

**STATEMENT OF  
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BEFORE THE  
UNITED STATES SENATE  
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

**January 26, 2005**

**Introduction**

Good morning, Madam Chairman, Senator Lieberman, and Members of the Committee. I am grateful for the opportunity to be here today to provide my views on the present and future challenges facing the Department of Homeland Security (DHS). I would also like to express my gratitude to the Members of the Committee on Homeland Security and Governmental Affairs. You have played a central role in developing two vital pieces of post-9/11 legislation: the Homeland Security Act of 2002 and the Intelligence Reform and Terrorism Prevention Act of 2004. These are historic accomplishments.

**Assessment of DHS Management**

My direct experience with the DHS management extends only to mid-May 2004, when I resigned my position as Deputy Homeland Security Advisor to the President.

Nonetheless, I will offer a few general comments on this subject.

Managing the start-up of the Department of Homeland Security is surely one of greatest managerial challenges any Cabinet officer has ever had to face. The scale and

complexity of the task can hardly be underestimated; the time frame for action was tight and unforgiving; the daily operational and policy demands were relentless; the interagency environment could be treacherous; the external constituencies, perpetually discontented. With circumstances such as these as backdrop, no Cabinet officer will ever succeed at all tasks, all the time. The real question, however, is not whether there are some tasks that a Cabinet officer and his lieutenants have not performed adequately - of course there are and always will be. The real question is whether a Cabinet officer has accomplished the highest priorities objectives assigned to him or her by the President or the Congress. Measured by this yardstick, I believe that the Secretary Ridge and his subordinates have exceeded all reasonable expectations of their performance and are more deserving of commendation than complaint.

Even leaving aside the substantive accomplishments of the Department of Homeland Security during its first two years of existence, the strictly managerial accomplishments of the Department are considerable. On March 1, 2003, 22 agencies transferred to DHS, each with distinct human resource policies and systems; the Department currently utilizes just seven human resource servicing offices. The Department started with 19 financial management service providers; it now utilizes eight. The Department started with seven different payroll providers for the Department; it now has two. The Department started with 27 Consolidated Bank Card Programs; it now has three. These statistics are testament to the real integration that occurred within the Department in its first two years of existence, but they are themselves merely a few items contained within the Department's comprehensive strategic plan - a document that was worked out

in cooperation with the Homeland Security Council and that contains over 900 specific goals and milestones with associated timelines.

I have reviewed the December 2004 report of the DHS Inspector General, "Major Management Challenges Facing the Department of Homeland Security." I do not doubt that some of the specific criticisms levied against the Department are true, but I find the report seriously lacking in that it offers no comprehensive net assessment of the Department's overall managerial performance or its strategic plan. Indeed, the report failed to persuade me that the managerial performance is any way significantly worse than that of any other major federal department or agency - none of whom have had to cope with the unique challenges associated with the largest government reorganization in 50 years.

In my experience, every major federal department and agency has management challenges and deficiencies of one kind or another. The FBI, for example, has had trouble with its computer modernization, laboratory, and fingerprint system accuracy; the FDA has had trouble with its drug approvals; the Air Force has had trouble with certain large aircraft procurements; the national laboratories have had trouble with their security procedures; the Department of Interior has had trouble with the American Indian trust fund; the IRS has had trouble with its computer modernization; NASA has had trouble with its flight safety program; etc. No federal department or agency is immune to management failure. Indeed, I suspect the management record of even the

best managed government agencies is worse than that of mediocre for-profit companies.

The central fact of federal government management today is that the unilateral managerial authority of federal agency heads is a fraction of that enjoyed by their private-sector counterparts. The Department must operate within the confines of its authorizing statutes; spend money only according to the terms of its appropriations bills; hire only those senior officials who have been selected by the President and confirmed by the Senate; and announce new policies and regulations only after they have gone through laborious interagency vetting and clearance. Compared to most other Cabinet offices, the Secretary of Homeland Security has a few additional managerial flexibilities but certainly not enough to make his flexibility comparable to that which is commonplace in the private sector. These considerations should be taken into account before one passes judgment on a government manager's performance.

### **Congressional Oversight of DHS**

I commend the action taken by the House and Senate Appropriations Committees at the beginning of the 108<sup>th</sup> Congress - namely, the creation of a separate Appropriations Subcommittee with sole responsibility for authoring the annual DHS appropriations bills. These two subcommittees performed superbly in their first two years of existence, writing two strong appropriations bills that were delivered to the President's desk on time and with very few "earmarks." These two subcommittees have become genuine

partners in the evolution of the Department of Homeland Security, and the Administration understands the need to be highly responsive to their requests for information and consultation.

The role of the authorizing committees with jurisdiction over some portion of the Department of Homeland Security has been completely different. The 9/11 Commission termed Congressional oversight in this area "dysfunctional," concluding:

Congress needs to establish for the Department of Homeland Security the kind of clear authority and responsibility that exist to enable the Justice Department to deal with crime and the Defense Department to deal with threats to national security. Through not more than one authorizing committee and one appropriating subcommittee in each house, Congress should be able to ask the secretary of homeland security whether he or she has the resources to provide reasonable security against major terrorist acts within the United States and to hold the secretary accountable for the department's performance.

I agree. The demands upon various officers within the Department of Homeland Security to testify before various authorizing committees of both Chambers is incommensurate with the ability of these of any of these committees to pass legislation that will assist the Department fulfill its responsibilities or accomplish its mission. Department of Homeland Security officials face a far greater burden of testifying before Congressional committees than do than their counterparts in other federal departments

and agencies. Members who serve on these overlapping oversight committees should not be surprised if the Department is at times less than fully responsive to their requests for information or consultation.

Many Members of Congress have expressed concern about that internal management of the Department. I believe that the quality of this management will improve if senior Departmental leadership is allowed to spend more time on internal management tasks. Reducing the time-burden of Congressional testimony would be a step in the right direction. An even more important step, however, would be to permit the Department to develop a serious and comprehensive oversight arrangement with a single authorizing committee.

### **Internal DHS Organization**

A number of outside experts have recently begun to circulate proposals for modifying the internal organization of the Department. There is nothing sacrosanct in the Department's present internal structure but I do not believe that a statutorily driven redesign of the Department at this time is either warranted or wise, for four reasons.

- First, the second Secretary of Homeland Security is about to be appointed. He deserves the opportunity to familiarize himself with the Department and its mission, to form his own opinion about what organizational changes beneath him

will improve his ability to fulfill his responsibilities, and to make appropriate recommendations to the President for consideration as legislative proposals.

- Second, the Department of Homeland Security is presently at a stage of organizational development in which it must follow through and complete the original reorganization concept for the Department. It is too early to draw a firm conclusion that this original concept was grossly misguided, and too early to give up on its implementation.
- Third, the Secretary of Homeland Security already has certain limited reorganization authorities. If there is a near-term need to create a new office or appoint a new Assistant Secretary, for instance, the Administration can do so under existing statutes.
- Fourth, if our recent experience with government reorganization has taught us anything, it has taught that reorganization is an immensely distracting endeavor that imposes a significant near-term performance penalty on the entity being reorganized. This penalty is worth incurring only if the long-term benefits of the reorganization are truly compelling. I am not persuaded that this is the case in any reorganization proposals being proposed by outside experts at this time.

One step that Congress could usefully take at this time would be to enhance the Secretary's unilateral reorganization authority in such a way that will allow him to make necessary organizational refinements, once he determines what they are, quickly and efficiently. Specifically, I would recommend that the Congress consider:

- Amending the Department's personnel authorization (Section 103 of the Homeland Security Act) to eliminate the specific titles of the Under Secretaries and instead permit the appointment of up to seven Under Secretaries with titles to be determined by the President, subject to the advice and consent of the Senate.
- Amending the Secretary's reorganization authority (Section 872 of the Homeland Security Act) to permit the abolition of entities, programs, and functions required by the Act, and to make this authority "notwithstanding any other provision of law."
- Directing the Secretary to coalesce the regional boundaries of various units of the Department into a single regional structure, and to streamline the reporting relationship of all Department staff as he sees fit.
- Enlarging dramatically the modest reprogramming authority contained within the Department's 2004 and 2005 appropriations bills.



- Authorizing a flexible, substantial working capital fund more in line with other major Cabinet agencies, such that of the Department of Justice.

I would be pleased to comment on any of the particular proposals for reorganizing the Department being advanced by outside experts later in the hearing.

### **Security Priorities for DHS, 2005-2006**

The efficient management of the Department of Homeland Security is an important objective, but it is not the Department's foremost priority. Looking ahead, the most important challenge for the Department of Homeland Security is to weave ever greater levels of security into the fabric of American society. This is the substance of the Secretary of Homeland Security's job, and is the essence of his political contract with the President, the American people, and their elected representatives. Prior to the creation of the Department of Homeland Security, there was no Cabinet office with this job description. Today there is, and this alone was sufficient reason to establish the Department.

I will not offer a description of the Administration's or the Department's past and on-going accomplishments in the field of homeland security. Instead, I will provide a personal assessment of the highest priority work that remains to be. I will focus on five

areas that fall largely, though not exclusively, within the domain of the Department of Homeland Security.

### 1. Credentials and Identification Standards

The federal government should establish a voluntary national standard for secure identification. This standard should meet the requirement set by the President for federal government identification documents in Homeland Security Presidential Directive 12, namely: "identification that (a) is issued based on sound criteria for verifying an individual employee's identity; (b) is strongly resistant to identity fraud, tampering, counterfeiting, and terrorist exploitation; (c) can be rapidly authenticated electronically; and (d) is issued only by providers whose reliability has been established by an official accreditation process. The Standard will include graduated criteria, from least secure to most secure, to ensure flexibility in selecting the appropriate level of security for each application." After the standard has been promulgated through normal procedures, the provision of identification meeting this standard should be required at all federally controlled portals that are important to security.

This standard should incorporate and supersede all other federal identification programs. Once the standard has been promulgated, the particulars of the identification program will become inconsequential.

It is clear that any decent identification standard will include a strong biometric identifier that associates the person bearing the identification with the person who received it, a

so-called "one-to-one" match. In addition, however, the federal government also has an invaluable counterterrorism opportunity to conduct "one-to-many" screening against a biometric reference database of known and suspected terrorists. Since the only such reference database in existence is fingerprint-based, it is clear an identification standard that incorporates ten fingerprints will yield the best security benefits.

## 2. Expanded Screening against the Alphanumeric and Biometric Terrorist Watchlists

The United States and its allies spend billions of dollars each year, and risk countless lives, to acquire terrorist identifying information. This information is now consolidated into two primary systems: alphanumeric data is maintained in the terrorist identities and screening database managed by the National Counterterrorism Center and the Terrorist Screening Center; while biometric data (fingerprints) is maintained by the FBI's Integrated Automated Fingerprint Identification System. These terrorist reference databases require continual improvement but they are the best of their kind in the world.

The policy of the United States should be to apply this terrorist-identifying information at every available opportunity. Put differently, the United States should develop and deploy name-based and fingerprint-based screening systems that will create opportunities to identify, apprehend or exclude known or suspected terrorists before they carry out their attacks. These systems are already in place at visa-application stations, most points of entry (through the U.S. VISIT system), and in the National Instant Criminal Background Check System, but there are many more public and

private-sector screening opportunities that have not yet been exploited. The Department of Homeland Security should lead the expansion of terrorist screening at home. In addition, the United States should encourage its international partners to deploy compatible screening systems and should promote real-time, cross-border reciprocal querying of terrorist watchlists. The Department of Homeland Security should assist the Department of State in promoting such screening abroad.

### 3. Hazardous Chemical Security and Protection

The essence of Al Qaeda's strategy for causing catastrophic harm to America on September 11 was to strike an inherently dangerous, poorly secured system in our midst. Due to the passage of the Aviation and Transportation Security Act and the work of the Transportation Security Administration, passenger aircraft are no longer poorly secured and hence no longer fall into this target category. It stands to reason that, in the aftermath of September 11, our terrorist enemies are surveying American society to locate other inherently dangerous, poorly secured systems that they could strike with catastrophic secondary effects. Fortunately, the number of such severe vulnerabilities is finite. One, however, stands out as acutely vulnerable and almost uniquely dangerous: toxic-by-inhalation industrial chemicals. These poorly secured chemicals, which in some cases are identical to the chemical weapons used in World War I, are routinely present in vast, multi-ton quantities adjacent to or in the midst of many dense population centers. Toxic-by-inhalation industrial chemicals present a mass-casualty

terrorist potential rivaled only by improvised nuclear devices, certain acts of bioterrorism, and the collapse of large, occupied buildings.

To date, the federal government has made no material reduction in the inherent vulnerability of hazardous chemical targets inside the United States. Doing so should be the highest critical infrastructure protection priority for the Department of Homeland Security in the next two years. The executive branch currently has sufficient regulatory authority to require virtually any security enhancement for chemicals as they are being transported, so executive action is required but new legislation is not. With respect to chemical facilities, the executive branch currently lacks the authority to mandate and enforce security enhancements. The President twice called on the 108<sup>th</sup> Congress to pass such legislation. The 109<sup>th</sup> Congress should heed his call.

#### 4. Ground Transportation System Security

Under the authorities granted by the Aviation and Transportation Security Act and the Maritime Transportation Security Act, and through the work of the Transportation Security Administration and the U.S. Coast Guard, the federal government has made great strides in improving the security of air and sea transportation systems. No real progress, however, has been made in the area of ground transportation security. The operational challenge of securing these ground transportation sectors far exceeds that of securing airports, but the Department of Homeland Security should lead an effort to systematically reduce the vulnerability of U.S. rail, mass-transit, and trucking

transportation systems. There is no "silver bullet" in this domain, but an appropriate security system is certain to include some combination of access control, telematic tracking, geo-fencing, and sensor-based domain awareness. No new statutory authority is required for such an effort given the robust regulatory authorities contained within the Aviation and Transportation Security Act.

## 5. Terrorism Insurance

Prior to September 11, 2001, most commercial insurance policies covered terrorist losses. This gave private companies a certain market-based incentive to secure their buildings against terrorism, spread the economic risk associated with terrorism across the economy, reduced the federal payout after the attack.

After the catastrophic losses of September 11, 2001, primary insurers began to drop terrorism coverage from their commercial policies. The federal government sought to slow this trend by backstopping the reinsurance industry under the authority granted in the Terrorism Risk Insurance Act of 2002. This act is scheduled to sunset in 2005 and has, in any case, failed to accomplish its most important objective - namely, to promote the sharing of terrorist risk and the implementation of security countermeasures at commercial facilities nationwide.

Congress should reauthorize the Terrorist Risk Insurance Act but should go a step further in order to make the program more valuable from a security point of view.

Congress should mandate that terrorism coverage be included in all commercial insurance policies, and should transfer responsibility for the program from the Department of Treasury to the Department of Homeland Security. Congress should also charge DHS with developing, in cooperation with the insurance industry, standards for private-property protective measures that would lead to premium reductions.

### **Conclusion**

Madam Chairman, I would like to thank you and the Members of your Committee for your continuing service to the country. Thank you again for the opportunity to appear the Committee today. I am happy to answer any questions you may have.