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# VIEWPOINTS ON HOMELAND SECURITY: PART I AND II

## HEARING

BEFORE THE

## COMMITTEE ON HOMELAND SECURITY
## HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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# VIEWPOINTS ON HOMELAND SECURITY: PART I A DISCUSSION WITH THE WMD COMMISSIONERS

**Wednesday, April 21, 2010**

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
*Washington, DC.*

The committee met, pursuant to call, at 10:08 a.m., in Room 311, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the committee] presiding.

Present: Representatives Thompson, Harman, DeFazio, Jackson Lee, Cuellar, Clarke, Richardson, Pascrell, Cleaver, Green, Himes, Kilroy, Titus, King, Lungren, Rogers, McCaul, Dent, Miller, Olson, Cao, and Austria.

Chairman THOMPSON [presiding]. The committee will come to order. Good morning.

Today we are privileged to be joined by Senator Bob Graham and Senator Jim Talent, the chair and vice-chair of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. It is disturbing to think that as we meet today America's adversaries are seeking weapons of mass destruction that could kill large numbers of our citizens and inflict great harm to our Nation, but that is reality.

In 2008, the "World at Risk" report, issued by the WMD Commission, brought into focus the seriousness of the threat and the need to confront it with purpose and speed. As the author of H.R. 1, the "Implementing Recommendations of the 9/11 Commission Act," I am proud to have played a part in establishing the Commission.

Specifically, Title 18 of that comprehensive homeland security law authorized the establishment of a bipartisan commission to study the threat that the proliferation of weapons of mass destruction posed to our country. Notably, the law directs the commission to give particular attention to Federal efforts to secure nuclear materials around the world from terrorists and states of concern.

In the "World at Risk" report the commissioners did not mince words about the WMD threat. Specifically, the commission stated that it believes that unless the world community acts decisively and with great urgency it is more likely than not that a WMD will be used in a terrorist attack somewhere in the world by the end of 2013. The commission concluded that since a biological weapon can more easily be obtained and used by a terrorist than a nuclear weapon, the Government needs to move more aggressively to limit

the proliferation of biological weapons and reduce the prospect of bioterror attack.

In January 2010, Senators Graham and Talent issued a report card that assessed the Government's progress toward implementing their 13 recommendations. They gave an "F" to the Federal Government for failure to enhance the Nation's capabilities for rapid response to prevent biological attacks from inflicting mass casualties. Another "F" was for a lack of progress on reforming Congressional oversight to better address intelligence, homeland security, and crosscutting 21st Century National security missions.

Given your extensive credentials, Senators, your insight on what we need to do to fix Congressional oversight are particularly welcome. As you know, we are currently working on bipartisan legislation to improve domestic capabilities to prevent, deter, detect, attribute, respond to, and recover from WMD attacks in general, and based on your recommendations, biological attacks in particular.

The gentleman from New Jersey, Mr. Pascrell, together with Ranking Member Mr. King are collaborating on this legislation, which should be introduced in the next few weeks. I know it is a New York and New Jersey thing, but we wish them all success.

This hearing and the testimony we will receive from Senators Graham and Talent are critical to this effort. Again, I would like to thank the commissioners for their leadership and continued commitment to educating us about the WMD threat.

I would also like to recognize your staff, led by Randy Larsen and Gigi Gronvall, for working closely with the committee as we develop counter-WMD legislation.

Before I yield back I would like to yield 2 minutes to the gentleman from New Jersey, Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman.

I want to thank Senator Graham, Senator Talent, for the service that they gave to this Nation when they served on this side of the building and on the other side of the Capitol, and the service you have rendered this Nation since leaving the House. You have done—both of you—a terrific job; I am very, very proud of what you have done.

Mr. Chairman, I want to thank you for yielding time as well as your leadership in offering H.R. 1, the "Implementing Recommendations of the 9/11 Commission Act," which created the WMD Commission whose commissioners are before our committee today to talk about what I consider to be a very critical issue.

The 9/11 Commission did a very thorough job of describing the circumstances of the attack on September 11 and providing recommendation designed to guard against future attacks. However, one area they did not address was how to respond to the threat of unconventional weapons, including nuclear and biological.

The WMD Commission before us today has issued 13 recommendations, and in its report card released this January gave very mixed grades, to be kind, of the actions we have taken to date. But they have made one thing very clear, that more than 8.5 years after 9/11 we still do not have a comprehensive National strategy to counter the grave threat that WMD poses to our Nation.

This is exactly why I am working with my good friend and counterpart, Ranking Member King, to craft bipartisan legislation, the

"Weapons of Mass Destruction Prevention and Preparedness Act of 2010," which we plan to introduce very shortly. We have worked closely with the Commission—with the Commission staff—in order to write a bill that has a truly comprehensive approach, a logical approach to securing the Nation against weapons of mass destruction by looking at all the angles, from prevention and deterrence, preparedness, detection, attribution, response, and finally, to recovery.

It is especially important to note that our legislation concerns all WMD threats, but we will give special focus to the emerging threat of biological weapons, and with good reason, in which the WMD Commission gave us a very poor grade for failing to do enough to prevent a biological attack on our mainland, or to be able to respond efficiently and effectively enough in the event of a biological attack. The Commission highlighted the urgency of this threat when it wrote that "terrorists are more likely to be able to obtain and use a biological weapon than a nuclear weapon."

Mr. Chairman, I look forward to hearing the testimony from the commissioners, Senator Graham, Senator Talent, on the threat we face as well as the preliminary thoughts about this legislation, and I yield back and I thank you for yielding to me.

Chairman THOMPSON. Thank you very much.

The Chairman appreciates the Ranking Member's agreement to recognize the gentleman from New Jersey. Now——

Mr. KING. I was not given a chance to object.

[Laughter.]

Chairman THOMPSON. The Chairman now recognizes the Ranking Member of the committee, gentleman from New York, Mr. King, for an opening statement.

Mr. KING. Thank you, Mr. Chairman.

Let me again thank Senator Graham and Senator Talent for all their service to the Nation, especially on this vital, vital issue, and it is great to see Jim Talent here. We got elected in the same year. Jim has gone on and made something of himself, and I am sitting here with Bill Pascrell, but what are you going to do?

Seriously, Jim, I want to thank you for all your efforts.

Mr. Chairman, this is a vitally important issue. This is an issue which, as you and Chairman Talent and Chairman Graham and Congressman Pascrell pointed out, is an issue which is vital to the security of our Nation but in many ways nowhere near enough has been done since September 11.

I appreciate the hearing today. I will just for the record point out that we have been asking for this hearing since last September and I think the fact that we are having it today, that Bill Pascrell is going forward in his legislation—and I am proud to work with him on it—shows a bipartisan commitment on this issue.

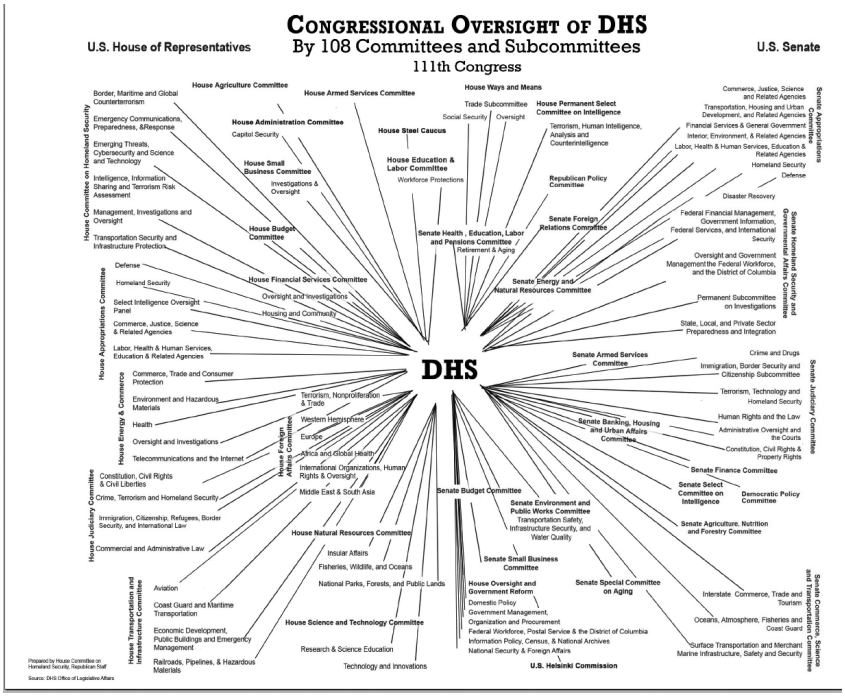
Obviously the administration is—has been given charges as to what they should do, but also there is an obligation on Congress. If I may, there is a chart we prepared showing how Congress is still—there is such a disunity in the Congress. Let me just show the display. You know, in the—Commissioners, in your report and also in the 9/11 Commission report it was pointed out how oversight just is spread out so much among Congress.

Just the other day I received a letter from Secretary Napolitano saying that the Department of Homeland Security has to report to 108 different committees and subcommittees; they have testified at 166 different hearings. To me, this, again, this lack of cohesion really reflects poorly on the Congress and prevents us from getting our job done.

So I think no matter what happens in November, Mr. Chairman, I think we have to recommit ourselves to making sure that we work to consolidate jurisdiction within this committee and certainly to narrow the jurisdiction, because now it is just all over the place and really almost makes no sense at all.

There is the chart there. It just gives some example of how bifurcated this is and how, again, what a puzzle palace we have become.

[The information follows:]




Mr. KING. Now, I would just, from my own perspective in the New York-New Jersey area, we have particular threats when it comes to weapons of mass destruction. Obviously radiation, dirty bombs, nuclear bombs are a real threat to our subway system, to the cities, whether it is New York, or Patterson, Newark, any of them in that area are prime targets.

Also, the whole issue of biological warfare is something which we have to do much more about. Certainly Bill Pascrell and I, that is a main element of what we are trying to do. Congresswoman Clarke and I are working as far as the radiological attacks.

But I would hope that this hearing—it is really the first we have had in the Congress, certainly in the House side, on this issue—will give us the impetus to go forward. I don't know how many

markups we are going to have between now and the end of the session, or before the summer, but, Mr. Chairman, I would hope that we can, once Bill Pascrell and I—once the legislation is ready that we can move on it quickly in this committee and try to then start it, because it will probably have to go to a number of other committees, as to get this process on the way.

Hopefully we can get legislation passed; at the very least we will send a strong signal to the administration, send a strong signal to the entire Federal bureaucracy, and also start a real debate in the Congress. The debate was started at the National level by Senator Talent and Senator Graham, but I don't think we in the Congress have taken this seriously enough.

It is not the issue that is debated that often; it is not the issue that is in the forefront. With everything else we talk about, whether it is health care, whether it is taxes, whether it is jobs, whatever, all of that will be forgotten overnight if there is a biological attack anywhere in our country. The impact it will have on our economy, the impact it will have on the lives of everyday people, the devastation it will cause will be unprecedented.

So thank you, Mr. Chairman, for holding this hearing. I think the spirit on both sides sort of working toward a bipartisan solution, bipartisan answers, but we can't just debate it forever, we can't just talk about each other in a nice way, we have to get the job done.

We can't allow details to stand in the way. If there are one or two disagreements that I have or Bill Pascrell has, the Chairman has, let's resolve them. Let's not try to stand on ceremony.

I am not saying any of you are, I am just saying all of us in Congress have a tendency to rely on one or two things we don't agree with and use that as an excuse not to go forward. We have to go forward on this, otherwise the work that is done by Senator Graham and Senator Talent will not be taken advantage of and we will have squandered and missed an opportunity which could have very dire and tragic consequences.

With that I yield back the balance of my time.

Chairman THOMPSON. Thank you very much. The Chairman, for the Ranking Member's information, plans to move forward after this hearing and subject to you and Mr. Pascrell finally agreeing on something—we will go forward.

Other Members of the subcommittee and committee are reminded that under committee rules opening statements may be submitted for the record.

[The statements of Hon. Richardson and Hon Cleaver follow:]

PREPARED STATEMENT OF HONORABLE LAURA RICHARDSON

APRIL 21, 2010

Mr. Chairman, thank you for convening this hearing today on the findings and recommendations of the Commission on the Prevention of Weapons of Mass Destruction (WMD) Proliferation and Terrorism. I appreciate your commitment to this issue, and I would also like to recognize our distinguished witnesses, Senator Graham and Senator Talent, for their services to our country. Thank you both for taking the time to appear before the committee today.

As a proud representative of the 37th district of California, I am especially concerned about this topic. My district is home to many high-value terrorist targets: the Port of Long Beach, two airports, major freight rail lines, and 40 percent of the

Nation's goods moving along our rails and four major interstate highways. Each of these represents a prime opportunity for a nuclear or biological attack, and as these gentlemen can tell us, the threat is very real.

The Commission has concluded, as is highlighted in the testimony today, that it is more than likely that a weapon of mass destruction (WMD) will be used in a terrorist attack somewhere in the world by the end of 2013, a date that is rapidly approaching. In addition, the Commission found that the U.S. Government needs to move more aggressively to limit the proliferation of biological weapons to reduce the prospect of a bio-terror attack. However, the report card released by the Commission in January 2010 makes it clear that the Government is not moving fast enough to mitigate this risk of attack.

For example, the Commission graded the work done to "enhance the Nation's capabilities for rapid response to prevent biological attacks from inflicting mass casualties" with an "F." As Chairwoman of the Subcommittee on Emergency Communications, Preparedness, and Response, I anticipate working with my colleagues to address some of this shortfall. I also look forward to reviewing the bill about to be introduced by my distinguished colleagues to enhance homeland security by improving efforts to counter a WMD attack from every stage of the threat, from the pre-event prevention and deterrence through post-event recovery.

I am pleased that this hearing is providing a chance for committee members to delve into the issues facing our Government and homeland security with regard to WMD. Clearly, the Federal Government still has work to do in terms of preparation and coordination. I look forward to sharing this information with the stakeholders in my district, as well as hearing from our distinguished panel of witnesses on this subject with regard to public outreach, possible legislative ideas, and foreign policy.

Thank you again, Mr. Chairman, for convening this hearing. I yield back my time.

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PREPARED STATEMENT OF HONORABLE EMANUEL CLEAVER

APRIL 21, 2010

Chairman Thompson, Ranking Member King, it has been 3 years since the bipartisan Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism was authorized. In this time, the Commission has issued both a report, as well as a report card on the country's progress in working to limit the threat of biological and nuclear weapons. While much has been done, we are still a long way away from having a strong system of deterrence, prevention, and recovery from WMDs.

The report issued by the Commission has boldly asserted that "it is more than likely than not that a WMD will be used in a terrorist attack somewhere in the world by the end of 2013." With this very real threat looming over our heads, it is extremely troubling that the Commission has found that the country has failed to properly address certain recommendations. For instance, the Commission gave the country a failing grade when it came to working to "enhance capabilities for a rapid response to prevent biological attacks from inflicting mass casualties."

Given the uncertain times that we live in, we must do all within our power to eliminate the threat of biological and nuclear weapons. To that end, I am eager for the chance to speak with our witnesses today and gauge their views on the new legislation that will soon be introduced by my colleagues on the committee. From increasing intelligence capabilities, to risk analysis and protection biological agents, this bill aims to put many of the Commission's recommendations into law. Our witnesses have a vast wealth of experience in working to deter WMD threats, and their additional recommendations are essential in our progress forward.

Chairman THOMPSON. I welcome our distinguished witnesses, Senator Bob Graham, who obviously had to come a long way to get here—we really appreciate it, Senator Graham—and Senator Talent, the chair and vice-chair of the Congressionally-created Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Senator Graham is a former two-term Governor of Florida and served for 18 years in the United States Senate. This is combined with 12 years in the Florida legislature for a total of 38 years of public service. He is recognized for his leadership on issues ranging from health care to intelligence.

He served a decade on the Senate Select Committee on Intelligence, including 18 months as Chair in 2001 and 2002. In addition to his responsibilities associated with WMD Commission work Senator Graham serves as the chair of the board of overseers of the Graham Center for Public Service.

Thank you, Senator Graham, for being here today and for your service to the country.

Senator Jim Talent was elected to the Missouri House of Representatives in 1984 at the age of 28, where he served 8 years. At the age of 32 he was unanimously chosen as Minority Leader. He served in that capacity until 1992, when he was elected to Congress to represent Missouri's second district.

Senator Talent served in the U.S. House of Representatives from 1993 to 2001. During his time in the House Senator Talent distinguished himself as a thoughtful leader on the House Armed Services Committee where he served for 8 years.

From 2002 to 2007 he represented the people of Missouri in the United States Senate. While in the Senate, he distinguished himself as a leader on a number of major committees, including the Senate Armed Services Committee, where he served as Chairman of the Seapower Subcommittee. Today, in addition to his on-going WMD Commission work, Senator Talent serves as a distinguished follow at the Heritage Foundation.

Thank you, Senator Talent, for being here today and for your service to our country.

Without objection, the witnesses' full statement will be inserted in the record.

Senators, the floor is yours.

Can you turn your mic on for us?

**STATEMENT OF HON. BOB GRAHAM, FORMER COMMISSION CHAIRMAN, COMMISSION FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM**

Comm. GRAHAM. Thank you very much, Mr. Chairman, and we are deeply appreciative of your and Congressman King holding this hearing as a critical part of the steps necessary to move us towards a safer America. It has been an honor to have served for the last 2-plus years with my good friend, Senator Jim Talent.

I would say if there is an example of bipartisanship on an important issue it is what we have tried to exhibit, and I am pleased on our final report in a commission that was composed of Republicans and Democrats was unanimous report reflecting a unity of view as to the seriousness of the threat and the steps that should be taken to reduce it.

Mr. Chairman, as you said, in December 2008 our commission issued its report, called "World at Risk." The word "world" was selected to recognize the fact that this is not a problem that any one country can deal with alone, that it is truly a global threat requiring a global response. I will talk about that a little bit later.

Then, in January of this year we issued our first report card on what has transpired in the year that passed since the report. It was a mixed report card. The most negative aspects related to the

topic that Senator Talent and I will particularly focus on this morning, and that is the potential of a biological attack.

As the Chairman said, it is our conclusion that it is more likely than not that there will be, under current circumstances, a weapon of mass destruction used someplace on earth by a terrorist group before the end of the year 2013 and that it is more likely that that weapon will be biological rather than nuclear. So that has been the particular focus of our post-report activities.

My comments today are going to focus on the issue of urgency. We have used the term in the commission report and in our subsequent statements that the clock is ticking. I am going to suggest this morning that we need to come up with a new metaphor. The impetus for change has got to be stronger than an analog clock slowly moving around the dial. We are dealing with a digital clock where the numbers are now spinning.

It has been over 500 days since "World at Risk" was issued. There has been some response by the administration and we saw some of that recently in the nuclear summit. But this is going to require action at both ends of Pennsylvania Avenue, and I am pleased that today this hearing is taking place, and I hope that it will jumpstart aggressive Congressional response to this issue.

There are four areas in which I think urgency is the word of the day and the spinning digital clock. First, we must construct an effective response to a biological attack. Unlike a nuclear attack where there is very little you can do in the aftermath, it is what you can do in the aftermath of a biological that may both serve as a deterrent and a sufficient reduction of the consequences to take it out of the category of mass destruction.

We say it is a deterrent based on analysis done by our intelligence community as well as foreign intelligence services that the likely possessor of a biological weapon will have to make a choice where to use that weapon. That choice is likely to be determined by where it thinks it can do the most damage, have the highest kill rate.

So if your community is relatively well prepared you will be less likely to be the target of attack in the first place; if you appear to be highly vulnerable and a source of high loss of life you become an attractive target. So the degree to which you are prepared to respond is a key element in whether you will be attacked.

If you are attacked your ability to respond can reduce the death toll. It would be horrendous if 1,000 people were killed, but it would be an international disaster if 500,000 people were killed, which is within the range of estimates of what would happen with a biological attack in a major American city.

So we have a strong interest in being as prepared as possible. Frankly, in our report of January we gave the Nation—not just the Federal Government, but the Nation—an "F" in our level of preparedness to respond. This is my first call for urgency, that this committee has the responsibility to start an aggressive series of actions that will lead us to a grade—to deserve a grade substantially better than an "F" in our capacity to respond.

The second area of urgency is showing leadership to the world. One of our recommendations is that the United States, because of this global nature of biological attack, needs to be a leader in bring-

ing other nations to a high level of response and security of things like Schedule 1 biological agents. That next world conference is going to take place in 2011.

We think it is important for the United States to have taken affirmative action before that conference so we will be able to show to the world that we are committed and therefore that they can follow our gold standard of what should be done. If we have not taken any action by that conference I think our position to influence other nations will be substantially diluted.

The third area of urgency—the Chairman alluded to the fact that I have had some travel difficulties. I have been in the Middle East and Asia much of the last month. I think the two most dangerous areas in the world where there is the greatest potential of a transfer from a nation state to a terrorist group of a weapon of mass destruction are the Indian-Pakistan border and that arc that runs from Iran through Syria to Israel and into Palestine. Those, in my opinion, are the two places in the world that are the most likely to be the first point of attack.

Both of those are driven by longstanding enmities that go back to just after World War II—Kashmir, in the case of India and Pakistan; the dispute between Israel and the Palestinians in the Middle East. These issues, which we have allowed to linger now for 6 decades, are a major threat to the security of the entire world and need to get strongest attention from the United States and the international community for their resolution.

There has been no substantial progress on either of those fronts since 1979, 31 years ago, when the Camp David Accord was entered into between Egypt and Israel. That is the last major successful effort to deal with those animosities.

Finally, the sense of urgency over the issue that the Chairman and the Ranking Member have discussed, and that is this issue of the Congress itself. Congress is not well organized—and that is a very passive and understatement—to do what it needs to do on these issues. This has been recognized now for almost a decade, before 9/11.

Commissions who were looking at issues of National security came to the conclusion that the Congress was not properly organized. The 9/11 Commission said it again. We said it in our "World at Risk" document. I would urge that the Nation can be a safer place if this body would take the steps to place accountability and responsibility for these issues clearly in one jurisdiction so that the Nation will know where to look to for leadership.

Mr. Chairman, Mr. Ranking Member, I, again, appreciate the opportunity to be here. My colleague, Senator Talent, is going to focus on some of the more specific aspects of our report, and we would both then look forward to receiving your questions.

I would like to also introduce at this time Dr. Gigi Gronvall, who has been a major part of the development of our efforts over the last year. Thank you very much.

[The joint statement of Mr. Graham and Mr. Talent follows:]

JOINT PREPARED STATEMENT OF BOB GRAHAM AND JIM TALENT

APRIL 21, 2010

Mr. Chairman and distinguished Members, thank you for the opportunity to speak to you today on behalf of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. Congress created our Commission early in 2008, based on the recommendation of the 9/11 Commission, assigning us the task of assessing the risk of WMD terrorism and recommending steps that could be taken to prevent a successful attack on the United States. Our Commission interviewed hundreds of experts and reviewed thousands of pages of information. We want to thank those Commissioners—Graham Allison, Robin Cleveland, Stephen Rademaker, Timothy Roemer, Wendy Sherman, Henry Sokolski, and Rich Verma—who worked tirelessly to produce our Report, *World at Risk,* in December, 2008.

In 2009, the Commission was authorized for an additional year of work, to assist Congress and the administration to improve understanding of its findings and turn its concrete recommendations into actions. In accordance with that authorization, and based upon close consultation with Commissioners, we submitted a report card assessing the U.S. Government's progress in protecting the United States from weapons of mass destruction proliferation and terrorism. This report card provided an assessment of the progress that the U.S. Government has made in implementing the recommendations of the Commission.

While progress had been made in many areas, the overall assessment for biological threats was not good. We submit a copy of that report card for the record. While certainly not every assessment was poor, we found that the Government simply had not paid consistent and urgent attention to the means of responding quickly and effectively so that bioweapons no longer constitute a threat of mass destruction. The failures did not begin with the current group of leaders. Each of the last three administrations has been slow to recognize and respond to the biothreat. The difference is that the danger has grown to the point that we no longer have the luxury of a slow learning curve. The clock is ticking, and time is running out.

The Commission has concluded its work as a Congressionally mandated organization, as of February 26, 2010. We are committed to continuing this bipartisan work, however, and will continue to monitor progress on the Commission's recommendations in our newly formed WMD Center, a bipartisan, not-for-profit research and education organization. It is our hope that by identifying areas of progress, as well as those in need of further attention, appropriate action will be taken to mitigate the threat posed by weapons of mass destruction to the United States.

THE COMMISSION'S FINDINGS

The Commission's Report assessed both nuclear and biological threats, and provided 13 recommendations and 49 action items. The Commissioners unanimously concluded that unless we act urgently and decisively, it was more likely than not that terrorists would attack a major city somewhere in the world with a weapon of mass destruction by 2013. Furthermore, we determined that terrorists are more likely to obtain and use a biological weapon than a nuclear weapon. Shortly thereafter, this conclusion was publicly affirmed by then Director of National Intelligence (DNI) Mike McConnell.

There are several reasons for our conclusion that a bioattack is actually more likely than a nuclear attack. Many pathogens suitable for use in a biological attack are found in the natural environment, all over the globe. The lethality of an effectively dispersed biological weapon could rival or exceed that of an improvised nuclear device. The equipment required to produce a large quantity from a small seed stock, and then "weaponize" the material—that is, to make it into a form that could be effectively dispersed—is of a dual-use nature and readily available on the internet. The most effective delivery methods are well known in the pharmaceutical, agricultural, and insect-control industries. It is much more straightforward to stockpile weaponized pathogens than nuclear material, raising the terrible specter that terrorists could attack an American city using a bioweapon, then quickly "reload" and attack again within a matter of days or weeks.

So, while it is certainly possible for terrorist groups to get a nuclear weapon, it is less difficult for them to develop and disperse a bio-weapon. There may be even fewer barriers for terrorist groups with close ties to those nation states which are accumulating both the materials and scientific capability for weaponization. All of the ingredients are in place for a biological weapon to be in the hands of a terrorist organization, which is subject to none of the international law constraints and retaliatory consequences which might impede a nation state from its use.

None of this is speculation. Al-Qaeda was well down the road to producing such weapons prior to 9/11. Due to the ease in creating a clandestine production capability, our intelligence community had no knowledge of two such facilities in Afghanistan prior to their capture by U.S. troops and a separate, but parallel bioweapons development program al-Qaeda ran in Malaysia. Facilities with more sophisticated equipment than those found could be in operation today without our knowledge.

When would we find out about such a facility? It is possible, even likely, that we would not know until after an attack took place. Consider this scenario: A team of engineers sympathetic to al-Qaeda bring a seed culture of anthrax spores to the United States from an overseas laboratory. They purchase and modify a truck so that it sprays anthrax spores into the air. The load up the truck with its deadly cargo, and slowly drive it through the downtown traffic of a mid-sized city during rush hour, at the end of the day. No one notices the truck, or finds it at all unusual that the truck is emitting fumes. No BioWatch sensors go off. Days later, however, desperately ill people start flooding emergency rooms. In the following weeks, 13,000 people die. The city may need to be cleaned up so that people can safely enter the downtown area, at a cost of billions of dollars. As tragic as this event could be, the terrorists remain at large, free to commit the same murder twice. Antibiotics would likely arrive quickly, but there would be National demands for a vaccine—but there is not nearly enough anthrax vaccine to satisfy the demands from even one small city. Unfortunately, this scenario is not considered "worst-case" or unrealistic, but it is in fact the National Planning Scenario for a biological attack. It was released 5 years ago this month. Five years—the clock is ticking, and we are not prepared.

The Obama administration appears to agree with our concern regarding the threat of 21st century bioterrorism. The following is a quote from National Strategy for Countering Biological Threats signed by President Obama on November 23, 2009.

"The effective dissemination of a lethal biological agent within an unprotected population could place at risk the lives of hundreds of thousands of people. The unmitigated consequences of such an event could overwhelm our public health capabilities, potentially causing an untold number of deaths. The economic cost could exceed one trillion dollars for each such incident. In addition, there could be significant societal and political consequences that would derive from the incident's direct impact on our way of life and the public's trust in government."

## WEAPONS OF MASS DESTRUCTION PREVENTION AND PREPAREDNESS ACT OF 2010

First, Mr. Chairman, we want to thank you and your committee for the extraordinary leadership you have shown by holding this hearing about the WMD Prevention and Preparedness Act of 2010. We realize that the WMD issue spreads across many committee jurisdictions and will required unprecedented leadership, coordination, and cooperation. The biggest internal enemy we face in dealing with this threat is the natural inertia of Government. The only way to overcome this inertia is for our top political leaders to take bold actions.

As of the time we prepared this statement, we had not seen actual bill language, but we appreciate the summary of the bill provided by your staff, and are happy to provide comments based on that summary.

## INTELLIGENCE

As we understand it, the bill, if enacted, would require the DNI, in coordination with the Secretary of Homeland Security and other appropriate Federal Agencies to develop and maintain a National Intelligence Strategy for Countering WMDs. It also calls for improving National capabilities to collect, analyze, and disseminate intelligence related to WMDs. We understand the DNI is already working on the 2010 National Intelligence Strategy for Countering Biological Threats.

Based on a recently completed tour of nations in two of the most vulnerable regions, there are significant gaps in our intelligence relating the nation state-terrorist links. Recognizing the inherent difficulty of collecting intelligence in these venues, doing so should be the highest priority of American intelligence.

We commend these provisions. Increased attention in this area is of vital importance and, we understand, would underscore the DNI's own initiatives. We hope that the drive to produce this report would spur the intelligence community to acquire and retain additional expertise in the nuclear and biological fields; prioritize pre-service and in-service training and retention of people with critical scientific, language, and foreign area skills; and ensure that the threat posed by biological weapons remains among the highest National intelligence priorities for collection and analysis. Indeed, recommendation 11 in our report, *World at Risk,* was that the United States must build a National security workforce for the 21st century.

One important issued not addressed in the intelligence section is the problem of not including public health personnel in many of the fusion centers. Only a handful of these centers currently include public health officials. We all need to understand, in the 21st century, public health is a critical element of National and homeland security. Public health resources need to be fully integrated with law enforcement and traditional first responders.

We also recommend that the bill include a provision directing the Secretary of Defense to provide a classified report to the committees with primary oversight of the Department of Defense, intelligence community, and Department of Homeland Security on the efficacy of the biological weapons tests conducted by the United States during the 1950s and 1960s. Some commentators assert that bioweapons are not of concern, primarily because they have not been used on a widespread basis. We are entirely confident that the report we call for, if properly done, would dispel any doubts about the threat that bioweapons pose to the safety and security of our society and our allies.

PREPAREDNESS: GETTING FIRST RESPONDERS READY, AND ENGAGING THE PUBLIC

We strongly believe that a well-informed, organized, and mobilized citizenry has long been one of the United States' greatest resources. An engaged citizenry is, in fact, the foundation for National resilience in the event of a natural disaster or a WMD attack.

Consistent with the Commission's Report, we must create a culture of preparedness and resilience across our Nation. There are vast arrays of capabilities found across our society that can and must be organized and, when needed, mobilized in the event of a natural disaster or WMD attack. These capabilities are primarily the combined assets of State and local governments, our diverse business communities, nongovernmental organizations, professional and service organizations, and all citizens. The Federal Government cannot hope by itself to possess the capabilities needed in the event of a major disaster—but it can lend vital support if local and regional actors have organized beforehand. We submit for the record the WMD Commission's final product, a brochure for community preparedness. *We All Have A Role: Working with Your Community to Prepare for Natural and Man-Made Disasters.**

We have found that the Federal Government can do more to make sure that State, local, and Tribal governments can respond in a crisis, and so we support this legislation's call for sharing security information with State, local, and Tribal governments (Title 1, section 111). State and local governments, as well as health departments, need more comprehensive threat information in order to prepare for emergencies, as well as gain support from leadership and staff in preparedness activities.

We support the bill's provisions for the Department of Homeland Security to put forward threat bulletins and guidance to local governments (Title 2, section 202), and crafting important messages ahead of a crisis (Title 204). We recommend that the public be involved in the creation and approval of threat information and alerts. This will help to ensure that these alerts effectively reach and motivate their target audience.

SECURE, PRODUCTIVE U.S. LABORATORIES AT THE FOREFRONT OF SCIENCE

Certain principles animated the section of our Report dealing with laboratory security. We were concerned about: (1) The proliferation of high-containment labs, which were not only unregulated but often unknown to the Government, (2) the fragmentation of Government oversight among several agencies, (3) the need for a thorough review and update of the Select Agent Program, and (4) the importance of regulating labs in a way that enhanced security but did not discourage robust scientific research in the United States.

Enhanced biosecurity measures should improve security, streamline oversight, and focus our resources on the greatest risks. By correctly applying risk management principles, the United States can increase security without impeding science or critical U.S. industries. Without robust scientific research, we will not have the drugs, vaccines, and diagnostic tests needed to protect the American people in the event of a biological attack. The work of developing medicines is difficult, takes a long time, and is fraught with challenges. We still do not, for example, have drugs or vaccines for many of the biological agents weaponized by the Soviet Union. Therefore, it is in our National security interest to make sure that our laboratories continue to develop medical countermeasures, while still operating safely and securely.

*The information has been retained in committee files.

We believe that this legislation highlights many of the provisions of our Report, and in certain respects improves on our recommendations. For example, the bill introduces into the Select Agent Program the idea of stratifying risks, which we think is a real advance in achieving the right regulatory balance. Stratification of risks into tiers allows for more realistic assessments of risk, and will benefit public health investigations. The bill calls for the designation of "Tier I" agents to be the most dangerous subset of the pathogens that have clear potential for use as biological weapons. Multiple studies were conducted as a result of our Report. Virtually all of them, from both the public and private sectors, have called or will call for the stratification of agents. The overwhelming recommendation from the scientific community is that any legislation employs a tiered approach.

We therefore commend the committee for introducing the stratification approach into this bill and recommend that the Tier I list be developed by the Secretary of DHS in consultation with the Secretary of HHS. Today, 82 Select Agents receive the highest level of security focus and regulation. We believe the correct number of top-tier agents is closer to 8 than 80.

Stratifying the Select Agent list should allow us to focus increased security on the highest risks and allow public health-related research involving non-Tier I agents to proceed without excessive regulation. We suggest that care be taken to avoid duplicating the unintended negative consequences of the current Select Agent program. Security restrictions must not preclude international cooperation, which is necessary for public health and infectious disease surveillance, as well as our National security. For example, we should not repeat what happened at the beginning of the H1N1 pandemic, when flu samples from sick patients in Mexico were not shipped to U.S. laboratory scientists to analyze, but to Canada—because U.S. import and shipping regulations were so restrictive. We also do not want to "close our windows," so to speak, into the activities of other nations' laboratories. Scientists from the United States should be able to collaborate on Rift Valley Fever or Venezuelan equine encephalitis research with scientists where those diseases are endemic. If we don't, other countries' scientists will. For these reasons, the Select Agent program status quo needs to be changed, and we recommend calling for adjustments to ease restrictions on non-Tier I agents.

Our recommendation to stratify biological agents for security purposes is distinct from the measures that scientists need to take for safety. Many pathogens, including those that cause tuberculosis, HIV, and herpes B, require special safety precautions, though most experts do not consider them to be feasible for use as bioweapons. We encourage the further refinement of safety systems and procedures for all types of biological research, so that research can be conducted with the highest level of safety.

### FRAGMENTATION OF OVERSIGHT SHOULD BE ELIMINATED IN PATHOGEN SECURITY

In our Report, we concluded that the fragmentation of Government oversight of laboratories was a National security problem. We determined that there should be one set of requirements concerning pathogens for the scientific community to follow, instead of having separate regulatory programs from multiple departments. The authority to oversee and enforce these requirements must be vested in one lead agency so that the regulated community has a single coherent, consolidated, and streamlined set of regulations to follow.

Currently, under the Select Agent Rule, as defined by 42 CFR 73, 7 CFR 331 and 9 CFR 121, HHS and the Department of Agriculture (USDA) regulate select agents. Human pathogens are regulated by HHS; plant and animal pathogens are regulated by USDA, and facilities that house pathogens that are a concern for humans and livestock are inspected jointly. Accounts of this process suggest that HHS and USDA cooperate well in meeting their regulatory responsibilities. Given the distinct expertise on these pathogens in USDA and HHS, it is appropriate that USDA's expertise be brought to bear on livestock and crops, and that of HHS for human pathogens. However, it is our belief that in constructing a regulatory system for pathogens that can infect humans, one cabinet secretary should be in charge. As Commissioner Robin Cleveland stated last December, we "have too many agencies, too many turf fights, and unclear oversight entities." That must end.

We recognize that the bill would require the Secretary of the Department of Homeland Security to develop enhanced biosecurity measures, and would require them to inspect all Tier I laboratories. In our Report, we recommended that HHS "lead an interagency review." This recommendation was implemented by Executive Order in January. The review called for will soon be completed. The Report also called for HHS "to lead an interagency effort to tighten Government oversight on high-containment laboratories." Based on what we have learned from several recent

studies, numerous meetings with representatives from the Executive and Legislative branches, and the scientific community, we continue to recommend that overall oversight authority and responsibility for lab security be assigned to the Secretary of Health and Human Services, with recommendations on scientific matters from USDA and security matters from DHS. The Secretary should solicit, possibly through the creation of an advisory council, the recommendations from the scientific and security communities with a view towards constantly improving the regulatory model given all the concerns of the communities involved. To sum up, we recommend that HHS take the lead. We continue to take that position, and believe that it will lead to the improved regulatory process that we all seek. We also do not have the luxury of time to bring another agency up to speed. HHS has been doing a positive service in this area, and we do not want to change ships in midstream.

BUILDING A RESPONSE AND RECOVERY PLAN THAT ACTS AS A DETERRENT

The bill requires the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security and other appropriate Federal agencies, to develop and implement a National Medical Countermeasure Dispensing Strategy. A National strategy is sorely needed to establish effective and timely distribution of emergency medical countermeasures (MCMs). Countermeasures could serve to blunt the impact of an attack, save lives, and thwart the terrorists' objectives—but only if they are delivered when and where they are needed. We commend the Obama administration for issuing an Executive Order in December, 2009, to establish Federal capabilities for the timely provision of medical countermeasures following a biological attack, and we commend this committee for taking up this important, as well as complicated, effort. But, dispersal of medical countermeasures is but one link in the chain of actions that are needed to respond to a bio attack. Rapid detection and diagnosis capabilities are the first links, followed by providing actionable information to Federal, State, and local leaders and the general public; having adequate supplies of appropriate medical countermeasures; quickly distributing those countermeasures; treating and isolating the sick in medical facilities; protecting the well through vaccines and prophylactic medications; and in certain cases, such as anthrax, environmental clean-up. All parts of the chain need considerable attention.

Public health agencies at the Federal, State, and local levels have made great strides since 2001 to prepare the Nation for biological attacks and other disasters. This is in spite of the challenges of preparing for such events, especially in light of limited and decreasing budgets. However, much more can be done to support public health, and also traditional first responders, so that the Nation can effectively respond to a biological attack.

One way that the burden on public health may be eased is if the public is more prepared. We commend this committee for including provisions for the public and especially first responders, to access the vaccines and antibiotics they might need in an attack, before such an event occurs. (Title 1, section 105) For example, anthrax vaccine could and should be available to first responders, and we agree with the committee that the Government should seriously review the issue of whether and under what conditions home MedKits should be available for concerned citizens who wish to prepare themselves and their families. In considering the policies for vaccination and antimicrobial distribution in light of known biological threats to the United States, however, we recommend that public health responders also be given priority, and that vaccination be done on a voluntary, not a mandatory, basis.

We also feel obligated to comment on a key issue regarding medical countermeasures not addressed in this bill. Yes, we must have a system capable of rapidly dispensing MCMs during a crisis, but we must first have the required items to dispense. A world-class delivery system that does not have the appropriate products is of no value. Several months ago the administration attempted to raid the BioShield Reserve Fund to pay for H1N1 flu preparedness—certainly an important program, but one that needed funding on its own merits. Thankfully, this raid was not successful because leaders in Congress, who understand the importance of BioShield to our biodefense program, prevented it. Unfortunately, the story on funding for the Biomedical Advanced Research and Development Act (BARDA) does not have a similar good ending—at least not yet. There is, however, still time to correct this funding shortfall. The current funding request for fiscal year 2011 is $476 million. The Center for Biosecurity at the University of Pittsburgh Medical Center recently estimated that $3.39 billion per year in medical countermeasure development support would be required to achieve a 90 percent probability of developing one FDA-licensed countermeasure for each of those requirements. The cost estimates of devel-

oping these pharmaceuticals were based on in-depth surveys of historical vaccine and drug development data, and reflect the high failure rate of biopharmaceutical development. It now falls to the U.S. Government to fund the development of medical countermeasures based upon the level of risk that is deemed tolerable. An amount of $1.7 billion per year would meet roughly half the estimated need to provide a significant and necessary down-payment on the Nation's preparedness. Given the threat, $1.7 billion per year for prevention and consequence management is a reasonable and comparatively sound investment.

America must develop the capability to produce vaccines and therapeutics rapidly and inexpensively. Both the BioShield Reserve Fund and BARDA will be key elements in reaching this goal, but only if they receive proper support and funding. Developing this capability over the long-term will lead us to a security environment where biological weapons can be removed from the category of WMD. That must be the long-term biodefense strategy for America, but it will be unattainable if we do not properly fund these key programs. We submit for the record an article we co-authored on this subject in the summer of 2009 for the Journal of Biodefense and Biosecurity.*

DECONTAMINATION—RESOLVING LONG-STANDING QUESTIONS SO WE ARE PREPARED

We commend the committee for including the provision that DHS issue guidelines in coordination with the Environmental Protection Agency for cleaning and restoring indoor and outdoor areas affected by the release of a biological agent. These guidelines should also address methods of decontamination following a large-scale event, and should address some of the remaining questions of a technical and scientific nature that make decontamination of a large area difficult. Currently, U.S. environmental laboratory capacity is insufficient for the challenge of sampling and testing following a large biological release. Federal leadership roles should also be clarified—many Federal agencies currently have roles in decontamination, but it is still unclear which agency would lead. Likewise, it is unclear who will cover the costs of decontamination, as well as the temporary relocation of building occupants. Private building owners would rightly question what their role is, at this time—if private industry is to be responsible for decontamination of their own property, there should be guidance for decontamination practices and qualified decontamination contractors available to industry in the event that they are needed.

The WMD Commission sponsored a small study to review current bio-decontamination capabilities and responsibilities. The conclusions were not encouraging. We submit the recently-published article for the record.*

THE BIOLOGICAL WEAPONS CONVENTION—AN OPPORTUNITY TO LEAD

Section 112 of the legislation intends to require the Secretary of State to promote confidence in the Biological Weapons Convention (BWC) implementation and compliance by its States Parties. It also calls for promoting universal membership in the Convention. One of the WMD Commission recommendations in *World At Risk* was that the United States should propose a new action plan for achieving universal adherence to the BWC (recommendation 2–4). We are supportive of the goal, as well as moving forward to address the other important gaps in our preparedness. In order to provide leadership at the 2011 BWC Conference and take advantage of this once-every-5-years opportunity, we should be doing more to lead by example.

THE CLOCK IS TICKING

We cannot overstate the urgency of this crisis, and the need for action, now. The international situation is fragile, with Israel and its neighbors, on the India-Pakistan border, and this fragility substantially increases the risk of terrorism with a WMD. While there are issues at stake that have gone unresolved for over 60 years, we may have only 3 more years of procrastination before the consequences reveal not a *World at Risk,* but a world immobilized by crisis.

One of our recommendations was for Congress to reform Congressional oversight to better address intelligence, homeland security, and cross-cutting 21st Century National security missions. The fact that we are having this hearing on April 21, 2010—more than 16 months after *World at Risk* was issued—is evidence of the difficulty that Congress has in organizing itself to protect the people of America, and the world, from this ultimate catastrophe.

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*The information has been retained in committee files.

CONCLUSION

We commend the committee for taking up this important issue. We look forward to participating in a robust discussion on Capitol Hill and with the administration and stakeholders as the *WMD Prevention and Preparedness Act of 2010* is introduced, and makes its way through the legislative process, and stand ready to help where we can, to promote important strides for our National security.

Chairman THOMPSON. Thank you very much.

The Chair has previously recognized the good work of Dr. Gronvall, and it is obvious she has both of your gentlemen's backs.

Senator Talent, for as long as you need to explain.

**STATEMENT OF JIM TALENT, FORMER COMMISSION VICE-CHAIRMAN, COMMISSION FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM**

Comm. TALENT. Appreciate that, Mr. Chairman. Yes, Dr. Gronvall will slip us notes when you ask the hard questions. We may just actually refer them to her.

It is great to be here and to recognize your great work on this, Mr. Chairman, and the Ranking Member, to see old friends, because this is a hearing room I know very well, to see my friend from Missouri, Mr. Cleaver, here, and to congratulate him on his work on this. I am really pleased to hear about the efforts between Mr. Pascrell and Mr. King, and knowing those two personalities and all kidding aside, I think that something is going to end up being done. So that is very important.

Yes, I am going to make some observations, Mr. Chairman, and then let you all ask the questions and we can have a dialogue, and I think it is important to do that. This hearing is really important and I am glad you are holding it.

It has been my observation over the last 2 years studying this whole area that while most of the problems are Executive in nature—we have seen this now through two administrations, just the difficulty of getting this big, fragmented set of agencies to work together to do things, much less given the Federal issues—and that it is important to have top-level Executive leadership hold people accountable, that when Congress gets active and people in the agencies seeing Congress getting active it makes a big difference. Even if the legislation that you are passing is just basically affirming what the Executive is doing in certain areas it shows a level of seriousness and unity and commitment, particularly when it is done on a bipartisan basis, that people through the Executive branch take seriously.

I think the model for this is probably the Intelligence Reform Act. When Congress went through everything it had to go through to pass that it made a big difference within the intelligence community. It is not that everything is perfect within that community at all, but there is no question that at least some cultural change resulted as—occurred as a result of that. So I think it is important that you are doing it.

Mr. Chairman, you ask about and the Ranking Member asked for suggestions we might have about how to remedy the difficult problems we have in the Congress regarding oversight, so I will give you a practical response. As a person who served in this body for

8 years in the Minority, in the Majority, in the leadership, on the back bench, as a committee chairman, in a lot of different capacities, I think the initiative ought to come from you all because, let's face it, you are probably going to be the gaining committee—ought to be, in my judgment.

Mr. Chairman, if you and the Ranking Member would talk—get the Speaker's blessing; you are obviously going to have to have that—and then talk with the Majority and the Minority leaders, maybe get a staff person designated, and do all this low-visibility. I mean, in the initial stages I would not want surfacing and on the Hill or anything like that if you could avoid it, in the magazines.

Talk to the Executive branch people and let them know that they can let their hair down and try and identify the four or five areas where the current fragmented system is causing the biggest problem, and maybe begin focusing on those areas. Then when you have got an agenda together and maybe three or four ideas for what you could do about them—and between the two of you you know the House well enough to know going in, probably, what is possible and what isn't possible.

Then maybe in the Leader's office, with the Minority Leader's person present there, get together the Chairmen, the Ranking Members, and the key staff people and just begin asking what can be done. Is there any low-hanging fruit in this? I mean, what steps can be taken so you can begin making some progress? Don't make the best the enemy of the good. I don't know that you need some kind of global solution, but just start taking some steps and emphasizing to people the seriousness of this threat.

I mean, if they have not had—if these committees of jurisdiction and oversight have not had the briefing on this they need to get the briefing on this. This is something that was impressed upon me through our initial deliberations. I am not an intel guy the way Ms. Harman is, but when I saw what I saw, and when I saw people like Bob Graham, and Graham Allison, and Wendy Sherman, and Robin Cleveland, taking as seriously as they took this threat, that impresses you.

This is a major threat and if we are going to make it a priority to deal with it, I mean, that means—if something is a priority it means you are willing to sacrifice other things for it. I think if you can get the people in that room going in to accept that—do this low-key, and then get the process moving that way. It is going to take a major effort, Mr. Chairman, and I know how busy you all are. But I think it is worth doing because not only is fragmented oversight can it be negative in the sense that it impedes the Executive, but it is the opportunity cost, because good oversight can make a huge difference, as those of you on the Intelligence Committee know.

So I would describe, and we did in the report, Congress' efforts in this to this point have on balance, I think, been a negative not because the Members haven't wanted to do it but because this system is so screwed up, and it could be a big positive. So that is just my practical advice and you can take it for what it is worth.

I do want to say, because our report card was not good in the area of bio-preparation, that we have—the two of us, I think—been pleased personally at the administration's response, and in par-

ticular the President's response, personally. You know, our understanding is that he has taken a personal interest in this, he is meeting with teams of people particularly in the area of countermeasure development, and that is all to the good. But we can't—I mean, having the President pay personal attention to something, you know, when you are talking about trying to unify a structural sort of response is not the long-term answer because he is just too busy. But it is still good that they are responding in that fashion.

I also want to make a comment—Chairman Graham talks a lot about the links in the chain of preparedness, and that all the links have to be strong if we are going to be prepared for a bioattack. Preparation for a bioattack is the key to deterring it because if we are prepared well enough then—and if the attack is likely not to be a major success, then they are likely not to launch it. In contrast to a nuclear attack, this is an area where preparation can actually be prevention.

If you look at the—if you think of the four links in terms of stockpiling the countermeasures, distributing the countermeasures, detecting, having good surveillance, and then clean-up, I think we are showing some signs of life on the stockpiling issue. Secretary Sebelius is conducting a review; I think they are serious about it.

The follow-up has to be there. You know, and I am hopeful that they will come out with a strategic plan. The problem there was fragmentation among the different agencies—typical story: FDA, CDC, HHS, all that—and then a lack of funding.

The distribution side of this, as much maligned as it has been of the countermeasures, is the area where I think we are the furthest—not where we need to be, but we are the furthest. We have a model in place, you know, the CRI initiatives, with points of dispensing that are more or less locally-controlled; we are in 72 cities. Then they are overlaying a Federal response through the Postal Service, which has been tested in St. Louis, as a matter of fact, and seemed to work.

So at least we have a model in place of the local dispensing sort-of settings with a Federal overlay. We have gone some distance in getting it actually in place and in testing it. So, I mean, that link—I think there is a long way we need to go, but I think at least we have some idea of what we are doing.

The two where I think we are failing the most right now is in detection or surveillance and then clean-up. On the surveillance side of it we have BioWatch. We have that in a number of cities, and that is a good idea. We funded a lot of different sort of studies and surveillance systems, so they keep track of over-the-counter sales of drugs and that sort of thing, but they are not linked together. There is no general strategy or sense of priorities with regard to that.

We don't have good enough detection sort of tests so we can tell whether somebody is sick. I mean, you have got a—the pregnancy test has developed to the point you can tell whether you are pregnant in a matter of minutes, right, but we can't test for even—for swine flu that quickly, much less for some of these other kinds of pathogens. So we need those detection tests. I mean, it is a bad thing when, if the President asks, you know, the head of CDC at any given time, "How many people were sick with the H1N1?" they

couldn't have told him. They can't tell you today with certainty how many people died from that, because they would just guess.

You all probably had this experience or know people who had this experience: You call a doctor up and they say, "Well, it sounds like it, but it is, you know, it is not worth—you are not in a high-priority enough group to bring you in and test you to make certain whether you had it." That was a—that was a pandemic we had 6 months' notice for. So we have got problems with surveillance.

Then clean-up, we have recently—the Commission recently funded a study on this. We have total fragmentation on this, and environmental clean-up is important because we need to clean up quickly and get people back into an affected area. It is a hugely important response.

Think about this from the standpoint of, let's just take New York, and I—that is the city most people use. You get an attack, you are going to have your initial impact with people getting sick and dying and then the problem is, you just can't have half of New York that people can't go back into for 6 months because you are trying to clean it up.

I just think we are nowhere on that. Again, the typical fragmentation—HHS, EPA, USDA has a piece of this. We have not funded the research adequately, and there is a lack of training and guidance for the first responders. They don't know what to do and how to clean up. This would seem to be an area where we could build a Federal reservoir of understanding and expertise that we could be very flexible with.

So we have a long way to go. One other observation: There is a mentality that I think that you all as leaders need to adopt as you approach these issues. One of them is the urgency of it.

It is relatively easy to grasp, but intellectually it is hard to make it a working reality in your day-to-day operations and decisions. It is just hard, because it is hard to conceptualize something like this.

Some of you have, like, lived on the Intelligence Committee for years—seen Ms. Harman up there, more adjusted your point of view to this, but it is hard to do. Keep communicating the urgency of the threat.

Then in terms of structuring solutions, I believe a partnership rather than adversarial model with all the different agencies and Federal—and State and local organizations is the right one. So you include rather than exclude, in terms of groups of people—so share the intel with the public health people, unless you really can't; empower rather than regulate, like with the labs—and I think you all have that approach in this bill; and support rather than punish.

We want people to take the initiative. We want people to make decisions. You know, we want people to go out and do things in response to this. If they know that you are going to back them up rather than be looking to play gotcha with them I think it will have a big impact.

But thank you again, Mr. Chairman. I think it is great that you are having this hearing.

Chairman THOMPSON. Thank you very much.

Obviously we appreciate both of your gentlemen's testimony, and obviously it is revealing, but nonetheless very troubling, that we

are still only where we are and not where we need to be. I thank you for your testimony.

I now recognize myself for 5 minutes.

You both talked somewhat about the looming biological threat.

I guess we will ask Senator Graham this question as it relates to the 2013 prediction: If you would, tell us a little bit about how you arrived at that number and—well, it is obvious we are not prepared—what we need to do to get prepared if that becomes a reality.

Comm. GRAHAM. That number is a statistical estimate. We interviewed over 150 experts in the United States and elsewhere on this issue. We studied the literature. Our commission itself has some people who have spent a lifetime, such as Graham Allison, on this matter. So we present it as our best judgment based on all of the above as to the time frame within which we are operating.

I mentioned that I have recently returned from a trip to Asia and the Middle East, and nothing that I learned in that trip caused me to feel that we were overly or excessively concerned with the date 2013. My concern would be that the percentage of likelihood that that date will be the date by which a weapon of mass destruction will be used by a terrorist—the likelihood of that is higher than we thought it was in December 2008.

Chairman THOMPSON. Thank you.

Senator Talent.

Comm. TALENT. Could I just add a quick comment on that? I think we obviously didn't have intel saying, "Well, there is a plan underway that is going to come to fruition in 2013," but we do want to emphasize, this is a short-term threat. This is not something where we can say, "Oh, it is terrible but it is a generation from now." It is not.

We know they are trying to get this stuff. It fits their strategy. It is proliferating all over the world, so it is getting easier and easier for them to get it.

If they get it and they hit a major city with it—not necessarily in the United States—from their perspective, you know, they win. So everything we saw emphasizes the short-term nature of it. So that is why 2013.

Chairman THOMPSON. Thank you.

With respect to that short-term nature, the legislation that we are kind of working through right now to address so many of the things you have identified, my charge to Mr. Pascrell is to make sure that, regardless of how controversial or cross-jurisdictional it might appear, it is the right thing to do. So therefore, understanding that it is the right thing to do, those are the marching orders that I have suggested to him.

Your testimony today further highlights the fact that we need to put aside some of the jurisdictional challenges that have prevented things from going forward and do it, because it is in the best interest of not just this country but the world that we become that leader in this arena. To that extent about the world leadership, it is your belief that if we took that step we make a better argument with not only our friends and enemies around the world that it is the right thing to do, but it is difficult to make that argument without feeling the predicate at home.

Comm. GRAHAM. Yes, I think the fact that Congress would take what anyone in politics recognizes as a difficult step, because it is changing jurisdictions and areas of power and influence in a critical legislative body, that would symbolically send a very powerful signal that America was taking this matter with the urgency that it deserves. But I think it would be the actual product that would come as a result of that reorganization that would be even more influential.

If the United States could go to that conference in 2011 having passed legislation that provided some new standards for security of high-risk pathogens—and you have very good provisions in your preliminary draft of the legislation to that effect—that would allow us to say to Malaysia and to Brazil, these other countries that have significant capability to develop and weaponize biological weapons—I am not picking on those two countries as being likely candidates—but if we could say to them, "Look, this is what we have done to secure our laboratories so they will be less susceptible to being invaded by the bad people who would like to get access to these material," I think our case would be stronger.

Conversely, if the facts are that we have known about this now for a decade or more, it has been considered an urgent matter for a couple of years and we have done zero, then what is our moral authority to try to get anybody else to strengthen their domestic situation?

Chairman THOMPSON. Thank you.

Senator Talent.

Comm. TALENT. I would agree with that, and particularly given the fact that this is something that—you know, other governments don't want this kind of an attack to happen. This is not a situation where there really are different ultimate agendas that are being concealed here. I mean, I think there are a lot of potential partners out there. So I think setting an example is important.

We should say, there is a lot of good activity going on. The Executive branch is doing a lot all the time. You all have done and funded and authorized a lot.

The problem is, and Graham Allison puts it this way—he is really correct—we are running towards our goal, but they are running faster than we are. So even though we are making progress, their lead is growing.

A lot of that is just because the nature of this kind of conflict in weaponry favors them. I mean, it is easier—they are able to attack very vulnerable areas that are hard for us to defend and that we depend on a lot more than they do. That is the nature of asymmetric weapons, and this is the ultimate asymmetric weapon.

So the short answer is yes, I think it is a very important model to empower the President with when he as the summit on this in about a year now.

Chairman THOMPSON. Thank you very much.

The Chairman now yields to the gentleman from New York, the Ranking Member.

Mr. KING. Thank you, Mr. Chairman.

First of all, I regret that I had to step out of the room. Ironically enough, it was Secretary Napolitano calling to make sure that I had gotten a copy of her letter talking about the multitude of com-

mittees that she has to testify before each year. So I told here I did, and I told her we raised it and we are going to continue to raise it.

Let me focus, if I could, on biological weapons. I think if you went to the average Member of Congress and you spoke about WMD they would think of an abbreviation, we think of dirty bombs—the average American, certainly. It is hard to get people focused on the issue of a biological weapon.

Having been here on September 11, I remember afterwards we were asking ourselves, "What did we know? What didn't we know? What should we have known? What did we do? What didn't we do? What we should have done?" So, assuming the absolute worst here, I just want to make sure that we are at least—you know, leaving Congress aside; we have our own issues we have to deal with—but just generally, for instance, in your dealings with the intelligence community do you feel that they are sufficiently alert to this and sufficiently concerned?

Comm. GRAHAM. I think the answer is, they have certainly given this a high priority. In the prepared testimony, however, I inserted a statement to the effect that this potential of a nation state developing weapon of mass destruction capability, specifically biological, and then sharing it with a linked terrorist organization—such as Iran and Syria have had a long-time relationship with Hezbollah; Pakistan for many years has had a close relationship with the Taliban—that represents the ultimate threat because the nation state gets to have some degree of deniable involvement in the matter, points its finger at its surrogate that is actually carrying out the operation.

I think that this situation is accelerating and that our intelligence agencies need to give it an even higher priority than that which they have given it in the past.

Mr. KING. Senator Talent.

Comm. TALENT. Yes, I would say yes and no. Yes in the sense that they recognize and I think believe that a WMD attack from a terrorist organization is the greatest threat that we confront that they have to deal with.

The problem is cultural, and it goes beyond just the intel community. When people think of WMD they usually think of other things. We have had whole establishments of people for generations who have grown up understanding that nuclear material can be put to bad use, but the idea that genetic material or pathogens could be put to bad use is much newer.

So they all tend to respond a little bit slower. They don't have the same high level of cultural awareness, as a community, of these issues. So you get things like the fusion centers—and we mentioned this in our testimony—where, you know, the local fusion centers where everybody's supposed to come together and share intel and all the rest of it. The public health—except in a few cities that have really pushed hard, like yours—the public health community hasn't got the clearance so they can participate.

I don't think the—from what we have seen, the intel agencies don't keep good enough track of just open-source foreign public health information that could be really important. There are dots they ought to have there to connect.

There are issues with workforce—they may not have enough people in the workforce who really understand bio issues. Plenty of people understand nuclear issues.

I don't want to point the finger and say, "That person doesn't care or isn't doing their job," because they all really do care. It is a cultural issue, and culture takes a little time to change.

Mr. KING. My time is running down, so I will ask two questions in one and then if you could answer the—both of them.

If you could give the same—answer the same question regarding State—Federal-State law enforcement—FBI, State police, local police—how attuned they are, how concerned they are about this? Also, even though we were on the committee, I didn't realize until I read your report, or your report card, that the budget for the Department of Homeland Security only requested about one-tenth of what would be needed for medical countermeasures in the event of a biological attack. I am sure this is true in the previous administration, so I am not trying to make this a partisan issue.

The fact is, of all the issues we debate with the homeland security budget, I doubt if this would even come up if you hadn't brought it to our attention. Obviously we are talking about—you mentioned a half a million lives could be lost. So on those two issues, the intensity with law enforcement, and also with the Department of Homeland Security itself, why only one-tenth is put in for the medical countermeasures?

Comm. GRAHAM. Well, I think that is a perfect example of what happens when you don't have clarity of responsibility in terms of Congressional jurisdiction. There should be a place in each of the two houses of Congress which wakes up every morning asking the question: "What can we do today to make our response to a biological attack stronger?" both in terms of substantive legislation and advocacy before the Appropriations Committee.

That number is the number which—the University of Pittsburgh has a major center located in Baltimore that is probably the Nation's premier medical entity on bioterrorism, and it has calculated that in order to have an adequate supply of the eight—for the eight pathogens that the Department of Homeland Security has identified as the most likely to be used in a weaponized form and to have that adequate supply within 5 years, which is outside the window of the 2013 prediction of course, that it would take approximately $3.4 billion each year for the next 5 years to get there.

The budget that Congress approved last year was approximate 10 percent, or roughly $300 million. $300 million is a lot of money, but it means that we either are determining that we are only going to prepare for one-tenth of the amount of therapeutics that will be required or we are going to take 50 years to get there, neither of which, I think, is an acceptable response to the American people. It is important that someplace in Congress knows this issue and is the virulent advocate for its remediation.

Comm. TALENT. I certainly would agree with that, and again, I think that Bob's point about oversight is important here. Like when the stimulus bill went through, this would have been a great opportunity to fund this program. It is not like somebody brought this up with Mr. Obey and he said, "Oh, I don't want to fund coun-

termeasures," right? Clearly, I know how this system works; Bob knows.

For some reason this wasn't on the table, because you all would have funded it. Or you would have looked at it—maybe staff would have looked at it and said, "Well, we have thought about it and we don't want to fund it because we don't think the structure is right and we need to"—I mean, you would have had an intelligent response. There was nobody there at that point who was raising this, and that is—that is the absence, you see?

Not only does the fragmented oversight impede the Executive, but the absence of that means you are not making the contribution that all of you as Members want to make. I mean, if somebody had set up—if we had attacked you, which we didn't do, for not funding this, you would have gone to your staff and said, what in the heck happened? Why didn't we fund this, right?

Now, I will say this: You all need to watch OMB on this, because they are on, like, autopilot, wanting to defund these programs to fund other things. Somebody over at OMB has decided that that is a good way to fund some other stuff, so watch that.

In terms of local sharing, Bob or Ms. Harman have a better view than I would. I think we said in the report we think the FBI is doing a lot better job than it used to in sharing with local groups, but there is a long way to go. Again, this is an area where we have to look at whether they are including public health officials. If they look at it and decide for some reason not to, okay, but let's not just exclude them categorically because we don't think that they are part of the solution.

Chairman THOMPSON. Thank you very much.

The Chairman will now recognize the other Members for questions they may wish to ask the witnesses. In accordance with our committee rules and practice, I will recognize Members who were present at the time of the hearing based on seniority on the committee, alternating between Majority and Minority. Those Members coming in later will be recognized in the order of their arrival.

The Chairman now recognizes for 5 minutes the gentlelady from California, Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman.

Let me welcome our witnesses. I believe that Jim Talent and I were elected to the House in the same year. He has obviously had——

Comm. TALENT. I may say, Ms. Harman, the years have treated you much more kindly than they have treated me, so——

Ms. HARMAN. Well, I notice your gray hair, my friend. Hadn't seen that before.

Bob Graham, I want to commend you not only for your friendship and enormous contributions, but for your mentorship of me as I served on our Intelligence Committee when you chaired the Senate Intelligence Committee, and for your superb handling of the joint inquiry on 9/11, which was a bicameral, bipartisan exercise by the Congress. Imagine—that seems like a, you know, some kind of an old, ancient idea, given these partisan times. But I thought we were very effective and I thought your leadership was exemplary.

Let me also mention that when your excellent report came out I made some comments about my view, which is that we should

prepare and not scare the American public. I think those comments were construed to mean I was critical of your report. I am not critical of your report; I applaud your report.

But I do believe that it is—that preparation, as Mr. Talent said, is a key to prevention, and so I am glad that you both see it that way.

Let me focus on just a couple issues that concern me enormously, or that may offer some keys, and just to see if you have thought about them. One is forensics and attribution. This has been mentioned in the nuclear case, but I also think it would apply in the biological case. If we can find out who produced the stuff that was used, or if the bad guys know that we will find out and the country transferring stuff to bad guys knows that we will find out, I think that is a huge deterrent. I just want to ask you whether you do, and what it is, exactly, that you think we should do.

My understanding is that there is a Nuclear Forensics and Attribution Act, which was signed fairly recently, but it wasn't funded by this administration. I would suggest that this is something we should fund and that this could be a very major prevention strategy. I just want to know what you think.

Comm. GRAHAM. I completely agree that if you are going to deter your adversary it is critical that the adversary knows that after the boom you are going to be able to determine from whom that was dispatched. In our report we talk about the importance of a forensic aspect to this issue and have urged heightened funding of the Nation's efforts, both on the nuclear as well as the biological side. That would be another example of an issue that this committee might give some special attention to see if, in fact, we are moving towards the capability to be able to identify with sufficient clarity that we could then justify a response.

On 9/11 we knew immediately who was responsible, and in October 2001 started to send a massive military response to Afghanistan. If we had not been able to have made such a quick and internationally-accepted determination of who the perpetrator was we would have been unable to have credibly launched that response.

Ms. HARMAN. I agree.

Comm. TALENT. This is an area—I just checked to make certain—we gave the administration an "A" in this area because they do have a—we had recommended that they develop a strategy; they have developed one that more than met the requirements that we had laid out in the report. But of course, implementation is the key.

Ms. HARMAN. Funding is the key.

Comm. TALENT. Funding. Absolutely. It would be a good subject for this committee to interest itself in to make certain that they do implement. But I completely agree with you. You are absolutely right from the standpoint of, it is a key deterrent if they know we can identify who did it, particularly where a nation state is behind it.

Ms. HARMAN. Well, I think it needs more attention by Congress. Time is short, but let me just commend you again for your "F" for our efforts to reorganize the Congress. Sadly, it is true. The committee, I believe, has way too little jurisdiction for the responsibility vested in us, and I have been through painful meetings

where our Chairman has courageously tried to augment our jurisdiction, and then he gets jumped by the Chairmen of other committees who don't want to give anything up.

Most of us are ready to criticize the Senate these days for stopping all of our valuable legislation, but the one place where the Senate has it right is that it has a committee, chaired by Joe Lieberman, where Susan Collins is Ranking Member, that has a lot more jurisdiction than ours and is capable of doing a lot more than we can because of its larger turf. Would you agree with that?

Comm. GRAHAM. I would agree with that, but if I could be so presumptive as to ask you and other Members this question: When the Chairman or the Ranking Member or other Members of this committee go to the leadership of the House with this request, the reality is there is a degree of perception of self-interest—you are trying to expand your power by taking it from somebody else.

What has got to be at the table is the National interest. My question is, who—what entities—do you think are capable of presenting that National interest to the leadership of the Congress, in this case specifically the House of Representatives, that would give them the impetus to take the action which we think is so critical for the Nation's safety?

Ms. HARMAN. Well, my time is expired, Mr. Chairman, and I think it is probably a question to you both. But I would just say, Bob, that your report and your calls for action and the reports by Lee Hamilton and Tom Kean for action, this is an unfinished item on the 9/11 agenda, and hopefully at some near point a popular uprising, which is pretty effective around here, might cause us to see this more clearly.

My time is up. I yield back.

Chairman THOMPSON. Gentleman from New York.

Mr. KING. Thank you, Mr. Chairman.

I would say that Secretary Napolitano has been very aggressive on this, and if we could have the administration work with us, they really have no axe to grind one way or the other other than to try to work it through.

So I would say if we could meet with people from the administration to show, again, as Senator Talent said, hit the low-hanging fruit first, then find areas where we look as if we are acting responsibly but the right thing is being done. But I think the administration can play a role, and obviously both parties have to sit down on this——

Comm. TALENT. It is going to have to be bipartisan.

I mean, you could explore, going so far—I don't think it is something the President would want to mention in a State of the Union address, but if on behalf of the Executive branch agencies who have to live with this, you know, he made a personal request at some point, I think that that might be helpful. He is just representing the National interest. I know, you know, he wants to show comity to how we operate on this end of Pennsylvania Avenue.

I have got to believe the leadership wants to do this. This isn't a leadership issue. I mean, the leadership is looking at this and saying: A, it is probably impossible; B, we have 1,000 other things to do; C, we don't want to go out there and tilt at windmills and end up offending everybody and we get nothing anyway. I mean,

if you talk with the Speaker and the leaders of both parties that is probably what they will tell you.

So, as I said, some good work sort of beneath the surface to try and figure out what can be done and give them some hope might motivate them.

Chairman THOMPSON. Well, I appreciate everyone's comments, and the one good part about the discussion is, up to this point that has been a theme people on the right and left——

Comm. TALENT. Absolutely.

Chairman THOMPSON [continuing]. Have displayed, that this needs to happen. So in that respect there is no——

Comm. TALENT. Mr. Chairman, I know it is easy for Senator Graham and I to think of new things for you to do, because largely—this is water you are largely going to have to carry, but——

Chairman THOMPSON. Well, I mean it is, as I said earlier, it is the right thing to do. So it makes it easier from our perspective.

The Chairman now recognizes the gentleman from Texas, Mr. McCaul, for 5 minutes.

Mr. MCCAUL. Thank you, Mr. Chairman.

Thank you, Senators, for being here, and your work products, your sense of urgency in terms of fixing the Congressional oversight issue. I think over 100 committees and subcommittees have jurisdiction currently, and I don't—I think it is paralyzing.

Mr. Chairman, I hope we can work together in a bipartisan way to fix this issue.

I think with your help and your credibility on the outside helping us I think we can hopefully get there.

I have two quick questions with the limited time I have. One is on the nuclear issue; one is biological.

In your report you describe Pakistan as the intersection of nuclear weapons and terrorism. I agree with that assessment. It has been an issue since the A.Q. Khan network.

Very concerned about the security of the nuclear stockpile in Pakistan, very concerned with Iran close by, by some reports maybe a year out from developing a nuclear weapon, very concerned about their alliance with Venezuela, with Hugo Chavez in this hemisphere, and with the potential of nuclear material being smuggled and, you know, potentially being brought across the border, which we know has some defects, I should say. It is easy to cross, and I think it is still very easy to get this type of material into the United States.

If you wouldn't—and I know, Senator Graham, you commented on that area of the world being the most dangerous part of the world, and I agree with that—what are your comments on how we can better protect the Nation?

Comm. GRAHAM. One, as I mentioned, we need to start dealing with some of these long-simmering issues that have become the flashpoint where this might actually occur. If, for instance, something broke out in Kashmir that we ignited the vitriol between India and Pakistan, that could be an incident that could cause someone to make the decision, "We don't want to use these weapons, but we are going to let our surrogate, Taliban, have access to these weapons and they will do our dirty work."

You may have read the story within the last week that there are now suspicions that Syria has transferred Scud missiles to Hezbollah in Lebanon. That could be a precursor of letting your surrogate do the dirty work for you. So I think one of the things that is very important is that we—that after 60 years we give the urgency necessary to try to bleed off these long-simmering disputes.

Second, I think also on a longer-range view, the United States needs to work with our allies to try to better understand the Muslim world. The Judeo-Christian world represents about 1.2 billion people; the Muslim world represents about 1.2 billion people. If we leave to our children and grandchildren animosity between these two groups, which together are roughly half of the population of the world, we have left them a very incendiary legacy.

On the more immediate, I think one of our recommendations was to work with India and Pakistan to develop some failsafe procedures. Unlike the United States and the Soviet Union during the Cold War where, although we were strong adversaries and had the capability of destroying each other, we understood that we didn't want to allow a misstep or an accidental event to become the ignition for such a war, so we set up the red phone in the Oval Office and a whole protocol. None of that exists between India and Pakistan.

I have felt that this may be an area in which the United States and Russia together, since we developed these protocols for our own benefit and the world's benefit, might work together with India and Pakistan to try to get them to develop. I was encouraged that within the last month India and China have started to develop some of those failsafe procedures, but there is almost nothing has been done in a similar vein between the real adversaries, which are India and Pakistan.

Mr. MCCAUL. I agree. With the limited time I have left, again, the issue of Iran and their alliance with Venezuela, putting that in our own hemisphere, what do you perceive as the threat level of smuggling that type of material across our border into the United States?

Senator Talent.

Comm. TALENT. We didn't address in the report border security as such. I am also very concerned about it, and I think we do have, you know, as a political establishment, be able to separate out the National security aspects of that from the immigration aspects of it and reach an agreement on the National security side of it. I mean, I think that is a concern. There are a lot of ways they could try and get it in the country and that is certainly one of them, and we are very concerned about Iran. The report reflects that.

Pakistan is just incredibly difficult. Bob mentioned some of the reasons. I would just say a couple of discrete things: We are still not where we need to be in terms of—on workforce issues within the intelligence community. This is something that Senator Graham just hammers on, and correctly. We don't have enough people who understand those issues. We haven't recruited effectively enough. It just takes so long to hire people in the intel community.

We can work particularly with India and Pakistan on security of pathogens—this is in the bio area. Then one other point that I

made a lot and got into the report, because I am coming from my—the DOD side—if you look at the speeches of Secretary Gates he talks all the time about the importance of developing the civilian elements of National power, what you call "smart power" or "soft power," the ability to communicate effectively about American intentions and to help build local grassroots economic and political institutions that are a bulwark against this kind of instability.

I personally believe the State Department is going to have to—and Secretary Clinton, I think, wants to do this—going to have to undergo the kind of cultural angst and reform in development that DOD did with Goldwater-Nichols that the intel community has done so that the President has an option. You know, you all in your campaigns, if you have got a part of your district where you are not running as well as you like, you know, you can instruct your consultants to build up your numbers and they will have a plan.

Well, we should have the ability to say, you know, there is this province of Pakistan or people where our goals, you know, they are misinformed and they are angry at us, and the President ought to have the option to say, "Let's go out and build up America's brand there." We don't have that organic capability. So Presidents are, you know, reduced to options none of which are very palatable.

Mr. PASCRELL [presiding]. Thank you, Mr. McCaul.

Mr. MCCAUL. I see my time is expired. Thank you.

Mr. PASCRELL. Thank you very much.

The Chairman recognizes for 5 minutes the gentleman from Pennsylvania, Mr. Carney.

Mr. CARNEY. Thank you, Mr. Chair.

Thank you both, Senators, for being here today. I have got to tell you, I think this is probably one of the most important hearings that we have held this year, maybe this entire cycle. Juxtapose that when, you know—to me, we should have all the major networks here listening to you two tell us what we really need to pay attention to. You know, certainly when the Salahis were here talking to us, you know, every damn network in the world was here, and the well was full of photographers, you know.

I suspect that we are stuck somewhere between Chicken Little and an ostrich in looking at this issue. You brought up Pakistan. You know, the Pew Organization did public opinion polls of the United States and Pakistan just recently; we are at 18 percent approval. Worse than Congress, actually, in Pakistan. But we had to do battle with that, so——

Comm. TALENT. President Obama gets that report and he would like to do something about it, and who does he detail to do something? We have no capability within the Government. We have better capability as political actors to change our numbers than we do to change our numbers, and why? We don't have that organic capability within any of the civilian agencies.

Mr. CARNEY. There are organizations that can do that, I think——

Comm. TALENT. Right, from the margin, but——

Mr. CARNEY. Sure.

Comm. TALENT. We haven't thought about how to develop. I am sorry to interrupt.

Mr. CARNEY. No, you are right. I mean, I would like to have the dialogue here.

But one thing that I was struck by, so it is about a $17 billion number you are looking at—$3.5 billion over 5 years——

Comm. TALENT. Right.

Mr. CARNEY [continuing]. Or whatever, something like that, over 5 years. Does that include things like a surge capacity for hospitals? Now, I represent a district, for example, that is in the eastern part of Pennsylvania—the northeast part of Pennsylvania. We have a lot of hospital capability there.

Assuming that, you know, based on the premise that we are going to have an attack in an urban area where it will do the most damage, you know, we are talking about Mr. Pascrell's and Mr. King's area probably. Well, do we have that surge capacity, from your opinion on this, or——

Comm. GRAHAM. Well, let me first—the number that I gave, which was $3.4 billion for 5 years, that is for the BioShield program. That is what it is going to cost to do the research to determine the most appropriate therapeutic against these pathogens that are most likely to be weaponized, and then to produce enough of the material that 90 percent of Americans could be treated in the event of a mass attack. It does not include the cost of some of the other aspects of building this response, such as surge capacity.

Yes, I think that is an important issue. I served for 18 years on the Veterans Committee during a period of time in which we were dismantling a number of major VA hospitals as the number of veterans was declining. Many of these were in urban areas—big cities like New York and Chicago—which are the places that are probably most likely to be called upon to have some surge capacity.

I advocated that we should step back and think about, do we really want to dismantle all this capability in the event that we might wish that we had it available? I think that the Congress needs to give some thought to how are we going to be able to respond if suddenly there are thousands—hundreds of thousands of people who are requiring immediate medical attention. It is not going to be very satisfying, I think, to the American people to say that we will just throw up our hands, do nothing, and accept that as a cost of living in this era of terror.

Comm. TALENT. I think it ought to include—you want to be careful because they need the money to develop the actual medical countermeasures—but a decision-making process that was working well might very well go through the following logic. It might say, look, a lot of these pathogens attack, let's say, people's respiratory systems. So if we have—if we are certain that we have adequate capacity to get them on respirators and we can lengthen their lives that way that gives us greater time, then, for drugs to be dispensed and take effect. So it ought to be thought of as seamlessly as possible.

I think you hit a really good insight. The surge capacity is related to the medical countermeasure question. The on-going challenge—none of us have complete answers to it—is how to deal with this fragmented, you know, bureaucracy so that people are cooperating enough that we get this seamless decision-making, that we don't have—and in this case you have got FDA, you have got NIH,

you have got BARDA, you have got BioShield. Now, Secretary Sebelius is looking at this and we are going to be looking very carefully at what she comes up with, and we think you should, also.

Mr. CARNEY. I agree, absolutely. You know, I want to echo all my colleagues here on the sort of ridiculous requirements that DHS has to go through in terms of committee reporting and things like that. We should be the bellybutton in Congress for all of this, to be quite honest.

I hope if you haven't had the opportunity that you share that with the President also. You know, he needs to hear it from a couple of credible people who are beyond the political process now, not those of us still in the midst of it.

Comm. TALENT. Well, I mean, he served—he knows——

Mr. CARNEY. Yes.

Comm. TALENT [continuing]. What the jurisdiction is like. I agree, by the way, with what Ms. Harman said, that it is better—this is one of the few areas where it is better in the Senate than it is here. They have more jurisdiction in their committee there.

Mr. CARNEY. I yield back. Thank you, Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Carney.

The Chairman recognizes for 5 minutes the gentleman from Pennsylvania, Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman.

Senators, I thank you for being with us here today and talking about this WMD issue, particularly the concerns about biological attack. I assume that you believe that a biological attack would be more likely than, say, a nuclear attack because it is probably easier to develop or engineer a biological pathogen even though it may be easier to contain it and it is easier to prevent, obviously, a nuclear attack by controlling fissile material, and the President has been a leader on that issue, as have others.

I read Graham Allison's book, "Nuclear Terrorism," and how it is easier to prevent that—of course, harder to contain the nuclear attacks. So I assume that that is the reasoning behind why you feel that biological attack is more likely.

Comm. GRAHAM. That is certainly a part of the reason. The difficulty of developing a nuclear weapon is being demonstrated by Iran. Iran has had some 5,000 centrifuges working for several years trying to develop enough highly-enriched uranium to produce one bomb.

Mr. DENT. It was always my understanding, if I read Allison's book correctly, that if one had fissile material, was able to obtain it, steal it, buy it, that—and they had the know-how—they could develop a crude device—nuclear device—usually within a year, assuming they could get the fissile material. Is that your understanding, too?

Comm. GRAHAM. Well, if you had gotten the Sears Roebuck catalog from A.Q. Khan——

Mr. DENT. Right.

Comm. GRAHAM [continuing]. And ordered the actual physical vessel in which that highly-enriched uranium was going to be introduced it wouldn't be a matter of months or weeks, it could be a matter of days before you could have a weapon that was ready to be used. But with biological, so many of those most likely to be

weaponized items are from nature itself. They don't require much human intervention. Anthrax is a naturally-developing product from dead cows. In fact, the word "anthrax" is a Russian word that means "Siberian boil" because the first place it was seen was in Siberia in dead cattle.

Other synthetic pathogens are readily developed in high-containment laboratories. The ability to then take that weaponized product and distribute it effectively, which has been a major impediment for biological weapons, witness the failed attempt to use it in the subway in Tokyo, the Department of Homeland Security feels that those distribution problems have now largely been solved, and that in the hands of competent technicians that there will be the ability to distribute it in a way that will be largely unnoticed until sufficient number of people have been impacted to have a weapon of mass destruction.

Mr. DENT. Can I also ask you quickly about the dirty bomb's radiological impact? I mean, I often don't refer to that as a weapon of mass destruction, but a weapon of mass disruption——

Comm. TALENT. Right.

Mr. DENT [continuing]. Because it will probably not—it may not kill as many people but it will certainly be a terrible disruption in the midst of this country and this economy, and contamination issues are very great. What are you predicting, or what do you see in the future as it relates to the likelihood of a dirty bomb attack somewhere in this country?

Comm. TALENT. Well, when we started the Commission off the chairman and I had to make a decision about what we were going to get into and not get into. The problem is how to say something without trying to say everything.

Mr. DENT. Right.

Comm. TALENT. Actually, models developed within the intel community about how to—when something becomes a weapon of mass destruction. There was, like, grids, you know, impact, disruption, death, et cetera. We made an executive decision not to go heavily into chem or radiological weapons, and so I just don't know that we are the best ones to answer that.

Mr. DENT. Okay. That is fine. So you see it more as a weapon of mass disruption as——

Comm. TALENT. Yes. I mean, I agree totally with what you are saying, and——

Mr. DENT [continuing]. Destruction. Okay——

Comm. TALENT [continuing]. And there is a tremendous danger of it. I just don't know that we are the—Bob might, out of his general knowledge of intel, be able to give you an answer whether the—to the extent that that is a specialized issue. We do know that, from the intel, that they are emphasizing bio as well as nuclear, and for all the reasons you indicate: Easier to get, easier to weaponize, easier to stockpile. The only advantage of bio over nuclear is that we can prepare for it a lot better.

Mr. DENT. We can contain it a little better than nuclear.

Comm. TALENT. You are right. You have got the whole—you know, you have got the concepts down right and you are reading a great author on this subject.

Mr. DENT. I yield back. My time is up.

Mr. PASCRELL. Thank you very much, Mr. Dent.

Now the Chairman recognizes for 5 minutes the gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Thank you two for your work.

Just a couple of quick questions about our capabilities in terms of responding on biological attacks. I had brought to my attention by some folks from Corvallis, Oregon who are working with DOD that they have developed a capability, as have some of their competitors, to very quickly take an agent and develop, you know, an effective countermeasure vaccine, and they have demonstrated this capability. They have been working closely with DOD.

I mean, I guess my question is, are we, in some places, making progress but we are not recognizing them over here because we are so fragmented? Because apparently there is a program called Transformational Medical Technologies Initiative at DOD——

Comm. GRAHAM. Right.

Mr. DEFAZIO [continuing]. Which has been working with private sector folks who have come a long way in terms of being able to quickly respond to a diverse range of threats, but I am not sure that Homeland Security is aware of it or has any capability of digesting this or working with them. Are you——

Comm. GRAHAM. Sorry. Well, the answer is, I hope so, because we—one of the strengths of America is our entrepreneurship and our innovation. One of the things, however, we learned with the H1N1 is it is one thing to know what you need to have in order to have an effective therapeutic; it is another thing to scale it up quickly to be able to respond to the attack. We had 6 months' notice with H1N1 and we still had a period where——

Mr. DEFAZIO. We are still using eggs.

Comm. GRAHAM. Yes.

Mr. DEFAZIO. I mean, that is the problem. But this is a breakthrough technology that these folks have worked with which would not require extensive large factories and those sorts of things and can be rapidly replicated.

Comm. TALENT. I think you put your finger on a real strength that we are not taking advantage of. You know, our diverse country, our Federal system is a disadvantage in the sense that it is fragmented; it is an advantage in the sense that we have all these really great people out there thinking about things and doing things in Oregon, or in the public health system, whatever, but we don't—you know, the others don't know about it.

Mr. DEFAZIO. Right.

Comm. TALENT. It is the need for integration within the system of decision-making. This is where, you know, you all who know the Government and just—you have years and years, Mr. DeFazio, I know you do—in thinking about how this Government operates, could maybe think outside the box about practical solutions for solving that problem.

Now, one of the things Bob and I have talked about, and we have never put it in an official report, and the reason we haven't is because we get people coming to us, just as you do, just as you have home district people who say we have this tremendous solution and you saw them, right?

Pick the right agency and to set up maybe a group of people—and this could even be experts from the outside who are sitting in on this—and just inviting those around the country who have solutions—you would have to screen it a little bit because you know you will get people who have developed something—but who have solutions to some aspect of this preparedness problem that is working in some context. Maybe their local fire protection districts picked it up or whatever—to bring it to this group which is then connected to all the other parts of the system, Federal and State, and can say, "Hey, this is really a great device for decontamination." I think I have just seen decontamination technology out there that could probably solve this problem if we knew the right agency to get it to and—whether it is EPA or whatever.

I think you have put your finger on a very important empowerment tool here. It would be a good thing for you—I am giving you more work, now, to do—to think in terms of how to do this, and maybe as this bill moves to put it in there.

Mr. DEFAZIO. Right. It is an on-going frustration, and I am sure you had it when, you know, when you were in the Senate and representing folks with good ideas, is how do you connect them with the decision-maker, because the decision-makers are out there putting out an RFP somewhere to other people who haven't had this breakthrough, and, you know, we are floundering around, it just seems to me, spending a lot of money and we are not getting to the effective——

Comm. TALENT. There are a lot of technologies resident in DOD that are not being used in the rest of the system, and we shouldn't blame DOD. I am sitting on another panel that Bob was able to escape—it is the independent panel reviewing the Quadrennial Defense Review—and we just heard a report from the assistant secretary who does homeland for them. She is really great, and she was talking about, they have these resident capabilities, but then chain-of-command issues because the Governors want—in the event of it, the Governors want to run the show, and how do they do all this stuff? It is just this constant problem you run into of fragmentation within the Executive branch, and as between the Executive and the State and local.

This body here and this committee is an institutional integrator, because everybody respects you, believe it or not, and people have to listen to you on a certain level. But what you do with that is the challenge.

Mr. DEFAZIO. Yes. Thank you.

One other quick question. This is just sort of a personal crusade. There is a chemical that is produced in the United States. It is no longer allowed for new production or broadcast use. It is called Compound 1080, and it is an odorless, colorless, antidoteless, highly-concentrated poison that is used for wildlife—you know, for killing wildlife and predators. It has been identified, you know, by both the FBI and DOD as a particularly high threat.

I have been trying to get, you know, the production of this stuff stopped. They found some of it, if you remember, in containers in Iraq, you know, Saddam was apparently playing around with it, trying to figure out what to do with it maybe. You know, I think producing something like that here in the United States—and it is

still out there in the United States—it has been stockpiled in different places—is a real problem.

Have you come across this, or has it been brought to your attention—okay. All right. Because I have had a bill——

Comm. TALENT. We have now. I mean——

Mr. DEFAZIO. Yes. Okay.

The facility that produces it has virtually no security. It does have sort of a dilapidated barbed-wire fence around it, but anyway, I would just raise that hopefully to get someone's attention or support for my proposal to ban the production of it.

Comm. GRAHAM. If you are looking for a homework assignment there are people—significant numbers of people—who start with the premise that biological weapons aren't capable of being utilized in a way that would constitute a weapon of mass destruction. What we encountered was, up until President Nixon, who terminated the U.S. development of an offensive biological weapons program, we probably had the best biological weapons program in the world in the 1960s, and it was enormously effective.

If you want to get some sense of what was capable of being done 50 years ago you might ask for a briefing on what our own program was and then speculate what 50 years of further scientific engagement with the worst biological materials might have brought us to. That will keep you up at night.

Comm. TALENT. As another suggestion, if—because you all have to deal with this issue—learn a scenario that is relevant to your districts, and when you talk about it run through the scenario, because people get it then. I mean, the one I use is, St. Louis we gather on the Fourth of July at the riverfront, you know, to celebrate the holiday. Isolate anthrax, turn it into a slurry or a powder, get a pickup truck, put a shell in the back of it, punch a hole in the top of it and drive up and down Memorial Drive with a paint sprayer blowing it up in the air. Let the winds take it.

I mean, Mr. King, we have seen, and Mr. Chairman, we have seen the modeling for New York. You know, in the summer you expose several million people in New York; you kill, depending on how effective it is, a tenth to, like, a third of that.

Mr. PASCRELL. It brings it home.

Comm. TALENT. It absolutely does.

Mr. PASCRELL. It brings it home.

Comm. TALENT. Think how many times people are gathered in New York over the summer for one reason or another. It is——

Mr. PASCRELL. Mr. DeFazio, thank you for your questioning. On target, as usual.

I would like to turn now—the Chairman recognizes for 5 minutes the gentleman from Texas, Mr. Olson.

Mr. OLSON. Thank you, Mr. Chairman.

Thank you much to our witnesses for coming today. I want to thank you for your service as elected officials. Thank you for your expertise and thank you for your commitment to protect not only Americans but the citizens of the world.

My question: I kind of want to follow up on some of the discussion we have had about the threat of India-Pakistan, and on a daily basis we are learning more about the threats that are posed by terrorist groups not in the places that are covered on the news,

you know, India, Pakistan, Afghanistan, but other places, like Yemen, where al-Qaeda in the Arabian Peninsula, and Somalia, with the Al-Shabaab movement. They are no longer a regional threat. Their stated goal, as you all know, is to strike the United States and our allies.

Al-Qaeda in the Arabian Peninsula has already shown some signs that attest—on Christmas day with the bomb on the aircraft, and possibly having some connections with the shootings in my home State of Texas at Fort Hood. My question to you all is, what is the likelihood that the next WMD attack will be from one of these groups, that it will be forthcoming from them and not where kind of our focus is? I appreciate your comments on that issue.

Comm. GRAHAM. I can't give you a statistical probability of that occurring, but I think it is certainly within the realm of reality. To me, one of the most frightening things about what happened on Christmas day is that it broke what we had assumed to be a relationship.

There are about 60 of these regional or sub-regional groups that have an affiliation with al-Qaeda—big al-Qaeda in the caves of Pakistan. In the past the assumption had been that those affiliate groups were disciplined by big al-Qaeda and they would not take a major operation without approval. This situation in December seemed to be a break from that tradition, that these regional groups are starting to be self-initiating in their operations.

If that is, in fact, the case, the level of risk has just gone up significantly, because now we don't have a small group of people making decisions; we have got a large group of people, frequently with a diverse set of motivations behind their actions. So whether they end up being the one who delivers the WMD or whether it is their older parent, it won't make much difference to the people who are affected by it.

Comm. TALENT. I can't say it better than the Chairman said it.

Mr. OLSON. Okay. Well, thank you very much.

Just another question: You know, a lot of our focus here in preventing terrorist attacks is on aircraft, because that is how we have been attacked in the past. I represent a district that is within the greater Houston area, and unfortunately, I would argue—I could argue that we are the best target for terrorists to attack. I mean, we are a major city, the Nation's third-largest city.

We have a port that you could, you know, drive a tanker very close to the downtown area, close to the urban areas. It is for our commerce; it is the second-largest port in our country. We have got a huge medical center there which serves the entire region, and if you were to have a biological attack and take out its capabilities you could have a very, very serious situation there.

I guess my question is, in some of your studies are you seeing any evidence that the terrorists out there who—again, with the folks on aircraft right now as their mechanism to attack us—are going to get wise and realize, you know, we can get a tanker, you know, a tanker on a ship in the Port of Houston, or we can just get something across our borders. Our State has the largest border with Mexico, and, you know, we can achieve our goals not by folks on aircraft but by folks on these very—I think very easy ways, unfortunately, to hurt our country.

In your studies do you see any evidence that the terrorists are actually thinking about that way of coming at us instead of on aircraft?

Comm. GRAHAM. Well, I will give you another homework assignment. I spent 3 weeks last summer in Great Britain in large part talking to their intelligence, law enforcement, political groups as to terrorism in United Kingdom. They have been dealing with terrorism much longer than we have.

One of the things they do is they engage citizens to a much higher level than has been our practice. They told me a story about a citizen who came to an appropriate law enforcement agency and said, "I think I know how a terrorist would deliver a weapon of mass destruction in London, or Manchester, or Birmingham," and the answer was they would do it with an ambulance. Why an ambulance? Because that is a vehicle that people tend to defer to, allowing it to get close to the target before detonation.

Well, this led Scotland Yard to ask the question, "Do we know where our ambulances are in the United Kingdom?" They did a survey and were stunned to find out how many were unaccounted for.

I would suggest you might take as a question in your own community, is somebody responsible for knowing the whereabouts of all emergency vehicles which might provide the platform for a relatively safe and unimpeded vehicle of mass destruction? So yes, I think we have tended to solve yesterday's problem.

If a fellow named Reed gets on an airplane from London to Miami and has something bad in his shoes the next thing we are doing is having everybody take their shoes off at the airport. If somebody, as the man did in December, has it in his underwear, we are now going to take pictures of everybody's underwear.

We have got to get out of this chasing the past and take a more futuristic approach asking, what are the most likely ways, not the ways that have already been shown to be used, but that a thoughtful, considerate, smart adversary would likely choose?

Comm. TALENT. Just a couple of quick comments. Senator Graham said some things that triggered some thinking.

First of all, it is really important that we get a lot of this thinking and intensity level coming from the grassroots and local communities upward in the system. You all in Houston know, if you think about it and you are motivated to think about it, where these threats might come from better than the FBI is going to know sitting there in Washington.

So this is one of the reasons we do repeat the urgency of the threat, keeping in mind what Ms. Harman said. This is not an attempt to get people to panic at all. It is so people will recognize a threat, get past the sense of panic or despair, and then just adopt it as sort of a working reality in their lives so that people, as they have done in Britain, as they have done in Houston, as they have done to some degree in New York, which is a leader in this, just people recognize this is part of the world that we have to live in.

So somebody in Houston has got to be thinking about, how could this—how could they hit us here differently than they have done it before?

The other point I want to mention that is related to this, because it is—it has to do with community action and preparedness: I really want to applaud the draft bill, as we understand it, because you raised the subject of making sure first responders and their families have the med kits.

You mentioned the big hospital you have got there. Well, if those people are working in that hospital, if there is some kind of bioattack and they are worried about their families, then that is what they are going to pay attention to, and who can blame them? So we need to make certain that this group of people has the medical countermeasures, that they have it for their families at minimum.

Then you also raised, I think, a very important issue—it is gutsy of you to raise it—the question of giving med kits out just to the general population. Under what circumstances is that an appropriate thing to do? I think you ought to—we ought to be studying that. Just particularly in certain high-risk cities, you know, Houston, New York, whatever, to what extent do we just say to people, "You can empower yourself and your family by having these med kits."

Now, there are plusses and minuses to that, but we have got to be thinking outside the box and your legislation pushes the Secretary in the direction of studying that, and I think that is good.

Mr. PASCRELL. Thank you, Mr. Olson. Good questions.

The Chairman recognizes for 5 minutes the gentlewoman from Texas, Ms.—I am sorry—Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you, Mr. Chairman. Thank you very much for your recognition and for this hearing.

Let me thank the two co-chairs and probe Senator Graham on a point that you have made, and then pursue the line of questioning that my colleague just engaged in with respect to Yemen and other African nations. I think we have had this discussion before, even as the Homeland Security Committee was being crafted, and that is, what is the jurisdiction and how do we find a home for National security and antiterrorism efforts on behalf of this Nation and allow one entity to be in power?

Senator Graham, in your testimony you mentioned the jurisdictional complexity that we are in, and I note that in grading us with a grade that most students don't want to receive—an "F"—you have reform Congressional oversight to better address the intelligence. If you would respond to that along with the question of what I think is crucial, is training the next generation of National security experts—I am going to add another question in and then I will listen.

I, too, I have just come back from Yemen and looked at it in two different directions. One, of course, the government's commitment, if at all, to nonproliferation, and I would like your assessment of that; but also, the social issues of large numbers of unemployed youth who are obviously ready targets for al-Qaeda recruitment.

What role do we have to play in that aspect to quash the ripeness of those who are there to be engaged in terrorism, and what role is Saudi Arabia playing, if you are familiar with them completely closing the border and not, themselves, dealing with their neighbor in a number of ways—of course, the nonproliferation and al-Qaeda getting their hands on nuclear materials, but also, is

there another way Saudi can be more involved in what potentially might be happening in Yemen? I thank you both for your presence here.

Senator Talent, you may join in on some of those questions that I have asked. Thank you, again.

Comm. GRAHAM. Well, let me take the prerogative of picking one of your questions, and I will answer it, and then if Senator Talent would like to pick another one, and that is this issue of preparing the next generation of National security officers. I think this is a very significant issue.

Our inquiry into 9/11—the joint House-Senate—in my opinion, our most important single conclusion was that the fundamental lapses that led to—led the intelligence community to be blind before 9/11 were found in the quality of people who were involved in their responsibilities.

The Congress, I hope, after more than 5 years of procrastination, is about to pass legislation to establish what has been referred to as the intelligence equivalent of the Reserve Officer Training Corps for the military, where we will have a regularized process for the recruitment, preparation, particularly in areas of science and languages, of the next generation of our intelligence community leadership, and then a smooth process for their integration into the community. I think that is of extremely high importance and I am pleased that it looks as if it is about to happen.

Ms. JACKSON LEE. Do you think we are moving fast enough?

Comm. GRAHAM. Well, I think we should have done it 5 years ago, but better late than never.

Ms. JACKSON LEE. Senator Talent, would you take the jurisdictional question about whether or not we have a strong enough jurisdictional oversight, one place, one unified place on this issue, and how do we move to that? You know that is a challenge here in the United States Congress——

Comm. TALENT. Yes, it is.

Ms. JACKSON LEE [continuing]. House and Senate.

Comm. TALENT. While Senator Graham and I know the practical obstacles, and I have made this point in a number of contexts, I think you are exactly right to be concerned about it, and it takes what ought to be a real positive Congressional oversight—I am a believer in Congressional oversight because the agencies pay attention when Congress gets involved—but it takes what should be a positive and turns it into what I think we all have to admit is a negative.

I mean, there is a reason Secretary Napolitano has contacted the Chairman, and Mr. Pascrell, and Mr. King to say, "Could you be certain to raise this issue?" It is not because she—I mean, because she is hearing from her under secretaries and assistant secretaries that they are having to spend too much time in too many committees that they ought to be spending doing all of this other stuff we are talking about, and that is the practical matter.

Now, you all know the Cabinet Secretary is the last thing in the world they want to have to do, is get involved with telling Congress how to change its internal procedures. So if she is doing that that means this is a big problem over there.

I think a combination of making certain that the key committee staff people and Chairmen and Members on the committees here have got these threat briefings so they know this is the security of the country at stake, this is not a fight over a typical oversight issue, and then if we can make the problem their problem—in dealing with the Congress, once you get the other person to accept the fact, this is a problem I have to participate in solving, I can't just be an obstacle to solutions.

Ms. JACKSON LEE. So you think one department should be strengthened with—such as Homeland Security?

Comm. TALENT. Within the Executive branch, yes. Then here in the Congress I think a committee should be—and it is easy for us to say here because it ought to be this committee. I mean, we are not testifying now before Judiciary or something where we would have to tell them, you probably need to give something up.

I agree completely with what you and Senator Graham were saying about, within—experts within intel.

Let me add one comment, because it is relevant to your other point, ma'am. In order to get the kind of workforce that we need, they are going to have to be empowered to move more quickly in setting up this reserve and hiring people. That means they are going to have to cut down on some of this review, you know, so that they—think about this: You get a great person graduating from, you know, you pick it, some great school, and they have studies in this area and they know it, and the CIA wants to hire them.

Now they have got to get—go through clearances and this stuff, it takes a year. Well, what top-notch person is going to sit around for a year waiting to see whether an offer can be made? So we are going to have to shorten that procedure of time. That means there is a possibility some mistakes could get made if you are hiring hundreds of people.

I think it is important, Mr. Chairman, that this committee and the Intelligence Committee, if a mistake occurs that way, unless somebody clearly was negligent, that you not play gotcha with them. Don't have a hearing and then hammer on them. You see what I am saying? Then back them up, because we are going to have some mistakes of commission rather than omission.

Mr. PASCRELL. Thank you. Thank you very much.

Thank you, Ms. Jackson Lee, for your questions.

Ms. JACKSON LEE. I thank you. I just want to conclude to you, Mr. Chairman, and say that I think Yemen is an important issue for this committee. Several Members have been and I hope the committee will—I didn't hear their answer on that, but I hope the committee will also have input on that as we go—the Commission, rather, as we go forward.

Thank you. I yield back.

Mr. PASCRELL. The Chairman now recognizes for 5 minutes the gentleman from the great State of Alabama, Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Thank you both for being here. This has been a really good hearing, and I agree with Mr. Carney, it is unfortunate that we don't have the same media attention for what you have had to say that we had for the Salahis, which was just a joke.

But I want to talk, obviously, first about something that you said, Senator Graham, earlier to Ms. Harman about how we get this jurisdiction issue resolved. I think it is going to take people like you, who don't have a dog in the fight, to help push this issue with the administration. Secretary Napolitano has talked with us, and she is just—it is a real problem, as you just said, Secretary—Senator Talent.

But I was pleased after the Christmas day bombing when Lee Hamilton was interviewed the next day, and this is one of the things he mentioned. He said it is time for the Congress to have the political will to implement that last 9/11 Commission recommendation on jurisdiction, because we have this diluted focus right now in the House as a result of this jurisdictional problem. So I hope that Lee Hamilton and Tom Kean will do what I am asking you to do, and that is communicate to the President and to the Speaker, this is an issue that does not need to be left undealt with.

But having said all that, I want to talk about rural preparedness and mass evacuation. I have the Center for Domestic Preparedness in my district. It is the only facility in the country that trains first responders as to how to deal with an attack of mass destruction, and it is a great facility.

One of my concerns, as being a Member who represents a rural Congressional district, is that we don't push that training out into rural America, because I am of the opinion that when there is an attack in a major urban area—and I don't think it is just going to be New York, New Jersey; could be St. Louis, or it could be Birmingham, Alabama, or Charlotte, North Carolina, or financial hubs of the region, these people are going to be evacuated out into rural America to get them out of there.

While we are doing some work in this area and training first responders, I don't think we are pushing that training out into rural America.

I have been an advocate to try to get the Center for Domestic Preparedness funded to take that training to rural America, because a general rule in rural America, as you know in Florida, and I know you know in Missouri, it is volunteers that are working in these fire and rescue departments, and they can't leave and take 2 weeks to go to the Center for this free training because they can't leave their jobs. They are not a professional firefighter. So anything that you could do to help let the Department know that you think this is an area unattended to I think would be beneficial.

I am pleased that at the Center they also have the Noble training facility—Noble Hospital—which trains, as you talked about a few minutes ago, these hospital workers, if there is an attack, they could be thinking about their loved ones. We are trying to deal with that and trying to bring hospital administrators as well as caregivers in and train them as to what it is going to be like, what the environment is going to be like.

It is very state-of-the-art, but we need more messaging to get that information out there. We need more hospitals to recognize that it could be them that has this problem and they need to be prepared to deal with it.

But having said that, do you think that there is enough being done in the way of preparedness in rural America for the mass evacuations out of an urban center after an attack?

Comm. GRAHAM. I guess I am not aware of any comprehensive planning for that eventuality. So that would lead me to say that no, we have not assessed where these urban populations are likely to go in the aftermath of such an attack.

States like yours and mine, which have had some experience with evacuations for hurricanes, know what those circumstances are, and they would be much more difficult if the reason for the evacuation was a man-made nuclear or biological attack rather than nature giving us a hurricane. I think you put your finger on an important issue, and one that I think would be worthy of some further exploration by this committee, to heighten the sensitivity of the appropriate Federal agencies to this likelihood.

Mr. ROGERS. Well, I was pleased in your earlier answers to questions to see you all both recognize that we have a real problem, and you talked about the funding with Ms. Harman—the inadequate funding for health care providers in the—to prepare them for training.

I don't know if you all were aware, but I talked with Mr. Carney and Ms. Richardson, who both chair subcommittees in this full committee, there has been an effort internally within the Department to basically dismantle the Office of Health Affairs, which we spent 5 years configuring to deal exactly with what you are talking about. Fortunately, in the last couple of weeks Secretary Napolitano came in and stopped that effort. But it is important that we remember that that is a critical element of being prepared to respond to a weapon of mass destruction attack.

Comm. TALENT. I think "we don't know" is the question. I mean, you say, "Are we prepared enough?" I would answer, "No," but then I would also answer, "We don't know."

You know, I was approached by some people locally in Missouri who explained to me that our technology, in terms of organizational directories—just very simple of these various first responder groups—is so unsophisticated and so poorly linked together that they don't know what capabilities their fellows—their brothers and sisters in the same service have.

So the fire protection districts in suburban St. Louis don't know, if there is a disaster, what fire trucks, or hazmat outfits, or diving outfits are available around the State of Missouri, and there is no easy way to find out except pick up the phone and call the chiefs.

So we don't know, and if you don't know how can you structure a plan where you are engaging? Because an intelligent plan would probably say, "Well, we don't need to train everybody in every rural fire protection outfit about everything, but we ought to have some of them trained in some things so that they can contribute and help in the event of a disaster in Birmingham, or whatever."

We don't know, and that is the lack of integration and fragmentation that is such a huge issue. So, you know, failing that, yes, you have got to keep these organizations alive so you can keep these folks in the game. I mean, I would agree with you.

On the jurisdictional, let me just—I am sitting here thinking about the ideas we have had. Maybe this is not the place to air a

plan, maybe I should be more secret about it. But if you all had a hearing where you encouraged Secretary Napolitano to testify as to the practical consequences—and maybe you have already done this—and the President just privately let her know that even though she would take some flack from some other people for it, that he would support her in it, and then you guys came up with a resolution for both the caucus—the Democratic Caucus and the Republican Conference at the beginning of the next—where you got up and offered a resolution instructing the leadership, and maybe they knew about it beforehand and privately supported you, to come up with a solution and put it to the Members in both parties——

Mr. ROGERS. That is a good idea.

Comm. TALENT [continuing]. And just let them, you know, let them vote on it, you know, in the context of some publicity and, you know, do you want a solution to this or not? At a certain point the people are blocking this, and I understand that. I mean, I was a committee Chairman; I was there for the—you know, I know all that, but at a certain point they are going to say, "You know what? The reasons to do this are beginning to outweigh the reasons not to do it."

Mr. ROGERS. Thank you very much.

Thank you, Mr. Chairman.

Mr. PASCRELL. Thank you, Mr. Rogers. I think encouraging points you brought up, and the response from the panel is very, very, very important.

We have to bite the bullet on turf. We are so frightened to go near that issue. Thank you for your encouragement.

Comm. TALENT. It is easy for me. I don't have to stand——

Mr. PASCRELL. Leader King and myself have been talking about this for many, many moons, but now we have a Secretary finally coming forth and saying she really wants to work with us, so——

The Chairman now recognizes for 5 minutes the gentlewoman from Nevada, Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman.

Thank you, Senators, for taking time to come and talk to us about this important topic of keeping Americans safe, and our allies and people around the world. I represent southern Nevada, and——

Comm. GRAHAM. I gathered that.

[Laughter.]

Ms. TITUS. We have 450,000 hotel rooms in some of the largest hotels in the world, and they are like small communities unto themselves. I know that your report you stress the need for increased involvement from individuals communities, and I think we are moving towards that, and I am very pleased that we are going to be working on this legislation.

But something that I see that is missing that I would ask your advice on is how do we involve the private sector as we move forward? I know that is not on your score card, but could you give us some advice that we might take into account as we draw up this legislation, and also tell us how you think we are doing on that measure, if we are doing anything at all?

Comm. GRAHAM. There is an organization—it is called BENS, that is the Business Executives for National Security—which has as its mission to bring the private sector into these issues of homeland and National security, and our assessment was they had done a very excellent job where they had been employed to do this, and I use the word—not that they were hired, but that they were engaged.

I would suggest that might be a place for you to start to have a conversation between the business community of southern Nevada and this BENS organization to see how they might be able to work together. They bring a lot of expertise to the table.

Comm. TALENT. I was going to say, Congresswoman, that I think a key to this is that private actors need to know that the partnership model is going to be followed, rather than the adversarial model. So, for—and your legislation reflects that, for example, in the lab regulation.

People who are running these high-containment labs, yes, it is a potential security problem, which we recognize in our report; it is also the answer to the problem, because they are the ones developing the research, the life-saving countermeasures, and they need to know that their regulators are not going to treat them like the enemy, okay, that they are going to partner with them, unless they have some reason.

Now, obviously if you discover some security risk or something, and I would say this the same thing with the businesses that import and export pathogens, et cetera, they all—all the people leading this that we run into want to be part of the solution. So if they are treated as partners, if you have negotiated rulemaking, if you include them in on this—this would include the travel and tourism community.

You know, you don't want the Government to hand down from on high, "This is what you now have to do." You know, you want to include them in as partners rather than as adversaries. I think that is a very important model and an important signal for you all to send to the Executive branch.

Ms. TITUS. Well, I say that it is especially important in the hospitality industry. Nobody has better security than we have in Las Vegas, so we should be taking advantage of some of that expertise.

On the other hand, when you are on holiday you are away from home and so you have less awareness of what resources are available, what road to take to get out of town, where you can access evacuation points, all of that, so having the hospitality industry involved—and I will look at the BENS group, too—I think would be very important and useful to us.

Thank you.

Mr. PASCRELL. Thank you, Ms. Titus.

Before I ask a question, Peter King has a question.

Mr. KING. I am going to have to leave in a second, so I appreciate the Chairman giving me this.

I would just ask Chairman Graham and Chairman Talent if you can get back to us on this: In the Lieberman-Collins bill in the Senate they seem to focus more on the international aspect than we are so far in our legislation. Is that going to be very costly? You mentioned the OMB before.

But if you could just get back to us, take a look at their bill, with how significant you think it is that maybe we should expand more of an international component, or should we try and get what we can by focusing domestically? So if you would just take a look at that for us I would appreciate your input. Thank you.

Mr. PASCRELL. Thank you, Peter King.

It has always been my belief that if our State and local officials are not an integral part of our homeland security strategy—both pointed this out many, many times—then we have no such thing as homeland security. All we have then are some fancy bureaucratic plans, because the great majority of our first responders, the people who actually help prevent and respond to emergencies, are at the State and local levels. They are there first, before the Federal Government is involved, before anybody is involved; they will be the first to be moving.

That is exactly why Mr. King and I made State and local coordination an integral part of weapons of mass destruction legislation, both at the preparedness and response levels. I would like you both to comment on your thoughts on this issue, especially in regards to the need for this coordination both before and after a possible weapons of mass destruction attack, be it nuclear, biological, radiological, chemical, whatever.

Senator Graham.

Comm. GRAHAM. Yes. I could not agree with you more. It is particularly true on the biological aspect because the public health service, which is in most areas a combination of State and local responsibility, will play such an absolutely central role that is illustrative of the broader issue of coordination of State and local with the Federal partnership.

When we gave an "F" to our response capability we were giving an "F" to the Nation, not to one level of government, because we think that fundamental failure has been the failure to develop a means by which all of the critical elements that are actually going to be out there and will make a difference on the ground, life or death, for people who have been impacted—how effectively they will understand their mission, be able to execute their mission and not stumble over each other or leave gaps of unprotected people.

Comm. TALENT. I would agree, and I think this is an area, Mr. Chairman, where we could do a lot informally as between leaders. If, for example, Secretary Napolitano, or the DNI, or somebody presented at a National Government's Association meeting, and to emphasize the nature of this threat, so to say to the Governors, "Look, you are an integral part of this. We are going to recognize that, but we need you to make certain that your offices don't treat this as a business-as-usual thing. This is not an excuse for you to cut your public health spending and hope that you can get Federal dollars to replace it."

So once you get to the top—the Governors themselves and say, "This is going to be a National effort; you are an important part of it," you need to recognize personally and make sure your key people recognize that this has to be reflected in State priorities as well as Federal. I think that is own for their seat at the table, but that is informal. It is not something you legislate, it is just something that—as between leaders ought to occur.

Mr. PASCRELL. You pointed out earlier, and we have been there several times, that how they approach these particular sensitive, urgent issues in England is very different than we approach it here. It would seem to me—I have come to this conclusion; I don't know if my good friend, Mr. Lungren, would agree with me—that there is a bottom-up approach, that you are looking at the folks who are on duty in the local level to foster ideas so that they really focus, and this is really homeland security.

I have got one other quick area, and then we will ask Mr. Lungren if he has any questions.

We have neglected, I think, looking at how our vaccination policy plays in our deterrence for the effects of a possible biological attack. You and I both agree—I think we do—that the next attack will be biological. We expect it to be between now and 2013.

Our legislation, that Peter—Mr. King and I have been working on diligently, with your staff and everybody else's staff, calls for the Secretary of Health and Human Services to review the adequacy of vaccination and antimicrobial distribution policies, guidance and information provided to the public in light of known biological threats to the United States.

Realizing we can't vaccinate everybody against every possible disease, I think we should at least let the first responder community volunteer to get immunized against those biological agents we have been told pose material threats to the United States. Do you agree with that? In addition to HHS, who else do you think should be involved in reviewing our vaccine policy?

Comm. GRAHAM. Mr. Chairman, could I ask your indulgence? I am afraid I have a commitment this afternoon in New York and I have got to catch a plane, which is going to leave without me unless I leave fairly soon. So if I could conclude by expressing my appreciation for the opportunity that you afforded this, and Senator Talent has indicated that he can stay——

Comm. TALENT. Decidedly the "B Team," but willing to stay for you or Mr. Lungren if you like.

Mr. PASCRELL. Great. I would appreciate that very much.

I really want to thank you, Senator Graham. Your contributions before and now to this Nation—your service has been impeccable, and we want you to catch that plane, but we are going to be talking as we go along and finishing this bill. Thank you.

Comm. GRAHAM. We look forward to that very much, and thank you for your leadership.

Mr. PASCRELL. Thank you, sir.

Comm. TALENT. Yes, you have put your finger on a real problem, Mr. Chairman, and we have talked a lot about this. I mean, we are still making vaccines using chicken eggs. I don't know if your staff has informed you, we actually—Senator Graham actually did a video on it, which was quite an experience.

You know, we had 6 months' notice with H1N1, and we didn't have enough vaccine, which is like, just, it is incredible. Now, I think it is very important that we do what you talked about, that we make certain the first responder community has whatever medical countermeasures we can come up with to protect them so they feel secure and, you know, can then do their job of protecting the rest of us in the even of an attack.

You do raise an issue here, which is—I think you are raising this issue, if I understand your question correctly—should we expedite procedures, for example, with FDA approval to get them these vaccines quicker?

Mr. PASCRELL. Right.

Comm. TALENT. You know, that is a controversial subject. We did that with anthrax and there have been some issues involved with it.

I think we need a decision-making structure where that is an open possibility to be decided on a case-by-case basis. You know, I think it depends on how crucial it is, how high-risk this population is, how much—how far along FDA is. I think it depends on a series of things.

But we need a decision-making structure so that somebody is capable of saying, "Yes, we need to let this go and do this in this instance with regard to this drug." We don't really have that.

Now, we are putting some pretty high hopes in the review that is going on now in the Executive branch. We think they are energized, and I am certain you and the staff on the committee are watching it, so let's see what they come up with, is what I would say to you, which should be completed pretty quickly, shouldn't it?

So let's see what happens, but it is a crucial issue. You are right, we have to have this first responder community protected or they are not going to be able to protect us.

Mr. PASCRELL. Thank you very much.

The Chairman recognizes for 5 minutes the gentleman from California, Mr. Lungren.

Mr. LUNGREN. Thank you very much, Mr. Chairman. I am sorry I missed a good deal of the proceedings, but I was handling the suspension bill that was honoring the 10th year of Father Coughlin as our chaplain, and there were a lot of people speaking, including the Speaker, so it took me more time than I thought. So I thank you.

If I had a lot of time I could address each question with a different manner of referring to Mr. Vice President Talent, there. I could call him Senator, I could call him Congressman, I could call him Leader, I could call him Chairman, but I know we don't have enough time so I will just call him——

Comm. TALENT. Jim is fine.

Mr. LUNGREN [continuing]. Jim.

You mentioned early on about the failure of the Congress where we got a big "F" on reorganizing ourselves, and you briefly mentioned opportunity costs lost. Could you just tell us what you mean by that?

Comm. TALENT. Sure. The negative of it is that people in the Executive branch have to spend too much time before too many committees and subcommittees, so that is the area where damage is positively done to what they are trying to do——

Mr. LUNGREN. It is not just testifying; it is all the preparation of testimony, going over it and getting other staff to do it, and so forth.

Comm. TALENT. So you would become an obstructive force, let's just be—not you, but the institution. Then the positive does not happen because you don't have clear channels of oversight.

Nobody from this authorizing committee was there when the stimulus bill, which, again, forget about what you think of it as economic policy, this was an opportunity to fund a lot of this stuff and there wasn't anybody there to go to Mr. Obey and his people, and Jerry Lewis and his people and say, "Look, you have got to make certain this money is in there," because nobody had the clear responsibility; whereas, had it been a DOD priority you would have had Mr. Skelton there, and the Ranking Member there, and somebody would have done it.

We all know how this place operates. If everybody has responsibility over something nobody has responsibility, and so it doesn't get done. You were right to point it out.

We are not just saying it because Congress is an easy target for commissions like us. I will say one other thing to you, Mr. Lungren. Within this community of bipartisan commissions, and I am sort of operating in this world now, there is an increasing sense of resolution that they are going to keep hitting this institution with this issue. I mean, the political cost to you all of continuing not to do anything is going to go up.

I am on other commissions, because everybody is saying it is time for you guys to get with it. Again, I don't mean you personally, I mean as an institution——

Mr. LUNGREN. Well, you should mean us personally, because the institution is made up of Members and we have found the enemy. We found the enemy and he is us.

Comm. TALENT. Yes.

Mr. LUNGREN. That is not because the Democrats are in control; it happened when the Republicans were in control. Whatever happens in November, I hope we are going to have an absolute dedication to the proposition that we ought to fix it and fix it right, because in response to the threat that you talk about, to have Congress with institutional prerogatives, and protections, and parochialism makes no sense whatsoever.

Let me ask you this other thing: Senator Graham mentioned that a biological attack could render 500,000 Americans dead.

Comm. TALENT. Yes.

Mr. LUNGREN. Is that an exaggeration or is that an——

Comm. TALENT. No. Again, if you have not had it I would encourage you, and maybe as a committee—Mr. Pascrell, you and Mr. King could arrange this easily—get the briefing, the DHS modeling an anthrax attack on New York, and that is——

Mr. LUNGREN. So we are talking about a half a million people, potentially, which I consider to be a huge attack——

Comm. TALENT. Oh, it would be——

Mr. LUNGREN [continuing]. Which would be more devastating than any single attack that has ever been made on American soil.

Comm. TALENT. Mr. Lungren, you have got to understand from their point of view, they have a strategy to win this thing. They—I know it is hard to define them. But to use asymmetric weapons to hit us at vulnerable points and basically force us to stop resisting whatever it is they want, you know, they don't really know.

So you hit New York with that, let's say, and I don't like to pick New York. It could be St. Louis; it could be Houston. You hit them with it and——

Mr. LUNGREN. Could even be in the West. We are sometimes forgotten here, but, you know, there is something west of the Mississippi.

Comm. TALENT. One of the things they have told us is that the further west you go the less conscious the local leadership is of this, unfortunately. You might want to check in Los Angeles, and San Francisco, and places. Yes, it could be Los Angeles.

So you hit a California city with it and then a month later you hit it again. You kill an American city. Now, how long do we continue the struggle against them? I mean, the last time a weapon of mass destruction was actually used in a war the country it was used against surrendered within a week.

Now, this is their thinking, okay? We may not think of it in these terms, but they think of it in these terms.

Mr. LUNGREN. That could come from both a transnational terrorist organization or a rogue nation that has utilized terror as its purpose and its——

Comm. TALENT. It is used us as the stumbling block, or is upset with how——

Mr. LUNGREN. Okay, well then I would just ask you this: In anywhere in your report did you suggest it would be good National policy for us to say that we would unilaterally decide not to use a nuclear response is someone used chemical or biological attack on us?

Comm. TALENT. Did we address declaratory policy in the report, do you know? No, you don't know, or no, we didn't?

I don't think we addressed declaratory policy. Bob and I are careful not to go outside the four corners of the report, even though he and I, obviously, as individuals have opinions about all this.

Mr. LUNGREN. But it is just interesting that we talk about deterrence and we talk about all prevention and deterrence, which means that you prevent the other side from attacking or you deter them from attacking, and for 50 or 60 years we have had a nuclear deterrence even though I think most of us would agree that we can bring down our stockpile. That deterrence has worked fairly well nuclear-to-nuclear, and when you tell me of the devastating impact of a single biological or chemical attack on the United States, in my view that is equivalent to the threat of using a nuclear weapon.

It is a different weapon but it is equivalent, and I just question whether we ought to then say we will refrain from using a retaliatory weapon that we have had, as much as no one knows what the scenario would be. So that is why I was just trying to figure out what you think the dimensions are, and I just wanted to make sure we are not exaggerating when we talk about a half a million people that could be lost with a single attack.

Comm. TALENT. We are not exaggerating. Look, I will take my hat off as the vice chairman and just put on the Jim Talent hat.

I don't think we should leave any doubt in our declaratory policy that that is an option that is on the table. Now, whether the changes leave that doubt or not, you know, I leave up to you all to decide. That is my own opinion.

One of the things that, in communicating about this in the district, that is so important, I think, to get across to community leaders and just average Americans or voters is that deterrence in the traditional concept doesn't work against a terrorist because they

don't have a national base that you can respond against. I mean, now, you are right—if we can assign a national actor, if we can use the forensics and figure out, then we can deter them.

But it may not come that way. It may just be al-Qaeda on their own, and what do you do? I mean, what are you going to blow up?

Mr. LUNGREN. It is also difficult when an enemy says that if you kill them you have given them the greatest path to immortality that they can have. I mean, deterrence usually works well with someone who doesn't want to die.

Comm. TALENT. Right.

Mr. LUNGREN. Although I have noticed that most of the leaders of al-Qaeda themselves don't want to die, they want all their followers to die.

Comm. TALENT. It works when you have a clear, I mean, enemy or other party that you are dealing with, when it is bilateral rather than multilateral——

Mr. LUNGREN. Right.

Comm. TALENT [continuing]. When you have secure lines of communication so the policy is clear. In short, when there are a lot of things present that are not present here, which is why our ability to deter this is much weakened regardless of what declaratory policy says to end.

Mr. LUNGREN. I thank you for your testimony. I thank——

Mr. PASCRELL. Thank you, Mr. Lungren. Thank you for your questions.

We do have to get a list, and the DHS—Department of Homeland Security—does submit a list of priorities at budget time. This was not a priority.

So we get our, you know, priorities out of whack here, we have got major problems. We are more concerned about—and I am not saying this is not important, but choices had to be made—we spent more money "fixing the border."

Secondly, your point is very well taken about, this is not nation-to-nation when we are talking about terror. It doesn't necessarily have to be and it hasn't been. But homegrown terror is just as onerous, and we need to take a look at that a lot more closely because that is an issue that we are afraid to talk about, literally speaking.

I want to thank you for your testimony today, Senator Talent. Having worked with you in the past when you were here I know that you are dedicated to the protection of America—the United States of America. I know that you and Senator Graham really worked, put a lot of time in the last couple years along with your staff members.

We are trying to work in the spirit with which you provided us, and that is why we do not live in a cocoon, but rather, we are trying to talk to everybody—the Homeland Security staff, your staff, the 9/11 Commission staff, professionals in the field, in order to come up with legislation that is going to be meaningful and logical so that we do approach this with the six major categories that you laid out. I think that is important and I think that is significant.

A lot of food for thought today for every one of the Members. I know some had to come in—well, you know how it works.

Comm. TALENT. Right.

Mr. PASCRELL. We have a lot more Members in the beginning.

But we hope that within the next couple of weeks the bill will be completed, and we hope it meets with your approval. So, there being no additional witnesses I am going to ask—we might have some questions that the Members didn't ask, you know, we will provide to you and we hope that you would respond expeditiously.

Hearing no further business, the committee stands adjourned.

[Whereupon, at 12:32 p.m., the committee was adjourned.]

# APPENDIX

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QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON OF MISSISSIPPI FOR BOB GRAHAM AND JIM TALENT

*Question 1.* In your view, does the intelligence community have adequate resources and capabilities to identify and thwart a biological attack?

Answer. Regarding the identification aspect of your question, both the intelligence community and the Departments of Homeland Security and Defense have clearly "identified" the threat of bioterrorism, however, thwarting (preventing) an attack is a low probability event, no matter how much we spend on intelligence efforts.

With a large percentage of our intelligence resources focused on the Soviet Union during the 1970s and 1980s, we failed to adequately detect a massive offensive bioweapons program in the Soviet Union that included 50,000 scientists and technicians working in scores of facilities spread across 12 time zones. The intelligence community failed to properly identify both the intent and capability of the Soviet's BW program. Furthermore, we now know that al-Qaeda began their bioweapons program in the late 1990s with two labs in Afghanistan and one in Malaysia. Once again, the intelligence community failed to identify both intent and capability prior to DoD's discovery of the two labs in Afghanistan after 9/11.

While it is important that bioterrorism remain a high priority for the intelligence community, we must also realize that we will most likely have only strategic warning of an attack, not tactical warning. We can achieve higher quality of strategic warning, and perhaps tactical warning, by ensuring that the intelligence community has the top-quality scientific staff required to properly analyze the emerging threat of hi-tech bioweapons through better use of human and open source intelligence.

Tactical warning, however, is highly unlikely. This was demonstrated in 1999 by a Defense Threat Reduction Agency program called Biotechnology Activity Characterization by Unconventional Signatures (BACUS). Nuclear programs and large-scale chemical programs produce large intelligence signatures. BACUS demonstrated that there would be virtually no intelligence signature for a bioweapons program—a program capable of producing enough weaponized pathogens to attack a dozen American cities.

Al-Qaeda's stated intent to kill large numbers of Americans, combined with the facts that virtually all likely bioterrorism pathogens are available in nature and that the biotechnical revolution now gives non-state actors the technical capability required to produce and deliver sophisticated bioweapons, led the WMD Commission to the conclusion that America's primary defense against bioterrorism is robust response capability. Major improvements in response capabilities not only limits the effect of an attack, it also serves as a deterrent.

Bottom line: The best way to improve America's intelligence capabilities against the bioterrorism threat is to provide the IC with an increase in highly-qualified personnel dedicated to this mission. As we stated in *World At Risk* (recommendation 10), "highly-qualified" includes people with appropriate language/cultural knowledge and scientific/technical skills.

Note: We suggest all Members of this committee receive a briefing on the Population Threat Assessment from the Department of Homeland Security Office of Science and Technology. We also suggest all Members receive a briefing on the former U.S. offensive bioweapons program to better understand the capabilities of bioweapons.

*Question 2.* As of today, do you believe that the intelligence community has enough baseline information about terrorist actors, their claims, and plans to conduct WMD attacks against the Nation?

If not, what should the intelligence community be doing differently?

Answer. We cannot fully answer this question in an unclassified format, however, our answer to question No. 1 addresses much of this issue.

*Question 3.* The Department of Homeland Security conducts a number of risk assessments, including the BioTerrorism Risk Assessment (BTRA). The National Academy of Science has identified a number of fundamental concerns with the BTRA, ranging from mathematical and statistical mistakes that have corrupted results to more basic questions about how terrorist behavior should be modeled. Do you share the National Academy's concerns? What do you think can be done to overcome these problems?

Answer. The best thinking needs to be brought to bear in assessing the bioterrorism threat, as well as determining the best use of resources for countering it. Therefore, we believe that the BTRA should be subject to rigorous peer review and objective analysis, as occurred in the 2006 NAS report.

Our understanding is that many of the NAS concerns have been addressed, or are in the process of being addressed. DHS is investing in adversary behavior modeling and, most importantly, peer review has been institutionalized in the BTRA. The 2010 BTRA underwent an extensive, refereed 10-week review process which included external professional reviewers. In general, we believe that transparency should continue to be encouraged so that DHS has ready access to the scientific talent outside of the agency to ensure that the modeling methods employed are cutting edge and useful. For example, some of the DHS findings were briefed at the Los Alamos National Laboratories Risk Analysis for National Security Applications Meeting in April and the Society for Risk Analysis meeting in December. These types of activities should be strongly encouraged in the future.

*Question 4a.* First responders have been asking for specific guidance regarding what to do when responding to WMD attacks for some time. For instance, in response to a dirty bomb attack, questions have been asked as to whether law enforcement should "scoop and run out" with injured people or whether EMS should be called in to "treat in place". Do you believe that is the responsibility of the Department of Homeland Security to develop and distribute this guidance?

Answer. Absolutely. One of the most valuable things DHS can provide first responders is knowledge, particularly knowledge of issues involved with low probability, high consequence events such as WMDs. Much of this information comes from our National laboratories. DHS can take this highly technical, scientific information and put it in a format useful to those working on the front lines of homeland security.

DHS will soon release version 2 of *Planning Guidance for Response to a Nuclear Detonation.* Version 1 of this document provides valuable information to first responders regarding response to an improvised nuclear device (IND). This document was produced by an interagency team and backed up with hard science from years of work at our National labs. The real value of this document was the practical advice that was included. For instance, first responders will want to rescue people following an IND, but there will be great concern about how close they can get to ground zero without causing severe risks to themselves. This document provided clear guidelines, such as: If more than half of the windows have been blown out of a concrete building, it is likely to be "too hot" (radiological risk) to enter that area. The document also provided valuable information on what equipment would be most needed in the first hours after an IND explosion—snow plows. Not really intuitive, but critical equipment to clear the rubble out of streets.

This sort of document should be produced for all DHS planning scenarios. Most notably, it does not exist for biological attacks—part of the reason the WMD Commission gave an "F" for bio-response capability.

*Question 4b.* Do you agree that the Department should develop such guidance in coordination with first responders?

Answer. Yes, without question. The National Response Framework was a major improvement over the National Response Plan because DHS solicited input from first responders, and incorporated their inputs into the final document.

*Question 5a.* Together with the authorization for your Commission, we authorized the DHS National Biosurveillance Integration Center (NBIC) in the 9/11 Act. Our vision was for this Center to receive and integrate input from 13 different Federal Departments and agencies (including DHS) to provide a common biosurveillance picture. Unfortunately, over the past 3 years, participation by other agencies has been minimal and the products paltry. Given your extensive political experience and knowledge of workings of the Federal bureaucracy, would you agree that it is time for us to mandate the participation of these Federal Departments and agencies in the NBIC?

*Question 5b.* How do you believe the NBIC could be made efficient, productive, and valuable?

Answer. In order to accurately detect and manage biological threats, multiple data sources need to be integrated and analyzed at the National level. A prime dem-

onstration of why this is important occurred during a 2008 outbreak of salmonella in the United States that sickened nearly 1,500 people. The true cause of the outbreak—jalapeños—was determined only when shipping manifests became available to public health authorities. Before that private sector information was available, public health authorities believed tomatoes were the culprit. That misdiagnosis resulted in hundreds of millions of dollars in losses to the tomato industry. This incident also demonstrates that the private sector should have a clear interest in sharing as much information as possible with public health authorities to avoid harmful mistakes.

What is most important about NBIC is that it is a place where information from agencies can be integrated. Unfortunately, it does not appear that Federal agencies see the "value added" in providing data and analysts to NBIC. While participation could be mandated, that is not likely to sustain collaboration, and it may result in agencies sending junior staff there without giving NBIC the attention it deserves. For NBIC to be successful, it should provide added value to the agencies, such as providing access to data or analytical capabilities, which would facilitate the work of individual agencies, or NBIC could provide tools to support multi-agency investigations, such as outbreaks of zoonotic diseases or food contamination events.

Many successful Federal biosurveillance systems rely on voluntary data sharing. The National Notifiable Diseases Surveillance system is a Federated system that conducts surveillance for a wide range of important diseases, including novel influenza strains, anthrax, and food-borne illnesses. States participate voluntarily because they value access to the CDC's aggregated data and analysis. NBIC should heed this example.

*Question 6.* In your testimony, you said that the funding level for the Biomedical Advanced Research and Development Act (BARDA) is not sufficient. Can you please comment on the current funding level for BARDA and why you believe it is important that the funding be increased? Specifically, where should we be dedicating new resources?

Answer. BARDA is one of our Nation's first lines of defense against chemical, biological, radiological, and nuclear public health threats, supporting the development of new drugs, vaccines, and other medical countermeasures. It was created by Congress in 2006 with unanimous consent in both chambers. As these medical products have no commercial market—the Government is the sole customer—finding private investors willing to fully support development of medical countermeasures is nearly impossible. For this reason, a public investment in BARDA is necessary if these needed countermeasures are to be developed.

BARDA has already hired top talent, and has been working effectively with the private sector. However, they have received little funding. It's time to correct that. This is a National security issue—and it is just as important as the capability to produce world-class military hardware and technology.

BARDA funding is wholly inadequate to their mission. The Center for Biosecurity of UPMC recently estimated that $3.39 billion per year in medical countermeasure development support would be required to achieve a 90 percent chance of developing a countermeasure for each of the eight biodefense requirements laid out in HHS's Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) Strategy for Chemical, Biological, Radiological, and Nuclear Threats. While this amount may be a large sum in the context of health budgets, it is quite small when considered in the context of National security expenditures. In spite of limited funding to date, BARDA has developed the infrastructure, workforce, and expertise to manage the necessary portfolio of new MCMs. All that remains now is for the program to be funded. Fully funding the program will not give us the countermeasures to protect us from all bioweapons, but it is a necessary downpayment for our security.

Recently, even the funds intended for purchasing medical countermeasures for National security were under threat—the administration considered significantly depleting the Project BioShield Special Reserve Fund (SRF) to fund the development and/or procurement of H1N1 influenza vaccine. We continue to urge that BioShields funds be used only for their intended purpose: The procurement of medical countermeasures against chemical, biological, radiological, and nuclear (CBRN) threats to National security. Depleting the SRF will severely diminish U.S. efforts to improve preparedness for CBRN events, thereby undermining the President's commitment to a strong National biodefense program.

Without a significant increase in BARDA funding, and security for BioShield funds, the status quo will persist: A serious and potentially catastrophic vulnerability to CBRN agents. Furthermore, funding BARDA would have an immediate and significant stimulative impact on the biodefense industry, as well as the broader economy. The U.S. Bureau of Economic Analysis estimates that each new biotech job results in the creation of 5.8 additional jobs in other industries. Furthermore,

for every dollar of labor earnings or output in the biotech sector, another $2.90 or $1.70, respectively, are produced in other parts of the economy.

Preparedness for catastrophic health events requires stable, continuous funding, planning, and oversight to build the capacity to prevent and mitigate the effects of an attack with a bioweapon. If you do not act to fully fund BARDA, the organization will wither, the private sector will turn away from biodefense, and the American people could ultimately pay a horrible price in the wake of a terrorist attack with a biological weapon.

*Question 7.* Considering the Commission's findings regarding the need for developing and distributing medical countermeasures, what do you think of making medications, including vaccines, available to the public for use on a voluntary basis?

Answer. America would be far better prepared to respond to a bioattack if a large percentage of our civilian first responders (medical, public health, and law enforcement personnel) were also vaccinated against the two bio-threats included in the Department of Homeland Security's planning scenarios—anthrax and smallpox (both of which have FDA-approved vaccines). The Department of Defense has vaccinated a large percentage of its active duty, National Guard, and reserve forces against anthrax and smallpox. Why should we not do the same for our civilian responders? They will provide the majority of the response force to a bioattack on our homeland, not the military.

Obviously, we cannot order civilians to take these vaccines, but they can be offered to all volunteers. The cost would be minimal since the most likely source of vaccines would be from the National stockpile. Instead of destroying vaccines once they reach their expiration date, we should use them prior to expiration.

This action would significantly enhance preparedness at minimal cost.

Based on lessons learned from exercises and natural disasters, we should also consider offering these vaccines to the families of these first responders. During a major crisis, we want first responders focused on the needs of their communities. Protecting the families of first responders is a key component for success.

### Questions From Honorable Christopher P. Carney of Pennsylvania for Bob Graham and Jim Talent

*Question 1.* If we are going to ask laboratories that possess Tier I Material Threat Agents to meet higher standards for biosecurity, it seems fair and necessary to see to it that they have access to more funds to make this happen. Since this is a homeland security issue, I think grants should come through DHS. What do you think of the need for grants to increase laboratory biosecurity, and having those grants go through DHS?

Answer. This bill advances sound risk management principles for pathogen security by introducing the idea of stratifying biosecurity risks. The bill calls for the designation of "Tier I" agents to be the most dangerous subset of the pathogens that have clear potential for use as biological weapons. Today, 82 biological select agents and toxins receive the highest level of security focus and regulation. We believe the correct number of top-tier agents is closer to 8 than 80. Multiple studies were conducted as a result of our Report, and in virtually all of them, from both the public and private sectors, there have been calls for the stratification of agents.

Stratification of biological agents into tiers should allow for more realistic assessments of risk, it will benefit public health investigations, and it should also encourage security monies to be concentrated on the highest risks. Therefore, it may not be necessary to increase funding for security improvements, as this approach could lead to a more judicious allocation of existent security funding.

*Question 2.* Has the commission examined the extent to which our Nation has adequate laboratory capacity to respond to a large-scale act of bioterrorism? What are your suggestions for increasing laboratory surge capacity?

Answer. See answer to Question No. 4.

*Question 3.* In our efforts to prepare for and combat acts of bioterrorism, do you believe that our Nation has invested enough in the physical laboratory infrastructure needed to develop new countermeasures to biological agents? Can we do more to coordinate the laboratory resources we currently have available across agency lines?

Answer. See answer to Question No. 4.

*Question 4.* I have been a strong proponent of the Regional Biocontainment Laboratory program that was established by the National Institutes of Health to conduct research on biological pathogens. I believe we should bring these 13 university-based labs into our National response system and invest in their ability to provide diagnostic support during a National emergency. Do you believe these labs can play a more active and useful role beyond their core research role?

Answer. The Commission did not explicitly examine the extent to which our Nation has adequate laboratory capacity to respond to a large-scale act of bioterrorism. We also did not specifically examine whether the Nation has invested enough in the physical laboratory infrastructure to develop new countermeasures, or whether there is sufficient capacity of the type that is needed. For example, there may be enough laboratory capacity for basic research into pathogens of bioweapons concern, but not enough capacity for animal testing of diagnostic tests and countermeasures. From a small study that the Commission sponsored, it appears that there is not enough laboratory capacity for testing environmental samples. Given the lack of clarity on this topic, it would be an excellent idea for there to be an investigation to determine whether the Nation has enough laboratory capacity, as well as what the appropriate amount of capacity and physical infrastructure would be.

On a strategic level, it appears entirely appropriate that these university-based laboratories play a role in National response and provide support during a National emergency. The legislation that you introduced, the Laboratory Surge Capacity Preparedness Act, (H.R. 1150) is one step that should move forward to address this need. As we understand it, the Laboratory Surge Capacity Preparedness Act directs the Secretary of Homeland Security to award grants to regional biocontainment laboratories for maintaining surge capacity that can be used to respond to acts of bioterrorism or outbreaks of infectious diseases. If these laboratories can share materials and protocols so that they are useful additions to the normal laboratory capacity in an emergency, it would be a step forward for preparedness.

### QUESTIONS FOR THE RECORD FROM HONORABLE YVETTE D. CLARKE OF NEW YORK FOR BOB GRAHAM AND JIM TALENT

*Question 1.* There have been several white powder incidents in New York City and across the country over the past few years. The ETCS&T subcommittee, which I chair, has looked into a number of white powder incidents over the past few years. In December 2008, before the most recent incidents at some of the foreign consulates, Congressional offices, and the Wall Street Journal in New York City, my subcommittee looked at how the U.S. Government was investigating the white powder letters and packages that were being sent to various Governmental offices here in the United States and to U.S. embassies and consulates overseas. As far as we know, the perpetrator(s) of those events has not yet been identified. Since the anthrax events of 2001—and despite the white powder letters and packages that continue to be sent throughout the United States and the world—guidance is not yet available regarding remediation after a biological attack or incident. Almost 10 years later, we clearly need to require DHS, EPA, OSHA, and NIOSH to undertake a concerted effort to develop and issue guidelines for cleaning and restoring indoor and outdoor areas that have been affected by the release of a biological agent. Do you agree?

Answer. It is certainly true that guidelines for cleaning and restoring indoor and outdoor areas are needed. As we said in our testimony, we commend the Homeland Security committee for including the provision that DHS issue guidelines in coordination with the Environmental Protection Agency for cleaning and restoring indoor and outdoor areas affected by the release of a biological agent. These guidelines should also address methods of decontamination following a large-scale event, and should address some of the remaining questions of a technical and scientific nature that make decontamination of a large area difficult. Currently, U.S. environmental laboratory capacity is insufficient for the challenge of sampling and testing following a large biological release. Federal leadership roles should also be clarified—many Federal agencies currently have roles in decontamination, but it is still unclear which agency would lead. Likewise, it is unclear who will cover the costs of decontamination, as well as the temporary relocation of building occupants. Private building owners would rightly question what their role is, at this time—if private industry is to be responsible for decontamination of their own property, there should be guidance for decontamination practices and qualified decontamination contractors available to industry in the event that they are needed. The WMD Commission sponsored a small study to review current bio-decontamination capabilities and responsibilities. The conclusions were not encouraging.

*Question 2a.* During your tenure in Congress, I expect that much of your situational awareness about the WMD threat was based on classified information. In the case of the biological threat, do you believe that it is possible for the United States to develop accurate biological situational awareness without combining classified and unclassified information?

*Question 2b.* At the other end of the spectrum, do you believe that there should be more unclassified analytic materials distributed to non-Federal partners, most especially in the public health community, to enhance their situational awareness?

Answer. We have both held Top Secret/SCI security clearances for decades, and during the 2 years of our Commission, received a number of classified briefings. However, the information available in unclassified documents clearly identify the serious threat posed by bioterrorism. The following quote is from page 1 of the National Strategy for Countering Biological Threats, November, 2009:

"The effective dissemination of a lethal biological agent within an unprotected population could place at risk the lives of hundreds of thousands of people. The unmitigated consequences of such an event could overwhelm our public health capabilities, potentially causing an untold number of deaths. The economic cost could exceed $1 trillion for each such incident. In addition, there could be significant societal and political consequences that would derive from the incident's direct impact on our way of life and the public's trust in Government."

Classified information can sometimes give specific details about a particular organization or groups of individuals, but the threat we face today can be more than adequately presented in an unclassified document or presentation.

Here is a specific example. Colonel Randall Larsen, USAF (Ret), the former executive director of the WMD Commission has provided briefings on bioterrorism to the Joint Staff Anti-Terrorism/Force Protection Executive Course for the past decade. The course is taught three times a year for 125 senior officers who all possess TS/SCI clearances. However, the briefing is given at the unclassified level. This allows the senior officers to freely discuss all information when they return to their units around the world, without requiring them to remember which part is classified and which part is not.

Classified information is not required to understand the serious threat of bioterrorism.

*Question 3.* Given the challenges inherent in enforcing export control measures, I believe there is value in the Federal Government reaching out to manufacturers and exporters of materials sought by terrorists, the terrorist-sponsoring governments, and any other countries that seek to proliferate WMD. At the Department of Homeland Security, Immigration and Customs Enforcement currently conducts this sort of outreach regarding materials, technology, and WMD of all types. Do you agree that this is a valuable activity?

Answer. Reaching out to the private sector is a very important part of a part of a layered defense against the proliferation of WMD technology. One of the most effective means of countering proliferation is to ensure that it does not get into the wrong hands in the first place and the Federal Government should leverage its existing relationships to partner with manufacturers and exporters on this important mission. There are a number of existing efforts underway, including at the Department of Commerce, that should be strengthened.

*Question 4a.* There are many companies that now legally provide strains of organisms, some of which could potentially be used to create biological weapons. Considering your experience with the Export Council, what role, if any, do you think the criminal justice community should have with respect to the sale, distribution, and potential misuse of such strains?

*Question 4b.* Do we need to review and update the relevant criminal statutes?

Answer. At this time, it does not appear to be necessary to review and update the relevant criminal statutes. In the United States, access to those pathogens that are considered to be most likely to be used in bioterrorism ("select agents") is already regulated.

Within the United States, select agents are regulated by the Department of Health and Human Services (HHS) and the Department of Agriculture (USDA), and the possession and transfer of the toxin is restricted to those people who have received a Security Risk Assessment (SRA), which entails a background check performed by the Department of Justice (DOJ), and are working in a facility that is cleared for select agents, and has been inspected by either HHS or USDA. According to the USA PATRIOT Act (2001) aliens from countries determined by the State Department to have been provided support for international terrorism are considered to be restricted persons and are prohibited from possession of select agents.

For export of select agents, the regulatory regime is likewise extensive:

- According to the Treasury's Department of Foreign Assets Control (OFAC), U.S. persons generally may not enter into any transactions, including exports of goods or services, to Cuba, Iran, and Sudan or to foreign nationals from those countries.

- Articles of military significance are subject to export controls that are part of the State Department's International Traffic in Arms Regulations (ITAR). ITAR-controlled items and services may not be exported from the United States without a license from the State Department's Directorate of Defense Trade Controls.
- U.S. companies may not engage in export transactions involving persons whose export privileges have been revoked or suspended, or with entities known to have ties to embargoed countries, terrorist organizations, or international narcotics traffickers. There are lists maintained by Treasury and State for this determination.
- Export control regulations prohibit exports of any items when the exporter knows that the items will be used in connection with the proliferation of nuclear, chemical, or biological weapons. Of course, for select agents, there are limitations to what laws and export controls can accomplish: they apply only to the United States; all but two of the regulated pathogens (smallpox and 1918 influenza) can be found in nature, sick people and animals, laboratories and hospitals, all over the world; new technologies circumvent the need to acquire many pathogens, as they can be made from scratch; and the select agent list will never be able to include all deadly pathogens. However, these limitations are not likely to be addressed by additional criminal penalties.

*Question 5.* I know that the Export Council works to assist businesses in exporting to foreign countries. Do you believe that companies that sell strains of organisms that could be weaponized are capable of effectively differentiating between legitimate customers and potential terrorists?

Answer. This is not an issue we examined at the Commission. This question should be directed to the State Department.

*Question 6.* Senators, I represent the 37th District of California, home to one of the largest ports in United States, the Port of Long Beach. The 9/11 Act mandated that all U.S.-bound cargo be scanned for nuclear materials by 2010. Since 2007, there is scant evidence that DHS intends to meet the mandate. Given the nature of the nuclear threat, do you support the deployment of additional nuclear detectors in ports throughout the world—either for use by U.S. operators or by host countries?

Answer. The best way to prevent a mushroom cloud over an American city (or port) is to locate, lockdown, and eliminate loose nuclear material.

There is very good reason why DHS has not aggressively pursued 100 percent screening of cargo containers. Highly-enriched uranium (HEU) is the most likely material terrorist would use in an improvise nuclear device (IND). HEU is a very low emitter of radiation. One millimeter of lead, or even something as common as aluminum foil would prevent our current state-of-the-art detector from discovering a Hiroshima-style IND in a shipping container. Furthermore, we think it highly unlikely that a terrorist would put something as valuable as a nuclear weapon in a container, put a good padlock on it, and ship it to the United States. They would not likely take their hands off of the device. (To see the most likely way terrorists would attempt to smuggle an IND into the United States, we recommend you see the video, *Last Best Chance,* produced by the Nuclear Threat Initiative and available at *www.nti.org.*)

We suggest you talk to Beth Ann Rooney, chief of security at the Port of New York and New Jersey regarding her opinion of 100 percent screening. She will ask you why Congress wants to screen every container entering her port, but none of the 700,000 cars that come off of RO/RO ships each year. An IND will fit in the trunks of these cars, but Congress has no plans to have them screened. Furthermore, Dr. Peter Zimmerman, a science advisor to the WMD Commission (and currently a consultant at DHS's Homeland Security Institute) will advise you that there is no technology to detect a nuclear weapon inside bulk containers such as grain ships and oil tankers.

Bottom line: the best way to prevent nuclear terrorism in the United States is through programs such as Global Threat Reduction. If funds are to be spent on detection, it should be on research and development programs to improve capabilities, but we should not be spending large sums of money deploying current technology that has a very low probability of detecting nuclear material.

*Question 7.* Do you believe this action would help to prevent or deter the nuclear threat in any significant way?

Answer. Spending more resources on scanning in ports with current technologies makes us less secure. This money will be better invested in locating, locking down, and eliminating loose nuclear materials.

# VIEWPOINTS ON HOMELAND SECURITY: PART II A DISCUSSION WITH THE 9/11 COMMISSIONERS

**Wednesday, May 19, 2010**

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
*Washington, DC.*

The committee met, pursuant to call, at 10:00 a.m., in Room 311, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the committee] presiding.

Present: Representatives Thompson, Harman, Norton, Jackson Lee, Carney, Richardson, Kirkpatrick, Pascrell, Cleaver, Green, Himes, King, Smith, Lungren, McCaul, Dent, Bilirakis, and Austria.

Chairman THOMPSON. The committee will come to order. The committee is meeting today to receive testimony on "Viewpoints on Homeland Security: A Discussion With the 9/11 Commission."

A lot has changed in this country since the attacks of September 11, 2001. In every facet of American life, there is greater awareness of the risk of terrorism. From the alert citizens in Times Square, to the fast-acting passenger on Flight 253, to other ordinary Americans who said something to the appropriate authorities when they saw something that was concerning, a culture of vigilance is taking hold in America.

At the same time, at all levels of government, there are some major changes in the way we view the risk of terrorism and collaborate to address it. From the establishment of the Department of Homeland Security, to intelligence reform, to the creation of a consolidated, integrated terrorist watch list system, the way that Government organizes itself to make the homeland more secure has changed in significant ways.

The Christmas day terrorist plot brought to mind observations made in your report. You determined that the attacks reveal four kinds of failures—failures of policy, failures of capability, failures of management, and failures of imagination. Had Umar Farouk Abdulmutallab successfully brought down Flight 253 last December with a bomb in his underwear, we would have certainly concluded that despite years of significant investment and reform, it was a failure of policy, capability, management, and imagination.

I look forward to receiving your testimony today about what we still need to do to effectively identify and thwart plots well before they are launched. I also am interested in hearing your thoughts

about the degree to which the intelligence community and DHS are mindful of emerging threats. For instance, last month, we received troubling testimony from the former WMD commissioners about the threat of a biological attack. Another novel threat for this country, but a common scenario in other countries, is an attack on a busy rail system.

Finally, you have been great champions for reform of Congressional oversight over the Department of Homeland Security. You acknowledge that consolidation of jurisdiction is one of the most difficult challenges in Washington, yet it is critically important. As Chairman of this committee, I have a special appreciation of the extent to which the lack of centralized legislative jurisdiction has damaged the Department. As the prime advocate for needed jurisdictional reform, I am particularly interested in hearing testimony from you on this issue.

Thank you again for being here.

[The statement of Chairman Thompson follows:]

PREPARED STATEMENT OF CHAIRMAN BENNIE G. THOMPSON

A lot has changed in this country since the attacks of September 11, 2001. In every facet of American life, there is greater awareness of the risk of terrorism. From the alert citizens in Times Square to the fast-acting passenger on Flight 253 to other ordinary Americans who "said something" to the appropriate authorities when they "saw something" that was concerning—a "culture of vigilance" is taking hold in America.

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I also am interested in hearing your thoughts about the degree to which the intelligence community and DHS are mindful of emerging threats. For instance, last month, we received troubling testimony from the former-WMD Commissioners about the threat of a biological attack.

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As Chairman of this committee, I have a special appreciation of the extent to which the lack of centralized legislative jurisdiction has damaged the Department. As the prime advocate for needed jurisdictional reform, I am particularly interested in hearing testimony from you on this issue.

Chairman THOMPSON. I now recognize the Ranking Member of the full committee, the gentleman from New York, Mr. King, for an opening statement.

Mr. KING. Thank you, Mr. Chairman.

Let me, at the outset, commend Governor Kean and Chairman Hamilton for the terrific job that they have done, not just in their

years of public service prior to September 11, but certainly with the 9/11 Commission recommendations and the way you have stayed on this ever since. As each year goes by, the recommendations you made in the 9/11 report seem to be more and more on target and absolutely necessary.

Let me, at the beginning, fully agree with the Chairman. It is now almost 6 years since your report came out, and the consolidation in Congress has barely improved at all; in some situations it has even gotten worse. It is now 108 committees and subcommittees that the Department of Homeland Security has to report to, and it makes absolutely no sense. This isn't any territorial grab by us at all, but if there is going to be consolidation—in fact, I would just refer the Commissioners, that is, right now, the spider web of committees and subcommittees that the Department has to report to.

It is impossible, I think, for the job to be done. The Department gets mixed messages, they have to spend an inordinate amount of time preparing for this testimony, and it just gets involved in parochial issues and to me it is so diffuse that it makes absolutely no sense whatsoever. So whatever you can do to, again, in the public eye, encourage consolidation would be very helpful. No matter what happens in November, the Chairman and I are going to be working with our leadership in both parties to again try to consolidate much, much more than we have right now.

Also, on the question of Homeland Security grants, we still have the issue where so much money is sent to, I believe, areas that do not need as much as others. We had a recent situation in New York last week—and I am not trying to make this a New York-centric meeting, but I think that was a microcosm of the debate we are having Nation-wide in that just 2 weeks after the Times Square bombing, there were dramatic reductions made in mass transit security aids in New York, and also port security aid.

As the debate went back and forth as to who was responsible, I pointed out that there was a $38 million grant made several years ago to harden the path tunnel from New Jersey to New York which was being held up because of an historic review that was going on because the tunnel was more than 50 years old—which is why it had to be hardened in the first place—and it was sitting there.

Finally, after I brought this out on Friday, last night the money was finally released. But it is that type of bureaucracy—and last July, the GAO issued a report, I believe, talking about more than $400 million that was being held in the pipeline. So that also, I think, is important, No. 1, to make better use of the Homeland Security funding, but also to eliminate some of the red tape and bureaucracy which prevents the money from being distributed.

I think we can say that both administrations have been successful in keeping foreign terrorists from the country. I think al-Qaeda central has been weakened, it is harder for them to send over a team like they did on September 11. The other side of that, though, is that they are now recruiting people from within the country; for instance, Zazi last September, obviously Major Hasan in Fort Hood, and now Shahzad 2 weeks ago or 3 weeks ago in Times Square, which means that we are dealing with people living legally in the country, people who are not on the radar screen, people who do not

have terrorist connections, and it is harder for us to have any advance notice of them, to know where they are coming from or what is going to be happening.

So when we do capture someone, it is important to get as much intelligence as possible, which is why I welcome that Attorney General Holder said last week about beginning to look into what we are going to do with Miranda warnings and how we are going to treat these people who are legally in the country, in many cases, American citizens, when they are captured, because this may be the only way we can get intelligence from them. FISA would not be of much help, our allies would not be of much help, but when we actually get someone, we can get—as we see now from Shahzad, we are getting a lot of information. But if he had availed himself of the right to remain silent, we wouldn't have gotten that.

So I think it is important that we ensure that reforms do go forward and that at the very least, the Attorney General consult with everyone in the intelligence community before any Miranda warning is given so we ensure that whatever information we believe is essential to head off upcoming plots to find out who else are co-conspirators in the country, who he was trading with overseas, and all of that, would be at least delved into before any Miranda warning is given.

How we are going to address this new type of terrorist in a way which is going to be, I think—the battlefront, I think, has shifted to the United States in many ways, and we have to find ways to cope with that.

So with all of that, I thank you for your service, I look forward to your testimony today, and I also want to thank you for those report cards you have given out over the years, which I think have been a good way of prompting Congress to move along. Just because we haven't been attacked doesn't mean that we are doing everything right. So I just want to thank you again and I look forward to your testimony.

Chairman THOMPSON. Thank you very much.

Other Members of the committee are reminded that under committee rules opening statements may be submitted for the record.

[The statement of Hon. Richardson follows:]

PREPARED STATEMENT OF HONORABLE LAURA RICHARDSON

MAY 19, 2010

Mr. Chairman, thank you for convening this hearing today on the state of homeland security and intelligence and the status of efforts to address the recommendations set forth in the Report of the 9/11 Commission.

It is a privilege to be joined by our distinguished witnesses: Former Representative Lee Hamilton and former New Jersey Governor Thomas Kean. America owes you a debt of gratitude for your skillful leadership of the 9/11 Commission. Thanks to the work of the Commission you led, "America is 'safer but still not safe,'" to quote your famous words in the 9/11 Report. Thank you both for being here.

Since the 9/11 Commission's report was released, Congress has taken a number of actions to implement the 9/11 Commission's recommendations. However, it is crucial to hear from the 9/11 Commissioners to identify both our successes and areas where work remains. In particular, in the discussion of strategies for aviation and transportation security, the 9/11 Commission Report highlights the need for a "Layered Security System" that includes security measures to address the wide array of threats, including the use of insiders, suicide terrorism, and standoff attack.

The Commission Report states that "the U.S. border security system should be integrated into a larger network of screening points that includes our transportation

system and access to vital facilities, such as nuclear reactors." As a proud representative of the 37th district of California, I am especially concerned about this topic. My district is home to the Port of Long Beach/Los Angeles, which receives 40 percent of the Nation's cargo. The 9/11 Act set forth a goal of working towards 100 percent cargo screening, and I am sorry to say that almost 10 years later, we are not closer to reaching it.

In addition, as Chair of the Subcommittee on Emergency Communications, Preparedness, and Response, I look forward to hearing the Commissioner's reflections on the Commission's recommendations on emergency preparedness and response. Citizen preparedness and private sector preparedness is an important component of our homeland security strategy. However, according to Citizen Corps National surveys, in 2007 only 42 percent of survey respondents reported having a household emergency plan. Again, this is another area where we have not yet reached the goals of the Commission recommendations.

I am pleased that this hearing is providing a chance for committee Members to delve into the issues facing our Government and homeland security with regard to progress on the recommendations of the 9/11 Commission. Clearly, the Federal Government still has work to do. I look forward to sharing this information with the stakeholders in my district, home to a target-rich environment, including the airports, water treatment facilities, and ports.

Thank you again, Mr. Chairman, for convening this hearing. I yield back my time.

Chairman THOMPSON. I also would want to again welcome our distinguished witnesses, Governor Thomas Kean and Representative Lee Hamilton, the chair and vice-chair of the Congressionally-created National Commission on Terrorist Attacks Upon the United States.

In addition to his service as chairman of the 9/11 Commission, Thomas Kean served as Governor of New Jersey from 1982 to 1990, and Speaker of the New Jersey Assembly. He also served as president of Drew University from 1990 to 2005. Today, Mr. Kean serves on the boards of a number of prominent National organizations, including the Robert Wood Foundation.

Also, I would like to, in his absence, recognize Mr. Pascrell from New Jersey, who never lets us forget about New Jersey on this committee.

Lee Hamilton represented the citizens of Indiana's Ninth District for 34 years in this body. During his tenure, he served as Chairman of the Foreign Affairs Committee and the Intelligence Committee. Today, Representative Hamilton serves as the president and director of the Woodrow Wilson International Center for Scholars at the Indiana University Center. Without objection, the witnesses' full statement will be inserted in the record.

I now ask the witnesses to summarize their statement for somewhere about 5 minutes, or the best you can do.

The Chairman recognizes the gentleman from Indiana.

**STATEMENT OF LEE HAMILTON, FORMER COMMISSION VICE-CHAIRMAN, THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES**

Mr. HAMILTON. Mr. Chairman, I think I will speak first and then the Governor will follow me, if that is all right with the Chairman.

Tom and I are very happy to be with you this morning. We are very appreciative of the leadership that has come from this Committee on Homeland Security ever since its creation.

We are here as co-chairmen of the Bipartisan Policy Center's National Security Preparedness Group, which is a successor to the 9/11 Commission, and our principal hope and thrust in that group will be to try to play a constructive role in supporting you and

other people in the Executive branch who work very hard on homeland security.

Tom and I will be talking about two separate topics; one is the nature of the threat that we confront, and then secondly on intelligence and some of our observations as a result of a conference we held on that just a few weeks ago.

I think as Mr. King said in his statement, we believe that al-Qaeda has been seriously weakened, but I am not at all sure that we have a firm grasp on how seriously. There are disparate elements to the radicalism across the globe, and it is just extremely difficult to keep track of all of it. Overall, then, we think perhaps the threat has been reduced, but it certainly has not been eliminated, and the struggle goes on.

A few quick observations about the threat in general. Pakistan is the new hub and center of the terrorist threat; more plots against the United States emanate from Pakistan or have a strong connection with Pakistan than anywhere else. As Mr. King also said, we are witnessing the emergence of a new generation of terrorists, American citizens, lone actors trained abroad, and I think we can expect more from persons with limited resources and perhaps limited training. So in some ways, the threat is as much internal as it is external.

We have often said, and you have heard others say, that we are safer today, but not safe enough. Many of the statements coming from our leaders today about the progress that has been made in homeland security are correct. We have already referred to the setbacks for al-Qaeda; we talk a lot about the success of the Predator Drone attacks. We were advised the other day that we should all feel pretty good about the accomplishments. The problem, of course, is that the attacks keep coming, over Detroit, in Times Square, at Fort Hood. The problem may be that we do not fully appreciate the diversity of the possible attacks. We focus more now on home attacks originating here, but we must not rule out the possibility of attacks coming from abroad. We certainly have to understand the evolving nature of the threat that we face.

One of our colleagues on the National Security Preparedness Group wrote the other day in one of our leading magazines, "We seem able to focus only on one enemy at a time in one place. We do not understand the networked, transnational, multifaceted nature of the attack." So the defining trait of today's terrorist threat is its diversity. The Attorney General has stated the Times Square attempted attack was directed by the Pakistani Taliban. The attempted attack in December was the work of al-Qaeda in the Arabian Peninsula. In both of these cases, al-Qaeda affiliates thought previously as regional or local threats demonstrated their ability to reach the United States. Of course, we are all aware of the threats coming from the tribal regions of Pakistan.

As we have come to recognize the evolving nature of the threat, we as a country need to consider what policy recommendations should follow this assessment, and our group, and I am sure others in this town are beginning to work on that. We will be working during the summer to complete the work and draw conclusions and recommendations that you and others in the Congress and the administration may want to utilize.

Just a word before I turn it over to Tom Kean on the state of intelligence reform. I believe, and I think most people believe, that a lot of progress has been made on intelligence reform. Specifically, data is more widely shared than it was a few years back. We still have a long way to go. The analysts, rather than the collectors, have begun to drive data collection; that is a significant change that is now occurring in the intelligence community.

The technology has improved. The transformation is underway from a confederation of bureaucracies in effect in the intelligence community—some 16 of them—to a network of collection and analysts. The establishment of the Mission Managers is, I think, a positive development. The increasing focus on cybersecurity is a positive development. Reform has been made on speeding up security clearances. I think the establishment of a joint duty program, likewise, is part of the progress. All of that needs to be emphasized and recognized as a positive step. My point of view, of course—perhaps yours—is that we cannot achieve perfection, but we can continue to reduce the likelihood of human error to an acceptable level, and that is what we have to do.

Now, there are a lot of challenges before the intelligence community today. I will mention in a moment the ambiguity with regard to the role of the DNI, a critically important problem. The President has stated oftentimes that he is not satisfied with the Presidential daily brief. I don't know that I can remember a President who has been satisfied with the Presidential daily brief, but Tom and I have seen a good many of them dating a few years back—I don't think they are available to Members of Congress so far as I know—and I think Tom and I would very much agree that there is a long way to go in improving the daily brief. That is an enormously important step in the intelligence dissemination.

There certainly has to be the development of leadership towards a more integrated intelligence community; that is happening, but not nearly fast enough. You all are familiar with the problems the intelligence community has with the Congress. I think there has been some improvement—at least that is my impression, I don't know how you feel about it—in that under Mr. Panetta's leadership in the CIA, but you would know that probably better than I.

We certainly need more sophisticated analyses—signals, human, technical have to be integrated much better than they are. The relationship of the intelligence community generally to the general public I think needs a lot of work. Tom will talk a little bit about the necessity of civil liberties and privacy.

But on the challenges, what impresses me more than anything else is that we get this massive amount of data—it just comes in by the truckload per minute—and it overwhelms the ability of the intelligence community to analyze it. We have simply got to do that better through a lot of different means than we have been able to do it. So the greatest challenge in a sense to the intelligence community is the management of the data that comes in.

Now, the final point I want to make with regard to intelligence is that I think because of the ambiguity of the law where the authorities of the Director of National Intelligence with regard to budget, with regard to personnel simply are not as clear as you would like them to be. The ambiguity creates a lot of problems

within the intelligence community. You would know better than I, but my observation is that law is not going to be changed soon. It took a long time to get that law on the books, and I don't see any great effort at the moment to correct it.

So what does that mean? It means that the role of the DNI is not clear. Is he a strong leader of the intelligence community empowered to lead the intelligence community, or is he a coordinator, a convening authority charged with helping to facilitate inter-intelligence agency? Now, that is a huge difference, and it makes all the difference in the world as to how the intelligence community is shaped. My view—and I think Tom's—is that we favor the former point of view, that is to say the DNI should be a strong leader in the intelligence community with sufficient power to carry out his responsibilities.

The burden is on the President now to clarify who is in charge of the intelligence community, where the final authority lies on budget, personnel, and other matters. As long as you leave it to the interagency process without clear direction from the President, you are not going to have an integrated intelligence product. So we put a lot of responsibility, of course in almost every subject, on the President. But here the President's leadership is crucial and it must be enduring, not just an intervention. He has got to stay on top of this in order to make it work.

Tom will handle other points of interest on the intelligence community.

Chairman THOMPSON. Thank you very much. We were very generous with the time, but obviously we appreciate the clarity of your comments.

Governor.

**STATEMENT OF THOMAS KEAN, FORMER COMMISSION CHAIRMAN, THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES**

Mr. KEAN. Thank you. I, likewise, also appreciate very much your work and the chance to appear before you today. I will talk just a minute about another lesson that we think we can learn, and that is the nature of the domestic intelligence mission and how it demands really greater clarity. The intelligence community must become more competent in obtaining and using appropriate information on people who cross the borders and may have a nefarious intent, that is including Americans. The failed attack of 12/25, cross-border drug violence, and other events last year highlighted the challenges we face in our porous borders and the rapid mobility of modern society. In addition, we have seen that some of our practices, such as No-Fly Lists, must be more dynamic, responsive, capable of triggering quick action, including warnings sometimes that are based on incomplete information. Our procedures for collecting and using U.S. personal data must adapt to these new challenges. Last, the Attorney General's guidelines for intelligence agencies operating domestically needs to be updated and harmonized so that the intelligence community can perform its mission successfully.

We don't really believe that domestic intelligence has received enough attention, especially, and as we have all said, the evolving nature of the terrorist threat. In the Commission, we place great

emphasis on the need for the FBI to reform itself and build an organization that places more emphasis on preventing attacks. To refocus attention on these issues, we are going to host a conference in the fall with top Government officials and other experts to ensure that we are still taking the right steps so that the agency is reformed to meet the modern needs of the terrorist threat as we know it today.

Another fact, as evidenced by the reviews following the failed attempt of the Christmas day bomber, the DNI needs to be a leader in managing and improving analyses in the intelligence community. As Lee said, we are awash with data coming in from every direction all the time. We are collecting more information than ever before, but we have got to understand it, we have got to manage it, we have got to integrate it. The good news is that we have got the technology. We need to continue to push forward, however, on policy innovations to ensure that we manage the data properly and that the right people are getting the information they need, always having in mind that when we do this, we also have to protect civil liberties.

We are cosponsoring a serious of events with the Markle Foundation to continue to push for innovative policies, including making information discoverable and building interfaces that allow for sufficient exchange while at the same time protecting civil liberties. Making progress in these issues is critical for mounting an effective fight against terrorists that are going to be increasingly sophisticated.

I just want to mention briefly two other items that are left over perhaps from a 9/11 report. Civil liberties, of course, has been mentioned already, and Congressional oversight. We always have to worry about the balance between civil liberties and our security. It will always be part of the struggle with terrorism. America must never sacrifice one for the other. Following the 9/11 Commission recommendations, this Congress created the Privacy and Civil Liberties Oversight Board to advise the Executive branch and to oversee over efforts to defend civil liberties. The board was staffed and it became operational in 2006. After some little activity in 2007, the board has been dormant since that time. We have, in other words, no members and therefore no board protecting civil liberties. Now we have got massive capacity now to develop data on individuals, and we need somebody to ensure that the collection capabilities do not violate our privacy and the liberties we care about.

Mr. Chairman, we support the sentiment expressed in your letter to President Obama, supported by many Members of this committee, that he should quickly appoint members of the board. We continue to believe this board is a critical function, and we urge the President a swift reconstitution.

Now, you have said as well as I could the problem with Congressional oversight. As you know, this is one of our main recommendations in our report. It is fractured and overlapping on both sides of the Hill. It is in an unsatisfactory state. We note, as Congressman King said, the number of over 100 committees now that DHS officials report to. It has led to conflicting mandates for the division of Homeland Security. As you have said, without taking serious action, we think this confusing system is going to make this country

less safe. We want to continue to work with the Congress to help improving oversight of our homeland security, and will do everything we can to cooperate with you in this regard.

Thank you very much for having both of us, and we would be glad to answer your questions.

[The statement of Mr. Hamilton and Mr. Kean follows:]

PREPARED STATEMENT OF LEE HAMILTON AND THOMAS KEAN

MAY 19, 2010

I. INTRODUCTION

We are very happy to be before this committee this morning. We are grateful to Chairman Thompson and Congressman King for the invitation to discuss the challenges the serious and evolving terrorist threat poses to our Nation.

Today, we are appearing in our capacity as co-chairmen of the Bipartisan Policy Center's National Security Preparedness Group (NSPG), a successor to the 9/11 Commission. Drawing on a strong roster of National security professionals, the NSPG works as an independent, bipartisan group to monitor the implementation of the 9/11 Commission's recommendations and address other emerging National security issues.

NSPG includes the following membership:

- Mr. Peter Bergen, CNN National Security Analyst and Author, Schwartz Senior Fellow at the New America Foundation
- Dr. Bruce Hoffman, Georgetown University terrorism specialist
- The Honorable Dave McCurdy, Former Congressman from Oklahoma and Chairman of the U.S. House Intelligence Committee, president of the Alliance of Automobile Manufacturers
- The Honorable Edwin Meese III, Former U.S. Attorney General, Ronald Reagan Distinguished Fellow in Public Policy and Chairman of the Center for Legal and Judicial Studies at The Heritage Foundation
- The Honorable Tom Ridge, Former Governor of Pennsylvania and U.S. Secretary of Homeland Security, Senior Advisor at Deloitte Global LLP, Ridge Global
- The Honorable Frances Townsend, Former Homeland Security Advisor and former Deputy National Security Advisor for Combating Terrorism
- Dr. Stephen Flynn, president, Center for National Policy
- Dr. John Gannon, BAE Systems, former CIA Deputy Director for Intelligence, Chairman of the National Intelligence Council, and U.S. House Homeland Security Staff Director
- The Honorable Richard L. Thornburgh, former U.S. Attorney General, Of Counsel at K&L Gates
- The Honorable Jim Turner, Former Congressman from Texas and Ranking Member of the U.S. House Homeland Security Committee, Arnold and Porter, LLP
- Mr. Lawrence Wright, New Yorker Columnist and Pulitzer Prize-winning author of *The Looming Tower: Al Qaeda and the Road to 9/11*
- The Honorable E. Spencer Abraham, Former U.S. Secretary of Energy and U.S. Senator from Michigan, The Abraham Group.

Over the course of 2009 and 2010, our group met with Obama administration officials and former senior officials from the Bush Administration, including:

- Director of National Intelligence, Admiral Dennis Blair (July 2009)
- CIA Director Leon Panetta (July 2009)
- Secretary of Homeland Security Janet Napolitano (July 2009)
- FBI Director Bob Mueller (September 2009)
- Former CIA Director Mike Hayden (September 2009)
- Former DNI Mike McConnell (September 2009)
- John Brennan, Deputy National Security Adviser (January 2010)
- Mike Leiter, Director of the NCTC (April 2010).

We believe the strength of our group will allow us to be a voice on National security issues and a resource to you and the Executive branch. First and foremost, we are here to help play a constructive role in support of your work.

Recent events have reminded us, especially the failed attempts on 12/25 and in Times Square, that the country needs to continue to improve its defenses and strengthen Governmental institutions designed to fight international terrorism and other threats to the United States. At the Bipartisan Policy Center, our National

Security Preparedness Group has been studying the implementation of the 9/11 Commission's recommendations, especially those regarding intelligence reform, and new threats to our National security.

We look forward to working with you, and benefiting from the work of this committee, as our study continues.

Today we would like to discuss with you two on-going projects that have a direct bearing on the important work of this committee.

First, as we testified in January, the threat from al-Qaeda, remains serious. What we and other experts are studying is how the threat of terrorism is evolving. The conventional wisdom for years has been that al-Qaeda's preferred method was a spectacular attack like 9/11. But the defining characteristic of today's threat seems to be its diversity.

Second, the 5-year anniversary of the Intelligence Reform and Terrorism Prevention Act recently passed. Our group marked this anniversary by hosting a conference on the State of Intelligence Reform. The Director of National Intelligence and host of other former intelligence officials participated in the conference and I will share with you today some of the conclusions from the discussion.

## THE TERRORIST THREAT

The defining trait of today's terrorist threat is its diversity. As you well know, the Attorney General has stated that the Times Square attempted attack was directed by the Pakistani Taliban. The attempted attack in December was the work of al-Qaeda in the Arabian Peninsula. In both of these cases, al-Qaeda affiliates thought previously as regional or local threats demonstrated their ability to reach the United States. We're well aware of the threat emanating from the tribal regions of Pakistan. We've also come to appreciate the increasing threat of homegrown terrorism as some Americans have become radicalized.

As we have come to recognize the evolving nature of the threat, we as a country need to consider what policy recommendations should follow this new assessment. Our National Security Preparedness Group is studying this issue. Professor Bruce Hoffman from Georgetown and Peter Bergen of the New America Foundation are leading a series of interviews and meetings with terrorism experts to take a fresh look at the nature of the threat in light of the increased activity. We will work over the summer to complete this work and draw conclusions and recommendations that Congress and the administration can utilize. We have already arranged for Bergen and Hoffman to testify on this assessment in September, along with homeland security experts Fran Townsend and Steven Flynn. We look forward to working with you on this study and the opportunity to return in the fall to your committee.

## STATE OF INTELLIGENCE REFORM

The determination of terrorists to attack the homeland remains unabated, reminding us of the need for viable and agile Governmental institutions to counter the threat. To us, these episodes further suggest the importance of creating a Director of National Intelligence and a National Counter Terrorism Center in the first place. At their core, the problems evident on September 11, 2001, reflected failures of information sharing among the Federal partners charged with protecting the country. No one in the Federal Government was charged with fusing intelligence derived from multiple foreign and domestic sources. The DNI has been charged with breaking down bureaucratic, cultural, technological, and policy barriers to the sharing of information among Federal agencies and the NCTC has been successful in thwarting a number of potential terrorist attacks.

There has been good work done since September 11, 2001, but we need to continue down the path toward further integration and insist on a greater level of effectiveness within the intelligence community. To further these goals, we hosted a conference on the State of Intelligence Reform in April with Director Blair, General Hayden, Admiral McConnell, Fran Townsend, Jane Harman, John McLaughlin, and Steve Cambone. The conference was a success in highlighting the importance of the issues this committee is dedicated to, including information-sharing and improved counter-terrorism policy within our borders.

Today, we are releasing a brief summary of the proceedings, and we would like to offer you several key observations.

First, the President needs to be very active in defining roles and responsibilities within the intelligence community. We think the conference showed that the DNI has achieved a meaningful measure of success in its first years—that has made it worth the inevitable turmoil—but that the successes relied too heavily on key personalities within the Executive branch. We want to continue to look closely at the authorities of the DNI to make sure he has the authority to do his work, but it is

our sense that the success of the DNI in the short term is not dependent on additional statutory adjustments to IRTPA.

Nonetheless, there are still ambiguities that can contribute to mission confusion and lack of clarity about lanes in the road. This is perhaps the greatest challenge facing the DNI. Is the DNI a strong leader of the intelligence community empowered to lead the IC as an enterprise? Or is the DNI a mere coordinator, a convening authority charged with helping facilitate common inter-intelligence agency agreement? The lack of clarity in its mission invites a host of other criticisms, including that the ODNI is too large, too intrusive, and too operational.

The burden is on the President to clarify who is in charge of the intelligence community and where final authority lies on budget, personnel, and other matters. In our estimation, we need a strong DNI who is a leader of the intelligence community. The DNI must be the person who drives inter-agency coordination and integration. At the same time, the DNI's authorities must be exercised with discretion and consideration of the priorities and sensitivities of other intelligence agencies. But the President's leadership is crucial and must be enduring or we run the risk of mission confusion and decrease the prospect of achieving long and lasting reform that was recommended after September 11, 2001. The DNI's ability to lead the intelligence community depends on the President defining his role and giving him the power and authority to act.

Second, the nature of the domestic intelligence mission demands greater clarity. The intelligence community must become more competent in obtaining and using appropriate information on people who cross borders and may have nefarious intent, including Americans. The failed attack of 12/25, cross-border drug violence, and other events last year highlighted the challenges we face due to our porous borders and the rapid mobility of modern society. In addition, we have seen that some of our practices, such as No-Fly Lists, must be more dynamic and responsive, capable of triggering quick action, including warnings based on incomplete information. Our procedures for collecting and using U.S. person data must adapt to these new challenges. Lastly, the Attorney General's guidelines for intelligence agencies operating domestically needs to be updated and harmonized so that the IC can perform its mission successfully.

It was clear in the conference that in many ways, "domestic intelligence" has not received enough attention especially in light of the evolving nature of the terrorist threat. The 9/11 Commission placed great emphasis on the need for the FBI to reform itself and build an organization that placed more emphasis on preventing attacks. To refocus attention on these issues, we will host a conference in the fall with top Government officials and other experts to ensure we are taking the right steps along the path of reform.

Third, as evidenced by the reviews following the failed attempt on 12/25, the DNI needs to be a leader in managing and improving analysis in an intelligence community awash with data. In an age when we are collecting more information than ever before, a major challenge is understanding, managing, and integrating a huge amount of information. The DNI needs to develop ways of dealing with intelligence information overload. The good news is that the technology to do the job exists. We need to continue to push forward on policy innovations to ensure that we manage the data properly and that the right people get the information they need, while protecting civil liberties. We're cosponsoring a series of events with the Markle Foundation to continue to push for innovative policies, including making information discoverable and building interfaces that allow for its efficient exchange while at the same time protecting civil liberties. Making progress on these issues is critical to mounting an effective fight against increasingly sophisticated terrorists.

PRIVACY AND CIVIL LIBERTIES

The balance between security and liberty will always be a part of the struggle against terrorism. America must not sacrifice one for the other. Following the 9/11 Commission recommendations, the Bush administration created a Privacy and Civil Liberties Oversight Board to advise the Executive branch and oversee Government efforts to defend civil liberties. The board was staffed and became operational in 2006. In 2007, Congress restructured the Board as an independent agency outside the White House. Despite early criticisms of undue delay and inadequate funding, the Board held numerous sessions with National security and homeland security advisers, the attorney general, and the FBI Director, among others, on terrorist surveillance and other issues arising from intelligence collection.

However, the Board has been dormant since that time. With massive capacity to develop data on individuals, the Board should fight to ensure that collection capabilities do not violate privacy and civil liberties. Mr. Chairman, we support the sen-

timent expressed in your letter to President Obama, supported by many Members of this committee, that he should quickly appoint members to the Board. We continue to believe that the Board provides critical functions and we urge President Obama its swift reconstitution.

CONGRESSIONAL OVERSIGHT

Third, the DNI and IC must provide greater transparency, foster greater trust with the American people, and avoid over-reaction during troubled times. While much intelligence must remain classified and out of public view, the intelligence community still needs support from the media, Congress, users of intelligence, and foreign partners, among others, to successfully pursue our National goals. The DNI should work to promote a robust relationship/partnership with Congress, which serves as the proxy for the public in overseeing the IC and affirming its direction.

The 9/11 Commission also placed great emphasis on rigorous Congressional oversight. This recommendation helped precipitate the creation of a House Homeland Security Committee and a Senate Homeland Security and Governmental Affairs Committee. However, enduring fractured and overlapping committee jurisdictions on both sides of the Hill have left Congressional oversight in an unsatisfactory state. DHS entities still report to dozens of separate committees hundreds of times per year, which constitutes a serious drain of time and resources for senior DHS officials. Furthermore, the jurisdictional melee among the scores of Congressional committees has led to conflicting and contradictory tasks and mandates for DHS. Without taking serious action, we fear this unworkable system could make the country less safe.

The 9/11 Commission also called Congressional oversight over intelligence dysfunctional. We made recommendations to strengthen the oversight committees which were not accepted by the Congress, though some progress has been made. Today we want to emphasize the enormous importance we attach to rigorous oversight of the intelligence community.

Congress is the only source of independent advice to the President on intelligence matters. Such oversight requires changes in the structure of Congressional committees, specifically the creation of powerful oversight committees in both the House and Senate. Today, the appropriations committees' monopoly on the provision of funding weakens the ability of the intelligence authorization committees to perform oversight and wastes much of their expertise.

Congressional oversight can help ensure the intelligence community is operating effectively and help resolve disputes about conflicting roles and missions. We urge the Congress to take action to strengthen the oversight capabilities of the intelligence committees.

Chairman THOMPSON. I thank both of you for the very enlightening testimony given today before this committee.

I would like to remind each Member that he or she will have 5 minutes to question the panel. I now recognize myself for 5 minutes.

As both of you noted, it is hard to break down the stovepipes when there are so many stoves. While information-sharing has improved since 9/11, many—myself included—are troubled that despite undergoing significant reforms, the intelligence community did not uncover and prevent the Christmas day plot. It now seems that while the intelligence community is doing a better job of collecting and sharing the information, it does not have the analytical capability, human and technical, to connect the dots. Now, both of you addressed this issue in your testimony, and I want to give you a little time to elaborate on it because we have this humongous data collection effort underway, but the question is: What and how are we doing with it after we collect it, and is that our next challenge?

Governor.

Mr. KEAN. I think you have put your finger on it, it is our next challenge. We haven't always treated analysts with the same respect we treat other people in the intelligence community. We

know now that it is no good collecting all this data if we don't have the means and the personnel who can seriously analyze it, condense it, and turn it over to the policy people who are going to act. We don't think we are there yet by any means. This requires, in my mind, giving the analysts the kind of status, the kind of pay, the kind of promotions that are available to other people in the intelligence agency and that we recognize them for the very important function they hold. This is going to be a continuing challenge. We are going to get more information, not less. Unless we analyze it and put it quickly into people's hands so that action can be taken, we are not going to do the job to protect the American people.

Chairman THOMPSON. Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, I believe, as you have suggested, information sharing remains the core problem in intelligence. You referred to the stovepipes of the 16 intelligence agencies correctly. I do believe there is a lot better sharing, there is a lot better connection of the dots than several years back, so we have made a good bit of progress, but it is not seamless, and it is still a very formidable challenge for the intelligence community.

I connect this problem to the authority of the DNI. What you have in the intelligence community today are 16 very able, very patriotic, very professional groups with a lot of very talented people. They have operated traditionally very much within their own stovepipe, within their own agency. They have felt that it is not necessary to share, the heavy emphasis has been on need to know rather than need to share. They are very protective of their jurisdiction and their bailiwick. I do not believe you are going to get the sharing that you need without somebody forcing it, and that somebody has to be the DNI. I don't know where else it comes from. If he does not have the authority to do that, you are not going to get it. That is my view, basically. So the authority of the DNI is absolutely critical to resolving the question of better information sharing.

Chairman THOMPSON. Well, I guess the question is: Do we need a legislative fix, or can a fix be done administratively? Or is it a matter of having the will to do it?

Mr. HAMILTON. It should be a legislative fix eventually, but to be blunt about it, you are not going to get around to it quickly and the problem is right now. So the only solution can come from the President now, and he has to make it clear, in my view, who has the authority and who doesn't. He has this ambiguous law out there, which is less ambiguous because of work in the Bush administration than it was, but it is still ambiguous, and as long as you have that ambiguity, you are going to have these agencies fighting for jurisdiction and power.

That is what you are really talking about, the distribution of power here. So I think the immediate action has to be Executive, the longer-term action has to be Congressional and Executive. That law has to be clarified.

Chairman THOMPSON. Thank you very much. One last question. A number of us, Governor, as you indicated, sent a letter to the President about the Privacy and Civil Liberties Board not being constituted. We received a reply, but to date no action has been

taken to fill the vacant positions. We will renew that request after this hearing, given your testimony and your standing within this whole homeland security arena.

So you may receive some calls prompted by our letter, but a substantial number of the Members of this committee felt that this board had an integral part in this whole process and that to leave it vacant was not in the best interests of that data collection effort. So we will pursue it.

We now recognize the Ranking Member from New York for 5 minutes for questions.

Mr. KING. Thank you, Mr. Chairman. I have to continue to call Congressman Hamilton "Mr. Chairman" because I served with him on the International Relations Committee and the Foreign Affairs Committee, and he was an outstanding Chairman.

Chairman Hamilton, you were talking about the DNI. If I can follow up on that. I am on the Homeland Security and the Intelligence Committee. My perspective is that the DNI has very little real power in this administration. More and more I find that intelligence policy is being driven by the Homeland Security Advisor to the White House, John Brennan. We saw that after the Christmas day bombing. He was the one who was convening the public conferences, speaking to people in the community. I believe he has an inordinate amount of power in the intelligence community, as opposed to Admiral Blair, for instance, or even Director Panetta, and he is beyond Congressional oversight because of Executive privilege being in the White House. That, to me, adds a real problem, that we are finding more and more policy being driven from the White House on these intelligence issues.

In addition to that, as we are finding more and more domestic cases, the Department of Justice obviously is involved early on; and as a result of that, it is declared a law enforcement or criminal justice matter, and Congress is not being briefed. I can speak for myself—and I believe there can be some degree of bipartisan agreement on this—we get very little information, I would say less information now than before for two reasons; one I think because the White House is controlling intelligence more, but secondly, because we are going to have an increased number of domestic cases, which become criminal justice cases, and they tell us information can't be given out because a law enforcement investigation is going forward.

So in many ways we are going backwards, and we have to find a way to address that because I do believe we are going to find more and more of these domestic cases, and that is going to be, in many ways, the center of terrorism, and yet we are not going to get the information we need. So if you have any thoughts on that, or just take it back and consider it. Again, from my discussions, this is a bipartisan concern to one degree or another.

Mr. KEAN. I lead off by saying that I think we agree that it is absolutely essential that Members of Congress have the information that you need because you are unique in the intelligence area. I mean, if those of us who are citizens are interested in transportation, we can go listen to the Transportation Committee or the Environment, the environmental committees, or so on. But a lot of intelligence is secret, and so you have got to have that information in order to do your job, which is oversight. If you are not doing the

oversight, then nobody is, the public and the press isn't allowed the information to do it properly. So I believe that your committees are more important in this area than any other committees in the Congress because you have that unique responsibility.

I might say, as far as the DNI goes, it concerns me a bit because the DNI, both Lee and I believe, has got to be the strong leader of the intelligence community. If somebody else is taking even the public lead on some of these questions, the DNI is not where it is supposed to be in the public perception, which is part of the problem.

Mr. KING. As far as the public perception, I don't know we heard from Admiral Blair on Fort Hood, very little on the Christmas day bombing, and nothing, to date, that I am aware of on Times Square. So the public perception, and also the perception of the community, is that the DNI does not have the gravitas or the power or the clout that is needed to really get the job done.

Mr. HAMILTON. I think we have been quite clear as to how we think it ought to be; the DNI ought to have the power.

Your observations about Mr. Brennan were of great interest to me. You are certainly right, I think, when you say he has had the public role in a number of these cases, but I don't think the intelligence community is going to function in all of its parts unless the DNI has the authority.

The second question you raised has been a difficult one. I come, of course, from the Congress, and I believe very strongly in the right of the Congress to get information. I know how vitally important that is to a Congressional committee. I conducted a number of investigations, four or five of them probably, where we had a conflict between the Congress on the one hand wanting to get information and the prosecutors, in effect, saying if Congress gets the information, they are going to screw up the prosecution. That is not an easy question to resolve. I don't know any blanket rules that applies, there may be one but I don't know it.

What it takes, I think, on an ad hoc basis, is for the principals to sit down and try to work it out so that the Congress gets the information in a timely way and the prosecutor's case is not disrupted too greatly. So I don't have any words of advice for you on this. It is an inherent problem that comes up again and again. There is a problem of it right now with the Senate committee—I guess that is the Homeland Security Committee—seeking information and the Department of Justice holding it back. So that is the only observation I have on that.

Mr. KING. Mr. Chairman, if I could just make one further point. In this regard, I believe that the Department of Homeland Security, since you are going to be faced more and more, literally, with homeland threat, actually threats emanating from the homeland, I think it is more essential than ever that the Department of Homeland Security be able to establish itself in that world, in that community. I don't believe the Department has been aggressive enough on that.

Again, and this is not being critical of Secretary Napolitano, but again, when you look as these cases evolve, the Secretary of Homeland Security is not a major player in them as far as the public is concerned. I know in the Times Square case it was many, many

days before we got any information from the Department of Homeland Security. I felt they were, at best, ancillary to what was happening, even though that was clearly a homeland security issue. So I am concerned that the Department is losing status, losing ground in that community. There is a lot of turf fighting in there. If the Department does not establish itself and get itself firmly implanted in that world, I think that also is going to weaken the Department as we go forward.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

The Chairman now recognizes the gentlelady from California for 5 minutes, Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman.

As most people know, 9/11 and the recommendations of the 9/11 Commission have been central to my activities in Congress. I am passionate about fixing this problem, and I am enormously respectful of what our witnesses bring to this. I appreciate the fact that you have hung in for all these years and that you are continuing, on a bipartisan basis, on a beautiful bipartisan basis to work at this. I also want to applaud the Bipartisan Policy Center's National Security Preparedness Group and your staff leader, Michael Allen—an old friend of ours—for sponsoring the kinds of conferences that you have.

I participated in your recent conference on intelligence reform, and as one of the four principal coauthors of the Intelligence Reform Act of 2004, which was based on your bipartisan recommendation, I think the subject is fascinating. Let me just offer my view, which I offered there. I don't think the law is perfect. It was very difficult to get anything passed. But I think now we are down to 50 percent law and 50 percent leadership. The law is adequate for the right leader, supported by the President, to be the joint commander that we envisioned. That is the role. It is not just coordinator—and I know wouldn't even call it leader, I would call it commander, as the Chairman of the Joint Chiefs is, over 16 intelligence agencies to leverage their strength and pull them together and use both the knowledge building and budget executing authorities that he or she has to make the concept work. So that is my two cents.

On Peter King's point about the lack of Congressional reform, I strongly agree. It is an embarrassment that we have not acted in this Congress to reform our committee structure to have a sharper focus on the homeland security threat, which is the primary threat to our security in the world. This committee is jurisdictionally challenged. The Chairman knows I have spoken out everywhere I can about the need for us to get more jurisdiction and to be the focal committee here, as the homeland committee is in the Senate, of more legislation and more effort, both to provide oversight and to legislate where necessary. So that is a disappointment.

I want to focus on a couple of things that were mentioned in the testimony and one that wasn't. First of all, the Privacy and Civil Liberties Board needs to be formed yesterday. My understanding is that the White House is currently vetting nominees. That is an improvement, but they are a year and a half late. This committee should have been actively participating over the last year and a

half as we have tried to navigate an ever-evolving and very dangerous threat. So I hope that they will nominate people soon. I hope that their list is impressive. I think that once we have this committee at work, we will be doing what is essential, which is pointing out, as Tom, you said, that security and liberty are not a zero sum game, we really have to have both—more of both I would argue.

If we don't live our values, I think the bad guys win. That is why, by the way, Mr. King—I don't see a need to reform Miranda, I see a need to use the public safety exception well and to have the best interrogation teams on the case. I think we will get farther that way and build more trust with the communities we need to come forward to tell us that there are family members or neighbors who are acting strangely. I also think that is the way we will win the argument with the next generation that is deciding whether to be suicide bombers or good citizens around the world.

My time is running out, so let me just ask you about something you didn't touch, but it was one of your recommendations, and that is the need for a National interoperable communications network. I have only got about 40 seconds, but I continue to believe that that is as serious a gap as the connecting the dots problem. I think we are doing much better with connecting the dots, I think we are not doing better with this interoperable capability problem.

What is your view?

Mr. KEAN. Well, I would agree. Whenever there is an attack on the United States, it becomes immediately important that the first responders and others are able to communicate with each other immediately, on site, using the same wavelengths. There is no question. We were not there on 9/11, we were not there with Katrina, and we are not there yet. So I couldn't agree with you more. It is something we have got to concentrate on. It could have saved a lot of lives and it will save a lot of lives when we get this right. It is better, we are getting there, but too slowly given the threat.

Mr. HAMILTON. I don't know of anything that has frustrated us more than not solving the problem of the ability of first responders to talk to one another. It is an absolute no-brainer that the help, the police, the safety people, the fire people have to be able to talk with one another, and we are not there yet. It is amazing that 6 years after our report—or whatever it is—we haven't been able to accomplish that. What that means is that lives are at risk because of the inability to communicate. Some municipalities have made considerable progress, many have not. But we have got to keep pushing, and I thank you for bringing it up.

Ms. HARMAN. Thank you.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

The Chairman now recognizes the gentleman from Texas for 5 minutes, Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Hamilton and Mr. Kean, thank you all for being here. The Ranking Member just left, but I join him in welcoming back Mr. Hamilton, who when he was in Congress, was absolutely one of the most respected Members with whom I have served. So I appreciate your both being here.

My first question goes to the 9/11 Commission's recommendation for a biometric entry-exit system. It so happens in a 1996 bill that I introduced that became law we had an entry-exit system. That has not been fully implemented; both Republican and Democratic administrations have not fulfilled their responsibility to obey the law. I wanted to ask how important you think it is that this administration implement that entry-exit system that you all recommended and that in fact is required law today? I don't know who wants to answer first, but I look forward to hearing from both of you all.

Mr. HAMILTON. Well, I commend your initiative. I think you are right on the mark. That was a unanimous recommendation; you had to have some means of identifying people coming in and going out of the country, and so we suggested the biometric system. I am delighted that you are still pushing it. I agree with you that it ought to be of the highest order.

We have done better on the entry side than the exit side. We haven't done anything on the exit side, there has just been too much opposition to it. But we have got to override that opposition. You have got to keep track of these people coming in, you have got to keep track of them while they are here, you have got to keep track of them when they leave. We are not able to do that. I don't know how you do that without some kind of an identification system if you don't have it. So your initiative is, I think, very worthy.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Kean, anything to add?

Mr. KEAN. I would just echo, I think the initiative is praiseworthy. I don't know of any other way we are going to make our borders safe.

Mr. SMITH. Another recommendation of the 9/11 Commission was to set standards for the issuance of sources of identification, such as driver's licenses. You all know that in 2005, we passed the REAL ID Act, it is now on the way to being implemented by a majority of States. Yet, frankly, this administration wants to change it and wants to eliminate the requirement that the States check the identification documents that are being used when applicants try to obtain a driver's license. Do you feel that that is somehow weakening our homeland security defenses? It seems to me we want to leave REAL ID as it is, require that the identification be confirmed. Do you feel that we should do just that, or do you feel that we should repeal the REAL ID Act as this administration seems to feel?

Mr. Kean, Mr. Hamilton.

Mr. HAMILTON. I am not sure I can get into the details of that because I haven't followed it closely, but I will tell you how radical I am on it. I believe we ought to have an identification card. I know there are objections to that on the left and on the right. Someday we will get there, other countries have it. We are going to have to have it for purposes of—a lot of purposes, but certainly in controlling our borders. That may go a lot farther than you or others may support, but we have to have confidence in the identification or the system just doesn't work.

Mr. SMITH. The administration on the REAL ID Act actually wants to, as I say, eliminate the requirement that States verify the

validity of identity documents that are used when applicants apply for driver's licenses. So I assume you would be opposed to any elimination of that.

Mr. HAMILTON. I think I would, Mr. Smith, although let me emphasize that I haven't looked at that very hard.

Mr. SMITH. If anything, it sounds like you want to strengthen it.

Mr. HAMILTON. That is exactly right. The necessity of having an accurate identification is key to homeland security, I believe. I want to emphasize the 9/11 Commission did not approve the idea of an identity card, I was kind of out here in the wilderness on that one. So we kind of compromised on it.

Mr. SMITH. Thank you. The last quick question is, what recommendation of the 9/11 Commission that has not been implemented do you think is the most important?

Mr. HAMILTON. Well, I think the one we just talked about with Representative Harman is No. 1, and No. 2——

Mr. SMITH. You are welcome to use either of the two examples I just gave, by the way.

Mr. HAMILTON. Well, they are very important observations. I would add another one, I think you have to have somebody in command at the site, and we haven't solved that problem either. That is another no-brainer. Somebody has to be in charge. Somebody has to make literally hundreds of decisions very quickly when a disaster strikes. You are going to make some of those decisions wrong, but you have got to make them because there are all kinds of problems that pop up, food, water, safety, sanitation, security.

Mr. SMITH. Thank you, Mr. Hamilton. My time is up, but I want to give Mr. Kean an opportunity to briefly respond as well if he wants.

Mr. KEAN. I would agree with Lee, as we usually do. The ones that have only been partially followed, such as the sharing of information, that is key, that we have got to keep on pressing and pressing—and I hope this committee will keep on pressing on that one. Then some of the others seem easy because they are so logical, but they haven't been done yet, like the interoperability of communications networks on the site. They are obviously not easy because they haven't been done, like the creation of civil liberties or obviously Congressional reform.

Mr. SMITH. Thank you, Mr. Kean. Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

The Chairman now recognizes the gentleman from Missouri for 5 minutes, Mr. Cleaver.

Mr. CLEAVER. Thank you, Mr. Chairman. I thank both of you for being here.

I have a rather well-known blood relative who was the subject of a lot of controversy due to his best seller, "Soul On Ice." As a result of the fact that we have the same last name, I ended up on the watch list as a Member of Congress. It took a lot of work and help from American Airlines and my staff to get that changed.

Based on what happened, both with regard to the attempted Christmas day bombing and the recent Times Square failed attempt, do you believe that there is something awry with the watch list system? I mean, if we have to take somebody off an airplane, it has already failed. Then when I look at my own personal experi-

ence, something is wrong, and something needs to be done, I think. I would like to get your opinions, and perhaps even to make some suggestions on what needs to be done.

Mr. HAMILTON. I think the fact is that we don't have one watch list, we have dozens of watch lists. It seems to me we ought to have a single watch list and be very careful about the names that go on it, obviously, and it has to be managed and screened very carefully. My impression is that various departments have different watch lists, and that we have a conglomeration of them. I think our idea on the 9/11 Commission was that we have a single watch list, which would be an integrated watch list from all of the departments of Government that have some responsibility in homeland security. But the need to refine that and make it more accurate is hugely important.

My impression there is that we have not done a very good job of integrating the watch list or sharing its accuracy, and we just keep adding thousands and thousands of additional names to it. So I think the watch list needs a lot of work.

Mr. KEAN. I don't know if this is still true, but for a long time, the very worst actors or people we worried about, most weren't on the watch list. Somehow it violated to let the airlines have those names, somehow they thought it was going to jeopardize National security, so they weren't on it. That is obviously, to me, another no-brainer; of course, they should be on it.

I think the Christmas day bomber and perhaps the Times Square bomber did us a huge favor because it got us to look again at the watch list and the problems with it. It got us to look at the problem of information sharing again and the problems with it. It focused our attention at a time when our attention had quite naturally wandered, it was being diverted by all sorts of other important problems facing this country. What they did, we can't always count on people being incompetent or using faulty technology. We found out some of the things that we did wrong and we are not going to repeat those mistakes, like the problem with the watch list being one of them.

But we can't count on our luck. We can't make those mistakes again and we've got to get in front of the problem and anticipate some of these problems and try to correct them ahead of time. The watch list is certainly one of them. You are right.

Mr. HAMILTON. We have got multiple watch lists. We have got a Selectee list; we have got a No-Fly List. I frankly get confused with it all. It seems to me we ought to have a system where the fellow at the airline counter can hit the button and he can tell whether this guy is a dangerous person getting on an airplane or not. Now, that is, I guess, overly simplistic, but that is what you have got to have, and you have got that information available instantly. You can't take a day to find out about it. I think the technology is that we can achieve that. But we are not there.

Mr. CLEAVER. Thank you. I thank both of you.

Chairman THOMPSON. Thank you very much.

The Chairman now recognizes the gentleman from California for 5 minutes, Mr. Lungren.

Mr. LUNGREN. Thank you very much, Mr. Chairman. I want to thank both of our guests here today because of the great work they

have done, Governor and Lee. They talked about your being former Chairman, but I know you also were someone who played Hoosier basketball before they had the movie "Hoosiers," and I don't want to forget that.

One of the things that has been so frustrating for me since I came back in 2005 and it appears to me frustrating for the two of you is what I call the lack of urgency to deal with this problem.

Governor Kean, you just mentioned that maybe we should be thankful for the failed attacks because it caused us to be concerned again, but we can't depend on failed attacks to keep that level of urgency that's necessary. This hearing is reflective of that, where the multiple TV cameras discussing one of the most important issues facing this Nation. It almost appears that we in the Congress are still reactive rather than proactive.

We had the Christmas attempted bombing, and then we were concerned about it and it was an issue of high import here for 3 weeks. Then we had the failed attempt in Times Square and that's been on people's minds for about 2½ weeks, although I see that ebbing away as well. So I want to thank you for your continued effort to try to provide that sense of urgency. I note the words that you used about the failure of us to respond to one of, I believe, the important recommendations of the Commission, that is, the consolidation and direction of Congress on this issue where you used words, without taking serious action, we feel this unworkable system could make the country less safe.

I hope you stand by that statement because oftentimes, people's normal reaction is that it is just about process here. So what we have 100 and some committees and subcommittees? So what that there's jurisdictional wrangling? How could that impact us in the way you have just stated? But you have stated—our failure to deal with this jurisdictional milieu can make the country less safe. Could you sort of elaborate on that?

Mr. HAMILTON. Mr. Lungren, I thank you for mentioning the lack of urgency. I guess if there has been a common theme to what Tom and I have talked about since the Commission disbanded, it was just that point. We have an enormous problem in the country of course in establishing priorities. We all are very much aware of that. But we don't think there is any higher priority than the protection of the—and the security of the American citizen.

We have said over and over again that a lot of good work is being done, a lot of good people working on it, but when you visit these various places and you talk to the officials involved, you come away with a feeling that they do not have a real sense of how urgent the problem is. There are people out there still and a lot of them who want to kill us, and we have got to be very much attuned to that and do everything we can to protect ourselves against it. I like your point about the jurisdiction in the process. I know that gets to be a highly technical matter and an enormously controversial matter in this Congress.

I don't know of any tougher problem—I served on every Congressional reform committee that came along during the 34 years I was in the Congress and I have dealt an awful lot with the question of jurisdiction, and I know how difficult and sticky it is and what passions it arouses in Members of Congress, but they have to keep

their perspective, their eye on the ball here, and that means the security of the American people.

When you are fighting about jurisdiction and you are splitting jurisdiction among 108 committees on homeland security, all of that energy, all of that effort is not going towards what it ought to be going towards, which is the security of the American people. It is an enormous diversion from what the Congress ought to be focusing on. So we were very critical of the Congress on this question. We remain very critical of the Congress on it, and you have to get your house in order.

Mr. LUNGREN. I appreciate that. To point out a number of things that the two of you have contributed in the testimony today, the DNI needs to be a real position with real leadership and either legislatively or administratively that has to be done; otherwise it just gets in the way, adding another layer that we didn't have before we made the changes.

Second, you have told us here in the Congress we need to get our act together so that we can concentrate on these things because as you say, if we don't, the consequence is it could make the country less safe.

Just the third thing I would just mention, and we don't have time to get into this, but I do fear we have a continued problem with understanding the nature of the threat against us and understanding that as we utilize the criminal justice system and the counterterrorist system or concept, there are challenges there that we need to deal with first and foremost. I am sorry my friend from California left because on Judiciary, we have been trying to deal with this question of the Mirandizing issue. It is not as simple as just extending the public safety exception because the public safety exception deals with an imminent danger such as a loaded gun being within the reach of a suspect as you are questioning him, not the extended kind of danger we have from a terrorist situation. We are going to have to deal with that up front and not just kind of pass it by. So I thank you for your testimony.

Mr. CARNEY [presiding]. I thank the gentleman.

The Chairman now recognizes the gentlewoman from Arizona, Ms. Kirkpatrick.

Ms. KIRKPATRICK. Gentlemen, thank you so much for being here today and thank you for your great work. I am very impressed with your clear concise recommendations, and I will continue to press for their implementation as quickly as possible.

Representative Hamilton, I wanted to follow up on Mr. Smith's question about the Biometric Exit Program. You know, it is clear to me we need to do that. I am just wondering what are the obstacles that have prevented that implementation?

Mr. HAMILTON. It is my understanding that the airlines have strongly objected to exit checks because they think it would slow the process of boarding passengers and the like and so far as I know, that is the principal objection, but there may be others as well.

Ms. KIRKPATRICK. Do you know if there are any objections at the ports of entry, the land crossings?

Mr. HAMILTON. I do not know about that.

Mr. KEAN. I think there was some actually because some of the border States there are people who cross the borders back and forth sometimes seven or eight, nine times, ten times a day because of the kinds of jobs they have in some of those border States. So some of the Governors and some of the States, as I understand it, put up an objection to anything that would impede that process or slow it down.

Ms. KIRKPATRICK. I represent a border State, Arizona, and recently toured the border. Both the citizen traffic—and I also went to the port of entry and it is really clear that the agents have a very difficult time identifying folks who are coming and going, and I think that should be a top priority of the administration.

But I am also concerned about funding. In Arizona, we have hundreds of thousands of dollars of cash going across the border, and it occurs to me that it is very important for us to attack the financing of these terrorist groups. So, Governor, would you address what we are doing to cut off financing? Do you think we are doing enough? What more should we be doing?

Mr. KEAN. Actually, when we graded the various Government agencies, I think we gave Treasury one of our highest grades, as I remember, for the tracking of money. We thought they were doing a very good job at that time. I have not personally reexamined that issue, but there were a number of—some of which have become public in what used to be private, but there are a number of tools that they have been using in cooperation with other governments to track dollars to terrorist organizations, and my impression was that they were doing a pretty good job in that area.

Ms. KIRKPATRICK. Do you have any information about the use of these prepaid cash cards going toward funding of terrorist organizations?

Mr. KEAN. I don't.

Mr. HAMILTON. I don't think anyone believes that you can stop terrorist activity just by going after their finances. But I also believe that almost everybody believes that going after their finances is an absolutely essential tool and it takes a good bit of sophistication as to how the financial world works. I think we have learned a lot on that, and my impression is—I may not be up to date—is that we have improved our tools at identifying financial transactions involving terrorists. So it is an element of our anti-terrorism activity that has to be always strengthened wherever we can. It is an important part of it, but we will not in the end by that tool alone cut off terrorism, but it is an important part of it.

Ms. KIRKPATRICK. I have about a minute left. I have one other question and this is about stopping terrorist travel. You have made a number of recommendations for tightening border controls and fostering international information sharing to impede the ability of individuals with terrorist aspirations to enter the United States but with the high-profile arrests of Faisal Shahzad and Colleen Rose known as Jihad Jane, have we entered a new phase of terrorist activity in America where we now see American citizens carrying out terrorism on behalf of foreign terrorists?

Mr. KEAN. This is the strategy now. I mean, this seems to be the way that terrorists have decided to attack us. We strengthened after 9/11 ways in which we stopped terrorists of certain nationali-

ties coming from various countries. So the gold standard for a terrorist now is to try to get an American citizen, and if it is an American citizen who looks different than somebody might conceive of a terrorist looking that's even better.

So their emphasis of them trying to track these kinds of people—and it is very dangerous for us because these people can travel freely in and out of the country because they are American citizens. We also know that Mr. Alawi who we actually first identified in the 9/11 Report, has become extraordinarily dangerous because he understands how to talk to vulnerable Americans and he understands how to recruit in a way that people have not been able to recruit before for al-Qaeda. So this is the new—this is the new threat. This is what we have to get ahead of. This is not what we are used to. This is not 9/11. This is a new threat. American citizens who have been lured by somebody like Alawi because of whatever problems occur in their own lives and it is a much more difficult problem. It is a problem we have got to get ahold of and get ahead of.

Mr. HAMILTON. We mentioned in our testimony that there are certain trends that are taking place in the terrorist threat. One of them, for example, the decentralization of al-Qaeda, but another one certainly is the increasing emphasis they are putting on recruitment of people who are homegrown, who speak English, who have a Western passport, probably have American citizenship. As Tom has mentioned that has become the focal point of a lot of our National security conversations now. This is not an easy problem. We have about 200,000 Americans a year who travel from here to Pakistan. As I said earlier, Pakistan is often at the core of these attacks in one way or the other.

Keeping track of 200,000 people is no easy task, but we are trying to do it and we have become much better at it than we were. But obviously 99.9 percent of them are good people doing legitimate things, and it is a problem picking out the bad guy. Two hundred thousand just in the one country. Add Somalia, add Yemen, add another a number of other countries, Afghanistan, Iraq, and so forth, and you can see the problem that confronts us.

Ms. KIRKPATRICK. Thank you, gentlemen. Thank you, Chairman, for allowing me a little additional time.

Mr. CARNEY. Of course.

The Chairman now recognizes the gentleman from Pennsylvania, Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman.

Good morning, gentlemen. I think one area that we really haven't fully explored about Faisal Shahzad is the process by which he became a naturalized citizen. He reportedly entered the country more than 10 years ago on a student visa; then he obtained a work visa before marrying a citizen and then becoming naturalized himself. Given that he tried to blow up Times Square a little more than a year after becoming a citizen, questions are now surfacing regarding the security check requirements for naturalization.

Do you think there are limitations on the ability of Federal immigration officials to conduct robust security screening on those seeking to become citizens or legal permanent residents?

Mr. KEAN. That is a good question. I am not as familiar with that as I perhaps should be. He, of course, had gone and gotten an

advanced degree as well which would indicate to somebody he was well on the way to being a productive citizen of this country and so he was a tough one I think to figure out. Something obviously—we don't know what it is yet—something went terribly wrong in his life or somebody got to him or something, but it is important we follow procedures and get these people ahead of time. But he would have been a difficult one to catch, I think, because he seemed to be in the right path to becoming a good American citizen.

Mr. DENT. Right.

Mr. HAMILTON. Mr. Dent, it is a good question. I must say I just haven't examined it. When we did the 9/11 Commission Report, I don't think the question ever arose as far as I can remember. We want to welcome people into this country. We want to be a welcoming country so far as new citizens are concerned. But I think the events that you have identified clearly put us on the alert that we have got to be a lot more careful before we make a person a naturalized citizen.

Mr. DENT. Thanks, and I appreciate your honesty there. Perhaps maybe going forward no one will ask any question about it, but we need to better integrate our naturalization process with our National security apparatus and I am not sure that any of us have that answer here today how we should do that, but it is something that we as a committee and as a Congress may want to look a great deal more at, naturalization and National security interests.

My next issue revolves around the Secure Flight Program, which I know that you were—both of you. I thank you again for your leadership on the 9/11 Commission, but I know that one of your big recommendations was for TSA to assume the responsibility for airline passenger prescreening against a terrorist watch list, and I think that was on page 393 of the 9/11 Commission Report. As you know, in 2004 Congress passed the Intelligence and Terrorism Reform Act, which included the Commission's recommendations that advanced airline passenger prescreening be conducted by TSA. TSA, as you know, after many fits and starts, created the Secure Flight Program to carry out this important function. The passage of the Intelligence Reform Act was nearly 5½ years ago and Secure Flight is not yet fully implemented, although we are told it will soon be.

Had Secure Flight been fully implemented, the Times Square bomber would have not been permitted to board a flight to Dubai because TSA would have caught the recent addition of Shahzad's name to the No-Fly List. TSA tells us that Secure Flight will, in fact, be fully implemented for domestic air carriers by the end of June and for foreign carriers by the end of this year.

As you know, there have been many factors that have delayed the implementation of Secure Flight, including pressures from privacy and civil liberties groups and criticisms from the GAO.

Are you concerned that nearly 9 years after 9/11 and nearly 5½ years after Congress mandated the passage of prescreening against the terror watch list be done by the Government, we still have terrorists boarding commercial flights?

Mr. HAMILTON. I think, Mr. Dent, the ability of screening the checkpoints and screening the passengers, the inability to detect explosives is a point of high frustration for us. We have—here we

are—this was a problem well before 9/11. Here we are, we do not yet have a detection device that can spot all the explosives that a terrorist may bring on. We do not have a device, as I understand it, today that could have stopped the underwear bomber. You might have gotten him with one of these——

Mr. DENT. Whole body scans might have——

Mr. HAMILTON. Body scans, but not necessarily.

Mr. DENT. Correct.

Mr. HAMILTON. We have put a lot of money into this in trying to develop detection equipment. I am kind of frustrated by it. I don't understand the science of it, of course. But we have to come up with devices that can detect all of the explosives the terrorists can think about. You know the kinds of metal detectors we now have when you stop to think about it, the terrorists have moved beyond that and they have outfoxed us and they now have new ways of exploding things. It is a catch-up game all of the time, it seems to me. But I do not understand why we cannot detect these things.

I am all for the money being spent to try to find out the right device, but when you consider all of the superb scientific talent we have around this country, it seems to me we ought to be able to figure out a device that will detect explosives.

Mr. KEAN. I think also—I am frustrated obviously by the length of time that has gone by, but I noticed—I came in this morning through the airports, and the public is willing to accept anything in the name of security, and they have accepted all sorts of inconvenience. Yet if it is going to make them safer, they will accept it. So unlike other things, that is not our problem. I mean, the public is with us. So we need, what we need is the technological and the Governmental will to get these things done and get them done yesterday.

Mr. DENT. Thank you. I see my time has expired.

Mr. CARNEY. Thank you, Mr. Dent. According to the sheet, here, it is my turn.

I, first of all, thank you both for being here. This is an honor I think for everybody in the committee to have men of your background and intelligence and clarity and wisdom speaking to us. I only have really a couple of questions. One is kind of operational and one is perhaps existential. The first one: Do we have the correct mix of ints employed in this challenge?

Mr. HAMILTON. Mix of what?

Mr. CARNEY. Intelligence capabilities employed in this mix, the mix we have, employed in this challenge of the global war on terror or whatever it is called now?

Mr. HAMILTON. Well, the heavy emphasis on intelligence has been collection. We are superb at it. We can really produce the data. We have had a great deal of difficulty in developing the analytical capability, and if you go downtown and talk to these Executive branches like the FBI and the CIA and DHS and all the others, DOD, they will tell you that one of their greatest needs is developing the analyst.

You don't develop a good analyst in a year or 2. It takes several years. As I indicated early in my testimony, the analyst now drives intelligence. You can't—you simply cannot operate in the intelligence world today unless you have effective analysts. So your

question about the capabilities are—I would put much less emphasis on collection and much, much more emphasis on analytical capability. That is what will drive your intelligence as a preventer of terrorism.

Mr. KEAN. Another—this has always been true, it seems to me, ever since I have been in this field. We still don't have enough what is called human intelligence. We don't have the language skills. We don't have the people employed. We are technologically terrific, but we just simply haven't been able to bring in the trained people into the human intelligence area that we need to if we are going to be successful in this area.

Mr. HAMILTON. When I chaired the Intelligence Committee decades ago, we were worried about the inadequacy of human intelligence. We have been worried about the inadequacy of human intelligence ever since I can remember, and that goes back 40 years. The conventional wisdom in this town has always been we have got to have better human intelligence. When Mr. Tenet came before us to testify—Tom, you will remember—he said we are going to put more emphasis on this and it will take us 5 years, and we were astounded because it was going to take so long. It has taken longer than that and we are still not there.

Mr. CARNEY. Why don't we have it?

Mr. HAMILTON. Look, the problem is this: There are a lot of problems, but you are asking a person to put their life on the line for years. You are going to pay them—I don't know—$100,000 a year. You cannot take a guy from the Midwest like me and expect he is going to penetrate Osama bin Laden's cell. You have got to have a person with a specific background and so forth and makeup, ethnicity.

Mr. CARNEY. We had a high school kid from California do exactly that.

Mr. HAMILTON. Okay. You bet. So you have to pick these people out. You have to train them. How many people do you know, Members of Congress, who would be willing to go 4, 5, 6 years living under the harshest conditions in Iraq or Afghanistan or Pakistan, you pay them $100,000 a year, and their life is on the line every single day? They can't come back home for vacation. That is the tough problem and that is why the human intelligence is such a formidable task for us.

Mr. CARNEY. My final question, my second question: We are directing our resources to prevent them from gaining victory. But what in their minds, our enemies' minds, constitutes victory?

Mr. KEAN. Well, if you take the statements of Osama bin Laden, it is to have the United States totally outside of their the Arabian peninsula, in some cases to have the State of Israel destroyed and the Palestinians regiven their land. Those are about the two biggest objectives that Osama bin Laden has——

Mr. CARNEY. What about the caliphate from Indonesia across——

Mr. KEAN. Well, that is out there. I don't think he has been explicit in that one but certainly it is out there, yes.

Mr. HAMILTON. I think we have to be very cognizant of their tactics. They want to exhaust us on many fronts. They want to cause us turmoil. They are—Tom, what did we figure it cost 9/11, five——

Mr. KEAN. Not much.

Mr. HAMILTON. A few hundred dollars.

Mr. KEAN. It was not expensive.

Mr. HAMILTON. The reason they look upon 9/11 as such a huge victory is not just because of the 3,000 people they killed but because they spent a few hundred dollars and we spent multiple billions of dollars in homeland security, defense, fighting two wars and all of the rest. If you look at it from their perspective, that is a big victory. So they want to exhaust us. They want to cause turmoil. They want to bankrupt us. They want to drive divisions among our allies and our friends. They want to destabilize things. They want to put fear into our hearts. All of these things are tactics that they employ. The ultimate is what you suggested probably, but that they recognize is very, very far off, establishing a caliphate.

Mr. CARNEY. So the sense of a strategic victory by tactics is what we are struggling with here in this question.

Mr. HAMILTON. I think that may be a good way to put it. But they really are focused, I think, much more on tactics at the moment than trying to achieve their ultimate goal.

Mr. KEAN. It is interesting by the way, they considered the Underwear Bomber a victory because it disrupted us. Even though it was unsuccessful, all of a sudden everybody was running around saying what did we do wrong and Congressional hearings and newspaper headlines and all of that. They considered that a victory.

Mr. CARNEY. Okay. Thank you. My time is way up there.

Mr. Austria, please, for 5 minutes or so.

Mr. AUSTRIA. Thank you, Mr. Chairman. I would like to thank both of you, Mr. Chairman and Governor, for being here today and providing the committee Members with testimony as far as updating us as far as the 9/11 report and the progress we have made. I think it is very important. My line of questioning was going to go down to traveling, but we have had three questions in that area particularly with flight safety and I appreciate your responses as far as technology that is being used and investments being made, as far as the multiple watch lists out there, having a single watch list, and having that information brought together and integrated together and the fact that you brought up we need one person or a single point or a principal point of oversight to review the homeland security.

One of the areas I wanted to go into to talk a little bit about was emergency communications at the local, State, and National level, because I know when the initial report came out, you noted the tragic consequences of the inability of first responders to be able to communicate with each other effectively because of all the multiple agencies and the different jurisdictions. I guess my question would be how would you assess that today?

Have we made progress on that? Where are we compared to what those recommendations were, where we should be? Do you believe if there was another large-scale terrorist attack today in the United States, with the multiple agencies, would they be able to be respond with all the multiple jurisdictions out there to be able to ef-

fectively communicate with each other, in particular, our first responders?

Mr. HAMILTON. I think it might depend a lot on where it occurred. But in most cases, I don't think we have the ability to get effective, reliable communications at the point of the disaster because we haven't got that worked out yet. Have we made a little progress on it? Yes, maybe 25, 35 percent there, but we are not there yet. Now, this gets into complicated questions of the radio spectrum. The radio spectrum, of course, is a very valuable piece of property, and yet our view is that a sufficient amount of that radio spectrum should be set aside for the public interest in being able to respond and some progress has been made in that direction, I think, but not nearly enough. So I think it remains a huge problem, and if we were to have another disaster again, we would lose lives because we have not resolved it.

Mr. KEAN. Let me give you another example because one person in charge is so important at the time—one agency at least. In New York City, which I know best, Mayor Bloomberg has made a lot of progress because he finally solved the controversy between the police and fire department. Now in an emergency, he said the police are going to be in charge, as they weren't—when the 9/11 attack came, we didn't know who was in charge; so now it is the police. But what happens if happens in the subway? It is the transit authority. Who appoints them? The Governor. What if it is in the tunnels or bridges? It is the Port Authority. Who do they report to? The Governors of two States. So there still isn't the command authority, even in New York City, which may be prepared as well as anybody now, that I think we need. Every city, every State, every area ought to have a command authority in charge. So any emergency that happens, there's one agency to report to. That is absolutely vital and we are not there yet.

Mr. AUSTRIA. Do you have any recommendations as far as how can we move forward and make progress? Because a big concern of mine is—and when you are dealing with all of these different jurisdictions at local level, State, Federal, who has jurisdiction over what, who would be the entity to take a lead on this in moving this forward?

Mr. KEAN. Maybe it is my background, but I think the Governor. I think that is the logical, logical person in every State. If it is an entity as large as New York City, then I think the mayor. The mayor has got to make those determinations. For instance, in my example, I think the mayor should be asking if he hasn't already the Governors of New York State and the State of New Jersey if necessary to give him the authority in case of an emergency so that there is one agency in charge.

In the case of New York, that would be the police. In the case of New Jersey, I know it is the State police that are put in charge during an emergency. But every State under the Governor, I think, ought to have that responsibility and have it clear.

Mr. HAMILTON. It is an easy problem to State and we have done a reasonably good job of stating it. It is a very difficult problem to resolve.

Mr. AUSTRIA. One last question I have, Mr. Chairman——

Mr. HAMILTON. If you have a disaster taking place in one State, the Governor probably ought to be in charge, but even in that case, you have got to think of resources. For example, when Katrina hit, the Governor of Louisiana, as I recall, made a statement saying that she had at her command a handful of helicopters. She needed 150. Where are you going to get 150 helicopters? There is only one place: the DOD. So in so many of these areas where you have massive problems as a result of an attack, the Federal Government is certainly going to have to come in at some point.

Now, the reason this problem has been so difficult to solve is because it is a tough political problem. The mayor likes to think he is going to be in charge, or she. The Governor thinks that he or she ought to be in charge. They don't have the resources often to do it. The Federal Government is going to be involved heavily one way or the other. Working that problem out in advance is very hard to do, but I think we have to work hard to try to figure out who is in charge at the scene of a disaster.

Mr. AUSTRIA. I know my time has expired. So thank you, Mr. Chairman, and thank both of you for your hard work on the 9/11 Commission report. I appreciate it very much.

Mr. CARNEY. Mr. Green, 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. I thank the witnesses.

I have just so much respect for your clarity of thought. It is very obvious, in fact, intuitively obvious to a casual observer that you have given a lot of thought to these questions and it is important that we receive the benefit of your thinking and I cannot tell you how important this hearing has been and thank you and I trust that we will continue to benefit from your clarity of thought in the years to come. I am one of those persons who had the misfortune of being involved in the stock market at one time and I had a great analyst. He could always tell me the day after why I lost money the previous day. He could never quite get it right before. I would always marvel at his ability to do this.

It seems to me that some of what we have is a benefit of great hindsight that allows us to connect dots because we see how important the dots are. But before with the foresight is sometimes difficult. I am mentioning this only because I just want to say a kind word in defense of the people who have to connect these dots. When you are inundated with just an inordinate amount of material and intelligence, and it just seems that so much of it is important, it really is sometimes difficult with trying to use the benefit of foresight to connect these dots.

After an event, it becomes so obvious to you: Well, why didn't—we should have, sure, there, it was right there before our eyes, somebody should have, why didn't you call, why didn't you send the information to—it is easy after the fact. These people have some of the toughest assignments in the world, and when I hear us criticizing them for getting a break, it hurts my heart because we got a break and it so happens that that break helped us to solve a mystery as it were. But that happens in this business. You need a break to solve some of these problems because there is just so much information. I want to compliment them, all of them. I just don't know how I can ever be grateful enough, but I want to say thank you to them for the work that they do.

Something that you said I want to reemphasize. You talked about how we compensate them and what we expect from them. I am taking that to heart. I am not sure how we can resolve the question of giving them adequate compensation. Whatever we pay them it won't be enough, but we ought to try to pay them such that they become a part of a class of professionals that we can respect and people will want to do this because if you want compensation as a reward, then you will get that reward. But I also think that appreciation is a great part of the compensation that is needed to attract and retain people in this area of endeavor because human intelligence is just absolutely a necessity.

Now, with 1 minute and 16 seconds left, I have to go to one other place and that is first responders are an absolute necessity, but as we learned from Times Square, it is not only the officer on the beat but also the vendor on the street that makes a difference too. I think that while we get a lot of intelligence we have to continue to encourage the public to play a role in this because the public has a vital role in seeing that. I think it originated in New York—"See something, say something." It is important for the public to be involved in this process and helping us to acquire the intelligence so that the analysts can give us a proper assessment of what the intelligence reveals.

I wish I had a great question for you, but I have heard my colleagues and they have all gone into areas that were of interest to me; so I just conclude with a word of thank you for the outstanding contribution that you have made to the safety of our country. We throw these words around calling people patriots. Sometimes they deserve it, sometimes they don't. But I think it is fair to say that you are both great patriots and we owe you a debt of gratitude. Thank you very much.

Mr. Chairman, I yield back the balance of my time.

Ms. RICHARDSON [presiding]. Mr. McCaul is recognized for 5 minutes.

Mr. MCCAUL. Thank you, Madam Chairwoman.

Mr. GREEN. I apologize, Madam Chairwoman.

Ms. RICHARDSON. No problem.

Mr. MCCAUL. Let me, like everybody else, thank you for your great work not only on the 9/11 Commission, but Mr. Hamilton on the Iraq Study Group as well. I think that report help turned that war around in a profound way and I want to thank you for that as well.

I know my colleague from Texas talked about, it is true, hindsight is 20/20. It is easy to find where the dots weren't connected after the fact. But one of the main recommendations coming out of the Commission was information sharing. I am the Ranking Member on the Intelligence Subcommittee. We had a recent hearing with the Director of Intelligence and Analysis on this issue. We have had some intelligence successes but we had to be right every time. They only have to be right once.

But I want to just highlight two failures in terms of lessons learned and how we can improve. One is in the case of the Fort Hood shooter Hasan. We know that the Joint Terrorism Task Force had information that Mr. Hasan was communicating with a cleric in Yemen, Mr. Awlaki, one of the biggest threats we have today,

and yet—with the DOD representative on that task force, and yet that information was not shared with the commanding officer, General Cohen, at Fort Hood, which is right next to my district in Texas.

He was very concerned about that, I understand, in terms of sensitivities of investigations. But at a very minimum they could have said, you know, you have a major on your base who has been talking to one of the top al-Qaeda recruiters and you may want to keep an eye on him, and just maybe that would have prevented that horrible disaster from happening.

The second is the Christmas bomber. We know that the father came into the embassy and warned about his own son being with extremists in Yemen. We know that the NCTC had threat information streaming in as well and yet that—he was allowed to still have his visa and his passport and he got on an airplane. The Senate Intelligence Committee found 14 intelligence failures leading up to the Christmas day attack aboard that flight. As we had the hearing with I&A, the issue of a National Fusion Center came up, and they have been tasked by the administration to be the lead—DHS as the lead agency in charge of this National Fusion Center.

Now, ideally, you would want to include the joint terrorism task forces, the HIDA, the DOD certainly in that Infusion Center. This is more horizontal intelligence sharing that I am referring to more than just vertical.

So the question came up—this is a monumental challenge in my estimate, how they can possibly pull this off and whether they have the requisite authority or authorities given to them by Congress to go to the Joint Terrorism Task Force or to go to the Department of Defense and say you need to be a partner and you need to be sharing this kind of information. I personally don't think they have those authorities today. I think that is something that Congress needs to be taking a look at in terms of providing them with the requisite authorities to carry out that mission. With that, I would love to get your comments on that.

Mr. HAMILTON. I want to be clear. Who does not have the authority under your view?

Mr. MCCAUL. Well, I don't think—DHS has been tasked with this monumental challenge of putting together a National Fusion Center, and again ideally you want the partners to be the intelligence community, the military, Joint Terrorism Task Forces. I think it may be difficult for them to go to these agencies and get the buy-in necessary with the current lack of authority.

Mr. HAMILTON. I think I would be in accord with your view. I think there is a huge amount of ambiguity with regard to the authorities in DHS and this has made it more difficult for them to carry out the responsibilities they have. As you were talking about the Fort Hood case and the Christmas bomber case, and the comment you also made with regard to hindsight, it occurred to me that it is important that we go, as you obviously have, through a very careful analysis of what happened in these events.

The Senate committee report yesterday, which I have only seen a press release on, is an example of that. We have to examine these things so that we learn as much as we possibly can from one of these incidents occurring and we take steps to correct it. Quite

frankly, one of the problems is—and this is part of the system, but we often go through an awful lot of political gamesmanship here. You are responsible, you are responsible, the Republicans are responsible, the Democrats did it, and so forth.

I am not so naive as to think that doesn't and won't happen. That is part of the discussion. But I like—I think in terms of how we investigate an airline crash in this country, it is done very, very professionally, and I don't recall people popping up on television saying it was the Republicans' fault or the Democrats caused this airline to crash. We send in experts, they identify the cause, and then they try to correct it. All of that takes weeks and even months.

Now, I may be a little naive here, but I think that is the way we have to respond to these incidents that occur. You are going to have the political charges for sure, but I really think you have to go into it in very great depth for the purpose of trying to find out how to correct it. We have kind of gone through that process painfully, but by and large, our system does that although it takes a little more time than we would like it to. I am not sure this is responsive at all, but the Fort Hood case is so frustrating, and of course, the Christmas bomber case too. It is hard to understand how a man like that could be operating as a psychiatrist and it not become known to his colleagues ahead of time. So we have got to analyze that very carefully and try to find out how to avoid it.

Mr. MCCAUL. I agree. Thank you very much.

Ms. RICHARDSON. The gentleman's time has expired.

Ms. Jackson Lee from Texas is recognized for 5 minutes.

Ms. JACKSON LEE. Thank you so much.

Governor, chairman, let me thank you over and over again for the vision of the 9/11 Commission. It strikes me as an enormous task to have taken up the cause and the challenge right after or in the midst of the smoke rising at the 9/11 site and project into the future what has been a valuable roadmap, and all we can say to you is thank you as we have now morphed into something that is enormously challenging for Americans. We relish our freedom. We grow up learning about our freedom. As those of us who have been blessed to be in this institution, have traveled internationally and seen the different forms of governance even if they happen to be a democracy—many people don't realize that London in Great Britain have community cameras that watch every step almost of their citizenry. I wonder what we would say about that.

So I ask these questions in the context of our culture and the concept that I have written an op ed a couple of weeks ago after the horrific tragedy of Fort Hood. It was so intrusive, so unexpected because those of us from Texas know that Fort Hood is an enclave of family and it is secured but unsecured, and I said human intelligence has to be the new focus, that terrorism is franchised, it is the individual—we use this term lone operator, but it is not even that. It is who wakes up in morning and through whatever reasons decides to strike. So I want to pose these questions if I might collectively.

One, the genius of this committee and the Chairman, I might say, we organize the Transportation Security and Infrastructure Protection Committee, and of course, there is an assistant sec-

retary. I don't think we do enough protecting the infrastructure of America. I think Times Square is an infrastructure and certainly in the querying of the Times Square alleged bomber, they gave another list of sites.

So my question is where are we in the infrastructure scheme and what should be the urgent next step? Focus, then, if you would more clearly on the Secure Flight to determine whether or not we have gotten it right—maybe you can see that. Are we where we need to be on surface transportation? We are all focused on mass transit and aviation, and lo and behold a car, a bus—everybody knows, those of us went to college, the Greyhound bus, Trailways—maybe they don't exist anymore. Then we have a new assistant secretary.

Is there a hot item, TSA, that that assistant secretary should immediately look at? I am going to close on this. I just want to say that I am a convert. This is the jurisdiction of homeland security in America. This is a Lego set or something else. I was hoping somebody could see this. I know you can just see sort of a page, but you can see it is so thick you can't even see it. I think that had something to do with the translation of information to TSA, which gets blamed for everything. You are a genius to have organized that. It is the right organization to be in place. But the newspapers reported that when the call came out of the National Counterterrorism Center, they said to TSA look at five airlines, limiting their direct action.

Who is at fault with that? Just by the grace of God, I will say it, we got the person but they were on an international flight.

So I yield to you.

Mr. HAMILTON. Well, let me pick up first on your comment about infrastructure protection because I think it is a classic homeland security problem. The problem is we are unwilling to establish priorities. In every community you go into, there are certain facilities that everybody knows would be the target of the terrorist. We are engaged in this unending process of talking about priorities without establishing them. The fact of the matter is you cannot protect everything. You can protect some things and you can't protect others. You simply don't have the resources to protect everything. So you have to make judgments that you are going to protect this, that, and the other. You would like to protect it all, but you can't. Many of those infrastructures that you mentioned are not public. They are privately owned. So the private sector here has an important role to play as well.

In short, I think the problem of infrastructure is a question of establishing priorities in a community, in a State, and in the Nation, and although we talk about it constantly in homeland security, we don't do it very well. So I think priorities have to be established on infrastructure.

Mr. KEAN. I think also Lee is absolutely right, as he usually is. You can't protect everything. But the role of the citizen here becomes absolutely essential because the citizen—it was a citizen who identified that problem in Times Square and brought it to somebody's attention. So we have got to have people who are alert and also a system so that the citizen, if they see something wrong like they did in Times Square, is confident in calling over the local

law enforcement person, and the local law enforcement person can recognize what the problem is and can go up the chain and have confidence to go up the chain so that the local law enforcement is respected by Federal authorities and State authorities.

That works because my view is that much more often we depend totally on the good people in the FBI and so many other agencies. That is not going to be the first alarm on a piece of infrastructure. It is going to be somebody who sees something is wrong and somebody who has the confidence to go to somebody in law enforcement and point it out and that line of response that goes from there. So I think we have got to train citizens and we have got to make sure the links between local law enforcement and the Federal authorities are clear and there is respect on both sides.

Mr. HAMILTON. One of the fundamental concepts of homeland security is a layered defense. You have many different layers of defense. The first layer is the citizen that Tom has been talking about. Other layers are obvious. But I think we have fallen short as a Nation in terms of educating the American people on their responsibility on homeland defense. There is a tendency to look to Washington, to look to the DHS, to look to the intelligence agencies to defend us on homeland security. They all have important roles to play, but so does every American citizen and if the American citizen doesn't do the job, then you are—they are going to get through, the terrorists.

Ms. JACKSON LEE. Surface transportation too?

Ms. RICHARDSON. The gentlelady's time has expired.

Ms. JACKSON LEE. Thank you.

Ms. RICHARDSON. Mr. Pascrell is recognized for 5 minutes.

Mr. PASCRELL. Thank you. I have more respect for each of you than for any public official in this country, and I just want you both to know that because of your forthrightness and directness. I never have to ask: What was he talking about? So I commend you, Tom and Lee, for the great work that you have done not just a few years ago and it took us a little time to respond but again this is Congress. We expect more and there isn't a sense of urgency.

I came here today to ask you questions about legislation that Peter King and I are putting in and we will probably drop it this week or next week, and we have been working on it for a long time in a bipartisan nature on weapons of mass destruction, which you just about touched on. I know this wasn't really your main objective, but now we have a WMD Commission and the WMD Commission has made some recommendations as you guys, a few moons ago, made recommendations, but it took us a little while to catch up.

Their recommendations were very specific, and Peter and I have tried to respond to the great hazards of the biological attacks. The Weapons of Mass Destruction Commission very specifically stated that they expect a biological attack in this country within the next 2 or 3 years; you can't get any more specific than that.

But something that you both touched upon and something that Congressman Lungren pursued strikes me as a little bit more timely right now. So if I may, Governor Kean, you described in New York City situations that depended upon where the location of the attack was; whether it was in the tunnel connecting the States or

whether it was someplace in the city itself. The question is: Who is in command and who is in charge?

The thing that was disturbing to a lot of American people after the December 25 incident was nobody was in charge, I am convinced of that.

Something that you talked about, Lee, strikes me as making this even more urgent, and that is on the subject of DNI, the Director of National Intelligence. I think that this position, as it stands right now, needs to be reviewed and inspected very carefully. There are close to 3,000 people that work under the Director of National Intelligence. That same Director of National Intelligence, as Mr. Lungren pointed out, has very little authority, but his job is to talk about gathering intel, which is the only privy of the Homeland Security Committee.

The Homeland Security Department only collects intelligence, there is no analysis whatsoever. So this brings about even more interesting situations. I would contend, and I would like to know your opinion of this, that we need to take a very close look at the DNI because we have created a dinosaur; neither of you envisioned it, neither of you asked for it, because you are not dinosaur people: If you can't get it done, get out of the way.

Well, we chose to create an erector set of a dinosaur that George Tenet has frequently said of yesteryear, but very, very significant now, once in a while, the tail of the dinosaur needs to be whacked. It is almost a description of democracy, I guess. So we are at that point.

Nowhere is there more obvious danger to this country than in the intelligence apparatus. I don't believe that the intelligence apparatus understands the mission—I know the Members of Congress don't—so maybe there is not a clearly defined mission, generally speaking. Then in each of the agencies that have to gather—and some analyze this information, and very few analysts, very few people in the field—this used to be the width and breadth of intelligence, having folks out into the field, gathering—who are not afraid to stay there 3 or 4 years. You two spelled it out very specifically.

I personally believe that the DNI has to be somebody other than—we are not talking personalities now—that the DNI is something of an albatross in that one of the leading intel gatherers and analysts should be in the position and therefore be responsible when something happens.

Let me give you my suggestion. I think that to avoid the confusion on gathering the information, in the analysis of the information, that I would like to see the head of the CIA in that position. I would like to see the Director of the CIA. Remember of past year the DNI was no longer there. The Director of the CIA has his feet on the ground, has access to all the other agencies. That agency has been given a very specific responsibility. I would rather see the Director of CIA report to the President of the United States because his feet are on the ground, whomever that person would be. I know the role of the CIA, I know the role of the Director of the CIA; I am not sure what the role is of the DNI, since he has no authority.

Ms. RICHARDSON [presiding]. Please summarize.

Mr. PASCRELL. So I am very concerned, with urgency, that we take a very close look—and I would really respect not only your opinions about the WMD legislation, which I mentioned before as a commercial, but as I am asking you now about who should be directing the intelligence of the United States of America, and how do we not only gather it, but analyze it and put it to good use to defend the America that we know? I think it is a critical question right now. Too many problems have occurred down the line, and who pushed Jake? We never know who is responsible. That is what you do when you build a bureaucracy; you build a bureaucracy so you don't know who is responsible, so nobody is held accountable.

If you may, Madam Chairwoman, may they please quickly respond? I mean, am I on Mars, or do we have possibilities here?

Mr. HAMILTON. The important thing is that the person who is the head of the intelligence community—that is 16 agencies—have the authority to be in charge. Now, your suggestion that it be the CIA Director makes sense so long as he has the power. For a long time, the Director of Central Intelligence had two jobs: One was running the CIA, and the other was he was in charge of the intelligence community. The problem was that he had no authority to run the intelligence community because all of the budget was in the DOD. So one director after the other focused on the CIA, trying to make that a good organization, and simply did not pay any attention to the rest of the intelligence community.

Okay. We have come along now and we have established the DNI. Our whole plea here is that you have authority in a person with budget and personnel authority to manage the intelligence agencies. If you want to put it in the CIA, that is okay; but if you do it, give them the authority to act beyond the CIA to the other 15 agencies of the intelligence community. So what we are really arguing for is unity of command, if you would, within the intelligence community.

Ms. RICHARDSON. The gentleman's time has expired.

Mr. PASCRELL. Can Mr. Kean respond?

Ms. RICHARDSON. Very briefly, because we are going to call for votes.

Mr. KEAN. Very briefly, we wonder whether the Director of the CIA isn't a full-time job and whether they can take on the whole thing as well. In addition, we knew when the legislation was passed that the role of the DNI was not made definitive. Lee and I talked about that. Lee said the only way to cure that is the President; the President can give the authority, even if it isn't in the legislation.

So I think we come here today to say, unless you are going to pass legislation—which I don't think you are going to do too fast—the President has got to give the person in charge of intelligence the responsibility and the encouragement and the power to do the job.

Mr. PASCRELL. Thank you.

Thank you, Madam Chairwoman.

Ms. RICHARDSON. The Chairwoman is going to defer to Ms. Holmes Norton, and then I will wrap up.

Ms. Holmes Norton is recognized for 5 minutes.

Ms. NORTON. I thank the Chairwoman very kindly.

I really have two questions; let's see if I can get them out and get answers in in the time allotted to me.

You are both heroes of the Congress as well as the American people. That is a dual heroism that you both deserve. Substantial portions of your recommendations are already law.

I would like your guidance, first, on an issue that I found too seldom discussed, and that is weighing risk with the cost of securing ourselves. We are all pretty much amateurs; 9/11 people who were cops all of a sudden became security officers. One of the ways in which I have noted this is in what we protect and how much we think we are protecting.

I will give you a good example. To get into the Capitol on weekends—and since I represent the Nation's Capital, I am sometimes here. There is one entrance open. No one stands there. No Capitol Police at the other entrance. Those are in the Senate as well as the House. That is a good thing, because you know there has been a risk and cost analysis, and somebody figured out that having a Capitol policeman at all four entrances on Saturday and Sunday on weekends, in light of what we know about risk and threat, didn't make sense.

Let me give you another example. I sit as Chair of a subcommittee that has to do with building and leasing, and we found a real disparity between GSA, which leases for employees who—forgive the expression—push papers, and DOD, which leases for employees that push papers. DOD has a setback and requirements for shatterproof glass and all the rest of it that aren't heard of for civilian employees anywhere else.

Now, notice I am not talking about people who deal with security. In fact, some people who have just moved out of BRAC as contractors because of BRAC ended up further down into Virginia. DOD has problems with these people being replaced with Federal employees who would now be doing the same kind of work, because the setback isn't there and the shatterproof glass.

Now, if we are going to spend our money on shatterproof glass and setbacks, the first thing we are going to do is run out of money for real risks, I think—I am giving you my opinion. I want yours. But in the midst of a recession, we also must note that these kinds of setback requirements and shatterproof, et cetera, requirements, would mean that large parts of urban and suburban America would be off limits for many Federal employees.

I wonder what you think about the notion of weighing risk and cost to come to some kind of balanced and expert decisions about how to in fact spend our money now, 10 years or so after 9/11.

Mr. HAMILTON. Well, I am quite receptive to the idea. What is interesting to me is that you bring it up, because in all of the other hearings we have had on homeland security, I don't think it has ever been brought up. But I do believe that the whole idea of costs associated with homeland security, with protection, has not been adequately considered and that we have not weighed in very many instances the costs and the risks, the cost-benefit ratio as we try to do in other things. So I think as we move along, we will do more of that kind of analysis because we can't protect everything and we do have to make judgments.

When I was talking a moment ago about priorities, I was really talking about the same thing that you are bringing up, Ms. Holmes, and that is, you cannot do everything you want to do in homeland security. We have lived through a period since 9/11 when the security people win almost every argument—maybe not all of them, but almost all of them—and we have paid for that. The Homeland Security budget—I don't know what it is today, but around $40 billion I think, whatever it is—has gone up and up and up. So I think the whole idea of cost-benefit ratios, assessment of risks, has to become a much more important part of the discussion of homeland security.

Ms. NORTON. Thank you. I don't want to abuse my time, but Governor Kean.

Mr. KEAN. As unusual, I agree with Congressman Hamilton. He is absolutely right. Priorities, risk assessment.

Ms. NORTON. Thank you very much.

Ms. RICHARDSON. Mr. Kean and Mr. Hamilton, now as the acting Chairwoman, I will be able to ask a few questions.

Let me first of all say to both of you gentlemen, it is a pleasure to meet you in person. As all the Members have said, we are in great gratitude for all of your work; not only with what you did with the 9/11 Commission report, but what you continue to do. Every time I see your comments in the press, everyone has to acknowledge the tremendous work that you have done, I think the selflessness in terms of the recommendations that continue to come forward. I just want to encourage you to continue to do so.

I have two simple questions that I would like to focus on. One, our former Secretary of Homeland Security and our current Homeland Security Secretary, neither have been able to move forward in terms of us achieving the goal that is in the report of 100 percent cargo inspection. My district is the home of the ports of both Los Angeles and Long Beach, which is 45 percent of the entire Nation's cargo, and a bridge alone carries 15 percent of the entire Nation's cargo.

My question is, you obviously spent much time to make that recommendation. What would you recommend that we could do to get us moving on this point? It seems like the Secretaries have moved more into screening, which is a paper situation, versus inspection. I really wanted to get your thoughts on that.

Mr. KEAN. Well, it is absolutely, as you know, a matter of homeland security essential. I am on the other end of the country at a great port, and it is frustrating that after all this time we still haven't got what you refer to. It should have been done, it should be done. Every time I ask questions about it they say, well, we are almost there. We are not almost there. We haven't done it yet.

I know we are doing a lot more of screening things before they get to our ports, and that is enormously helpful, but the goal has still got to be as you enumerate. The goal has got to be there, and we have to keep the pressure on to make sure that is done. We talk about setting priorities, that has got to be a priority.

Ms. RICHARDSON. Well, I would respectfully ask if you would consider in your work, continuing to look at this issue. I had an opportunity to go to the Port of Barcelona and I asked the question: Other than the containers that are pulled out, screened, asking for

you to inspect, how many others do you look at? The answer was none.

It is, I believe, going to be our biggest mistake, our continued failure to address the issue. So any efforts you can make to help us with that.

The second question I would like to ask, and I have just a couple minutes left. Yesterday I had an opportunity to view the National exercise program. It has been dramatically scaled back, and this committee has some concerns with that, in that the scaled-back version really includes the agencies walking through, paper-wise, what they would do; but the whole normal exercise of 6,000 people really seeing a disaster and having to move from point A to point B has been minimized. I wanted to get your thoughts of whether you view this committee should recommend the scaled-back version or really push for the real exercise.

Mr. KEAN. I would just like to push for the real exercise. There is nothing like it. Do it. Even when I was Governor of New Jersey, we used to have those exercises. State police were in charge. I would go as the commander to the building. We would simulate a disaster, whether it was a terrorist kind of disaster—more often we were always worried about a hurricane, or what have you. But we would spend most of the day there going through a real-time exercise, so when it happened, everybody knew what their job was, and coordination was there and lives could be saved.

It disturbs me. I didn't know they were scaling that back. I think it is very important that they go through a real-time exercise.

Mr. HAMILTON. I agree.

Ms. RICHARDSON. In defense of the Department, the agencies operated as they would, but unfortunately the site that was to be considered, which was Indianapolis, they did not do a real live exercise. So it was more agencies talking, but not the real people moving. But thank you for your comment.

Mr. Chairman, did you want to add anything?

Chairman THOMPSON. Yes. Thank you very much.

Governor, as you can see, your former constituent is still here, Mr. Pascrell. I told you he is a great American.

I want to thank both of you gentlemen for your very timely and important testimony. Part of what we are trying to do is to get it right. As I shared with you before the hearing started, it is all about keeping Americans safe. It has nothing to do with party, it has nothing to do with anything other than keeping Americans safe. To the extent that the two of you have helped set the roadmap for us to make that happen, it is incumbent upon Congress to get it right and make sure it happens.

I have committed myself to a couple of issues that we will address. I want to ask that if at any time you think there is something this committee can be helpful with, please call on us. We are here, we want to do it. We have, I think, one of the most bipartisan committees on the Hill. We understand the critical mission that we are charged with.

Jurisdiction is an issue we absolutely need to fix. Of course, jurisdiction is a sacred, holy grail in this institution; but nonetheless, we have to call it like we see it, and we are in the process of helping make that record. What you have said here today helps us cre-

ate the legislative record that is necessary to move it forward, and I thank you for it.

Apart from that, Madam Chairwoman, I yield back to you.

Ms. RICHARDSON. Thank you, Mr. Chairman.

Mr. Pascrell, votes have been called and we have 9 minutes. We will allow 1 minute to wrap up because it is my understanding the witnesses have another engagement.

Mr. PASCRELL. I will be very brief, if that is possible.

I want to get back to the WMD legislation that is coming aboard. In this legislation, which we consulted with the staff of the WMD Commission, we are looking at this from all angles—prevention, deterrence, preparedness, detection, attribution, response, and, finally, to recovery.

I wanted to ask both of you: Do you believe the threat of bioterrorism is as dire as anything we face in our homeland security strategy?

Mr. KEAN. It is a dire threat, and so are other weapons of mass destruction. I mean, the one that, frankly, bin Laden has mentioned over and over again is a nuclear operation. He would love to get a nuclear bomb detonated on American soil. You can imagine what that would do. No, all these weapons of mass destruction.

I commend you for the legislation. We need to be aware of it, it has got to be up-front. We have got to do everything in our power to prevent what could be catastrophic in this country.

Mr. HAMILTON. I agree. The emphasis you are putting in your legislative proposal for weapons of mass destruction is terribly important because it has been much neglected, we just haven't thought of it in those terms. The problem is, of course, as you recognize, that the potential consequences of a WMD attack, including bioterrorism, are just horrendous. We lost 3,000 people on 9/11, and all of us can think of what the impact of that was on the country and indeed on our personal lives.

Just think what would happen if you had a massive bioterrorism attack or a nuclear weapon going off. We estimated, what, 500,000 people dead if a nuclear weapon went off in Manhattan; not casualties, dead.

So the consequences are just horrendous and may even approach a threat to the existence of our country. That is how serious a WMD attack could be.

If I may add something else in there, we have to pay a lot more attention to cybersecurity because we are such an interconnected country—our water systems, our electrical grid, our communications systems, on and on and on are dependent upon computers. A skillful enemy, adversary, could cause enormous disruption in this country with a cybersecurity attack on the country. So I hope, Bill, as you proceed with that worthy effort, you will think about cybersecurity as well.

Mr. PASCRELL. Well, thank you both for all of your testimony today. We are counting on both of you. I know that you don't see your job as over, and we certainly don't see it. Please steer us away from this bureaucratic nightmare we have constructed into a much more sane approach. Thank you.

Thank you, Madam Chairwoman.

Ms. RICHARDSON. I thank the witnesses, Mr. Kean and Mr. Hamilton, for your valuable testimony, but as has been said, even more so for your service as well.

I thank the Members for the questions. Before concluding, I would remind the witnesses that the Members of the committee may have additional questions for you, and we will ask for you to respond in a timely fashion in writing to those questions.

Hearing no further business, the committee stands adjourned.

[Whereupon, at 12:23 p.m., the committee was adjourned, and the hearings were concluded.]

# APPENDIX

## QUESTION FROM RANKING MEMBER PETER T. KING OF NEW YORK FOR LEE HAMILTON AND THOMAS KEAN

*Question 1a.* One of your most important recommendations in the 9/11 Commission report was the need for Congress to "create a single, principal point of oversight and review for homeland security." The 9/11 Commission noted that, at the time, there were 86 committees and subcommittees exercising oversight of the Department of Homeland Security. Now, nearly 6 years later, there are up to 108 such oversight panels. In your written testimony, you state that "without taking serious action, we fear this unworkable system could make the country less safe."

How do you believe that this failure to consolidate jurisdiction has or will make our country less safe?

*Question 1b.* How would you recommend building support for consolidating homeland security jurisdiction within Congress?

*Question 1c.* How could individuals or organizations outside Congress help facilitate a solution to this problem?

*Question 1d.* Do you believe a hearing by the Committee on Homeland Security to examine the detrimental impact this jurisdictional web has on the Department would provide useful information that could help achieve progress on this issue?

*Question 1e.* Could you please submit what you believe would be the ideal jurisdiction for this committee?

Answer. Response was not received at the time of publication.

## QUESTIONS FROM HONORABLE WILLIAM L. OWENS OF NEW YORK FOR LEE HAMILTON AND THOMAS KEAN

*Question 1.* I recently read an article about DHS telling a dairy farmer living along a port of entry in Vermont border that if he refuses to sell his land for $39,500, the Government intends to seize it by eminent domain so that they can upgrade a port of entry. This port saw under 15,000 vehicles cross it in 2009. Do you believe DHS takes into consideration the small business and economic impacts of their border policies?

Answer. Response was not received at the time of publication.

*Question 2.* I have a land port of entry in my District that was denied much-needed funding in the President's fiscal year 2011 budget. While I understand the need for fiscal restraint during this economic downturn, I understand that a private group offered to provide the upgrades to the facility and lease it back to the Federal Government but their proposal was denied by the Feds because DHS believes that land ports are an inherently Governmental function. Do you concur with this opinion?

Answer. Response was not received at the time of publication.

## QUESTION FROM HONORABLE GUS M. BILIRAKIS OF FLORIDA FOR LEE HAMILTON AND THOMAS KEAN

*Question.* Governor Kean and Congressman Hamilton, you've noted your concerns about the detrimental effects of Congressional committees fighting for jurisdiction and not working together, and as you know this is an issue on which we agree.

I am also interested in your thoughts on whether we've made sufficient progress on interagency security efforts. For instance, I have long been concerned about the security of our visa issuance process. Congress authorized the Visa Security Program in the Homeland Security Act of 2002. Yet, nearly 8 years after the Act's passage, we have less than 20 Visa Security Units in high-risk countries.

I don't think there is a sense of urgency in establishing these units, which provide enhanced security screening of those seeking temporary visas to enter the United States. In fact, the State Department has denied DHS requests to place these spe-

cially trained ICE agents in consular posts because they were concerned about space issues. Unfortunately, DHS has taken no for an answer when such objections are raised.

There are too many examples of terrorists exploiting our visa issuance system. After all we've learned, how can this still be a problem nearly 9 years after September 11?

Answer. Response was not received at the time of publication.

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