act (MTSA) implementing rule are intentionally performance based to allow innovative and cost-effective solutions by industry to improve security with minimum capital outlay and burden on legitimate use of the maritime transportation system. In light of this, and the many additional initiatives that have been undertaken by the Federal Government to improve maritime security, DHS believes that the Administration's request is adequate.

Question 5. The Coast Guard has many ties to programs within the Department of Transportation, including important regulatory programs, such as hazardous materials transport. The Coast Guard also provides many services to other Department of Transportation agencies. For example, the Coast Guard maintains the LORAN-C navigation systems used for air navigation. How will you ensure that such programs are not disrupted?

Answer. A joint Coast Guard-Department of Transportation (DOT) team outlined the Coast Guard's continuing role as DOT's Maritime Safety and Security component, and its lead role in DOT maritime transportation issues through a series of formal and informal agreements to ensure no loss in effectiveness by either agency. Memorandums of Agreement cover operational areas, such as hazardous materials compliance and response activities, LORAN-C navigation, domestic icebreaking, Recreational Boating Safety, and the Crisis Coordination Center. The Coast Guard and DOT will continue other programs under existing agreements or through informal working relationships.

Question 6. Can you give an update on all Memorandum of Understanding between your Department and DOT, and the division of responsibility within your Department, including shared jurisdiction, for the various components of the MTSA?

Answer. The Department is very pleased to date with its working relationship with the Department of Transportation and its agencies. There is inevitable overlap in safety and security, but DHS and the other agencies worked together well before the March 1 transfer and continue to do so. This will be critical to our success in port security where the programs and interests of at least four entities: TSA, the Coast Guard, U.S. Customs and Border Protection, and the Maritime Administration, intersect. Due to the long integration of the Coast Guard with the Department of Transportation, DOT and the Coast Guard concluded a series of Memoranda of Understanding (MOUs) with respect to administrative services.

The U.S. Coast Guard, under the Maritime Transportation Security Act (MTSA), is the agency responsible for the National Maritime Transportation Security Plan (TNMSP). TSA is responsible for ensuring that the NMSP is consistent with the National Transportation System Security Plan (NTSSP) and is complementary with the plans developed for the other modes of transportation.

TSA, the U.S. Coast Guard, U.S. Customs and Border Protection and the Maritime Administration are working together to develop regulations under the MTSA. In addition, TSA and the U.S. Coast Guard are developing a MOU between the two agencies that will address, among other things, respective roles and responsibilities. Our overarching goal is to define our strategic relationship with an aim towards identifying and leveraging our respective core competencies, capabilities, resources, and authorities to enhance the transportation security of the United States, and to achieve national performance goals for ports, waterways, and coastal security.

Question 7. Please provide a list, with accompanying description, of all MOUs or MOAs that have been completed or are being negotiated between DHS and other Departments?

Answer.

MOU between DHS, DOJ and CIA

Signed by Secretary Ridge on 2/28/2003, Attorney General Ashcroft on 3/4/2003 and CIA Director Tenet on 3/4/2003.

Subject: MOU between the Intelligence Community, Federal Law Enforcement Agencies, and The Department of Homeland Security concerning Information Sharing.
 MOU between DHS and DOJ/FBI
 Signed by Secretary Ridge on 2/28/2003 and Attorney General Ashcroft on 3/4/2003.
 Subject: MOU between DHS and DOJ/FBI regarding the Domestic Emergency Support Team (DEST) Program.
 MOA between DHS and USDA
 Signed by Secretary Ridge on 2/28/2003 and Secretary Veneman signed but not dated.
 Subject: MOA between DHS and USDA to transfer certain agricultural import and entry inspection functions to the Secretary of Homeland Security from the Secretary of Agriculture.
 MOA between DHS and DOE
 Signed by Secretary Ridge on 2/28/2003 and Secretary Abraham on 2/28/2003.
 MOA between DOE and DHS establishes a framework for DHS to access the capabilities of various DOE assets.
 MOA between DHS and HHS
 Signed by Secretary Ridge on 3/5/2003 and Secretary Thompson on 2/28/2003.
 MOA between HHS and DHS concerning cooperative arrangements to prevent, prepare for, and respond to terrorism and major disasters.
 MOU between DHS and DOJ
 Signed by Deputy Secretary England on 4/17/2003 and Deputy Attorney General Thompson on 5/13/2003.
 Subject: MOU INTERPOL: Memorandum of Understanding (MOU) between Department of Homeland Security and Department of Justice pertaining to U.S. membership in the International Criminal Police Organization (INTERPOL) and related matters.
 MOA between DHS and DOJ
 Signed by Secretary Ridge and Attorney General Ashcroft—both signed on 5/13/2003.
 Subject: Memorandum of Agreement between the DOJ and DHS concerning terrorist financing investigations.
 MOA between DHS and DoD
 Signed by Under Secretary Janet Hale on 5/1/2003 and Samuel Cox on 4/21/2003.
 Subject: MOA between DoD and DHS for DoD personnel support services to DHS.
 MOU between DHS and USDA
 Signed by Secretary Ridge and Secretary Veneman on 6/6/2003.
 Subject: MOU between DHS and USDA relating to the transfer of the Plum Island Animal Disease Center (PIADC) from USDA to DHS on 6/1/2003.

In addition, the Department has entered into a number of MOUs with other executive branch departments that provide administrative services to various DHS components. Most of these departments are former parental agencies of DHS components. The services provided under these MOUs include such things as payroll processing, and IT support. These MOUs are effective until the end of the fiscal year and include MOUs with the following departments: Agriculture; EEOC; GSA; HUD; DOJ; State; Commerce; Energy; HHS; Interior; OPM; DOT; Treasury; and DoD.

Question 8. In addition to these Memoranda, the Coast Guard has identified approximately 100 other relationships and service interlinkages with DOT. What types of services formerly provided by DOT will Coast Guard absorb?

Answer. Continuity of Coast Guard support was accomplished through a series of agreements with the Department of Transportation (DOT). These agreements govern the scope and duration of the services provided by DOT. The Department of Homeland Security (DHS) is working to ensure continuity of services as these agreements expire. As DHS's organizational structures and capabilities continue to form, we will have a better understanding of the types of services DHS will provide either on a department-wide basis, a reimbursable basis, or those services which the Coast Guard will absorb.

a. What are the resource impacts of this shift?

Answer. We will be better able to assess resource impacts as the Department's organizational structures and capabilities develop.

Question 9. The law establishing DHS provides that the new Border and Transportation Security directorate will be responsible for "(2) securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States". Yet the Commandant of the Coast Guard has testified that the Coast Guard "is the lead federal agency for Maritime Homeland Security,"

and you have testified that the Coast Guard is the lead federal agency for port security. How do you intend to resolve the potential conflict?

Answer. The Coast Guard is the lead federal agency for Maritime Homeland Security. The local Coast Guard Captains of the Port are the Federal Maritime Security Coordinators as delineated in the MTSA of 2002 and are responsible for ensuring unity of effort among not only the other DHS agencies, but also other federal, state and local governments and the maritime industry. Coordination of port security efforts will be accomplished through the Area Maritime Security Committees led by the Captains of the Port.

Question 10. Is the Coast Guard actively negotiating a memorandum of understanding with the Transportation Security Administration or the Border directorate on the authority of each with respect to maritime security, or will legislation be necessary to address these conflicts?

Answer. Legislation will not be necessary to address specific agency responsibilities. The Secretary of DHS has delegated lead agency responsibility for each section of the MTSA of 2002 to the Coast Guard, TSA, and CBP as appropriate. MOUs among these agencies are in process to lay out the detailed responsibilities.

Question 11. The Coast Guard has an intricate network of relationships with state and local authorities, yet the new department will establish a separate office and its own network of contacts for coordination with state and local authorities. How will this new DHS office function vis-à-vis the Coast Guard?

Will these two networks be merged?

Will regional/district offices of the Coast Guard be moved to join DHS offices? Which ones?

Answer. A truly secure homeland requires close coordination between local, state and federal governments. The Coast Guard will continue to work with the Office of State and Local Government Coordination to ensure that close coordination takes place with state and local first responders, emergency services and governments in safeguarding the homeland. The Office of State and Local Government is charged with coordinating, simplifying and consolidating government relations on issues related to America's state and local agencies. It also coordinates federal homeland security programs and information with state and local officials. We expect that the current network of state and local relationships that have been developed by the Coast Guard will be enhanced by this department wide endeavor. We do not foresee a wholesale restructuring of the Coast Guard's field structure but will likely implement marginal change to align our structure with the Department to ensure unity of purpose and unity of effort. We stand ready to optimize synergies between the diverse entities within the Department as the organizational structure is developed.

Question 12. How will other potential conflicts of authority be resolved, such as between the Coast Guard's role in the International Maritime Organization, and the new international office within DHS?

Answer. The Department of Homeland Security (DHS) Reorganization Plan, issued on November 25, 2002, outlined the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department to permit the Department to carry out the functions transferred under the plan. Since March 1, 2003, the Coast Guard has worked closely with the various elements of the Department to ensure development of interconnected and complementary systems that are reinforcing rather than duplicative. We will continue to work towards resolution of potential conflicts of authority to ensure greater accountability and unity of effort in addressing critical homeland security missions.

The Coast Guard serves as the head of the U.S. delegation to the International Maritime Organization (IMO and other Federal agencies play active roles as part of the delegation when issues are more appropriately addressed by their participation). This role has not changed with transition to DHS. The Coast Guard will continue to clear all policy issues through the Administration and partner with other agencies on issues brought before the IMO.

Question 13. The MTSA requires U.S. agencies to agree on what documentation for foreign seafarers is necessary to allow access from vessels that are in the United States. A press report indicates that an officer of a U.S. shipping agency is being charged with providing forged visas. What steps are being taken to investigate and certify that individual international seafarers are legitimately allowed into the United States?

Answer. All commercial vessels greater than 300 gross tons are required to provide an advance notice of arrival (ANOA) to the National Vessel Movement Center (NVMC) 96 hours prior to entering a port or place in the United States. As part

of the ANOA, the vessel must provide details concerning the crew, passengers, and cargo. The National Maritime Intelligence Center (NMIC), a joint intelligence center consisting of the Coast Guard Intelligence Coordination Center and Office of Naval Intelligence personnel, screens the names of the crew and passengers through law enforcement and counter-terrorism databases. The NMIC compiles and analyzes the results of those queries along with any other intelligence data and provides it to the appropriate Captain of the Port. The Coast Guard also actively works with U.S. Customs and Border Protection to ensure crew members' documents are reviewed before and during each port visit.

Coast Guard personnel board certain vessels prior to entry and other vessels after they arrive at the dock. These boardings provide an opportunity to make an up-close observation of the vessel, cargo, documentation and crew. During these boardings, licenses and seamen's documents are further examined for accuracy.

On the international level, the Coast Guard has been working with the International Maritime Organization (IMO) and the International Labor Organization (ILO) to develop a comprehensive regime for the credentialing of crewmembers that will include an enhanced seafarer identification credential containing a "hard" biometric indicator. In March 2002 the Governing Body of the ILO agreed to have the June 2003 International Labor Conference consider amendments to the Seafarers' Identity Documents Convention (ILO No. 108). In support of this effort, the IMO issued a resolution titled, "Enhancement of Security in Co-operation with the International Labor Organization" which was adopted by the Conference on Maritime Security on December 12, 2002. The Coast Guard has been working with the Department of State, Maritime Administration, Transportation Security Administration, U.S. Customs and Border Protection and others to support the work of ILO.

Question 14. The Maritime Transportation Security Act of 2002 mandates a system for tracking vessels coming to the United States or that will be transiting our waters, in much the same way as we track aircraft in our airspace. The Coast Guard does not have the infrastructure or the funding to meet this mandate. Your budget only requests one million more to enhance our infrastructure to allow vessel movements to be tracked. What plans are in place to make this system a reality?

Answer. The Coast Guard intends to install shore-based tracking systems in nine critical ports and waterways that are now covered by Federal Vessel Traffic Services (VTS). In order to expand this surveillance to other areas, the Coast Guard is developing a plan to establish a network of receiver sites to track vessels equipped with an Automatic Identification System (AIS) transmitter.

The viability of this network is dependent on vessels of interest being outfitted with an AIS and an extensive shore-side infrastructure that covers the nation's navigable waters. The Coast Guard is about to release a rulemaking that will mandate the carriage of AIS on board those vessels identified in the Maritime Transportation Security Act of 2002. This mandatory carriage will be phased in beginning with the ports covered by a federal VTS and eventually extending nationwide to include all coastal regions.

In addition, the Coast Guard is working through the IMO to develop a mandatory international requirement for ship's long range identification and tracking. Similar to AIS, this will require ships to carry equipment that sends the appropriate signals to allow countries to identify and track them when they are bound for the ports of that country or on innocent passage near the countries coast except at distances greater than provided for by AIS.

Question 15. Customs has initiated the Container Security Initiative ("CSI"), in order to secure agreements with foreign nations to mutually work on law enforcement, share information on cargo shipments, and ultimately to perform inspections at foreign ports. While I applaud this effort, I have some concern that its implementation may be difficult. For example, with respect to cargo information, most nations do not police to any great extent the shipment of exports, so if we rely on their export data for law enforcement are we getting good information?

Answer. Our U.S. Container Security Initiative (CSI) teams use data systems connected to our Automated Targeting System to target containers destined for the United States, while our foreign counterparts conduct similar targeting using their own systems. Prior to September 11, 2001, most countries, including the United States, focused on risk management processes targeting imports rather than exports. Some foreign CSI partners have recognized the need to change their laws to get sufficient legal authority to receive export data prior to departure and enhance their ability to inspect goods prior to departing their country.

While we agree that implementation is a complicated, multi-step process, part of the process will be building in checks and balances to ensure that we are confident in the information we are receiving. To that end, in order to be eligible to partici-

pate in CSI, U.S. Customs and Border Protection (BCBP) encourages present foreign CSI participants, and will require future hosts to have the ability to inspect cargo originating, transiting, exiting, or being transshipped through their countries. Host nations must commit to establishing risk management systems to identify potentially high-risk containers, and automating those systems. These should include mechanisms for validating threat assessments and targeting decisions, and identifying best practices. Additionally, foreign hosts must commit to sharing critical data, intelligence, and risk management information with BCBP in order to do collaborative targeting, and developing an automated mechanism for these exchanges.

Question 16. Under the CSI program, have foreign nations been willing to provide us with screening equipment to screen cargo which is being exported from their nation to be imported in the United States, if so, which nations have provided equipment for our law enforcement use?

Answer. U.S. law enforcement officers do not screen or inspect cargo in foreign ports. U.S. CSI teams are only allowed to observe the host nations' screenings and inspections. However, one of the eligibility requirements for participation in CSI includes having non-intrusive inspectional (NII) equipment available (including gamma or X-ray imaging capabilities) for conducting inspections. This equipment must be in place at a foreign port prior to deploying a U.S. CSI team to that port. This is necessary in order to meet the objective of quickly screening containers without disrupting the flow of legitimate trade and is for the foreign government's use, not U.S. law enforcement use.

Question 17. Under the CSI program has the United States put any screening equipment in foreign ports, and if so in what ports? If not, do we envision the purchase of screening equipment for use at foreign ports?

Answer. Under CSI, the United States does not supply screening equipment in foreign ports, nor does BCBP envision purchasing screening equipment for use at foreign ports (see above #16). If inquiries are received from foreign ports regarding NII equipment, CBP will provide information to the foreign government about NII equipment used in U.S. ports, but CBP will not give recommendations on vendors.

Question 18. How many imported cargo containers are physically screened by x-ray in U.S. seaports, and what percent of total container imports does this represent? Please also provide the total amounts of cargo containers that undergo similar x-rays in foreign ports through the CSI program?

Answer. As this information is of a sensitive nature, I would be glad to provide this information to you or your staff in a more appropriate setting.

Question 19. How many Customs personnel are stationed in foreign seaports with the CSI program, and where are they stationed, and what are the plans for stationing personnel in FY 2004?

Answer. Currently there are 73 personnel deployed in foreign seaports. Twenty-three (23) ports were operational by the end of FY 2004 (the original 20 initial ports and the three Canadian ports). We anticipate that 17-20 additional ports could be operational by the end of FY04 in Europe and Asia.

Question 20. Please provide, for the record a complete list of cargo screening equipment at use in U.S. seaports, and also the list where new equipment will be stationed during fiscal year 2004?

Answer. There are currently 49 large-scale NII systems deployed to our nation's seaports on both coasts. The systems include the Mobile Truck X-ray, the Vehicle and Cargo Inspection System (VACIS), Mobile VACIS and Mobile Sea Container Systems.

We anticipate deploying 16 additional large-scale NII systems to seaports on both coasts by the end of 2004. The systems will include Mobile VACIS units, Pallet Gamma-ray systems and Mobile Sea Container Systems.

Question 21. What steps are being taken to bolster the current cargo security programs that are now part of DHS, to ensure that we have verifiable concrete expectations for enhanced security?

Answer. Operation Safe Commerce (OSC) is a key step toward insuring there will be future improvements in cargo security programs. This program will help to assess vulnerability and mitigation strategies in the intermodal shipping container supply chain. Competitive grants will be provided at the three largest container load centers in the United States (Los Angeles/Long Beach, Seattle/Tacoma, and New York/New Jersey). OSC will follow containers across critical interfaces within the transportation sector, providing valuable information for improving security in all transportation modes. A cost/benefit analysis will be performed on the results. Through an interagency review process, involving CBP, the Coast Guard, the De-

partment of Justice, the Department of State, the Department of Transportation, and others, effective measures will be identified to mitigate risk.

Question 22. Also, what steps are being taken to bring together various cargo security requirements under the Secure Systems of Transportation Program?

Answer. DHS components, including CBP, TSA and USCG are working with governmental and industry stakeholders to establish best practices, develop regulations, and set national standards for Secure Systems of Transportation (SST). The lead efforts in this endeavor are the Container Working Group, the Customs-Trade Partnership Against Terrorism (C-TPAT) and Operation Safe Commerce (OSC). Through these programs, DHS and DOT (and others) are working to improve the security of international and domestic supply chains by evaluating industry standards and procedures, identify strengths and weakness in the supply chain, and developing appropriate regulatory guidelines.

Question 23. While I am generally supportive of the C-TPAT program, I have some serious reservations that the program will not be all that effective if we do not ensure that participant companies are regularly audited and removed from the program unless they are in compliance. Currently, the program is voluntary, in that shipper, carriers, and ports agree to be bound to a code of conduct for their security practices. Well right now, the C-TPAT program is a paper program. What are you going to do to make sure this program is more than just a paper program?

Answer. The U.S. Customs and Border Protection (CBP) is sending teams of CBP officers to validate supply chain security procedures of C-TPAT participants. In addition, the security procedures of these companies will be reviewed on a regular basis and updated or changed as events warrant. Companies that continue to reflect poor security may be removed from the C-TPAT program.

Question 24. How many auditors are proposed to audit the practices of C-TPAT participants?

Answer. Ten CBP officers are currently traveling to C-TPAT companies to conduct C-TPAT security validations. CBP is working to increase the number of personnel conducting these validations. One hundred of the 157 C-TPAT positions requested in the FY 2004 President's Budget will be used to enhance these efforts.

Question 25. Have you considered the possibility of third party private sector auditors to supplement Customs or TSA personnel to enforce C-TPAT program elements?

Answer. Once we open C-TPAT enrollment to the foreign sector of the supply chain, CBP may use the Business Anti Smuggling Coalition (BASC) to conduct audits of the foreign-based companies. BASC is a business-led, CBP-supported alliance created to combat the smuggling of drugs and implements of terror in commercial cargo.

Question 26. In the Omnibus Appropriations Act, a provision was inserted which would require the transfer of \$25 million in INS fees to the TSA, in order to implement Section 70113 of the MTSA. I inserted this transfer of funds to the TSA because I am concerned that the agencies in DHS are not working together to come up with a system for the evaluation of vessels, cargo, crew, and passengers entering into the United States. For instance, it is my understanding that the Coast Guard's Maritime Intelligence Center, which had been the Center for a coordinated maritime information program had included a Customs presence, however, Customs is now pursuing it's own cargo information strategy, and this is just occurred since we passed the MTSA. Please indicate whether the INS fees have been transferred to the TSA?

Answer. Although the Department has not transferred these funds, we agree with the purpose of this provision, namely to ensure that vessels, cargo and conveyances are subjected to the most rigorous threat analysis possible. We are working to identify the best tools to accomplish this goal, and anticipate that the DHS components of CBP, the Coast Guard, the Transportation Security Administration, and the Information Analysis and Infrastructure Protection Directorate will collaborate closely to augment our existing maritime targeting and risk analysis tools.

Question 27. Can you tell me what steps are you intending to take to start to coordinate all of the maritime information on vessels, cargo, crew and passengers into one system?

Answer. The following information outlines the initial steps taken to coordinate all of the maritime information on vessels, cargo, crew, and passengers into one system.

U.S. Customs and Border Protection (CBP) is currently working on a Memorandum of Understanding (MOU) with Coast Guard to implement its 96 hour Notice of Arrival (NOA) rule.

CBP will give the Coast Guard access to CBP's Vessel Manifest System (VMS), and the Coast Guard will give CBP access to its Ship Arrival Notification System (SANS) and Marine Information for Safety in Law Enforcement (MISLE).

Question 28. Are you planning to coordinate the Coast Guard's plans to monitor vessel movements into this system, and under what time frame can we envision that vessel movements will also be monitored by the system mandated in §70113?

Answer. U.S. Customs and Border Protection has formed a working group with the Coast Guard and TSA to discuss and implement data exchange to address the issue of capturing information into one system. A timeframe for completion of the system has not yet been determined.

Question 29. What steps have been taken to incorporate private sector shipping expertise, and private sector commercial shipping information systems into the evaluation of maritime threats?

Answer. The evaluation of terrorism threats in the maritime domain requires a multi-layered strategy. No single system, approach, or methodology can adequately assess a threat landscape that is as varied and as without historical context for terrorist activity as that of the commercial maritime environment.

Recognizing this reality, DHS has taken steps to implement a multi-layered strategy to incorporate private sector support in developing effective risk management. These steps include:

- Supplementing CBP's AMS pre-arrival information with the collection of global container movement information. This action assists in closing the gap on information necessary to detect transshipment risk through document exploitation in the Automated Targeting System (ATS).
- Aggregating all-source commercial maritime data and information from ocean carriers, port operators, terminal operators, and maritime data portals, and subjecting such commercial data to analytical methods best suited to identifying and recognizing patterns of suspicious container movements on a global basis.
- Developing methods and systems to evaluate global commercial shipping information against classified intelligence for detection of known bad actors.
- Incorporating this multi-dimensional approach into the creation of an Indication & Warning capability to identify risk early in the container shipment's history to monitor suspicion over time.

Question 30. A critical public safety issue is the need to have interoperable communications capabilities to ensure that first responders are able to exchange vital information in the event of an emergency. What steps is DHS taking to improve the interoperability of communications systems for emergency personnel at the federal, state and local level?

Answer. The SAFECOM program is the Department's principal vehicle for addressing interoperability problems for first responders, in concert with the grant funding available through the Office for Domestic Preparedness. The mission of SAFECOM is to improve communications and communications interoperability among local, state, tribal, and federal public safety agencies. Since an overwhelming share of the nation's communications infrastructure is owned and operated at the local and state level, SAFECOM is focusing a great deal of attention on addressing the issue at those critical levels. At the same time, SAFECOM will be working to address the need for improved communications interoperability among federal agencies and among local, state and federal agencies where appropriate.

The SAFECOM program, in concert with local and state public safety associations through the Coalition for Improved Public Safety Communications, is developing a "systems architecture roadmap" to address this critical issue. As part of this "roadmap," SAFECOM is initiating short and medium term initiatives to pave the way for achieving the longer term objective of enabling public safety agencies to communicate with other public safety agency when needed, and simultaneously developing long term initiatives to prepare for the future. To implement these initiatives, SAFECOM will be leveraging already existing Federal programs addressing the issue, most critically the "first responder" grants funds administered by the Office for Domestic Preparedness, the Public Safety Wireless Network, and the National Institute of Justice's AGILE program.

Among other initiatives that SAFECOM is initiating are: identifying and assisting in the implementation of short-term "patch" solutions such as cross-band repeaters; identifying governance models that directly involve the first responders themselves; best practices to improve interoperability; identifying and, where appropriate, developing relevant standards; and the research, development, testing, and evaluating of technologies that can improve communications interoperability. At the same time, SAFECOM, in concert with the public safety community, will work with the Federal

Communications Commission to address spectrum management and allocation for public safety agencies.

Additionally, the Standards program within DHS's Directorate of Science and Technology, working in consonance with Project SAFECOM, is currently developing a communication interoperability workshop with participation from NIST, IEEE, NASA, DoD, IAB, and others. The goal is to plan for integration and coordination of ongoing efforts in various activities of the Federal Government and to work with the private sector and Standards Development Organizations to develop a suite of uniform performance standards for existing COTS technologies. Another goal is to also provide consistent advice to technology developers on requirements for second-generation equipment and protocols.

Finally, in coordination with the Directorate of Science and Technology, the Office for Domestic Preparedness (ODP) will provide funds to assist State and local agencies to evaluate and acquire interoperable communication technologies.

Question 31. Has DHS prioritized by mode its planned efforts to secure the transportation system? If so, what is that prioritization?

Answer. The Department has the responsibility to make recommendations for prioritization of protective measures across all infrastructures. It is the intent of the Department to include the transportation systems in an overarching system that allows the allocation of resources based on a combination of threat, vulnerability and a resultant risk analysis. Areas of interest that may be attacked by a terrorist must be assessed based on availability of the target and the consequences of attack. The different transportation modes all pose different vulnerabilities and attractiveness as a target and thus the prioritization must be operationally oriented, not stove-piped by sector.

Question 32. There are no widely accepted standards or guidelines for physical, procedural, and personnel security that cut across all transportation modes. How is the Department of Homeland Security dealing with the need for a standardization methodology that would work in all transportation modes and when will the methodology be implemented?

Answer. Consistent guidelines and standards will be developed for physical security and for personnel certification/training. The vision for the Standards program within DHS is that personnel working to solve similar problems will be directed to purchase similar suites of equipment or technologies. These people would then be directed to obtain a level of training and certification consistent with the equipment and technologies needed to perform a specific function. Therefore, ability of a specific standard or guideline to eventually cross-cut transportation modes will be defined by the similarity of functions performed—and of the sites or facilities. Standard operating procedures will be addressed by the entity managing the specific transportation mode.

The approach for developing standards for training and personnel certification has just begun. Physical security standards work has not yet been initiated by DHS. However, we expect to leverage ongoing efforts in physical security standards development and equipment certification.

Question 33. The TSA is in the process of developing a risk-based analysis model for identifying critical infrastructure gaps and risks. This modeling will also be used for identifying security threats for the transport of hazardous materials. Once TSA's analysis is completed and the model has been tested and found viable, they will provide their analysis to each modal administration identifying significant risks within the transportation infrastructure. Although, TSA is developing this risk-based model, they are extremely understaffed and are still in the early stages of development and implementation. For example, risk threat assessment pilot studies have only occurred in two areas in the New York Metropolitan area and the results from these studies have not been completed or released to state and local authorities. When will this risk-based analysis model be totally operational and be implemented throughout the United States?

Answer. TSA has initiated pilot vulnerability programs across various transportation modes and will use the results of the vulnerability assessments to establish transportation security standards. The timeline for completion of vulnerability assessments across all 14 critical infrastructure sectors (of which transportation is one sector) will be developed and executed by the Information Analysis and Infrastructure Protection (IAIP) Directorate. TSA and IAIP are currently coordinating TSA's vulnerability assessment strategy for the transportation sector.

Question 34. We held a hearing last year and Secretary Mineta testified that the TSA budget, because of various earmarks was not sufficient. I told him to get us the numbers on what he needs. How much money does TSA need to complete the installation of EDS machines?

Answer. DHS is currently assessing how much funding is necessary to complete EDS installations. This depends on the number of in-line systems that the Federal Government should undertake, and this is still being determined.

Question 35. You were provided \$50 million for the development of next generation EDS machines, how is that money being spent and what progress is being made?

Answer. TSA has planned a two-phase R&D program to identify and develop next generation EDS technology.

- First Phase: TSA will direct approximately 85 percent of allocated R&D efforts towards a program, known as the Phoenix Project, which is a low risk program that addresses evolutionary growth of present technology. The project will focus on:
 1. Life cycle extension of existing systems;
 2. Combining technologies (such as a combination of X-ray with quadruple resonance or X-ray diffraction technology); and
 3. Emerging technology and products that are within a two to three year window for producing viable systems.
- Second Phase: TSA will direct approximately 15 percent of R&D efforts to a project, known as Manhattan II, which is a higher risk, longer-range project with potentially greater payoff. This is a five to ten year project that will challenge industry to develop the next generation of EDS technology.

Question 36. You will need the funding stream provided by the security fee if TSA is going to function properly. The airlines paid for security before 9/11, and the security fee is one of the few sources through which the TSA's new security regime is now funded. Both the House and Senate agreed to provisions that would only allow for a six-month hiatus of the security fee, and Senator Stevens supports this position. Do you support, as the FY03 Supplemental suggests, that security fees on passengers be restored in FY04? If not, where will the money come from to pay for security improvements?

Answer. DHS continues to support the airline passenger fee.

Question 37. Now that TSA has successfully implemented a new program for airport screeners and has begun to address aspects of port security, what will your Agency do to address security in the rail industry?

Answer. DHS is working with the Federal Railroad Administration (FRA) and governmental and industry stakeholders to establish best practices and national standards, develop security plans and regulations, better assess security vulnerabilities and identify needed security enhancements to the rail system and related infrastructure. DHS is developing a national rail security program that focuses on prevention, response, recovery, restoration of services, and restoring public confidence.

Some initiatives include:

1. Coordinating information and threat sharing through the Surface Transportation Information Sharing and Analysis Center (ISAC) managed by the Association of American Railroads (AAR), including deploying DHS personnel to the ISAC;
2. Identifying the gaps in antiterrorism training among rail personnel;
3. Working with AAR, FRA and rail carriers to conduct a pilot project to identify certain bridges that are critical to the rail transportation system (Upon identification TSA will lead a team to conduct vulnerability assessments on these critical assets.);
4. The Chlorine Initiative, which includes a system security review of Chlorine supply chain, threat/risk/vulnerability assessments, developing a prototype to address other hazardous materials, and recommending best practices and performance-based standards;
5. The Radiological Dispersal Device (RDD) Project, a cooperative effort for minimizing risk of illicit trafficking of an RDD;
6. The Food and Feed Stock Security Standards Initiative to develop food security standards in cooperation with the Food and Drug Administration and the U.S. Department of Agriculture; and
7. Developing security standards for intermodal containers.

Question 38. What aspects of rail security should be addressed first?

Answer. There are several important elements in rail security. These include:

- *Infrastructure Security at Tunnels and Bridges.* Enhancements are necessary to improve infrastructure security at tunnels and bridges, including better fencing, enhanced lighting, and video surveillance.
- *Hazardous materials.* Currently large amounts of hazardous materials and dangerous goods are transported by rail throughout the country, traversing large urban centers and rural towns. These materials could be used as weapons by terrorists. They also are vital to U.S. commerce, and disruptions in the supply chain may have an adverse economic impact.
- *Securing Major Stations.* Amtrak operates four major stations, which have high volumes of passenger traffic because they are used by Amtrak, commuter and subway travelers, as well as many tourists and shoppers. These stations include Union Station in Washington, DC; Philadelphia 30th Street Station; Chicago Union Station; and New York Penn Station. Additionally, there are several other large stations Amtrak serves that may require additional security enhancements.
- *Nuclear/radiological materials.* Additional regulation may be necessary to reduce the likelihood that terrorists will use them as weapons of mass destruction.
- *Food and livestock.* These commodities are vital to the economy and health of the Nation.
- *Intermodal cargo containers.* Millions of containers enter the country each year. These containers could be used to transport a multitude of dangerous items, including weapons of mass destruction.

Question 39. What is DHS's plan to continue coordination, through Information Analysis and Infrastructure Protection (IAIP) and TSA, with Amtrak and the freight railroads in times of heightened security?

Answer. The Transportation Security Administration is working with the Association of American of Railroads (AAR), railroad police departments, the Federal Railroad Administration (FRA), and the American Short Line Railroad and Regional Association to fully integrate the freight railroads into its planning and intelligence cycle. Through the 24-hour Surface Transportation Information Sharing and Analysis Center supported by the AAR, TSA is working closely with the AAR to share and disseminate threat information and intelligence to railroad police departments and FRA.

IAIP and TSA are also working to develop the concept of a center in which government/industry would work together to (1) assess vulnerabilities of sectors to cyber and physical attacks; (2) recommend plans to eliminate vulnerabilities; (3) develop systems for identifying and preventing attempted major attacks; (4) plan for alerting, containing and rebuffing an attack; and (5) rapid reconstitution of minimum essential capabilities after an attack. IAIP and TSA will continue to foster this partnership with industry to ensure the flow of information is timely provided to the entities that can protect the nation's rail transportation system.

Question 40. Railroads are viewed as less vulnerable than other modes primarily because trains operate on fixed routes, making a train hijacking seem like a remote avenue for possible terrorism. However, the rail industry handles about half of all hazardous material transportation in this country, over a rail network of approximately 130,000 route miles, more than three times the route miles in the Interstate Highway System. The rail system also hauls military equipment over about 30,000 miles of designated routes under the Security of Strategic Rail Corridor Network (STRACNET). How will DHS, particularly IAIP and TSA, coordinate with local law enforcement for protection of rail operations during times of heightened security?

Answer. IAIP has the overall responsibility for infrastructure protection within DHS and TSA will continue to coordinate all such efforts to ensure that the Department has complementary and streamlined programs in place to protect the infrastructure. The Infrastructure Coordination Division within IAIP maintains close ties with all Industry Security Advisory Councils (ISAC) on a routine basis and during times of heightened threats. TSA and the Infrastructure Protection Division work closely to craft recommendations for industry to take protective measures and coordinate with state and local officials as needed. Additionally, the Transportation Security Administration is working with the Association of American of Railroads (AAR), railroad police departments, the Federal Railroad Administration (FRA), and the American Short Line Railroad and Regional Association to fully integrate the freight railroads into its planning and intelligence cycle. Through the 24-hour Surface Transportation Information Sharing and Analysis Center supported by the AAR, IAIP and TSA are working closely with the AAR to share and disseminate threat information and intelligence to railroad police departments and FRA.

Question 41. U.S. and Canadian authorities have been working to implement a high-tech system to screen rail cargo at our northern borders. Nine cargo-inspection units, using gamma rays to scan cargo containers, are to be installed this year. According to an April 9 article in the Wall Street Journal, the rail industry in both countries has been concerned that the new system will delay shipments by several hours, causing railroads to lose their competitive edge against trucks for fast delivery service.

a. When will the first cargo-inspection unit begin operating?

Answer. The first Rail VACIS system on the Northern Border was deployed to International Falls, Minnesota in July 2003.

b. When will all nine units be operating?

Answer. We expect eight Rail VACIS units to be operational by January 2004. We are currently evaluating other sites for deployment of Rail VACIS.

c. Will the nine cargo-inspection units replace the mobile scanners now being used at rail crossings at the Canadian border, or will they be used in addition to the mobile scanners?

Answer. Rail VACIS units deployed to the U.S./Canada border will be in addition to the large-scale Non-Intrusive Inspection (NII) systems already in place at northern border ports of entry.

d. What is the agency doing to ensure that security delays of rail shipments crossing the Canadian border are minimized?

Answer. Our rail security program is a vital component U.S. Customs and Border Protection strategy to keep America and the American people safe, as well as to facilitate the flow of trade between Canada and the United States.

NII technologies such as the VACIS systems are viewed as force multipliers that enable us to screen or examine a larger portion of the stream of commercial traffic while facilitating the flow of legitimate trade and cargo.

NII systems, in many cases, give the U.S. Customs and Border Protection the capability to perform thorough examinations of cargo without having to resort to the costly, time consuming process of unloading cargo for manual searches, or intrusive exams of conveyances by methods such as drilling and dismantling.

e. Will similar cargo-inspection units be placed along the Mexican border? If so, when?

Answer. Seven Rail VACIS units are currently deployed to U.S. ports of entry along the border with Mexico. One additional system will be deployed on the southwest border by the end of 2004, for a total of eight Rail VACIS systems on the U.S./Mexico border.

Question 42. The Federal Railroad Administration has increased its security activities, using its safety inspection team to review security readiness at passenger terminals and working with freight railroads to identify security concerns. The FRA took the lead role in addressing rail security in the field on behalf of the Department of Transportation while the new TSA focused its attention on aviation security. How does DHS see its role in rail security vis-à-vis actions already taken by FRA?

Answer. TSA and IAIP continue to work closely with the FRA to establish best practices and national standards, develop security plans and regulations, better assess security vulnerabilities and identify needed security enhancements to the rail system and related infrastructure. Any national rail security program will focus on prevention, response, recovery, restoration of services, and restoring public confidence.

Question 43. In the absence of a Memorandum of Agreement between the two agencies, what will be the relationship between DHS and FRA regarding rail security?

Answer. DHS will have the lead in security-related matters involving the rail industry, but will work closely with the FRA to establish best practices and national standards, develop security plans and regulations, better assess security vulnerabilities and identify needed security enhancements to the rail system and related infrastructure.

Question 44. Last week, the Associated Press reported that nine derails have disappeared from three rail yards in east Texas since mid-January. Derails are portable hinged-type blocks used to prevent trains from entering main lines when they have no authority to do so. However, secretly placed in a strategic location on a main line, a derail could derail a freight train operating at 79 mph, possibly carrying hazardous materials, or an Amtrak train traveling at 125 mph, possibly carrying hundreds of passengers. When the derails in east Texas were reported missing by the rail industry, a U.S. Marshall in Shreveport, La. expressed concern about the

possible security implications. However, a rail industry spokesman later dismissed the missing derails as probably “stolen and sold for scrap metal.” What is DHS’s response to reports of suspicious circumstances generated at the local level?

Answer. The Information Analysis and Infrastructure Protection Directorate (IAIP) is the DHS’ focal point for receipt, through its Homeland Security Operations Center (HSOC), and analysis of suspicious circumstances information, through its Information Analysis (IA) branch. In the case of the missing derails, for example, this information was received by the HSOC, which contacted local authorities and DHS components for additional information, if available, and IA searched available databases for similar instances in other areas. At the same time, railroad experts were contacted to determine the nature of the threat from derails, and to place this theft in context in terms of occurrences, e.g., How widespread? How often? The results of this review confirmed the industry spokesman’s assessment.

a What does DHS do to ensure that localized suspicious circumstances are in fact not more widespread?

Answer. IAIP and the HSOC use a standard approach upon receipt of information regarding suspicious circumstances, which first requests all additional information about a specific incident. Information is cross-leveled within IAIP and to applicable DHS components, as well as outside the Department as appropriate. IAIP also searches available databases, and uses all information obtained in order to place incidents in situational context to determine if there is some plausible explanation for unusual activity, or whether a trend connected to other locations has emerged. All incidents are data-based in IAIP to support subsequent queries and trend identification. Analysis of suspicious incidents is a dynamic process that seeks to determine if the incident is “normal” within one area but not in another, and to develop a sense of situational awareness.

Question 45. How will DHS address security concerns in the rail industry in circumstances where the industry believes the concerns are not warranted?

Answer. The rail industry has taken the lead in developing security plans to address emerging security concerns post September 11, 2001. While the rail plan was developed to address security challenges particular to that specific industry, TSA must address security concerns that affect intermodal security as well. TSA and IAIP will continue to work with the rail industry to ensure that critical industry security factors are integrated into any multi-sector critical infrastructure security plan.

Question 46. Does DHS see the security needs of the passenger rail industry as very different from the security needs of the freight rail industry? If so, will agency resources be expended on one more than the other?

Answer. Railroad miles traveled and the potential for human injury are the key ways in which rail freight security risks differ from rail passenger security risks. However, rail passenger trains usually use the same routes used by freight railroads. DHS is undertaking assessments of critical vulnerabilities across our transportation system. Results of these assessments will serve as the baseline for any future security requirements across maritime and land modes.

Given the vast infrastructure comprising passenger and freight rail systems, any security enhancements for either system must be the product of careful risk assessment and cost-benefit analysis.

DHS will develop security standards that, to the extent possible, incorporate industry best practices, new technologies, and innovations to create a more uniform level of security across modes, while ensuring minimal disruption to our transportation system. This risk-based approach will require close interaction with affected industries and close cooperation in the execution of any requirements.

Question 47. In Washington, Amtrak and commuter trains operate through tunnels under Capitol Hill. What has DHS done to ensure that these tunnels are properly secured? How secure are the tunnels? What more must be done to fully secure the tunnels and how soon must it be accomplished?

Answer. TSA has worked closely with CSX, Amtrak, and Virginia Railway Express to evaluate continually the security of these tunnels. The Virginia Avenue Tunnel is owned by CSX. CSX has posted security guards around the clock at each end of the tunnel since September 11, 2001. CSX is currently installing intrusion technology at both ends of the tunnel to replace the security guards. The system is currently under test. Video feed from the system will be monitored by a police communication center in Jacksonville, Florida, and will be accessible by local CSX police officers via a secure internet connection. Amtrak Police and U.S. Park Police will serve as back up for CSX Police. The system has already detected trespassers on board a train that had stopped while entering the tunnel.

Question 48. Amtrak and commuter trains in and around New York travel through tunnels under the rivers surrounding Manhattan. These tunnels were equipped in World War II with emergency doors that could close off segments of the tunnels in case of a breach. These doors reportedly are no longer operable. Nevertheless, the danger from a tunnel breach is more heightened now than it has been in the past 50 years, and a tunnel breach could have catastrophic results for lower Manhattan, as well as the transportation system for the entire New York metro area. What does DHS know about the state of these doors? How soon will the doors be made fully operable? Should Amtrak receive emergency funding to ensure the doors are operable in the immediate future?

Answer. Amtrak has employed a contractor to evaluate the status of the doors and detail the repairs needed. The doors provide access for all four of the East River Tunnels connecting Amtrak's Pennsylvania Station with Queens. In addition, the gates for the two North River Tunnels (under the Hudson River), which connect Amtrak's Pennsylvania Station to New Jersey, are recessed in the area above the tunnels. None of these doors, or flood gates, has been operable since the 1970s. The contractor performing the evaluation was scheduled to begin work the week of April 21, 2003. The Administration will consider any funding request for Amtrak at the appropriate time.

Question 49. The Secretary mentioned in his testimony that Amtrak's security plan has been reviewed, and that the results of that analysis have been shared with the Committee. Please submit a copy of that analysis for the record of this hearing. Please be sure to note appropriate security level.

Answer. TSA has provided review comments for several versions of Amtrak's Security Investment Plan.

The TSA and the FRA reviewed the version of Amtrak's Security Investment Plan that accompanied a letter from Senator McCain dated January 13, 2003. On February 6, 2003, TSA received a revised Security Investment Plan from Amtrak and provided comments to Senator McCain on this "updated" plan in a letter dated February 28, 2003.

TSA was recently advised in a letter from David L. Gunn, Amtrak President and Chief Executive Officer, informing TSA that the Security Investment Plan TSA received on February 6th was not Amtrak's final security plan, which had changed significantly in the last month. Amtrak provided TSA with the final security plan on April 10, 2003, and TSA, in coordination with the FRA, is currently reviewing this plan.

Question 50. Since September 11th and the start of the Iraq War, the transport of hazardous materials has become a likely target for a terrorist attack. How is the Department of Homeland Security dealing with this threat, and what processes has it put in place to deal with a possible release of lethal chemicals in a very populated area?

Answer. With respect to the transport of hazardous materials, DHS has several initiatives planned and underway. Industry stakeholders are being solicited to participate in the Information Sharing Analysis Center (ISAC) to formulate industry-wide security standards and incident management strategies. In compliance with the USA PATRIOT Act, TSA is providing regulatory guidance for conducting criminal background checks for commercial drivers and rail workers involved in the transport of hazardous materials. TSA is also working with FMCSA to carry out the HAZMAT safety permits program funded in the fiscal year 2003 appropriations legislation. Finally, TSA also has begun a rail hazardous materials initiative focused on conducting a system security review of chlorine shipments from origin to destination to identify potential security gaps. This review will be followed by development of a prototype to address security of bulk hazardous materials.

The Department of Homeland Security, Emergency Preparedness and Response Directorate has longstanding relationships with other Federal agencies that participate in the National Response System. The National Response System provides a coordination, planning, and response structure for addressing the release of hazardous materials into the environment. The National Response Team (NRT), chaired by the Environmental Protection Agency (EPA), provides a forum to coordinate Federal aspects of the National Response System and support to State Emergency Response Commissions and Local Emergency Planning Committees. The National Response System response under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) does not require a Presidential declaration of emergency or disaster, but can be assimilated into a response under the all-hazard Federal Response Plan (FRP) as one of the FRP's 12 Emergency Support Functions. The Department of Homeland Security is currently engaged in developing a National Response Plan to link these and other response structures even more closely through

a single National Incident Management System, as required by the Homeland Security Act of 2002 and Homeland Security Presidential Directive 5.

One of FEMA's contributions to preparedness for hazardous materials releases at the community level has been to coordinate a locally focused program integrating an initial needs assessment, capability development through plan review and training, validation of plans and training through full-scale mass casualty exercises, and a final assessment. That program, the Comprehensive Hazardous Materials Emergency Response Capability Assessment Program (CHER-CAP), has provided opportunities for partners such as EPA, the Department of Transportation (DOT), and the Agency for Toxic Substances and Disease Registry (ATSDR) of the Department of Health and Human Services (HHS), along with EP&R's own U.S. Fire Administration (USFA), to work together to aid communities nominated by States for participation, from small communities to large cities such as Boston. The program traditionally has relied on limited funding from an interagency agreement with EPA for use as seed money to attract other public and private participation in the community. However, EP&R is planning to make CHER-CAP an all hazard program, to address not only hazardous materials—where we would like to retain and enhance existing interagency partnerships—but also other hazard scenarios affecting local communities.

The Metropolitan Medical Response System (MMRS) program was transferred into the DHS Emergency Preparedness and Response Directorate on March 1, 2003, along with other elements of the former Department of Health and Human Services, Office of Emergency Response. MMRS is a planning effort in the 122 largest metropolitan jurisdictions to create an integrated *medical* response to a WMD terrorist attack, including one that involved hazardous materials transportation. A key aspect of this planning is to enable a jurisdiction to manage the event for 36 to 48 hours until State/Federal resources are deployed. This planning activity is accomplished by integration and coordination of all of the jurisdiction's response capabilities:

- Police, Fire, EMS, Public Health, Emergency Management, and Hospitals.
- Plans for integration into the response those State and Federal resources that may be provided.
- Equipment and pharmaceuticals that can be acquired under the contract, with the exclusion of any materials acquired under other federal programs.
- Training of response personnel.

FEMA also has published "Are You Ready?" a document written specifically for the public to help them cope with disasters of all types, including hazardous materials transportation accidents. The publication, which is available on the FEMA website and through many local government offices, tells the public what steps they can take to prepare for a hazardous materials accident, what to do if they witness a hazardous materials accident, and what procedures to follow if they have been evacuated during a hazardous materials accident.

- In addition, the U.S. Fire Administration has worked to enhance the operational security awareness among the emergency response community through several communication methods that transport incidents in all modes may be initiated as a terrorist act.

Finally, USFA is partnered with the International Association of Fire Chiefs through the Fire Service HAZMAT Cooperative Agreement. Through this partnership the USFA and the IAFC deliver the *IAFC Homeland Protection and Security Weekly*, which relates pertinent information to the emergency response community. This includes both training opportunities and information exchange.

The Response Division's Strategic National Stockpile has several ways of dealing with the release of lethal chemicals, depending in part on the type of chemical released. On multiple occasions, the SNS has demonstrated its ability to rapidly deploy 50 tons of pharmaceuticals, nerve agent antidotes, and other life-saving medical supplies to the scene of a national emergency. It has then followed its initial shipment with large and continuous quantities of specific items that state/local authorities need to deal with the emergency. The SNS also has the demonstrated ability to rapidly purchase and deliver products from the private sector that the SNS does not stock. On September 11, 2001, for instance, it purchased large quantities of respirators for workers at ground zero to protect them from breathing harmful dust released when the World Trade Center Twin Towers collapsed.

In cases such as the release of organic phosphates, which affect the nervous system and require immediate action, antidotes must be available faster than the SNS is able to deliver them. The SNS is currently piloting a program for prepositioning

government-owned, nerve agent antidotes with state and local authorities so that they will have the supplies that they need in the event of a chemical release. The SNS' ownership of these items allows it to specify and monitor the condition under which supplies are kept to ensure their efficacy and the ability to extend their useful life—a major cost saving.

Question 51. Since the TSA and DHS have not issued guidelines for security risks within the transportation infrastructure we are seeing local municipalities developing their own ordinances and laws that may or may not be circumvented by a federal standard once one is developed. Although DHS has worked with DOT modal administrations to implement new security measures and new regulations for the transport of hazardous materials, some municipalities have taken steps to require even more stringent requirements. For example, the City of Baltimore's new "Hazardous Materials Security law" is believed to be the first of its kind in the nation and increases the screening criteria for transportation providers. How will the Department of Homeland Security integrate state and municipal laws into their macro perspective of security threat abatement strategies?

Answer. DHS is working with DOT and governmental stakeholders to ensure that proposed federal regulations consider regulations already in place at the state and local level. For example, should a National Transportation Security Exercise Program be considered, the Department would examine the applicability of other federal, state or local programs already in place to determine whether they meet or exceed the requirements of the new federal program, and determine how those existing programs would appropriately be incorporated or augmented into that new program's requirements.

Question 52. The transportation of high-level radioactive waste and spent nuclear fuel should be a high security priority. What additional processes has the Department of Homeland Security initiated above the Nuclear Regulatory Commission and the Department of Transportation requirements to secure these highly visible and dangerous products?

Answer. DHS continues to consult with the Nuclear Regulatory Commission and the Department of Transportation regarding initiatives to secure the transport of hazardous materials to ensure DHS initiatives are in alignment with national efforts. Currently, TSA is establishing standards and regulations for background security checks for commercial drivers with hazardous materials endorsements. These efforts will increase security for all levels of radiological materials. Furthermore, U.S. Customs and Border Protection (CBP) does detect, identify and validate the legitimacy of this type of shipment if it crosses the Nation's border. CBP would then secure or detain such materials for the purpose of identifying their legitimacy.

Question 53. What parameters has the Department of Homeland Security put in place to rectify security threats that could breach pipeline infrastructure?

Answer. During September 2002 the U.S. Department of Transportation's Office of Intelligence & Security, the Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS), the Department of Energy, State pipeline safety agencies, and pipeline industry representatives developed the *Pipeline Security Contingency Planning Guidance*. This guidance recommended security measures for pipeline operators to invoke at each threat level. The Department is reviewing the guidelines to determine the applicability of each measure at the various threat levels based on current intelligence. If necessary, the Department would work with OPS to revise the guidelines to better address vulnerabilities present at each threat level.

IAIP is also working closely with industry to determine "best practices" for pipeline operators to follow at each threat level. These "best practices" could become a basis for any future DHS standards.

Question 54. Has the pipeline industry assisted in the development of security plans for their infrastructure, or has the Department of Homeland Security instituted requirements for the industry to follow?

Answer. During September 2002 the U.S. Department of Transportation's Office of Intelligence & Security, the Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS), the Department of Energy, State pipeline safety agencies, and pipeline industry representatives published *Pipeline Security Contingency Planning Guidance*. Under this guidance it was recommended that pipeline operators develop a security plan to coincide with recommended measures at each threat level.

The Department in conjunction with the OPS, is in the process of meeting with two natural gas and two liquid companies to discuss and test their critical infrastructure security plan and procedures. The four companies (Colonial Pipeline, Exxon Mobil, CMS Energy, and Williams) will act as a test bed for newly drafted

Security Audit/Review Protocols. The audit/review process is the first of a series of Security Audits/Reviews of critical pipelines and facilities.

Upon completion of the four pipeline operator security plan reviews, TSA will meet with industry representatives and RSPA/OPS to discuss the protocols and make revisions as deemed necessary. TSA, in conjunction with RSPA/OPS, will then continue to review the security plans and procedures of other critical pipeline operators utilizing the revised protocols.

At this time, the Department of Homeland Security has not promulgated requirements for industry to follow. The TSA plans to determine "best practices" for the pipeline industry to follow and will base proposed regulations on those "best practices."

Question 55. TSA—How many Full-Time Equivalent (FTE) employee positions are authorized for each office at TSA? How many of these are currently staffed?

Answer. In its first year, TSA's primary goal was to meet statutory deadlines for meeting passenger and baggage screening requirements. At the same time, the agency experienced an extremely rapid staffing buildup as it achieved legislatively-mandated levels. TSA is now conducting a comprehensive review of its organizational configuration. The review is designed to ensure that the responsibilities of each organizational component are clear and that redundancies are identified and eliminated. This review will form the basis for the revision of authorized staffing ceilings for all major components of TSA. We will advise you of the revised staffing ceilings once they are finalized.

Question 56. If TSA is now planning to gear up security programs for transportation modes other than aviation, why is it reducing its FTE request for 2004?

Answer. The Department's strategy to deal with critical infrastructures, including those in the transportation sector, is to identify critical assets, conduct vulnerability assessments of those assets and work with the entities with responsibility for mitigating identified vulnerabilities—whether they be the federal, state, local or private owners of those assets—to develop appropriate security and response plans for those assets. TSA plans to take action to assess the need for standards and regulations in other security areas. However, the FY 2004 Budget assumed that some functions of TSA's offices would no longer be necessary in light of the establishment of DHS and similar resources of other organizations.

Question 57. How will the Department of Homeland Security transfer FY02, FY03 and FY04 funds to the local and state agencies that desperately need this funding to compensate them for heightened levels of security threats and their future response activities?

Answer. It is important to note that there is a clear distinction between support for operational security costs and investments in state and local preparedness and response capabilities. DHS has only provided operational funding relating to the heightened security costs during Operation Liberty Shield. It would be impracticable to provide "compensation" every time the threat level is revised.

The Department of Homeland Security (DHS) and the Office for Domestic Preparedness (ODP) share your goals of providing funds to states in a timely, efficient, and effective manner. ODP has made great strides in allocating and awarding terrorism preparedness funds. In Fiscal Year (FY) 2002, through the State Domestic Preparedness Program (SDPP), \$315.7 million was available and applied for by each of the 56 U.S. states and territories for equipment acquisition and exercises to enhance the ability of first responders to react to incidents of domestic terrorism at the local level. As such, states were required to provide at least 80 percent of the funds allocated for equipment purchases to local agencies. States could use the remaining equipment funds to support broader domestic preparedness activities, such as state first responder teams that support local units of government. As of October 2003, the last month for which ODP has complete information, states had obligated \$173,741,709 or 55 percent of these FY02 funds.

As you know, Congress provided \$1 billion for the continuation of ODP's prevention, preparedness, and response efforts in the FY 2003 Omnibus Appropriations Act (Public Law 108-7), including \$566,295,000 for the State Homeland Security Grant Program, Part I and \$100 million for the Urban Areas Security Initiative, Part I. ODP received an additional \$2.2 billion through the FY 2003 Emergency Wartime Supplemental Appropriations Act (Public Law 108-11), including \$1.3 billion in State Homeland Security Grants, \$200 million in State infrastructure protection grants, and \$700 million for continuation of the Urban Areas Security Initiative.

To facilitate the award of these funds, Congress provided language in both of the appropriations bills that directed states to apply for funds within 30 days of the grant announcement and required ODP to make awards within 30 days of receipt of a state's application. Pursuant to this language, ODP has worked to make funds

available much more quickly than in past grant programs it has administered. For instance, ODP made applications for State Homeland Security Grant Program (SHSGP) funds under the Fiscal Year 2003 Omnibus Appropriations Act available on March 7, 2003—15 days after the act was signed into law. Under the terms of the SHSGP application, applicants were required to submit their application by April 22, 2003. All 56 eligible applicants submitted applications, with 54 applicants submitting applications between April 15th and April 22nd. Thirty-five applications were received on April 22nd, the last day of the solicitation period. Once received, applications were approved and funds awarded on a rolling basis. Forty-four applications or 78 percent of applications received were approved in less than four days. Similarly 44 applicants, or 78 percent of those who applied, were awarded funds within 15 days of submitting their applications. By May 8th, 49 of 56 awards (87 percent) had been completed. By mid-July, ODP had awarded all 56 awards.

Additionally, applications for State Homeland Security Grant Program, Part II (SHSGP, Part II) funds under the Fiscal Year 2003 Wartime Supplemental Appropriations Act were made available on April 30, 2003—14 days after the act was signed into law. Under the terms of the application, applicants were required to submit their applications by May 30, 2003. Again all 56 eligible applicants (the states, territories, and the District of Columbia) applied. Of the 56 applications submitted, 33 applications were submitted between May 28th and May 30th. Seventeen applications were submitted on May 30th—the last day of the solicitation period. As in the first round of Fiscal Year 2003 SHSGP award applications, applications for SHSGP, Part II funds were received, approved, and funds awarded, on a rolling basis. Fifty-one applications (91 percent) were approved within 7 days of submission. Similarly, 41 applicants, or 73 percent of those who applied, were awarded funds within 21 days of submitting their application. By June 4th, 51 of 56 awards (91 percent) had been completed. By early July, ODP had awarded all 56 awards.

In the FY 2004 Department of Homeland Security Appropriations Act (Pub. L. No. 108-90), Congress provided \$4.037 billion for the Office for Domestic Preparedness. As part of this, Congress provided \$1.7 billion for continuation of the State Formula Grant Program, \$500 million for Law Enforcement Terrorism Prevention Grants, and \$40 million for the Citizen Corps program. ODP recently announced the \$2.24 billion Homeland Security Grant Program, which combines funds from the State Formula Grant Program, Law Enforcement Terrorism Prevention Program, and Citizen Corps Program. As of December 2003 all states have applied for HSGP funds. ODP will award these funds after the states provide updated state homeland security strategies, which are currently due December 31, 2003. In the FY 2004 appropriations act, Congress also provided \$725 million for continuation of the Urban Areas Security Initiative. DHS and ODP selected through a classified formula 50 urban areas, including 30 mass transit systems, for receipt of FY 2004 UASI funds.

ADDITIONAL QUESTIONS SUBMITTED BY HON. ERNEST F. HOLLINGS TO
HON. TOM RIDGE

RESPONSE TO THE FOLLOWING QUESTIONS SUBMITTED BY HON. ERNEST F. HOLLINGS
WAS NOT AVAILABLE AT THE TIME THIS HEARING WENT TO PRESS.

DHS Management

The Washington Post reported April 10 that DHS is having a difficult time reporting the number of employees who work for the new Department. While it is understandably difficult for DHS to have a precise account of staffing only one month 22 separate agencies jointed together to create the new Department, the numbers issued in recent weeks by the Department itself range from 170,000 to 210,000, a difference of some 40,000 employees.

Question 1. When will the Department be able to provide a reasonably accurate count of employees working in the Department this year?

According to information recently provided by DHS to the Senate Appropriations Committee, the Land and Maritime Division of TSA was authorized 23 FTEs and 81 staffing positions in 2002. In 2003, the Land and Maritime Division was authorized 165 FTEs, encompassing 225 positions. To date, the Division is staffed by 84 workers. For 2004, DHS has requested authorization for 125 FTEs of this Division.

Question 2. If TSA is now planning to gear up security programs for transportation modes other than aviation, why is it reducing its FTE request for 2004?

Railroad Security

Railroads are viewed as less vulnerable than other modes primarily because trains operate on fixed routes, making a train hijacking seem like a remote avenue

for possible terrorism. However, the rail industry handles about half of all hazardous material transportation in this country, over a rail network of approximately 130,000 route miles, more than three times the route miles in the Interstate Highway System. The rail system also hauls military equipment over about 30,000 miles of designated routes under the Security of Strategic Rail Corridor Network (STRACNET).

Nevertheless, the FBI received information last October that terrorists were possibly planning to strike the rail industry through destruction of bridges and key segments of track. Aware of the unique vulnerabilities, the railroad industry has done an admirable job of instituting on-going security measures. The industry developed a four-level alert system of alertness, employing additional terrorism countermeasures with each succeeding alert level. When the FBI issued its warning to the rail industry last October, the industry reacted by raising the alert level and taking additional precautions particularly in vulnerable locations, such as in tunnels and on bridges.

More recently, Operation Liberty Shield was initiated nationwide to coincide with the beginning of the war with Iraq and the heightened "Code Orange" threat level. As a part of that initiative, DHS requested state governors to provide National Guard protection of rail infrastructure, such as selected rail bridges. Railroads, including Amtrak, were asked to upgrade security measures at key rail hubs and other major rail facilities. Freight railroads were asked to monitor shipments of hazardous material and increase surveillance of trains carrying this material.

Question 1. Now that TSA has successfully implemented a new program for airport screeners and addressed other aspects of aviation security, what will TSA, now a part of DHS, do to address security in the rail industry?

Question 2. What is DHS's plan to continue coordination, through Information Analysis and Infrastructure Protection (IAIP) and TSA, with Amtrak and the freight railroads in times of heightened security?

Question 3. How will DHS, particularly IAIP and TSA, coordinate with local law enforcement for protection of rail operations during times of heightened security?

Question 4. Amtrak reports that every day spent under the Code Orange threat level costs the railroad \$18,000 for additional security measures. What costs does the rail industry incur when the threat level is heightened by DHS to Code Orange? What is the daily breakdown of those additional costs? Are there differences in the costs between freight and passenger operations?

Secretary Ridge acknowledged at the hearing that not enough has been done to secure railroad stations. The Secretary indicated that now that aviation security has been largely addressed, the Department will shift its attention to securing other modes of transportation, including rail.

Question 1. What does DHS believe needs to be done to secure the rail industry?

Question 2. What aspects of rail security should be addressed first?

Question 3. Has DHS prioritized by mode its planned efforts to secure other transportation modes? If so, what is that prioritization?

U.S. and Canadian authorities have been working to implement a high-tech system to screen rail cargo at our northern borders. Nine cargo-inspection units, using gamma rays to scan cargo containers, are to be installed this year. According to an April 9 article in the Wall Street Journal, the rail industry in both countries has been fearful that the new system will delay shipments by several hours, causing railroads to lose their competitive edge against trucks for fast delivery service.

Question 1. When will the first cargo-inspection unit begin operating? When will all nine units be operating?

Question 2. Will the nine cargo-inspection units replace the mobile scanners now being used at rail crossings at the Canadian border, or will they be used in addition to the mobile scanners?

Question 3. What is the agency doing to ensure that security delays of rail shipments crossing the Canadian border are minimized?

Question 4. Will similar cargo-inspection units be placed along the Mexican border? If so, when?

Relationship with FRA

The Federal Railroad Administration has increased its security activities, using its safety inspection team to review security readiness at passenger terminals and working with freight railroads to identify security concerns. The FRA took the lead role in addressing rail security in the field on behalf of the Department of Transportation while the new TSA focused its attention on aviation security.

Question 1. How does DHS see its role in rail security vis-à-vis actions already taken by FRA?

Question 2. In the absence of a Memorandum of Agreement between the two agencies, what will be the relationship between DHS and FRA regarding rail security?

Question 3. Does DHS plan to issue regulations covering rail security? What areas of rail security does DHS believe need regulating?

Missing Derails

Last week, the Associated Press reported that nine derails have disappeared from three rail yards in east Texas since mid-January. Derails are portable hinged-type blocks used to prevent trains from entering main lines when they have no authority to do so. However, secretly placed in a strategic location on a main line, a derail could derail a freight train operating at 79 mph, possibly carrying hazardous materials, or an Amtrak train traveling at 125 mph, possibly carrying hundreds of passengers. When the derails in east Texas were reported missing by the rail industry, a U.S. Marshall in Shreveport, La. became concerned about the possible security implications. However, a rail industry spokesman later dismissed the missing derails as probably “stolen and sold for scrap metal.”

Question 1. What is DHS’s response to reports of suspicious circumstances generated at the local level?

Question 2. What does DHS do to ensure that localized suspicious circumstances are in fact not more widespread?

Question 3. How will DHS address security concerns in the rail industry in circumstances where the industry believes the concerns are not warranted?

Question 4. Does DHS see the security needs of the passenger rail industry as very different from the security needs of the freight rail industry? If so, will agency resources be expended on one more than the other?

Amtrak Security

Since September 11, air travel has been made much more secure due to passenger and baggage screening and tightening of security in and around airports. Passenger rail travel, however, presents a different set of security challenges and necessarily must take a different approach. Train stations are open facilities, and they need to remain so to accommodate the millions of commuter rail travelers who use the stations everyday. Amtrak trains travel over hundreds of bridges and through numerous tunnels posing a unique vulnerability to rail travel that deserves extra protection.

Question 1. In Washington, Amtrak and commuter trains operate through tunnels under Capitol Hill. What has DHS done to ensure that these tunnels are properly secured? How secure are the tunnels? What more must be done to fully secure the tunnels and how soon must it be accomplished?

Question 2. Amtrak and commuter trains in and around New York travel through tunnels under the rivers surrounding Manhattan. These tunnels were equipped in World War II with emergency doors that could close off segments of the tunnels in case of a breach. These doors reportedly are no longer operable. Nevertheless, the danger from a tunnel breach is more heightened now than it has been in the past 50 years, and a tunnel breach could have catastrophic results for lower Manhattan, as well as the transportation system for the entire New York metro area. What does DHS know about the state of these doors? How soon will the doors be made fully operable? Should Amtrak receive emergency funding to ensure the doors are operable in the immediate future?

Question 3. The Secretary mentioned in his testimony that Amtrak’s security plan has been reviewed, and that the results of that analysis have been shared with the Committee. Please submit a copy of that analysis for the record of this hearing.

Hazardous Materials Transportation Security

Question 1. Since September 11th and the start of the Iraq War, the transport of hazardous materials has become likely targets for a terrorist attack. How is the Department of Homeland Security dealing with this threat, and what processes has it put in place to deal with a possible release of lethal chemicals in a very populated area?

Question 2. Since the TSA and DHS have not issued guidelines for security risks within the transportation infrastructure we are seeing local municipalities developing their own ordinances and laws that may or may not be circumvented by a federal standard once one is developed. Although DHS has worked with DOT modal administrations to implement new security measures and new regulations for the transport of hazardous materials, some municipalities have taken steps to require even more stringent requirements. For example, the City of Baltimore’s new “Hazardous Materials Security law” is believed to be the first of its kind in the nation and increases the screening criteria for transportation providers. How will the De-

partment of Homeland Security integrate state and municipal laws into their macro perspective of security threat abatement strategies?

Question 3. The transportation of high-level radioactive waste and spent nuclear fuel should be a high security priority. What additional processes has the Department of Homeland Security initiated above the Nuclear Regulatory Commission and the Department of Transportation requirements to secure these highly visible and dangerous products?

Risk-Based Analysis Modeling

Question 1. The TSA is in the process of developing a risk-based analysis model for identifying critical infrastructure gaps and risks. This modeling will also be used for identifying security threats for the transport of hazardous materials. Once TSA's analysis is completed and the model has been tested and found viable, they will provide their analysis to each modal administration identifying significant risks within the transportation infrastructure. Although, TSA is developing this risk-based model, they are extremely understaffed and are still in the early stages of development and implementation. For example, risk threat assessment pilot studies have only occurred in two areas in the New York Metropolitan area and the results from these studies have not been completed or released to state and local authorities. When will this risk-based analysis model be totally operational and be implemented throughout the United States?

Standardization of Security Protocols Across all Transportation Modes

Question 1. There are no widely accepted standards or guidelines for physical, procedural, and personnel security that cut across all transportation modes. How is the Department of Homeland Security dealing with the need for a standardization methodology that would work in all transportation modes and when will the methodology be implemented?

Pipeline Security

The security of the nation's liquid and gas pipeline infrastructure is critical to America's economy and energy stability. A terrorist attack on pipeline infrastructure could be catastrophic to the health and well being of the surrounding public and severely damage the local economy.

Question 1. What parameters has the Department of Homeland Security put in place to rectify security threats that could breach pipeline infrastructure?

Question 2. Has the pipeline industry assisted in the development of security plans for their infrastructure, or has the Department of Homeland Security instituted requirements for the industry to follow?

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO HON. TOM RIDGE

Question 1. According to press reports and the EPA, the President intends to follow a program of chemical industry voluntary compliance and self-policing, as he did when he was Governor of Texas. I consider myself one of that industry's best friends in Congress, but I do not think that this is a prudent policy choice. I met with industry leaders in my state after the September 11th attacks, and I was dismayed at the seeming unwillingness of many of these very intelligent people to see their plants, and the freight railroads that serve them, as potential targets of future terror attacks. It occurred to me that their views were not really about safety and security at all, but in essence, were driven by cost-containment. What are you willing to do as Secretary of Homeland Security, what steps might your department be willing to take, and what policies are you willing to advocate for, to adequately address the security needs for our nation's chemical plants and the nearly 150,000 miles of our freight rail network?

Answer. We are currently working with both industries to enhance efforts already underway to identify their critical assets, the vulnerabilities of these assets and protective measures that are appropriate for threat environment. We are also identifying "high value targets" that are current priority for resources to immediately implement protective measures to reduce vulnerabilities. DHS will work with industry as well as local government officials to develop security buffer zone planning modules for chemical sites and rail bridges that were identified during Operation LIBERTY SHEILD.

a. A ballpark estimate of the total costs involved would certainly be in the tens of billions of dollars, and quite possibly in the hundreds of billions. Are you pre-

pared to go to the President and tell him that your department's budget must be increased to make up at least a share of these costs?

Answer. The budget request addresses best known protection needs for all infrastructure sectors, both physical and cyber. We are not planning to request an increase.

Question 2. Let's assume that the President prevails, and chemical plant security is left to the companies themselves with little or no guidance or regulation from the Federal Government. If this does come to pass, I will be very concerned that matters besides safety could creep into the decision-making process when security measures are being considered. Are you, as Secretary of Homeland Security, concerned that some plant manager, struggling to run his or her piece of a huge and highly competitive corporation more efficiently, might scrimp a little on security to improve the bottom line? If not, why not?

Answer. As the result of recent cooperative efforts with the American Chemical Council (ACC) and the Chlorine Institute, DHS has recognized a proactive effort within the chemical industry to address security needs. Following the guidelines of the ACC, chemical companies are conducting rigorous self-assessments and developing mitigation plans, resulting in a set of best practices that fits the needs of the chemical industry. This demonstrates a good-will effort that is based in the recognition of terrorist activities and public responsibility, and suggests a tendency that includes security in the profit equation. If this effort is encouraged and supported, DHS could be reasonably confident that a satisfactory security profile would result.

Question 3. Have you and your staff analyzed the transportation of various chemicals by truck, rail, and barge, and come away confident that everything that has to be done to make this activity safe has been done?

Answer. The need for this effort is recognized and plans are being developed in cooperation with the chemical and rail industries to conduct this analysis.

a. I recognize that many of the most highly dangerous chemicals manufactured in this country and transported by rail and truck, such as chlorine, are also absolutely necessary to our way of life. I acknowledge that the chemical industry is knowledgeable about the manufacture of these chemicals and the railroad industry is knowledgeable about transporting them. **However, if you support the President's decision to allow industries involved with these products to self-police, explain to the Committee the basis for your confidence that either of these industries currently possesses or can rapidly acquire the relevant technical and practical knowledge of terrorist threats and capabilities to adequately protect the health and lives of millions of Americans living or working near chemical plants or largely unprotected railways?**

Answer. We are concerned with the state of private industry's ability to measure the risk of exposure outside of its fences. One of the basic functions of IAIP is to correct this situation. In addition, past efforts to measure the effects of chemical releases have been based on safety and emergency preparedness assumptions, rather than terrorist activities. Future efforts in this area, led by IAIP, will move to appropriately refocus those efforts. This, combined with training and identification of best practices, is intended to ensure that industry can implement appropriate preventive measures and security programs.

Question 4. IAIP/State & Local (?)—This is not, strictly speaking, a question about transportation security; but it is another area which your undoubtedly difficult role as Secretary makes you the point person for the Administration. I would like to ask you a few questions about other critical infrastructure—like municipal water and sewer systems—that despite not fitting into the topic of today's hearing, are vulnerable and important to safeguard all the same. Currently, the Administration has provided nothing in the way of grants or technical assistance to improve the security of these facilities, but we know that if a terrorist breached the minimal security at a rural water system in West Virginia and contaminated a town's water supply, CNN and MSNBC would be carrying the story worldwide in the next few hours. The end result would be Americans, no matter where they live, would begin to fear what was coming out of their faucets. **What policies have you advocated for to protect municipal water supplies in this country?**

Answer. The IAIP Directorate, in cooperation with the Environmental Protection Agency and other relevant agencies, works to protect U.S. water utilities by conducting threat assessments of the sector and providing warning products directly to them when required.

This is accomplished by monitoring national level intelligence sources, including the Terrorist Threat Integration Center, for international and domestic threats against the nation's water supply and wastewater treatment facilities. IAIP also col-

lects water industry physical and cyber incident reports to constantly review for assessment. IAIP has analysts with “sector expertise” and a trusted information-sharing relationship with the private sector which allows us to make rapid assessments of all threats against the water sector. Part of this communication structure with the private sector includes close and constant interaction with the Water Information Sharing and Analysis Center (ISAC) which also provides the means for dissemination of warning products.

The need for this effort is recognized and plans are being developed in cooperation with the water industry.

Question 5. Assuming you recognize the potential severity of the problem, will you encourage the President to work with Congress to develop programs to provide grants, as well as technical assistance, to municipalities to dramatically improve the security of these facilities?

Answer. The U.S. Department of Homeland Security, Office for Domestic Preparedness (ODP) has worked with all fifty-six states and territories to assess overall threats, vulnerabilities, capabilities and needs, and to develop comprehensive homeland security strategic plans for addressing the shortfalls identified. This process was completed in November of 2002. ODP used the information to develop tailored state assistance plans that match ODP, and to the extent possible, other federal resources to the needs identified by the states for equipment, training, exercises and technical assistance. ODP also used this information to hone its programs to better meet the specific needs identified by the nation’s emergency responders as part of this process. States will be required to update this information by December 31, 2003, to ensure that funding continues to be appropriately targeted.

ODP also worked directly with the Transportation Security Administration, Coast Guard, Customs, the Maritime Administration, Federal Highway Administration, and the Port Authority of New York and New Jersey (PANYNJ) to develop a process specifically tailored to the needs of large, multi-modal transportation agencies that will allow them to develop resource allocation plans that maximize scarce preparedness dollars.

In addition, as part of the FY 2003 supplemental funding, Congress has appropriated an additional \$200 million for grants to address critical infrastructure protection.

Question 6. Mr. Secretary, having served on the Committee on Veterans’ Affairs in the House, I am sure you understand, as I do, the enormous resources contained within the VA medical system, the largest integrated health care system in the Nation. Yet, while VA shares the federal responsibility for preserving public health during domestic crises as a partner, along with DoD, FEMA and HHS, in the National Disaster Medical System (NDMS), I remain concerned that our Federal Response Plan does not always make the best use of each support agency’s potential resources and particularly VA. Please tell me what formal mechanism has been put in place by the Department of Homeland Security to fully integrate the medical resources of both VA and DoD into the NDMS planning and activation processes?

Answer. Currently there are agreements between the Department of Homeland Security (DHS), Department of Veterans Affairs (VA), Department of Health and Human Services (HHS), and Department of Defense (DoD), which describe the structure, functions and governance of the National Disaster Medical System (NDMS). DoD and the VA have responsibility to provide patient movement, bed counting and definitive care. DoD and the VA are also named as support agencies within the Emergency Support Function (ESF—#8) within the Federal Response Plan (FRP) and provide a variety of support during disasters and emergencies.

DHS has a number of agreements in place with the VA for the maintenance and purchase of pharmaceuticals. DHS also utilizes DoD and VA personnel to support field response activity and operation support centers.

DoD’s and VA’s statutory responsibilities to provide services to veterans, active duty personnel, and reserve forces precludes them from making all of their resources available to support the NDMS. For example, the conflicts in Iraq and Afghanistan have severely limited the availability of DoD resources such as medical personnel and strategic airlift capabilities.

Question 7. How is DHS making certain that our first line responders are aware of these resources, and what guidance is given first line responders about when and how they can tap into them to prevent unnecessary delay during a national crisis?

Answer. DHS conducts periodic Regional Interagency Steering Committee (RISC) meetings with state emergency management officials and regional NDMS representatives to discuss federal medical response capabilities. It is through this mechanism that the states are trained in the Federal Response Plan (FRP), the various Emergency Support Functions (ESFs) and the federal disaster declaration process. States

in turn provide training and awareness on available resources to local emergency management organizations.

Question 8. Testimony before the Joint Intelligence Committees' Inquiry on the September 11th attacks indicated that significant information in the possession of intelligence and law enforcement agencies was not fully shared with other agencies and that intelligence on potential terrorist threats against the United States was not fully exploited. Congress took several steps to address this issue. For example, the Aviation and Security Act sought to improve this information sharing by creating a Transportation and Oversight Board to coordinate critical intelligence and data sharing among federal agencies. **I am very interested in the work of this Board. How would you characterize the process of implementation of the Board?**

Answer. The Transportation Security Oversight Board (TSOB) was initiated under the leadership of Secretary of Transportation Mineta and Deputy Secretary of Transportation Michael Jackson. As Director of the Office of Homeland Security, my office was one of seven Departments and offices that comprised the original membership of the Board. The Homeland Security Act of 2002 transferred the TSOB from the Department of Transportation to the Department of Homeland Security. We are currently working with the Transportation Security Administration in the Border and Transportation Security Directorate to convene the first meeting under my stewardship.

Question 9. To follow up, how would you characterize the Board's effectiveness?

Answer. The TSOB has been effective in raising timely and cross-governmental issues that require extensive coordination from various agencies within the executive branch. At the last several meetings, the Board has discussed the standup of the Transportation Security Administration and the progress being made on critical issues, such as transportation credentials and intelligence matters.

Question 10. Could you tell the Committee how the work of the Board is going, and how you think we in Congress can help you in this activity?

Answer. The first meeting of the Board under Department of Homeland Security leadership is currently being planned. The Department looks forward to Congress's continued support and interest in the activities of the Board.

Question 11. I hope you will agree with me that TSA should not and cannot function independently of other DHS security functions and the intelligence community. Without revealing sensitive information, can you give the Committee examples of how DHS is coordinating its activities—both among its component agencies, and with the law enforcement and intelligence communities?

Answer. DHS has two coordinating points in its Information Analysis and Infrastructure Protection (IAIP) Directorate in which such activities are managed. The IAIP is the primary focal point for both receipt of incoming information and intelligence related to threats to the homeland, as well as the focal point for output of information usable by a wide variety of federal, state, local and private customers. The first is the Homeland Security Operations Center (HSOC) which is a 24-hour operation. It is staffed by representatives from DHS component organizations, the Intelligence Community, DHS headquarters, and selected other agencies, e.g., FBI, State and local law enforcement. Representatives in the HSOC have connectivity to their respective organizations. The HSOC is the primary initial entry point for information into DHS and one of the primary exit points for information back out to DHS and its wide customer base, e.g., State Homeland Security Advisors, State and local officials, local law enforcement, and the Intelligence Community. The other coordination point is the Fusion Office of the IAIP which is not a sustained 24-hour operation. That office is responsible for conducting detailed analysis of threat information, mapping threats to capability and potential impact, and it is this analysis which serves as the basis for particular warnings, advisories, preventive and protective measures and other information issued by the IAIP to DHS partners.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HON. TOM RIDGE

Question 1. What assistance can Whatcom County and other border areas like it expect from the Department?

Answer. To date, the Office for Domestic Preparedness (ODP) has trained 52 responders from Whatcom County, WA. In addition, \$186,732 in equipment money has been allocated to Whatcom County by the state from ODP's FY99 State Domestic Preparedness Program grant to Washington.

ODP has worked with all 56 states and territories to assess overall threats, vulnerabilities, capabilities and needs, and to develop comprehensive homeland security strategic plans for addressing the shortfalls identified. This process was completed in November 2002. ODP used the information to develop tailored state assistance plans that match ODP, and to the extent possible, other federal resources to the needs identified by the states for equipment, training, exercises and technical assistance. ODP also used this information to hone its programs to better meet the specific needs identified by the nation's emergency responders as part of this process. States will be required to update this information by December 31, 2003, to ensure that funding continues to be appropriately targeted. In Fiscal Year (FY) 2003, Congress appropriated over \$566 million for grants to state and local jurisdictions, \$39.74 million of which is allocated specifically to cover costs associated with updating and implementing the needs assessments and strategies for each state.

ODP also worked directly with the Transportation Security Administration, Coast Guard, U.S. Customs and Border Protection, the Maritime Administration, Federal Highway Administration, and the Port Authority of New York and New Jersey (PANYNJ) to develop a process specifically tailored to the needs of large, multi-modal transportation agencies that will allow them to develop resource allocation plans that maximize scarce preparedness dollars.

In addition, as part of the FY 2003 supplemental appropriations funding, ODP will be distributing an additional \$200 million in grants to address critical infrastructure protection.

Question 2. The effects of immigration and border related crimes have long been felt on the southern border, straining the budgets and resources of prosecutors' offices located in that area. The Federal Government has provided funding to assist these communities because, as one Washington State prosecutor pointed out to me, border security benefits not just the communities along the border, but the entire nation. I will soon introduce legislation that would provide similar funding for reimbursement of prosecutors in northern border counties. Will the Department support this effort?

Answer. The Administration will consider the legislation once it has been thoroughly reviewed.

