

**HOMELAND SECURITY: THE BALANCE BETWEEN
CRISIS AND CONSEQUENCE MANAGEMENT
THROUGH TRAINING AND ASSISTANCE**

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 2512, H.R. 3266, and H.R. 3158

NOVEMBER 20, 2003

Serial No. 65

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://www.house.gov/judiciary>

U.S. GOVERNMENT PRINTING OFFICE

90-547 PDF

WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON THE JUDICIARY

F. JAMES SENSENBRENNER, JR., Wisconsin, *Chairman*

HENRY J. HYDE, Illinois
HOWARD COBLE, North Carolina
LAMAR SMITH, Texas
ELTON GALLEGLY, California
BOB GOODLATTE, Virginia
STEVE CHABOT, Ohio
WILLIAM L. JENKINS, Tennessee
CHRIS CANNON, Utah
SPENCER BACHUS, Alabama
JOHN N. HOSTETTLER, Indiana
MARK GREEN, Wisconsin
RIC KELLER, Florida
MELISSA A. HART, Pennsylvania
JEFF FLAKE, Arizona
MIKE PENCE, Indiana
J. RANDY FORBES, Virginia
STEVE KING, Iowa
JOHN R. CARTER, Texas
TOM FEENEY, Florida
MARSHA BLACKBURN, Tennessee

JOHN CONYERS, JR., Michigan
HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JERROLD NADLER, New York
ROBERT C. SCOTT, Virginia
MELVIN L. WATT, North Carolina
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
MARTIN T. MEEHAN, Massachusetts
WILLIAM D. DELAHUNT, Massachusetts
ROBERT WEXLER, Florida
TAMMY BALDWIN, Wisconsin
ANTHONY D. WEINER, New York
ADAM B. SCHIFF, California
LINDA T. SANCHEZ, California

PHILIP G. KIKO, *Chief of Staff-General Counsel*
PERRY H. APELBAUM, *Minority Chief Counsel*

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

HOWARD COBLE, North Carolina, *Chairman*

TOM FEENEY, Florida
BOB GOODLATTE, Virginia
STEVE CHABOT, Ohio
MARK GREEN, Wisconsin
RIC KELLER, Florida
MIKE PENCE, Indiana
J. RANDY FORBES, Virginia

ROBERT C. SCOTT, Virginia
ADAM B. SCHIFF, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
MARTIN T. MEEHAN, Massachusetts

JAY APPERSON, *Chief Counsel*
ELIZABETH SOKUL, *Counsel*
KATY CROOKS, *Counsel*
PATRICIA DEMARCO, *Full Committee Counsel*
BOBBY VASSAR, *Minority Counsel*

CONTENTS

NOVEMBER 20, 2003

OPENING STATEMENT

	Page
The Honorable Howard Coble, a Representative in Congress From the State of North Carolina, and Chairman, Subcommittee on Crime, Terrorism, and Homeland Security	1
The Honorable Robert C. Scott, a Representative in Congress From the State of Virginia, and Ranking Member, Subcommittee on Crime, Terrorism, and Homeland Security	3
The Honorable Anthony D. Weiner, a Representative in Congress From the State of New York	4
The Honorable John E. Sweeney, a Representative in Congress From the State of New York	5

WITNESSES

The Honorable C. Suzanne Mencer, Director, Office for Domestic Preparedness, U.S. Department of Homeland Security	
Oral Testimony	7
Prepared Statement	9
The Honorable Raymond W. Kelly, Police Commissioner, City of New York	
Oral Testimony	12
Prepared Statement	13
Mr. William H. Bishop, Director, Bureau of Homeland Security, State of Idaho	
Oral Testimony	21
Prepared Statement	22

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas	44
Prepared Statement of the Honorable Adam B. Schiff, a Representative in Congress From the State of California	54
Prepared Report of Dr. Joseph P. Indusi of Brookhaven National Laboratory ..	55
Questions and Responses for the Record from Ms. Suzanne Mencer	57
Questions and Responses for the Record from Mr. Raymond W. Kelly	60
Questions and Responses for the Record from Mr. William Bishop	64

HOMELAND SECURITY: THE BALANCE BETWEEN CRISIS AND CONSEQUENCE MANAGEMENT THROUGH TRAINING AND ASSISTANCE

THURSDAY, NOVEMBER 20, 2003

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

The Subcommittee met, pursuant to notice, at 10 a.m., in Room 2141, Rayburn House Office Building, Hon. Howard Coble (Chair of the Subcommittee) presiding.

Mr. COBLE. Good morning. The Judiciary Subcommittee on Crime, Terrorism, and Homeland Security will come to order. It is good to have all of you with us. I'll give my opening statement and be followed by the Ranking Member, Mr. Scott, and then we will hear from our panel.

As we all know, in 2001, our nation was attacked without provocation and our citizens murdered by an organized but amorphous enemy. We all wish that day had never occurred and that such an enemy was not plotting to destroy the way of life we hold dear. But that awful event did happen and that enemy does, in fact, exist. Now we have no choice but to fight overseas and on our homeland to protect that way of life.

As an aside, many people have compared our enemy today with Adolph Hitler. I think there is a salient distinction. Adolph Hitler, his thugs wanted to conquer the world. This crowd who is opposing us now, they are not averse to destroying the world, and I think that is indeed a difference.

Those efforts are costly as we defend, but again, we have no option. We either sink or swim. That is why we must support our local law enforcement and emergency responders, the nation's first line of defense to protect the homeland. With that in mind, today's hearing will focus on our domestic efforts carried out by the Department of Homeland Security to assist and train the State and local officials to anticipate, prevent, and resolve a threat or act of terrorism, and God forbid, if one does occur, to respond immediately and effectively.

As part of this review, the Committee will examine H.R. 2512, the "First Responders Funding Reform Act of 2003," introduced by Representative Sweeney from New York; H.R. 3266, the "Faster and Smarter Funding for First Responders Act," introduced by

Representative Cox, the gentleman from California; and finally, H.R. 3158, "Preparing America to Respond Effectively (PREPARE) Act," introduced by the gentleman from Texas, Mr. Turner.

These bills are designed to change the formula and standards used by the Department of Homeland Security to provide assistance and grants to States and localities to implement crisis and consequence management plans. Crisis management includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, or resolve a threat or act of terrorism. Consequence management primarily fulfills the cleanup and restoration function after an attack occurs.

Prior to the creation of the Department of Homeland Security, the Department of Justice through the Office of Domestic Preparedness offered the only integrated program to provide needed funds for training, equipment, and technical assistance to first responders for crisis management and consequence management for a terrorist threat or attack. While ODP has existed since 1998, it was first authorized in 2001 by the Judiciary Committee to establish Federal domestic preparedness programs and activities to assist State and local governments in their preparedness efforts.

ODP provides State grants that enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts, including events of terrorism involving weapons of mass destruction. Immediately after the 2001 attacks, the Committee on the Judiciary met with the Office of Domestic Preparedness to determine whether they were on schedule to provide grants and assistance to the States. The Committee continued to monitor ODP's progress with the States and localities on this matter.

In 2002, the administration and Congress created the new Department of Homeland Security. Over two dozen agencies and several offices and bureaus were transferred to the new Department, including ODP. The mission of ODP remained the same when it became part of the new Department. When Congress was considering transferring, the Office of Management and Budget proposed that the Federal Emergency Management Agency, FEMA, coordinate and conduct the grant program operated by the ODP and that ODP be placed in the division of the new Department that would be responsible for response.

The Committee strongly disagreed with the idea of FEMA being the new home of ODP because FEMA is, in fact, a response management agency with no, and I don't mean this in a bad way, but with no understanding or capability to provide an integrated training program that includes crisis management. A terrorist attack is a Federal crime, and a crisis event which requires a response different from that of a natural disaster.

As a result of the Committee's efforts, the ODP retained its responsibility for the coordination and management of these programs. The office was placed under the Border and Transportation Security Directorate because of that Directorate's support for crisis management measures, including the anticipation, prevention, and resolution of threats as well as post-incident response and consequence management.

The Committee has heard reports from the first responders that ODP has done an excellent job, but there are still some concerns.

For instance, a USA Today article entitled, "Homeland Security Money Doesn't Match Terror Threat," cites complaints that the Federal Government provides too much support to rural towns and insufficient to big cities and more densely populated States that are more likely terrorist targets.

Now, we have a rural area and an urban area represented today. Mr. Scott's and my States would be somewhere between Idaho and New York. So we will have some sort of balance today.

Some also believe that the grant process could be improved through new standards and a more efficient process. I hope the witnesses will explain the intricacies of the current process and programs that address some of the proposed changes to the process and standards and look forward to hearing from the witnesses today.

I am now pleased to recognize the distinguished gentleman from Virginia, the Ranking Member, Mr. Bobby Scott.

Mr. SCOTT. Thank you, Mr. Chairman, and I am pleased to join you in convening this hearing on first responder antiterrorism preparedness prevention and response. They are the two primary responsibilities of the first responders in their efforts to prevent acts of terrorism whenever possible and to address those that were not prevented.

Since any act of terrorism falls under law enforcement, prevention will be much of the focus of law enforcement entities. Law enforcement must also focus on identification, capture, and prosecution of perpetrators of acts of terrorism. This makes any incident of terrorism a crime scene, requiring control to protect any evidence from destruction and contamination, as well as a chain of custody and other considerations which may be crucial to bringing perpetrators to justice.

At the same time that law enforcement must focus on prevention and response to terrorism, we must assure that traditional law enforcement activities and capacities are not diminished or undercut. The heightened state of awareness and concern that we have been under since 9/11/2001, even false alarms or hoaxes or over-precaution, eat up a significant chunk of law enforcement time and attention.

In addition to these important responsibilities, an equally important though distinct function of law enforcement first responders is to cooperate with and assist other first responders who address the casualties, damage to property, collateral threats, such as public health threats, that can stem from an incident of terrorism.

All law enforcement personnel, as well as budgets, are grossly strained, and while it is clear that some places are at higher risk or threat of terrorism than others, the fact is that terrorism can strike anywhere, including where we least expect it. And depending on the nature of it, an act of terrorism anywhere, such as a nuclear incident or threat to our water supply, food supply, energy supply, information management, public health systems, can have devastating effects over a large area, if not the entire United States.

So it is clearly a responsibility of the Federal Government to do all it can to contribute to the efforts to empower first responders to prevent and effectively respond to terrorist threats. But we must

prioritize our expenditures. We do not have an unlimited amount of money. We must prioritize that in an intelligent manner.

As the Chairman has indicated, all areas are not equally at risk, and we have to prioritize our expenditures accordingly. If we are doing snow removal, we do not fund Boston and Miami equally for snow removal. We prioritize snow removal money, and likewise, all areas of the country are not equally at risk, and we have to have a priority system to establish which areas are more at risk than others. And establishing that priority system ought to be part of any legislation that we adopt.

Mr. Chairman, we look forward to hearing our witnesses today. I would like to ask unanimous consent that the gentleman from New York be allowed to have the balance of my time.

Mr. COBLE. The gentleman from New York, although who does not sit as a Member of the Subcommittee, we are pleased to have him, and without objection, is recognized for the minute and a half.

Mr. WEINER. Thank you, Mr. Chairman. I appreciate it and I just want to take this opportunity to welcome Commissioner Kelly, who has been a great servant to this country and to my city, and my colleague, Congressman Sweeney, as well. I thank you, Mr. Chairman and Ranking Member.

There is something that I think all of us agree upon right down, or right up to Secretary Ridge, that there is no way that we should be distributing to antiterrorism funding as if it were any other portion of the budget. It would be equally absurd to be distributing agriculture money equally to New York City as it is to Louisville as it is to distribute terrorism money equally to Louisville, Kentucky, as it is to New York City.

The problem is that we in Congress envisioned, and frankly, the administration recognized, that there were certain high-threat areas and in doing so identified seven cities, a list where there was chatter, a list where there was exposure, a list where there was greater danger. That list has been expanded now to 30 cities and it is soon going to go to 50 cities.

The situation is simply now that we are devoting the same attention to Minneapolis, Anaheim, Louisville, and Fresno as we are to New York City, where in fact, arguably, and we will hear testimony to this effect, we in New York City have more in antiterrorism demands in an average week in just overtime than some of these departments have in their entire police departments throughout an entire year. It is simply a fact of life in New York City, where we have to protect things like the United Nations, bridges and tunnels, gatherings of State leaders just about every day, that we have added costs and added needs.

I would never stand up in the well of Congress and demand that New York City get equal access to, say, wheat subsidies. I think it is equally absurd for people in Charlotte, who have to protect such great institutions as the Charlotte Raptor Center, as getting the same amount of funding or at least be on the same list as a city that has to protect Wall Street and Ground Zero.

I believe that as it was originally envisioned, the list was correct, roughly seven cities, seven high-threat areas, seven areas that had demonstrated this higher need. Now this list, unfortunately, Mr.

Chairman, has become the classic pork barrel pork project that everyone wants to be a high-threat area.

We are in New York City, literally and figuratively, Ground Zero for the war on terrorism. Commissioner Kelly will be testifying about what New York City has been up against in terms of costs. The effect of us diluting the high-threat grants formula has been to take money away from where the threat really exists.

And I want to commend Congressman Sweeney, with whom I am cosponsoring legislation, to make this formula more fair, and I thank you, Mr. Chairman and Mr. Ranking Member, for holding this hearing.

Mr. COBLE. You are indeed welcome. We are pleased to have the gentlemen from Florida and Ohio. Did you all want to make opening statements, either of you?

Our first witness this morning is the Honorable Sue Mencer, Director of the Office for Domestic Preparedness in the Department of Homeland Security. Director Mencer was nominated by President Bush and confirmed by the Senate on September 16 of this year to serve in her present position.

She served in the FBI for 20 years, from 1978 to 1998. After she retired, she worked as a consultant providing antiterrorism training for local law enforcement throughout the United States in cooperation with the Institute of Intergovernmental Research. In 2000, Ms. Mencer was appointed by the Governor of Colorado to serve as the Executive Director of Public Safety for that State. She graduated from the Ohio State University with a Bachelor of Science in education.

Our second witness today is the Honorable Ray Kelly, unknown to none of us, the Police Commissioner of New York City, who will testify about the need of more resources in the urban areas. And the distinguished gentleman from New York, Congressman John Sweeney, has requested permission to formally introduce the Commissioner. Mr. Sweeney?

Mr. SWEENEY. Thank you, Mr. Chairman. Let me divert for a second and thank you and recognize you and Mr. Scott for the importance of this hearing, for the wisdom in conducting this hearing as we in Congress attempt to focus ourselves more keenly and get to some resolve in terms of the formulation issues and the other issues that are attendant to our responsibilities in making us more responsive to homeland security.

I sit in a unique position as a Member on the authorizing side of the Select Committee and as a Member of the Subcommittee on Appropriations. I had the opportunity, in fact, to help construct the high-risk, high-density concept in the first supplemental. It was an important concept, but it is not the only one. And indeed, in fact, I think today we focus on the broader issue of not just high-risk, high-density, but really how we become as efficient as we possibly can.

And we are joined in that endeavor by, I think, one of the most preeminent experts in the world, with extensive private and public sector experience, and I am pleased to introduce Commissioner Raymond W. Kelly of the City of New York.

I would like to point out in this introduction, unlike my friend and colleague, Mr. Weiner, I am not a resident of New York City.

In fact, Mr. Chairman, I am a resident and representative of the 32nd largest rural district in America. So this isn't necessarily about geographic competition. This is about how we in Congress ensure the most accurate and safest response that we can.

Commissioner Kelly was appointed by Mayor Michael R. Bloomberg to his post, making him the first person to hold that post for a second and separate tenure. Immediately prior to his service as Police Commissioner, Mr. Kelly was the Senior Managing Director of Global Corporate Security at Bear Stearns. Before that, he served as Commissioner of the U.S. Customs Service. I think that, as well as anything, points out the diverse nature of his experience.

Commissioner Kelly prior to that spent 31 years in the New York City Police Department, serving in 25 commands. That included a different stint as Police Commissioner from 1992 to 1994. He was there before, during, and after, and he has been there to really understand the complexities of the issues that we face.

Prior to that, he was a combat veteran of the Vietnam War. Commissioner Kelly retired as a Colonel from the Marine Corps Reserves after 30 years of service. He holds a bachelor's degree from Manhattan College, a J.D. from St. John's University, an L.L.M. from New York University Graduate School of Law, and an M.P.A. from the Kennedy School of Government at Harvard. He has received honorary degrees from a number of different sources.

But I also think, Mr. Chairman, more importantly, Commissioner Kelly will give us the real kind of hands-on, nitty-gritty understanding of both our capabilities and our shortfalls and I thank you for having the wisdom of bringing him here.

Mr. COBLE. Thank you, John. You know, oftentimes, many people, when they hear New York, they synonymously think New York City, but you have just told us that there's a little bit of rural in New York, and in the rural South, Bobby, oftentimes when the minister starts preaching in a sermon and starts tramping on the toes of the parishioners, they accuse him of meddling. Mr. Weiner, when he talked about Charlotte, he is coming close to meddling in terms of North Carolina and Virginia, getting down our way, Bobby.

But finally, we have heard from the urban side. Now we have the rural side represented. Our final witness is Mr. William Bishop, the Director of the Idaho Bureau of Homeland Security. Director Bishop will give the perspective of the rural States regarding the need for Federal support of first responders.

Mr. Bishop was just promoted this October to his new position. Prior to that, he served as the Director for the Idaho Bureau of Hazardous Materials. In addition to providing a rural State perspective, Director Bishop can provide a non-law enforcement perspective as a former fire chief, which will add additional balance.

Director Bishop has had a distinguished and interesting career that has ranged from managing homeland security to teaching to being a cowboy. Mr. Bishop received a B.A. with distinction from the University of New Mexico.

Now, Mr. Bishop, I am a fan of the rodeo, but you say cowboy. Do you mean riding the range and herding cattle or do you mean riding those Brahma bulls, or both?

Mr. BISHOP. I mean herding cattle, working on the land. I had a stint as a roper. I found out you have to have eye-hand coordination and found other ways to donate money besides attending organized roping.

Mr. COBLE. Well, in any event, it is good to have each of you with us. Folks, the only thing I will ask you, I want you to keep a sharp lookout on that panel in front of you, and when that red light appears, that is your warning. Your 5 minutes have expired. We have your written testimony that has been examined. It will be reexamined. But in the interest of time, we may be called to the floor at any unknown time. So when the red light appears, that is your time. Your time is up.

So we will start with you, Ms. Mencer.

STATEMENT OF THE HONORABLE C. SUZANNE MENCER, DIRECTOR, OFFICE FOR DOMESTIC PREPAREDNESS, U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. MENCER. Good morning, Chairman Coble and Members of the Subcommittee. It is a pleasure and a privilege to be here today to talk to you about the Department of Homeland Security's Office for Domestic Preparedness efforts to provide support to our nation's emergency first responders. On behalf of Secretary Tom Ridge, the Department of Homeland Security, and the Office for Domestic Preparedness, I would like to express my appreciation for your support and your interest in Federal programs to combat terrorism. I have provided a written statement for the record, but in the interest of time, I will summarize my remarks.

In the 10 months since DHS was established, significant progress has been made toward making America safer. To date, DHS has allocated or awarded approximately \$7 billion to State and local governments to enhance security and overall preparedness to prevent, respond, recover from acts of terrorism, as well as natural disasters. A large majority of this assistance is provided through ODP.

As you know, the Homeland Security Act vests ODP with the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism. ODP's role in this capacity includes directing and coordinating preparedness efforts, assisting States and local jurisdictions with prevention, deterrence, response, and recovery from acts of terrorism.

Since its establishment in 1998, ODP has provided significant support to our nation's emergency response community. To date, ODP has delivered weapons of mass destruction training to more than 325,000 emergency responders from approximately 5,000 jurisdictions nationwide. We have also conducted nearly 300 preparedness exercises, to include the Congressionally mandated TOPOFF Exercises 1 and 2.

But let's make no mistake. Despite ODP's successes, as great as they are, we still have much work to do.

ODP is currently working closely with all 50 States, the District of Columbia, Puerto Rico, and the U.S. territories, to develop a comprehensive, multi-year State homeland security strategy. These strategies are based on a thorough assessment of threat, vulnerability, capability, and needs, conducted at the local level and utilizing a process developed jointly with State, local, and Federal

partners. When looked at in the aggregate, they provide a clear road map for our nation's preparedness and will assist ODP and its partners with allocating resources for homeland security.

In addition to this strategy, we encourage regional cooperation in a way to maximize the valuable assets and resources and close the gaps. The vast majority of States have established regional prevention and preparedness efforts.

For example, in Colorado, we have a multi-regional approach and multi-disciplinary approach. We have nine planning regions which we are using to develop our Statewide strategy. We are working with our other existing entities within our State to make sure that occurs.

In Illinois, they use the Homeland Security Grant Program to fund and support regional prevention, preparedness, and response efforts for the past 4 years. Illinois has established three State WMD teams as regional assets that would augment a local response to a WMD incident and could respond anywhere in the State within 60 to 90 minutes of notification. Funding has also been used to create an Illinois Law Enforcement Alarm System and 15 regional containment teams. The State of Illinois is also taking a regional approach to the FY '03 State Homeland Security Assessment and Strategy, delegating responsibility of data collection and analysis to the regional level.

ODP is committed to ensuring that States and local jurisdictions are able to maximize the impact of available homeland security funding. The recently announced \$2.2 billion in the Homeland Security Grant Program combines three formula-based funding programs for States and territories into a single application, including the State Homeland Security Program, Law Enforcement Terrorism Prevention Program, and the Citizens Corps Program. The consolidation of these programs has enabled ODP to streamline the grant application process and better integrate Federal, State, and local grant distribution and operations.

The funding provided will be applied against critical resource gaps identified through the assessments and prioritized in the State homeland security strategies. ODP believes that only through addressing a combination of threat, vulnerability, and needs can homeland security be improved nationwide and that every citizen in the country is protected.

ODP accomplishes this by administering two complementary programs, the State Homeland Security Program, which utilizes the USA PATRIOT Act formula, specifying a base amount for each State and territory plus an additional amount determined by population, and the Urban Areas Security Initiative, which utilizes a risk-based formula, taking into account threat, critical infrastructure, and population density. The latter program provides a dedicated funding stream specifically for the nation's higher-threat areas. By administering these both programs, we are able to ensure that critical first responder and first responder funding is targeted in the areas where they are needed. Thank you, sir.

Mr. COBLE. Thank you, Ms. Mencer.

[The prepared statement of Ms. Mencer follows:]

PREPARED STATEMENT OF C. SUZANNE MENCER

Good morning, Chairman Coble and Members of the Subcommittee. My name is Sue Mencer, and I serve as the Director of the Department of Homeland Security's Office for Domestic Preparedness (ODP). It is a pleasure and privilege to be here today to talk about ODP's efforts to provide support to our nation's emergency responders. On behalf of Secretary Tom Ridge, the Department of Homeland Security (DHS), and ODP, I would like to express my appreciation for your support of federal programs to combat terrorism.

Assisting states and localities is critical to DHS' mission of protecting the homeland. As Secretary Ridge has often stated, the homeland is secure only when the hometowns are secure. And the way to ensure that the hometowns are secure is to ensure that State and local officials, State and local emergency response agencies, and State and local emergency response personnel have the resources, the information, and the tools they need to do their jobs.

Before the creation of DHS in March 2003, ODP was a component of the Department of Justice. With the passage of the Homeland Security Act of 2002, ODP was transferred to DHS. Further, the Homeland Security Act designates ODP as the principal federal agency for assisting State and local jurisdictions to prepare for, prevent, and respond to incidents of terrorism.

In the ten months since DHS was established, significant progress has been made towards making America safer. Since its creation, the Department has provided a significant amount of support to States, territories, tribes, and localities in support of homeland security. To date, DHS components have allocated or awarded approximately \$7 billion to state and local governments to enhance security and terrorism preparedness. A large majority of this assistance is provided through the ODP.

Since its establishment in 1998, ODP has provided significant support to our nation's emergency response community. To date, ODP has delivered weapons of mass destruction awareness training and incident command training to more than 325,000 emergency responders from approximately 5,000 jurisdictions nationwide. Additionally, ODP has conducted nearly 300 preparedness exercises, including the Top Officials (or TOPOFF) I and II exercises.

But let us make no mistake, despite ODP's successes, much more work needs to be done. Every day 180,000 DHS employees are focused on one primary goal—ensuring America is safe and secure. More significant, however, is that every day we share that vital mission with many times our number in State and local jurisdictions across the nation. These men and women, these first responders, are not just our partners, but they are essential to our success as a nation in securing our homeland. It is a priority of this Administration and the Department to effectively and efficiently meet our responsibility to support First Responders in fulfilling their critical role in our nation's counter-terrorism efforts. We at DHS take very seriously the need to ensure that federal support is focused and well-organized.

The Department recognizes the financial constraints placed on State governments, which require difficult decisions to be made about limited resources, and the Department is committed to helping states meet their needs in this area. It is the Department's view that Federal, State and local governments have a shared responsibility with respect to homeland security efforts. As such, State, territorial, tribal and local governments should take lead responsibility to directly fund the costs associated with traditional domestic preparedness. The Federal government's role, on the other hand, should largely be geared to building capacity for major events beyond normal operations. One of the most important federal roles is also to provide guidance, subject matter expertise, and technical assistance.

To this end, ODP provides extensive support for local communities to conduct domestic terrorism preparedness exercises. Experience and data show that exercises are a practical and efficient way to prepare for crises. Exercises provide a unique learning opportunity to synchronize and integrate cross-functional and intergovernmental crisis and consequence management response. The tragic events of September 11, 2001, taught us many things. One of the overarching lessons learned was that emergency responders need to respond in a coordinated and collaborative manner. Exercises allow cities and localities to practice their response to simulated terrorist incidents.

Another critical component of ODP's mission is its ongoing Training and Technical Assistance Program, which provides an extensive array of terrorism preparedness training to Federal, State, and local emergency response personnel through a variety of training sites and methods. Through this program, ODP provides more than 30 direct training and technical assistance courses and programs to state and local jurisdictions. This includes training delivered in residence at ODP training facilities, on-site in local communities through mobile training teams, and through such elec-

tronic means as the Internet, closed circuit broadcasts, and video-conferencing. ODP terrorism preparedness training is tailored for a wide range of emergency responders, including courses for fire and rescue personnel, law enforcement officers, public works and public safety communications officials, emergency medical personnel, and many other disciplines. It also addresses a range of emergency response levels available to State and local emergency responders—awareness, performance, planning, and management.

The National Domestic Preparedness Consortium (NDPC) is the principal vehicle through which ODP identifies, develops, tests, and delivers terrorism preparedness training to State and local emergency responders. The NDPC membership includes ODP's Center for Domestic Preparedness, the New Mexico Institute of Mining and Technology, Louisiana State University's Academy of Counter-Terrorist Education, Texas A&M University, and the Department of Energy's Nevada Test Site. Each consortium member brings a unique set of assets to the domestic preparedness program. ODP also utilizes the capabilities of a number of specialized institutions in the design and delivery of its training programs. These include private contractors, other Federal and State agencies, the National Terrorism Preparedness Institute at St. Petersburg Junior College, the U.S. Army's Pine Bluff Arsenal, the International Association of Fire Fighters, and the National Sheriff's Association. Additional training for first responders is delivered through other DHS training units, such as the Federal Law Enforcement Training Center in Glynco, Georgia, and the FEMA National Fire Academy in Emmitsburg, Maryland.

To ensure coordination of our training efforts with other Federal agencies, ODP staff have established regular and recurring meetings with representatives from the Federal Bureau of Investigation, the Centers for Disease Control and Prevention, the Public Health Service/Office of Emergency Preparedness, and the FEMA National Fire Academy and Emergency Management Institute to discuss and coordinate WMD training development and delivery of training courses. Additionally, ODP has on-site representation from the National Guard Bureau to coordinate program efforts and provide technical assistance and guidance.

ODP also provides targeted technical assistance to State and local jurisdictions to enhance their ability to develop, plan, and implement a program for WMD preparedness. Specifically, ODP provides assistance in areas such as the development of response plans; exercise scenario development and evaluation; conducting of risk, vulnerability, capability, and needs assessment; and development of the Statewide comprehensive all-hazards domestic preparedness strategies that form the basis for receipt of Federal preparedness assistance funding. These strategies should incorporate local government concerns and assess the most effective ways to enhance preparedness and address areas facing high risk.

Perhaps the most notable means through which ODP provides support to states and localities are the State Homeland Security Grant Program (SHSGP) and the Urban Areas Security Initiative (UASI).

As you are aware, the FY 2003 Omnibus Appropriations Act, together with the FY 2003 Emergency Wartime Supplemental Appropriations Act, provided DHS with approximately \$2 billion for ODP's SHSGP and \$800 million to fund ODP's UASI. The SHSGP funds were allocated according to a base plus population formula and the UASI funds were allocated in a manner prescribed by the Secretary to address the security requirements of high density urban areas, high threat urban areas, and for the protection of critical infrastructure.

During FY 2003, all 50 States, the territories, and the District of Columbia received funding under SHSGP while over 30 urban areas, including mass transit systems and ports, received support under the UASI program. For FY 2004, the Congress appropriated an additional \$2.2 billion for ODP's Homeland Security Grant Program (HSGP), formerly the SHSGP, and \$725 million for the continuation of UASI.

Prior to allocating the UASI funds, DHS conducted a thorough and comprehensive review of population and population density, the presence and vulnerability of critical infrastructure of national significance, and credible threat intelligence data from several Federal agencies. Based on this analysis, the Department has determined that 50 urban areas including 30 mass transit systems are eligible funds under the FY 2004 UASI program.

The recently announced \$2.2 billion HSGP combines three formula-based funding programs for States and territories into a single application, including the State Homeland Security Program (SHSP), Law Enforcement Terrorism Prevention Program (LETPP), and Citizen Corps Program (CCP).

This consolidation was done to streamline the grant application process and better coordinate Federal, State and local grant funding distribution and operations. The homeland security assessments and strategies currently being finalized by the 50

States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. territories, and selected urban areas for submission to DHS-ODP will play a pivotal role in the identification, prioritization, and allocation of financial resources provided through the three grant programs. The funding provided will be applied against critical resource gaps identified through the assessments and prioritized in the State strategies.

Providing funds through a single assessment and strategy, application and award process facilitates coordination of preparedness activities related to the goals and objectives identified in the State strategies, resulting in a more effective and efficient use of funding. A single application also minimizes time spent on the application process and consolidates reporting requirements.

The three programs further provide the opportunity to enhance regional prevention, preparedness, and response efforts. States are encouraged to employ regional approaches and to adopt regional response structures whenever appropriate to meet the needs identified through the assessments and in the State's Strategy.

While the Department is working hard to provide assistance and support to our nation's emergency responder community, it is continually looking to improve its own operations and how it does business. In order for State and local jurisdictions and first responders to be effective partners with the Federal government in securing our homeland, they need quick and easy access to the terrorism and emergency preparedness grant programs designed to support their work. Prior to the formation of DHS, terrorism and emergency preparedness grant programs were scattered throughout various agencies and departments of the Federal government. Many of these are now located within DHS, although several are divided among the Department's various components. However, with the movement of the Fire Grant and Citizen Corps programs to the ODP, the Department is one step closer to the "one-stop shop" that State and local governments have requested. In addition, the Department has established a web site, www.dhs.gov/grants, listing all Federal homeland security and public safety grants as well as all Federal anti-terrorism training courses available to State and local officials. Despite all of this progress, it is Secretary Ridge's intention to move even further in better organizing DHS' grant-making and overall preparedness structure, and improve coordination with other Federal programs.

We at DHS are convinced that State and local grant programs must be more centralized and more accessible. It is our goal to provide State and local authorities a single point of contact for terrorism and emergency preparedness efforts—one access point to obtain critical grant funding, and we look forward to working with Congress on this important issue.

As the Subcommittee is aware there are a number of additional bills that would impact how DHS and ODP support our first responders. While we are still reviewing the particulars of each bill, we are in support of their goals and objectives—improving our ability to protect our nation.

We have learned much about securing our homeland since September 11th, 2001, including much within the past few months from Operation Liberty Shield. One of the lessons that has become clear is that the formula currently being used for distribution of ODP grants, and partially defined within the USA PATRIOT Act of 2001, can be improved upon.

We at DHS have come to realize the shortcomings of the PATRIOT Act formula. The Congress, I believe, has seen them as well. Indeed, the need to separate funds out for high-threat urban areas was first recognized by the Congress and addressed in the Department's Fiscal Year 2003 Omnibus Appropriations Act. That need was again addressed in the Fiscal Year 2003 Emergency Wartime Supplemental Appropriations Act and the FY 2004 Department of Homeland Security Appropriations Act. We at the Department believe that more of the overall funds available to State and local governments need be distributed using the risk or consequence based formula of population density, presence and vulnerability of critical infrastructure of national significance, and credible threats, while at the same time recognizing that all jurisdictions need a baseline preparedness capability to prevent, respond to and recover from acts of terrorism and natural disasters.

We look forward to working closely with the Congress, our nation's State and local first responders, and stakeholder communities to improve the distribution of funds to ensure effective support of state and local homeland security needs.

Mr. Chairman, thank you for the opportunity to discuss the critically important work that the ODP is doing for our State and local emergency responders. Through the combined and collaborative efforts of Federal, State and local agencies, we have greatly enhanced the safety and security of our nation. At this point, I'd be happy to answer any questions that you might have about the programs of ODP.

Mr. COBLE. We are pleased to have all of you here, but I am especially happy to welcome a group of law enforcement people from Rowland County, North Carolina. It is good to have you fellows with us. I'm sure you'll benefit from this.

Commissioner Kelly.

**STATEMENT OF THE HONORABLE RAYMOND W. KELLY,
POLICE COMMISSIONER, CITY OF NEW YORK**

Mr. KELLY. Chairman Coble, Ranking Member Scott, Members of the Committee, thank you for the opportunity to testify. I want to thank Congressman Sweeney for that generous introduction as well as Congressman Weiner.

There's no question that the terrorist threat to New York City is serious and ongoing. Terrorists have targeted New York City at least five times in the last decade alone. The first bombing of the World Trade Center in 1993 was followed by its destruction 8 years later. In between, there was a conspiracy to destroy the Holland and Lincoln tunnels, the George Washington Bridge, the United Nations, and the Main Federal Building in Lower Manhattan, as well as a plot to bomb the subway system. The subway plot was foiled at the last minute by a New York City police officer who broke down the door of two Palestinians who were putting the finishing touches on the device.

Since then, two major news media outlets in New York City were the subject of anthrax attacks. And as recently as February of this year, a tough, seasoned al Qaeda operative named Iyman Faris was in New York City on a mission to destroy the Brooklyn Bridge. He was deterred.

But New York City remains a target nonetheless. Just this past weekend, a police officer assigned to our transit system apprehended two Iranian agents engaged in reconnaissance of the subway. The intelligence community tells us that New York remains the terrorists' highest priority target in the United States.

Homeland security funding formulas, however, do not recognize this fact. The funding is spread too thin and disproportionately away from the places most likely to be attacked.

We know what to do to make New York less vulnerable to attack. We also have the personnel and the expertise to get it done. What we don't have is adequate funding from the Department of Homeland Security. The block grant formula where most of the funding originates does not consider threat at all.

The Urban Areas Security Initiative, which seemed so promising at the outset, has been watered down as more and more localities are added to the list. In the first round, New York City received 25 percent of the funding allocated among seven cities. By the time last year's supplemental was announced, the list had grown to 30 cities and New York's share had shrunk to about 18 percent. Now there are 50 localities plus 30 transportation agencies on the list and the share for the New York metropolitan region, not just the city alone, has dwindled to below 7 percent.

New York City's Urban Area Grant was cut by two-thirds, the Washington, DC, area by half. And these are the most at-risk cities in the nation. Virtually every locality in the country can make

claims to hypothetical threats, but the threats against New York City are very real, indeed.

We know how al Qaeda thinks. If at first you don't succeed, try, try again. They viewed the first attack on the World Trade Center as a failure, so they came back with a vengeance on September 11. We have to be concerned that they will try to return to attack the targets that they were denied in New York. This is not a mystery. The plots were aimed at New York City, Washington, D.C., and in one instance Los Angeles International Airport.

The legislation that Congressman Sweeney has introduced, as well as others the Committee is considering, is necessary because it makes threat assessment a priority in deciding how funding should be allocated.

At the beginning of 2002, we created a new Counterterrorism Bureau. We assigned over 250 officers to it. On September 11 of 2001, we had 17 detectives assigned to our Joint Terrorism Task Force with the FBI. Now, 121 are assigned there. When all is said and done, we have about 1,000 police officers directly involved in protecting the city against another terrorist attack.

Our Hercules teams, comprised of specially trained officers with heavy weapons, appear unannounced at sensitive locations. They are there to respond to a terrorist incident and to disrupt the kind of surveillance we know that al Qaeda engages in.

Our detectives met with, or meet with suppliers of explosives, laboratory equipment, scuba gear, specialized rental equipment, just about anything that a terrorist may want to acquire in advance of an attack. These suppliers now serve as trip-wires, warning us that preparation for an attack may be underway.

Last March, with the commencement of the war in Iraq, we launched a heightened security program called Operation Atlas to protect New York City from possible reprisal. Given the ongoing terrorist threat, Operation Atlas remains in place today.

The short version is this. We are doing a lot and it is costing a lot. We are grateful for the help we have received from the Federal Government, but it does not come anywhere near the need. Right now, over 80 percent of the Federal assistance to first responders across the country is distributed in the manner that is blind to threats, the vulnerability infrastructure, and the consequences of an attack. Congress can help rectify this problem by adopting changes proposed in the legislation before you.

Again, thank you for this opportunity to testify and I will be happy to answer any questions.

Mr. COBLE. Thank you, Commissioner.

[The prepared statement of Mr. Kelly follows:]

PREPARED STATEMENT OF RAYMOND W. KELLY

Chairman Coble, Ranking Member Scott and Members of the Committee, thank you for this opportunity to testify.

There is no question that the terrorist threat to New York City is serious and ongoing. Terrorists have targeted New York City at least five times in the last decade alone. The first bombing of the World Trade Center in 1993 was followed by its destruction 8 years later. In between there was a conspiracy to destroy the Holland and Lincoln Tunnels, the George Washington Bridge, the United Nations and the main Federal building in lower Manhattan, as well as a plot to bomb the subway system. The subway plot was foiled at the last minute by the New York City police officers who broke down the door of two Palestinians who were putting the finishing

touches on the device. Since then, two major news media outlets in New York City were the subject of anthrax attacks. And as recently as February of this year, a tough, seasoned Al Qaeda operative named Iyman Faris was in New York City on a mission to destroy the Brooklyn Bridge. He was deterred. But New York City remains a target, nonetheless. Just this past weekend, a police officer assigned to our transit system apprehended two Iranian agents engaged in reconnaissance of the subway. New York is the Nation's largest city, the world center for finance and communications, and in the estimate of the Federal intelligence community, the terrorists' highest priority target in the United States.

Homeland security funding formulas, however, do not recognize this fact. The funding is spread too thin, and distributed disproportionately away from the places most likely to be attacked.

The New York City Police Department alone spent \$200 million in the last fiscal year to make sure we were not attacked again. The Police Department has also identified \$261 million in training needs, equipment and supplies directly related to counter terrorism. We asked the Federal government for \$261 million. And that \$261 million request does not include requests from other New York City departments. The City of New York's initial estimate of its counter terrorism needs for all agencies, which I have attached, was \$900 million. We've received a little less than \$60 million for all the City agencies involved in counter terrorism and response.

We know what to do to make New York less vulnerable to attack. We also have the personnel and the expertise to get it done. What we don't have is adequate support from the Department of Homeland Security. The block grant formula, where most of the funding originates, does not consider threat at all. The Urban Areas Security Initiative, which seemed so promising at the outset, has been watered down as more and more localities are added to the list. In the first round, New York City received 25 percent of the funding allocated among seven cities. By the time last year's supplemental was announced, the list had grown to 30 cities, and New York's share had shrunk to about 18 percent. Now there are over 50 localities plus 30 transportation agencies on the list, and the share for the New York metropolitan area has dwindled to below 7 percent.

Virtually every locality in the country can make claims to hypothetical threats, but the threats against New York City are very real, indeed. There is nothing hypothetical about it. We know how Al Qaeda thinks: If at first you don't succeed, try, try again. They viewed the first attack on the World Trade Center as a failure. So they came back with a vengeance on September 11th. We must be concerned that they will try to return to attack the targets that they were denied in New York. This is not a mystery. The plots we know about were aimed at New York City, Washington, D.C., and in one instance, Los Angeles International Airport.

The bill Congressman Sweeney has introduced, as well as others the committee is considering, is necessary because it makes threat assessment the leading priority in deciding how funding should be allocated.

Iyman Faris, who I mentioned earlier, is the same man who fought alongside Osama Bin Laden, who engaged in a battle which included the wholesale slaughter of Russian prisoners, and who helped supply Al Qaeda fighters more recently with sleeping bags, airline tickets, cash and cell phones. Nearly two years after the destruction of the World Trade Center, Iyman Faris was in New York City. He stayed in a hotel near Newark airport. He rented a car there and drove into Manhattan. He ate at a Pakistani restaurant a few blocks from City Hall. And after conducting surveillance of the Brooklyn Bridge, Faris reported back to his handlers that, "the weather is too hot;" meaning security was too tight for the plot to succeed. I want to stress, again, that an experienced Al Qaeda operative, linked directly to Bin Laden, was in Manhattan plotting to destroy the Brooklyn Bridge just nine months ago.

The highly visible security that the New York City Police Department had in place on the Brooklyn Bridge, in addition to the unseen protection, appeared to pay off in the Faris case. That is why, in the wake of last week's horrifying near-simultaneous bombings of two synagogues in Turkey, we have increased our visible presence around synagogues and other New York City landmarks and national symbols. The added coverage we have been providing at sensitive locations like the Brooklyn Bridge, synagogues and other national symbols, is just the tip of the iceberg in a comprehensive counter-terrorism strategy. At the beginning of 2002, we created a new Counter Terrorism Bureau. We assigned over 250 officers to it. About half of them were posted to the Joint Terrorist Task Force with the FBI. On September 11th of 2001 we had 17 detectives assigned to the Task Force. Now 121 are assigned there.

When all is said and done, we have about a thousand police officers directly involved in protecting the city against another terrorist attack. We also dramatically expanded the role of our Intelligence Division. We are conducting around-the-clock threat assessments, and integrating this real-time information into daily decisions about where to place resources and personnel. We appointed outstanding individuals from outside the Department to lead our intelligence and counter-terrorism functions. They have decades of CIA, counter terrorism and national security experience.

We built a new counter terrorism center from scratch and staffed it with police officers who speak Farsi, Urdu, Arabic, and Pashto. We have sent New York City detectives with the FBI to Guantanamo, Cuba and to Afghanistan to interrogate terrorist suspects there. We have also sent our detectives to other international capitals to work directly with their counterparts in tracking down any threats to New York.

At home, we are engaged in extensive training, and we are conducting drills on a daily basis. Our Hercules teams, comprised of specially trained officers, with heavy weapons, appear unannounced at sensitive locations. They are there to respond to a terrorist incident and to disrupt the kind of surveillance we know Al Qaeda engages in. We also regularly conduct something we call Sampson drills, involving teams of up to 100 officers at a time, including snipers, who can be dispatched quickly to any given location in the city.

Our detectives meet with suppliers of explosives, laboratory equipment, scuba gear, specialized rental equipment—just about anything that a terrorist may want to acquire in advance of an attack. The Police Department has also held briefing sessions for various segments of the public who may come in contact with terrorist plotters. For example, we briefed real estate agents on exactly what Al Qaeda tells its operatives to look for in renting an apartment.

Last March, with the commencement of the war in Iraq, we launched a heightened security program called “Operation Atlas” to protect New York City from possible reprisal. Given the ongoing terrorist threat, Operation Atlas remains in place today.

It brings together all of the core elements of the Police Department; Patrol, specialized units, Counter Terrorism, and our Intelligence Division, in a coordinated defense of New York City. Checkpoints are established periodically at key locations into and out of Manhattan. COBRA teams, which specialize in biological and radiological response, have been deployed throughout the city. We have increased protection of commuter ferries. Archangel teams, composed of emergency services personnel, bomb experts and investigators, have been staged across the city. Hammer teams, the police and fire department experts in hazardous materials, have been deployed jointly. We are also having teams of officers board subway trains, and search them car-by-car for anything suspicious. We want to discourage or even intercept a terrorist attack in the subway system. We have put a medical team together to help us train and protect police officers who might face biological or other unconventional weapons.

The short version is this: We are doing a lot, and it is costing us a lot; something on the order of \$200 million a year in operational expenses for counter terrorism in the Police Department alone. Only recently has financial help from the Federal government begun to arrive. We are grateful for the help, but it does not come anywhere near the needs that we have. Part of our challenge is, of course, the fiscal restraints under which we all must operate. You may not be able to do anything about those. But you can correct the system that sends more than 80% of the Federal assistance to first responders across the country in a manner that is blind to the threats this country faces, blind to the vulnerable infrastructure that exists in different places, and blind to the consequences of an attack.

Of the total of approximately \$232 million in Federal assistance for New York City, during the last two federal fiscal years, 70 percent of those funds have come from the High Threat Urban Area program, even though that program accounts for only about twenty percent nationally of the federal assistance for first responders. The High Threat Urban Area program attempts to compensate for the failure of the other programs to address the country’s counter-terrorism needs. Unfortunately, it does not succeed in correcting the lack of any consideration for threat in the other programs.

In fiscal 2003, the Federal government provided a total of \$3.45 billion for first responders through the Department of Homeland Security in three major programs: \$1.9 billion in homeland security formula grants to states, \$750 million in Fire-fighter Assistance Grants, and \$800 million for high threat urban areas. Only the last program for High Threat Urban Areas—which was only 23 percent of the total—takes into account terrorist threat, vulnerabilities and consequences.

In fiscal 2004, the total amount and proportion of funds being distributed on the basis of threat and need has declined. For this year, high threat urban areas will receive \$725 million, nearly a ten percent cut, while the other programs will receive \$2.95 billion, more than a ten percent increase. The result is that more than 80% of the Department of Homeland Security's first responder funds will be distributed blind to the nation's counter-terrorism needs. In real terms, for example, let's look at New York City and the National Capital Region, our Nation's highest threat areas. In New York City the high threat funding this year when compared to last year was slashed by an astounding two-thirds, and in the National Capital Region, by half. These deep cuts were made despite the fact that both areas were previously attacked—New York more than once—and both remain the targets of choice for international terrorists.

Let me first tell you why I am including the firefighter assistance grants in these totals. I recognize that there are needs in many communities throughout the country and that the Firefighter Assistance grants program existed prior to the events of September 11, but it has been increased greatly in response to September 11. I am not suggesting that those funds should be distributed on the basis of threat, but neither can their existence be ignored. Because these grants are limited to a maximum of \$750,000 per jurisdiction, they are of little help in those areas that have significant counter-terrorism needs, though they can be a significant help to rural areas and smaller communities.

Regarding the Homeland Security formula grants to the states, they were created after the events of September 11 and are a direct response to those terrorist attacks. They should be distributed on the basis of known threats, the presence of critical infrastructure and the magnitude of the consequences of an attack. Currently, those grants are distributed completely otherwise. Each state receives three-quarters of one percent of the total amount and the remainder is distributed on the basis of the state's population.

The result is virtually a complete mismatch between the funding provided under this program and the need, as evidenced by the Department of Homeland Security's funding of the high threat urban areas. I have attached a table that compares the funding received by the ten states that received the most high threat urban area funds and their ranking, on a per capita basis, of the formula grants. New York, which received the most high threat funds, ranked 49th in the formula grants. California, which received the second most high threat funds, ranked 50th. Texas, which received the third most high threat funds, ranked 48th.

Incidentally, Mr. Chairman, I was Commissioner of U.S. Customs when Ahmad Ressaam, the millennium bomber, was captured by Customs inspectors as he attempted to smuggle explosives into the U.S. as part of a plot to bomb Los Angeles International Airport. More evidence, I believe, that Al Qaeda focuses on high profile, major city targets.

It is clear that large amounts of the first responder funding are not going where they are needed. The result is wasted resources and, much worse, a population placed at risk of attack and of the economic consequences of an attack. Some have suggested that the high threat funds "make up" for the misdirected block grant and firefighter grants but the goal is not to even out every state and locale. We are in a war against terror and we must deploy our resources where they will do this country the most good.

In light of this, I have a few recommendations.

First, the funds in all of the programs to assist first responders established after September 11 should be distributed on the basis of three factors—known threats, the presence of vulnerable critical infrastructure, and the consequences of an attack. I want to thank Chairman Cox, Congressman Turner and Congressman Sweeney for introducing legislation that would move these programs in that direction.

Second, as you can see from my description of the steps that New York has taken, personnel costs are a significant part of the expense. Consequently, overtime costs and the personnel costs associated with training and with filling positions while personnel are being trained should be eligible uses of the funds.

Third, the funds should be directed to local governments. Currently, this is done by requiring a minimum pass-through to local governments. In New York, the City and the State are working very well together. I would also recommend that the Department have the authority to provide grants directly to individual local governments, as was done in the first round of High Threat Urban Area grants.

The funds should not require maintenance of effort on the part of the local governments as a condition of the grant. Such a requirement can result in the denial of Federal assistance just when it is needed most. Unlike the federal government, local governments cannot run deficits. As a result they may have to cut expenditures and if there is a maintenance of effort requirement they could become ineligible for fed-

eral grants. Similarly, any matching requirements should be interpreted to include, for example, in kind contributions.

Finally, State and local governments should be able to make procurement purchases through the federal contracts already negotiated by the General Services Administration. In New York, for example, the City can purchase equipment through statewide contracts. If State and local governments were able to do this through federal contracts, it would be more expeditious, help ensure the interoperability of the equipment and would probably produce a cost savings.

The City has its own budget difficulties. This year the City of New York closed an \$8 billion deficit. The deficit for next year is estimated to be an additional \$2 billion. Although the Mayor has attempted to protect the Police Department from cuts, even we have had to reduce our expenses. I would just like to note here, that the City estimated that it lost \$3 billion in revenues directly as a result of the September 11 attacks, and not as a result of the general economic slowdown, in 2002 and 2003. That estimate was reviewed and validated by the General Accounting Office. Although the City has been promised \$20 billion from the federal government post-September 11, that figure will cover only about one-quarter or less of the actual losses, both to the City and the City economy, from the attack. The City did not receive any Federal assistance for lost tax revenues. We are grateful for the Federal assistance received to date but the City needs further assistance to meet the threats posed by this war on terror.

Thank you for this opportunity. I would be happy to work with you on any proposals and I will be glad to answer any questions.

Attachment

Emergency Preparedness and Response Needs of First Responders City of New York

New York City has 5 first responder agencies – New York Police Department (NYPD), Fire Department of New York (FDNY), Office of Emergency Management (OEM), Department of Health and Mental Hygiene (DHMH), and Health and Hospitals Corporation (HHC).

These agencies are responsible for the prevention of and response to any terrorist attacks in New York City, with its resident population of approximately 8 million and approximately 11 million population total during the workday. New York City is the center of national and international finance, media and diplomacy. It has been a target of six Al Qaeda-linked attacks, twice successfully.

The City has taken steps to protect against terrorist attacks, including establishing a Counterterrorism Bureau and expanding its Intelligence Bureau in the NYPD. One thousand police officers are now devoted to these activities. The City has undertaken emergency planning and preparation in all of the first response agencies. Virtually all of these efforts have been funded from the City's own funds despite the City's struggles to meet the more usual responsibilities of a municipality in a time of large City deficits.

However, these funds will apparently be distributed through existing programs that were not designed to prepare the country for a terrorist attack.

The risk of terrorist attack is not distributed by population. New York City is approximately 2.85 percent of the nation's population and Washington DC is approximately 0.2 percent. Those two cities represent far more than 3 percent of the risk of attack.

New York's 5 first responder agencies have identified \$900 million in needs. The Federal Government should provide that one-third to half of the first responder funds go directly to 3 or 4 or 5 local jurisdictions most at risk of attack and with the largest needs – including New York City and Washington, DC.

In addition, the First Responder and Bioterrorism programs must not be funded by eliminating existing federal programs that currently provide funding for the City, such as the Local Law Enforcement Block Grant or the State Criminal Alien Assistance Program (SCAAP)

**EMERGENCY PREPAREDNESS AND RESPONSE NEEDS
CITY OF NEW YORK FIRST RESPONDERS**

<u>Counterterrorism, Intelligence and Public Safety</u>	\$200,000,000
<u>Training for First Responders</u>	
Police	\$ 40,053,028
Fire	\$ 41,761,026
Dept. of Health and Mental Health	\$ 16,050,000
Public Hospitals	\$ 1,861,600
<i>Subtotal</i>	<i>\$ 99,725,654</i>
<u>Security Enhancements for Facilities</u>	
Police	\$ 90,256,275
Fire	(included under equipment)
Office of Emergency Mgmt	\$ 6,500,388
Dept. of Health and Mental Hygiene	\$ 78,195,000
Public Hospitals	\$ 12,788,825
<i>Subtotal</i>	<i>\$187,740,488</i>
<u>Emergency Preparation and Response Equipment</u>	
Police	\$ 81,848,251
Fire	\$ 76,150,000
Office of Emergency Mgmt	\$ 7,448,690
Dept. of Health and Mental Hygiene	\$ 10,368,185
Public Hospitals	\$ 13,712,179
<i>Subtotal</i>	<i>\$189,527,305</i>
<u>Communications and Information Technology</u>	
Police	\$ 49,484,646
Fire	\$160,000,000
Office of Emergency Mgmt	\$ 9,183,429
Dept. of Health and Mental Hygiene	(included under facilities)
Public Hospitals	\$ 5,301,000
<i>Subtotal</i>	<i>\$223,969,075</i>
TOTAL	\$900,962,522

ATTACHMENTCOMPARISON OF RANKING OF HIGH THREAT FUNDING
AND BLOCK GRANT FUNDING PER CAPITA
FISCAL 2003 & 2004

The Department of Homeland Security distributes First Responder funds through two basic programs – High Threat Urban Area programs, where the funds are distributed based on an assessment of the threat of a terrorist attack, and State Block Grants where the funds are distributed under a formula where each state gets the same flat amount and the remainder of the funds are distributed based on population. Under the Block Grants, which account for more than 70 percent of the First Responder funding, there is no consideration at all of the threat of terrorist attack. The chart below shows how the 10 states that received the most High Threat Urban Area funding rank on a per capita basis under the block grant programs.

<u>STATE</u>	<u>RANK FOR HIGH THREAT FUNDING</u>	<u>RANK FOR BLOCK GRANT PER CAPITA</u>
New York	1	49
California	2	50
Texas	3	48
Illinois	4	45
Maryland ¹	5	32
Pennsylvania	6	46
Florida	7	47
New Jersey	8	42
Washington	9	36
Virginia ²	10	39

¹ Funding for the National Capital Area (\$89.9 million) was divided evenly between Maryland and Virginia.

Mr. COBLE. Director Bishop.

**STATEMENT OF WILLIAM H. BISHOP, DIRECTOR, BUREAU OF
HOMELAND SECURITY, STATE OF IDAHO**

Mr. BISHOP. Mr. Chairman, Members of the Committee, thank you so much for having me here. I have got to share with you that I am honored to share this table with Commissioner Kelly and Ms. Mencer.

Three weeks ago, a UPS truck stopped at St. Luke's Hospital in Boise, Idaho, and tracked a white powder from that truck into the receiving area in the emergency department. St. Luke's is our primary hospital in the City of Boise and in the Treasury Valley for obstetrics. The other hospital would like to be, but St. Luke's is.

Within 45 minutes, we were able to determine that white powder was, in fact, a soap product advertised on TV, and we did that with a piece of infrared spectrography equipment that we purchased for our seven HAZMAT teams through the ODP grant system. It works. It works. It works every day for us. It resolved an incident in 45 minutes that would have taken at least 48 hours to confirm that it was not a biological agent.

We are making good use of this money. We think it is very, very important. But I also have to tell you that I am concerned about overplaying threat and vulnerability analysis, and the reason I am concerned about it is that our track record has not been good. We think we understand the mentality and we think that we understand where they are going to go next, but they're predators, and we understand that if we harden one target, if we, as Commissioner Kelly makes great progress in New York City, other targets are going to become the targets of choice.

I think perhaps there is some expectation that this might be a WWF kind of event between Commissioner Kelly and I and I'm sorry to disappoint you because I don't think the issue is rural versus urban. A long, long time ago, somebody in this country said, if we don't hang together, we'll hang separately. New York City needs a lot of money. It's a jewel for this nation. The State of Idaho, as other rural States, understand that. We understand they have a great complexity and a great need. However, we also need to make sure that we don't create a greater vulnerability in the rural States by diverting resources to more urban areas.

I share Commissioner Kelly's confusion over an urban area initiative that started out with seven and continues to grow. We see the same thing in our State, in which people's feelings are almost hurt and they feel as though you're just not giving them enough value if you don't name them a top-ten target. I think the proper way to do this is to have a base allocation and then enhancement, such as was contemplated originally with the Urban Areas Initiative.

I need to take just a moment, as well, of my time and talk about standards, because that's implicit in a number of the pieces of legislation before us. And I've got to tell you that there are standards and there are plenty of standards. They are not well catalogued. They are not well brought together. We need to do that.

But as an example, we encountered difficulty in buying self-contained breathing apparatus because it was being tested by NIOSH

for CBRNE agents. And just as the tests were complete and some of it was getting certified, we were within 2 months of the new NFPA, National Fire Protection Association, standard becoming effective, a consensus standard. And so we waited until the breathing apparatus met both standards before we started expending these funds.

Lastly, I've got to tell this Committee and the United States Congress and the Office for Domestic Preparedness that this program is working. We need to tinker with it some, but it is working. The men and women in the Office for Domestic Preparedness have provided an outrageous amount of support to the State of Idaho and the other States. Weekends, evenings, they're always there for us. They've worked with us. We've worked through some serious problems together. They're doing the job. I would ask that we give them a little bit of an opportunity to work in a stable environment because it's really changed a lot every year in the last 4 years.

Thank you, sir.

Mr. COBLE. Thank you, Mr. Bishop.

[The prepared statement of Mr. Bishop follows:]

PREPARED STATEMENT OF WILLIAM H. BISHOP

H.R. 2512, H.R. 3158, H.R. 3227, AND H.R. 3266

Mr. Chairman and Members of the Committee, thank you for this opportunity to speak with you in regard to pending legislation that will affect not only my state, but emergency responders in all the states and territories as well as the safety of every one in our country.

While I speak to you today as the Director of Idaho's relatively new Bureau of Homeland Security, I bring with me the perspective of a former Fire Chief in a small rural Montana Fire Department and a hazardous material responder and agency manager. I have also been the "State Administrative Agency" for the various versions of the federal "First Responder Grant" programs from their inception in 1999 to the present.

I would first like to discuss the concept of threat, vulnerability, and risk because that concept is pertinent, if not at the core, of all four bills before this committee today.

Threat, vulnerability, and risk assessments are accurate for only a short moment in time. They are only snapshots. Any assessment should always be dynamic, rolling and held in suspicion by those who use it—and those who produce it. It is vital to our public safety and our nation's security that we not over emphasize any given assessment at any given moment. If we focus too tightly on a particular assessment, we will surely miss a vulnerability that arises within the next hour, day, or week.

There can be found no better example than the tragic event at the World Trade Center on September 11, 2001. Please, please understand my remarks are not meant to criticize the actions of anyone leading up to that day. But we owe it to all who perished and were harmed to learn as much as we can from the events of that day.

After the attack upon the World Trade Center in 1993, local, state and federal agencies came together to rebuild, redesign and harden that facility. Particular attention was given to ensuring that there was no possibility of a reoccurrence of a motor vehicle based attack. That effort was an extraordinary success. I attended a conference at the WTC in 2000 and took great recognition of the labors of those who had made such great improvement. I was impressed and took away some great ideas to improve the security of facilities in Idaho.

The attack of September 11th came elsewhere on the structure using another means of delivery and exploiting an unanticipated, and until that day, inconceivable vulnerability.

Among the thousands of lessons we need to learn from the loss of so many souls are these two:

The elimination or reduction of vulnerability in one location invariably creates vulnerability in another because those we call terrorists are simple predators that are adept at looking for, finding, and exploiting weakness.

We need, to the extent possible, manage our vulnerabilities as though they were ball bearings on very flat plate. If the plate is not kept level, very level, the bearings quickly cascade off the plate. We lose not just a single bearing, but likely all of them. Actions which over emphasize one vulnerability, will always tip the delicate balance of vulnerabilities and will decrease our security in other locations.

H.R. 2512

I believe H. R. 2512 might lead our nation's management of risk, vulnerability and threat to be too static, unresponsive, and dangerous. If, for example, our neighbors in the State of Washington become less vulnerable because of increased response capability and target hardening, we in Idaho are more at risk unless we make commensurate improvement.

I would respectfully suggest that H. R. 2512 does not well serve either Idaho's or the nation's security. It will likely relocate some vulnerabilities from currently higher risk areas toward areas that might now be at a slightly lower risk. In this war on terrorism, I can not afford to have a higher vulnerability than my neighbor. I become the more desirable prey—and that serves neither the nation nor the citizens of Idaho well. I would suggest leaving the base funding as it now is in Section 1014 of the Patriot Act.

H. R. 3266

H. R. 3266 also offers problems in how the nation would apply threat, vulnerability, and risk in its language proposed to amend Section 802 of the Homeland Security Act of 2002. It is not very likely that the World Trade Center, Boca Raton, or this city itself would have met the need for specificity under Section 802(e)(3), (4), or (5). The required specificity in those sections presumes a level of reliable intelligence and anticipation for which we, as a nation, lack capability. The World Trade Center would probably not have made the list because we believed it to be hardened. The threat of anthrax exposure was too vague before the fall of 2001. Most responders would not have seen anthrax exposure as a specific threat in virtually any location in the country.

A similar problem in H. R. 3266 is that it looks at specific damage in specific locations. It is the nature of terrorism that a gross failure to protect citizens in Stanley, Idaho can substantially erode the confidence of citizens throughout this country in their government's ability to protect them from attack. As in all states, emergency responders ran hard day and night to deal with Anthrax fears during late 2001 and 2002. We successfully resolved all calls within 24 hours—including several that our FBI colleagues felt had very high potential. The priorities in Section 802(e)(5) would have to include "the ability to engender fear" in order to be meaningful in a vulnerability assessments.

Our current management of threat, vulnerability and risk is working well because we use it dynamically and the Office of Domestic Preparedness has helped us adapt to changing intelligence and improving technology.

The Equipment Grant programs currently administered by the Office of Domestic Preparedness are very effective because they are 100% federally funded. That formula means that equipment is placed where it is most effective without being "held hostage" by conflicts in perception of priorities. For equipment specifically, I would suggest that 100% federal funding be maintained even if it means less equipment purchased. The program will be less costly to administer and less prone to delay. A 25% local or state match may be more appropriate in the areas of planning, training, and exercising.

The proposed sanctions in H. R. 3266 concerning timely distribution of funds would present a nightmare to all three branches of government. In this branch, I can foresee Members bombarded by requests from constituents, organizations, and Governors. The Department of Homeland Security will be faced with managing the same grant process in at least three ways, and there are bound to be court battles that border on the absurd.

I know that timely distribution of funds is an issue. We in the states are trying very hard to streamline, accommodate and meet our legal responsibilities both in grants management and distribution of funds. It is a popular notion that the system is "broken." I would suggest that there is no system.

In our haste to do the right thing, we have changed the "rules" in providing equipment at least annually since 1999. New programs are added, emphasis changed, and guidance changed. The funding in 2003 ballooned between the original appropriation and the supplemental. The rate and amount of change has been extraordinary and the Office of Domestic Preparedness and the states have struggled to staff, de-

velop, and execute appropriately. I particularly commend the efforts of the staff at ODP. They have labored well into the night and on through weekends to make the current programs work during a period of change that is unprecedented in our nation. I would ask this body to let our colleagues in the Department of Homeland Security and the states have an opportunity to work in a slightly less dynamic environment during the coming year. Further complicating the process of administering the grants by developing permutations of jurisdictional grant management options will lead to failure of the whole system. I will guarantee an exponential increase in waste, fraud, and abuse, mostly by error, if congress enacts Section 802(h)

H.R. 3158

I believe we need standards in the realm of homeland security and terrorism preparedness. I don't believe we are bereft of standards, however. There are a combination of pertinent federal, state, and consensus standards that hold sway. Annual evaluations of preparedness based on Federal Emergency Management Agency criteria have been long been done. That there is not a well codified "federal" set of standard is a concern, but does not constitute a "a public policy crisis."

This is an arena in which haste is almost certain to make waste. I believe that the Department of Homeland security—only 8 months old—has sufficient initiatives underway to begin the process of standard development. Some efforts require time and a form of gestation to develop well and fully. Increased funding and adding more people often does not cause the desired results. As a great neighbor of mine in Montana once said "Just because it takes a cow 10 months to have a calf, it doesn't follow that if you get 10 cows together then you can have a calf in one month." From where I sit, this looks like "10 cow" legislation

I strongly disagree that "The Federal Government should play a predominant role in assisting communities to reach the level of preparedness they need to respond to a catastrophic terrorist attack." I am committed to a full partnership among federal, state, and—most importantly—local responders. The federal government should be a full and significant partner—but not predominant. It will be local people that will die during a large incident and it will be local responders will have the greatest effect in saving lives. We need and want federal partners, but neither need nor want federal predominance.

Some specific comments are:

1. Section 1804(C) Emergency Medical services are really of many types in the nation. Significant differences include: Fire based services versus stand alone services; advanced life support versus basic life support, paid versus volunteer, and private versus public providers. I'm not sure that two representatives can be representative.
2. Section 1804(G) Given the broad spectrum of hospitals and medical providers, I am again doubtful two representative can be representative.
3. Section 1804 The Bureau of Alcohol, Tobacco and Firearms, the Federal Bureau of Investigation and the National Fire Administration should be named as de facto members.

While there is certainly a national security interest in defining "essential capabilities" doing so at the federal level radically changes many emergency preparedness principles. First and most important is that communities have usually set their own level of service through local legislation and budget. While federal support in equipment, training, and exercising is important, we quickly reach the point at which emergency responder staffing is the limiting factor in reaching capability goals. Staffing levels are usually set by local budgets. I've not heard any initiative to provide for continuing staffing support for operations. To the contrary, the informal discussions I have heard is that the federal government has no interest in providing permanent staffing where none now exists. Meeting nationwide standards for essential capabilities given staffing limitations at the state and local level is very unlikely.

H. R. 3227

While the provision of this bill are less invasive to state and local perogatives, I would like to, nonetheless, offer some perspective.

Section 2. Findings (3). I do not agree that "the standard setting activities . . . need to accelerated and coordinated." Given the upheaval and complexity of forming the Department of Homeland Security, I would suggest that letting the agency go to work is a good idea. I also would point out that there are useful standards available—those standards are just spread broadly through federal agencies and consensus organizations.

Section 2. Findings (4). The finding represents a value judgement that is widely held. I think that preparedness for attacks involving weapons of mass destruction has increased incredibly in the last two years. I certainly would *not* suggest that we're done—that we're completely ready. But the popular and oft repeated notion that we are no better off today than we were on September 11th is not true and is an insult to virtually all emergency responders at the local, state, and federal level. These men and women have worked hard. They have some equipment that they had not even dreamed of 4 years ago. They have training and skills that would have seemed irrelevant 4 years ago. They are well on the way to extraordinary preparedness—and have succeeded beyond what would have been reasonable to expect in such a short time.

Section 2. Findings (5). There is risk of waste here. While standards will offer some help, the greatest risk of waste comes from undue haste and lack of oversight.

Section 510. Emergency Preparedness and Response Standards (d). I would suggest adding the National Emergency Management Association as a cited group.

Thank you again Mr. Chairman and Members of the Committee. That this Subcommittee and the members of Congress continue to work to enhance national security and take such great interest in the well being of first responders is of great credit to this body. We in the field will always find a way of supporting the results of your deliberations.

Mr. COBLE. Now, folks, we impose the 5-minute rule against ourselves, as well, and Mr. Weiner, I will recognize all the Members of the Subcommittee first and then I will give you a chance to examine the witnesses at the conclusion.

Ms. Mencer, Congress provided \$2 billion in appropriations for the ODP State Homeland Security Grant Program and its new Urban Area Security Initiative. If you will, explain the difference between these two programs, A, and B, does the new Urban Area Security Initiative address the concern that additional funds are needed in higher-threat areas, and if so, how?

Ms. MENCER. Yes, Mr. Chairman, I'd be happy to. The first grant, the State Homeland Security Grant, provides a minimum base funding level for all States, with remaining funds distributed based on population, as well. The Urban Area Initiative Grant, however, looks at different areas. We look at the infrastructures that are there. We look at the threats to that area. And then we look at the population density, as well. So we think we have a balanced approach there using a base level funding for all the States and then adding to that with the Urban Area Initiative a more concentrated effort on where we have the highest concentration of our critical infrastructures and our threats.

Mr. COBLE. Commissioner Kelly, do you see any way of protecting rural States and cities and still by the same token improving the grant program for the higher risk usually urban areas?

Mr. KELLY. Yes, Mr. Chairman, I do. I think Congressman Sweeney's bill addresses that issue. It gives an equal amount of money to each State, if I understand it correctly, one-half of 1 percent to each of the States, and then the balance of the money is distributed based on a threat analysis. To me, this certainly addresses the concerns in the rural areas. The States will have to make the judgments as to where their resources are distributed, but to me, it makes common sense to put the majority of the available funds at places that are deemed to be at a higher risk.

We don't have unlimited resources. In an ideal world, everybody would get everything that they want. We just don't have that ability. I would recommend, of course, that the majority of funds be distributed on a threat basis with the base amount as Congress-

man Sweeney lays out in his legislation, being distributed equally to all 50 States.

Mr. COBLE. Mr. Bishop, in your testimony, you stated that H.R. 2512 might lead to our nation's management of risk vulnerability and threat to be too static, unresponsive, and dangerous. Elaborate, if you would, on that.

Mr. BISHOP. Mr. Chairman, I think history shows us, absolutely the events of today show us, that as predators, these people act to create terror as much as they act to damage infrastructure. Our ability to protect, in this case act effectively on intelligence and divert an attack and help the government of Turkey divert an attack, just didn't work very well, and the reason it didn't work very well is because we had hardened and we were paying attention in other arenas.

I think that the difficulty in using a threat analysis done this year to allocate funds for the next year or the next 4 years is that events with terrorists are so dynamic that it often has to be rolling in moment by moment.

I agree with, again, I agree with Commissioner Kelly that we have got a real well identified threat toward New York City and some other urban areas, as well. However, in the City of Boise, we also have some multinational corporations who operate in Indonesia and have plants in Indonesia and connections with Indonesia and we know from intelligence that Indonesia is, in fact, at this moment, one of the hotbeds of radical Islamist folks and our intel is that we have some pretty strong potential targets that happen to be in a more rural State.

Mr. COBLE. Well, my red light is about to appear, so we may have a second round here as we go along.

The gentleman from Virginia is recognized for 5 minutes.

Mr. SCOTT. Thank you. Thank you, Mr. Chairman.

Ms. Mencer, you indicated that you are in the process of prioritizing expenditures. That is, you are going to put more money where the threat is heightened. Are you getting information from other agencies, the CIA and others, to ascertain where those threats are more likely to occur?

Ms. MENCER. Yes, sir, we are. We have a very detailed matrix that we use to determine the urban area grants, which included information from the CIA and the FBI to help us determine where the threats are. I think we want to be careful when we look at threats and not just be myopic and focus on a threat from the Middle East. I think we only need to look at Oklahoma City to remember that terrorism can strike anywhere at any time and be done by a variety of different folks.

Mr. SCOTT. Is there a formula or do you just keep this in the back of your head as you make grants?

Ms. MENCER. Well, we assign a numerical value to each of the elements in the matrix.

Mr. SCOTT. Is there also a part of the grant program that establishes what one bill refers to as essential capabilities needed to respond? That is, what do the local first responders actually need in terms of equipment and training to properly respond and do those that are on the high priority list have those? Is establishing a list of essential capabilities part of the work that you do?

Ms. MENCER. That is certainly something that will be hopefully examined very carefully when we get our assessments back from the States, their strategies on December 31, and that is a—

Mr. SCOTT. That is what you are getting back from them. Are you establishing for them a list of capabilities?

Ms. MENCER. Well, the problem with that is each area is so different in its composition and makeup and what they actually need to protect what they have that it would be hard to develop a one-size-fits-all approach for each of the areas. But it's certainly something that we're working on and working to develop.

Mr. SCOTT. You indicated that the States were doing the State plans and Illinois had done a good job. Does each State have to reinvent the wheel, or can the other States that haven't quite finished up benefit from the work done in the States that have already completed their work?

Ms. MENCER. Well, I think the Department of Homeland Security has tried very hard to make sure that all the States can communicate with each other through conference calls, biweekly conference calls, also with meetings that we've held with the Homeland Security Advisors, of which I attended when I represented Colorado. I think they've done a good job of trying to share best practices, and we in ODP try very hard to make sure we can provide the technical assistance to all States and share with them what we see in other States, as well.

Mr. SCOTT. You mentioned communication, compatibility with communications networks between agencies and between States. Is that part of something that Homeland Security is working on?

Ms. MENCER. Certainly interoperability is something that everyone is concerned about. Coming from Colorado and Littleton in particular, I can tell you interoperability is something that's always on my mind. I think it is something we can do better and I think we are continuing to do that. But certainly, they can use some of these funds for interoperability issues.

Mr. SCOTT. Are there enough funds to solve that, because I know that's been one of the problems that comes up after every event, that some agency couldn't talk to another.

Ms. MENCER. Yes. Interoperability is a very costly thing because the radio equipment is very costly. There are quick fixes and short-term remedies to that which can be purchased which aren't as extensively dramatic in terms of cost and we have some of those in Colorado, as well, that link different radio frequencies together. But there are solutions short of doing a complete interoperability change of radios for every State.

Mr. SCOTT. One of the things that we saw after Hurricane Isabel was the kind of work that citizens can do when they're called. One of the bills includes an Office for Citizen Preparedness. Is that something that you're working on, so that people can be prepared to fulfill certain functions, food service deliveries, cutting trees, this kind of thing?

Ms. MENCER. Yes, sir. We now have Citizens Corps under our responsibility, as well, in ODP, and I just met with the Director of Citizens Corps last week. So we will be working very closely with them.

Mr. COBLE. We have been joined by the other gentleman from Florida, the gentleman from Massachusetts, the gentlelady from Texas. The gentleman from Massachusetts is recognized for 5 minutes. I'm growing tired here. The gentleman from Florida, Mr. Feeney, is recognized for 5 minutes.

Mr. FEENEY. Thank you, Mr. Chairman, for having what I believe is a very important hearing as we start this new process of dealing with post-September 11 threats. I really want to thank Congressman Sweeney for really taking the lead on pointing out a very serious problem in the way we allocate funds.

Respectfully to Director Bishop, much as you said I agree with, but I think that the formula that we have now is unresponsive and lacks the dynamism that we need to be flexible, as you suggested in your comments.

The truth of the matter is that a threat-based assessment makes sense in so many ways, but mostly because of what the terrorists are trying to accomplish. It seems to me that it is the strategic targets and it is the psychological effect of certain targets that is what are leading the terrorists to where they ultimately would like to strike.

Now, obviously, opportunity is something that they have to have in order to pull off a successful strike. So, for example, if you took a very rigid line, as I think my colleague Mr. Weiner suggested earlier, supposing we could draw eight perfectly secure urban areas where there was zero terrorist threat because we were perfectly capable of stopping it, I mean, in a theoretical world anyway, that would do nothing but what Director Bishop has said. It would make everybody else more vulnerable. So there is a fine balance here to play.

The population seems to be key, but, you know, Mr. Kelly, to the extent that population is the only thing that drives this, I would suggest that there are some problems with that. The Pentagon wasn't struck because Washington, D.C., is the largest population center in the United States. As a matter of fact, D.C. itself is less than two-tenths of the United States population. And I would suggest the World Trade Center, although New York is our largest and most famous city nationwide, also had some psychological and strategic reasons. The Brooklyn Bridge, obviously tunnels would create a lot of chaos. But there are some psychological impacts.

That leads me as a Floridian to suggest that this urban versus rural battle is insufficient to take in all of the necessary parts of the equation. We have got more coastline than the rest of the Eastern Seaboard put together to defend. We have got 14 deep water seaports that have enormous potential threats and don't necessarily represent population centers. We've got international airports that have record international visitors. Miami is the gateway to Latin and South America for the United States.

And we have got theme parks, and thank God that Congressman Keller led the way the other day to put Orlando, which is not one of the nation's largest cities per capita in terms of residency, but a lot of your constituents come join us every year and we are glad to have them. We have got international tourists that really are beating down a path to our doors there.

I would leave this for you to think about. In a real disaster scenario, there are weapons of biological nature that have incubation periods of seven to 10 days that are incredibly infectious that, with the right threat at, say, Disney World or Universal Studios or one of our other great theme parks, or many others across the country, but these are the largest, actually could transport these infectious diseases all over the world by the time we actually discovered there was a threat. So there are needs beyond just the population centers, and obviously the psychological impact, not just to the United States but to the free world, of attacking a place like that.

The only place to launch East-West satellites to protect our national security is at Patrick Air Force Base, as a practical matter today. The only place to launch the commercial satellites is at the—commercial applications. We wouldn't have cell phones in use today. We wouldn't have our Blackberrys. We couldn't pull money out of our ATM, let alone all the other disasters. And, of course, we've got the NASA center.

So one of the things I would suggest is that as we go through this formula, I really do believe the threat base, based on vulnerabilities, based on the impact and consequences, are what we need to be driven.

Ms. Mencer, in my brief time, I've got a question for each of you. I understand that the actual threat-based funding is set to decline this year by 10 percent while the base funding goes up, actually going counter to the problem we are trying to resolve?

Commissioner Kelly, are you getting the immediate intelligence information that you need in places like Guantanamo and Cuba and elsewhere from the FBI?

And finally, Mr. Bishop, with all due respect, would you address my concern that you've been inconsistent? You talk about a proposed formula that will be annually adjusted based on risk and threat assessment being too static, but I actually think the population formula that you suggest is best and the 40 percent for the States equally divided is as static as you can get and is not flexible enough to meet the needs.

Thank you. Ms. Mencer?

Ms. MENCER. Thank you—

Mr. COBLE. I thank the gentleman from Florida.

The gentleman from Massachusetts now—

Mr. FEENEY. Mr. Chairman, if I could, I actually squeezed three questions into the last 30 seconds.

Mr. COBLE. I stand corrected. Mr. Bishop, you may respond. He did put the question before the light came on.

Mr. BISHOP. Mr. Chairman, you know, there may be an apparent inconsistency, but I don't believe there is. I think we need to establish a sound funding level that's relatively consistent over time and then—and then do enhancements, perhaps annually, taking into account large urban areas, taking into account maybe even mid-year events and intelligence.

The difficulty in making that 0.75 to 0.5 reduction is that it tends to depress particularly the preparedness level in those more rural States. I would be derelict in my duty if I didn't advocate that we keep that higher level of funding available.

Mr. COBLE. I thank you, Mr. Bishop.

Now, finally, the gentleman from Massachusetts is recognized for 5 minutes.

Mr. FEENEY. Mr. Chairman, if I can respectfully, I actually had a question for Mr. Kelly and Ms. Mencer, too, if it is all right.

Mr. COBLE. I'll tell you what. We're going to go a second round.

Mr. FEENEY. Okay.

Mr. COBLE. If you would hold for your second round—

Mr. FEENEY. That would be fine.

Mr. COBLE.—and Marty, 5 minutes.

Mr. MEEHAN. Thank you, Mr. Chairman. I compliment the gentleman from Florida for an excellent 2-minute drill, getting in all his questions before the time was off. I hope the New England Patriots' 2-minute drill is as effective on Sunday. [Laughter.]

Mr. COBLE. And if the gentleman will yield, I am a Patriot fan. I've told you that before.

Mr. MEEHAN. Which I appreciate that, Mr. Chairman.

A recent U.S. Conference of Mayors study found that 90 percent of the cities have not received funds that were promised from the Federal Homeland Security Assistance programs for localities, and I hear those complaints in Massachusetts and I'm interested, first, Commissioner Kelly, have you run into this problem yourself, and in your opinion, is this an extensive problem?

Mr. KELLY. It is a bit of an issue. The city has been identified as receiving \$232 million through the Department of Homeland Security. So far, \$60 million, according to our records, have been received. Now, there is an application process, administrative process that we're aware of and I think to the credit of the Department of Homeland Security, I know there's a lot of effort being given to streamlining that process. But there is clearly a lag between, I guess, appropriation, you might say, and receipt on the part of localities.

Mr. MEEHAN. Ms. Mencer, how do we make sure that Federal assistance for homeland security actually reaches first responders and do you expect that, to the extent that there are these funding conflicts to be resolved so that local governments can address issues like port security or security at nuclear plants, for example?

Ms. MENCER. Yes, sir. As Commissioner Kelly said, we are working very hard to streamline this grant process. We have turned funds around quicker than any other time in our nation's history. Certainly, it's unprecedented, the speed with which we are getting these grants out the door. And we are under restrictions that we place on ourselves to turn around the applications and the States have also very tight deadlines to turn around their applications to us. So I believe a lot of the delay comes in waiting for the States to submit their applications to us for approval. But we're working very hard at doing that with our one-stop shop and our web portal so we're working very hard in that regard.

Mr. MEEHAN. And have you seen some progress in terms of the turnaround being quicker?

Ms. MENCER. Yes.

Mr. MEEHAN. Is there any evidence to suggest that you're getting that down?

Ms. MENCER. Yes, absolutely, sir, and I think—

Mr. MEEHAN. Or that States are.

Ms. MENCER.—I think we're getting better all the time. The States are getting better with the grant process, as well, because they have organized their regions, a lot of the States have, and now have a mechanism in place to respond more quickly to our grant applications.

Mr. MEEHAN. According to a bipartisan task force sponsored by the Council on Foreign Relations, the United States is still, quote, "drastically underfunding local emergency responders and remains dangerously unprepared to handle an attack on American soil, particularly one involving chemical, biological, radiological, nuclear, or high-impact conventional weapons." For example, most fire departments lack equipment and personnel to respond to building collapses, let alone major catastrophes.

The task force concluded that America will fall about \$98 billion short of meeting critical first responder needs, and then when you look at, or I talked to the cities and towns in Massachusetts that I represent, it appears to me that we actually have fewer cops and fire fighters on the street than we did before September 11. I'm trying to determine whether that's so or not. I guess, Commissioner, I would ask you, are there fewer police officers on the streets in your—

Mr. KELLY. We have 4,000 fewer officers than we had in October of 2000. So, obviously, that's over a 10-percent reduction for New York City Police Department.

Mr. MEEHAN. So presumably, the same is true with fire fighters. I know I've talked to the head of local fire fighters or the head of unions in Massachusetts and other parts of the country and they seem to be in the same position.

I guess, Ms. Mencer, the question would be how are we going to get to a point where we're actually—if we don't even have the—if we have fewer personnel than we did in first responders, police and fire, around the country than we did on September 11, 2001, how are we going to make up this gap? Because it seems to me that we're asking them to do so much more and most departments in the country have fewer people.

Ms. MENCER. Sir, we do have some allowances in our grant programs to fund overtime expenses for police officers and first responders, so that should help considerably. I have a vested interest in Massachusetts since my daughter goes to school there, so I want to make sure you're safe and your State is safe. But I think we do have some ways to address the shortfall that may or may not be out there with the law enforcement communities.

Mr. MEEHAN. Thank you. Thanks, Mr. Chairman.

Mr. COBLE. I thank the gentleman.

The gentleman from Florida is recognized for 5 minutes.

Mr. KELLER. Thank you, Mr. Chairman. I want to begin, Director Mencer, by just offering my unqualified, unmitigated praise in support of the Department of Homeland Security for adding the Orlando area to the Urban Area Security Initiative, and I would like to just briefly address why I think that is important, because two of our witnesses, I know Commissioner Kelly and Mr. Bishop, have said something that could be implied to be a little critical, that adding too many cities has watered this down.

But I have a city. The greater Orlando area only has about a million people, but we are the world's number one vacation destination, with 43 million tourists, and you have al Qaeda documents found in terrorist training camps in Afghanistan specifically identifying these critical infrastructures in Orlando as being a target that they would be likely to hit, and that is very expensive, when you go from yellow to orange and you have terrorist alerts, to protect 43 million people. So I think it made sense that it was added and it was a very smart move.

I know that Commissioner Kelly feels like New York City is not getting enough money, and I certainly don't want to quarrel with him. I'm someone who has voted to give hundreds of millions of dollars to New York and I will continue to be supportive of New York. But I would point out, under the list of cities from the Urban Area Security Initiative, New York is number one in the United States—that just came out last week—with \$47 million. So I don't think they're trying to dis New York. I understand that more money could be provided, but they're still number one there.

You did say something, Commissioner Kelly, that I found very intriguing. You say that the Department of Homeland Security should give the money under the high-threat urban areas directly to the local governments instead of funneling it through the States. That is something I agree with. So let me ask you this, as someone who heads a major police department.

You get the money directly from the Federal Government under the COPS program and then, in the alternative, you get your homeland security money through the States first. Tell me which approach you like better and why.

Mr. KELLY. Well, first of all, the State takes an administrative fee, the money that comes to the city, or—

Mr. KELLER. That's 20 percent, I think.

Mr. KELLY. Twenty percent.

Mr. KELLER. Right.

Mr. KELLY. So obviously, it means less money for the localities. That's reason one. And, generally speaking, it slows it down. There's an administrative lag that has to be addressed. I think certainly a city like New York has shown that it has the ability to process that money and spend it wisely and do it quickly. So that's the reason that we would argue for money going directly to localities. We have a good relationship with the State, and I understand some money will necessarily go to the State, but certainly we think that a significant portion of it should go directly to the cities.

Mr. KELLER. Thank you, Commissioner Kelly. I would say also to Director Mencer, that's exactly really what I hear from our sheriffs and chiefs of police, also. The COPS program is about the most popular program I've ever seen because they get it directly. There's not the red tape. There's not the bureaucratic waste, and it's simplified and quick. And sending it through the States is a little bit more cumbersome and they take 20 percent off.

So I would say, as a compromise, one humble suggestion I offer is while you may want to continue to funnel the money through the States with respect to the population-based formula that is used, with each State getting a certain percent and the rest population, because after all, you are holding the governor accountable for

making his State safe, when it comes to the money for the high-threat urban areas, I think there is some merit to the approach of sending that money directly to the individual cities. I know that Orlando has some great ideas as to what they want to do with the \$8.7 million and they're a bit frustrated that the folks in Tallahassee will take 20 percent off the top and not do much for it.

What are your thoughts about having some tinkering there with respect to the money that's under the high-threat urban areas, going directly to the cities as opposed to funneling it through the States?

Ms. MENCER. Well, sir, having been the Director of Homeland Security for the State of Colorado and now in my national position, I have kind of a unique perspective of it because I can see both sides of this issue.

I think that funneling it through the States or guiding it through the States promotes great oversight and a regional concept approach by having the State receive it first. The States actually don't have to take all 20 percent. They can take as much as they feel necessary to administer the cost. You have to remember what the State is responsible to do, as well, which is to have a State strategy put together. So if we funnel money directly to the individual entities, then we kind of lack the incentive for a regional approach or to get a State strategy together. There's no overriding group that can do that. In our area, in Denver, what we did in our urban area is we took some of our State money and gave it to the Urban Area Initiative, the regional, as well as, the region.

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

Mr. COBLE. I thank the gentleman.

It appears we have a vote on, but Ms. Jackson Lee, let me recognize you for 5 minutes. Then we'll go vote and come back because I think we have some more questions. The gentlelady from Texas.

Ms. JACKSON LEE. I thank the Chairman very much. First of all, let me thank the Chairman and the Ranking Member for a very, very important hearing to emphasize the concerns that I maintain as a Member of the Homeland Security Committee in addition to this Subcommittee of the Judiciary Committee, that this question of preparedness is key to, I believe, our responsibilities in Government.

Having just come back from Iraq, I might pose more provocative questioning that I would like to take us down the pathway of, experts that are here. You come from different perspectives. So let me just, as a backdrop to the visit in Iraq and the evidence of the continued insurgent actions against troops and others, with the backdrop of the series of threats and terrorist acts in Turkey as late as just 24 hours ago, and what I just glean in terms of what is healthy. It is positive that we are going about our business here in the United States since 9/11. That's extremely positive, but recognizing the horrificness of the tragedy.

Let me just go directly to the honorable head of the New York Police Department, who has had, Mr. Kelly, a wide range of experiences and we've worked together in the past. Are we being complacent and ineffective, if you will, in dealing with the potential soft target threats that we may be facing? Are we moving too slowly? Do we need to stop for a moment and get a threat assessment not

in a year's time, but right now, where we finish it in 2 weeks, 4 weeks, because I think we're still analyzing or trying to achieve, or maybe haven't gotten there, a threat assessment, and how do we do that?

Mr. KELLY. Well, we receive intelligence information from the Federal Government on a steady basis, a daily basis. I think the fundamental issue is what we're receiving as a nation. So when you say threat assessment, I think the Federal Government is doing the best it can and we are doing the best we can in New York City to analyze the intelligence that we have. But it's still a very difficult process. It's not clear what the threats are. Yes, we know chemical, biological, certainly conventional means can be used as a weapon, but it's very difficult to more specifically define the threats that we face.

In my prepared remarks prior to your arrival, I mentioned Iyman Faris, who was clearly an al Qaeda operative who was apprehended on March 20 of this year. He had been scouting the Brooklyn Bridge and he was deterred because of the uniformed presence, the security that we had in place. Now, that's what we're doing on the local level. That's what we're doing in New York.

But you say threat assessment. The information or the intelligence that is available, I don't think can be more finely honed than it is now. We simply don't—we don't have it.

Ms. JACKSON LEE. I thank you. Ms. Mencer, both of the bills that have come out of Homeland Security have a threat assessment component to it. Where are we in terms of having completed anywhere near a threat assessment by the Department of Homeland Security, which we spoke to the governor about so many weeks ago, if you will—not many weeks ago, many months ago. Has the Department of Homeland Security completed its threat assessment for the nation?

Ms. MENCER. Well, certainly that's a little bit out of my purview with ODP. We have gotten our matrix together to determine our urban area grants, but that's, you know, very limited. We're not really privy to the intelligence, all of the intelligence behind that matrix. That probably is a question more appropriately answered by the Infrastructure Analysis and—

Ms. JACKSON LEE. Well, let me do this very quickly, then. As you look at our two bills that we have before us, at least from Homeland Security, our goal is to look at the threats and vulnerabilities that every area faces, including rural areas, and the people, and to provide the essential capabilities that are needed to meet that threat and protect those vulnerabilities. Can you comment on our funding system that we may have and can you comment on giving to Citizen Corps, community groups, direct funding?

Mr. COBLE. If the lady would suspend, how long will it take you to answer that, Ms. Mencer, because we're going to have a second round of questions. Sheila, can you come—Ms. Jackson Lee—

Ms. JACKSON LEE. If she could just do it very quickly—

Mr. COBLE. Very quickly, Ms. Mencer.

Ms. MENCER. Okay. We are requesting each State to do a threat assessment and a strategy, which is due to us December 31, which will give us a much more comprehensive view of the States'

vulnerabilities and what they perceive their threats to be. So that should be very helpful.

Ms. JACKSON LEE. And Citizen Corps direct funding?

Ms. MENCER. Citizens Corps, I am working with Citizens Corps. I had a meeting with the Director last week and we have just received that program, so we'll be working very closely with them.

Ms. JACKSON LEE. I'd like to work with you and meet with you on that, please. Thank you.

Ms. MENCER. I would appreciate that.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

[The prepared statement of Ms. Jackson Lee follows in the Appendix]

Mr. COBLE. Folks, I hate to do this to you, but—

Mr. SCOTT. Mr. Chairman, could we recognize Mr. Weiner? We have a couple of minutes—

Mr. COBLE. Mr. Weiner, if you could do it real fast, we can—

Mr. WEINER. Yes. I will take less than just a minute or two. I just want to clear up a couple of quick things that have emerged.

First of all, a couple of members of the panel here have made reference to it and Mr. Bishop did. We have to draw a distinction between the hypothetical what if, could be, possibly, and what is actually going on today in New York City, what's actually going on in Washington, D.C., what's actually being reported in the intelligence chatter. It is no dispute that the shoreline of Florida or a hospital in Boise could be under risk. No doubt about that. The fact is, though, that New York City is.

And let's make it very clear what we're talking about here. Two-point-two billion dollars went into the general fund to fund the general threats. This was a specific program set up for high-threat—high-threat—high-density areas, of which \$7.25 billion—\$725 million is gone. And the issue here, Ms. Mencer, and to my colleagues, as well, is you add city, add city, add city, add city, add city, you are having the effect of taking away from the top, taking away from the top, taking away from the top.

So I have two very quick questions. One, are you done adding cities? Is Fresno enough of a high-threat, high-density area to be lumped in with New York City? Is San Antonio? I mean, at what point will you stop adding cities? Are you done?

Mr. COBLE. If the gentleman would suspend, Mr. Weiner, let them think about that. Can you come back for the second round, Mr. Weiner?

Mr. WEINER. I've got nothing but time, Mr. Chairman.

Mr. COBLE. Folks, why don't you all get a cup of coffee and a sandwich. I hate to do this irregularly, but there are a couple more questions I want to put to you, too. We should be back in about 35 minutes. So you all stand easy in the meantime.

[Recess.]

Mr. COBLE. We will resume our hearing now. Our witnesses are still around. Mr. Weiner, you have three-and-a-half minutes remaining.

Mr. WEINER. Thank you, Mr. Chairman. When we had left, I had posed a question as to how big the list of urban areas security initiatives, States, how big of a list of high-threat, high-density urban area grant-eligible areas there would be, and the reason I was ask-

ing that is every time you add one, you take away money from New York City. Every time you add one, you take away money from the original seven. You are, by doing each additional State, taking away from the top. And so my question was, are you done adding cities?

Ms. MENCER. Well, sir, I think that's a difficult question to answer. I think it will continue to change as we continue to look at the threats that are out there and the vulnerabilities that exist. So will it stay at 50? I really don't know. It may expand. It may get less. I don't know yet. We'll have to assess each time we have money to award.

Mr. WEINER. I would point out to you that it's going to be very difficult politically and, frankly, substantively to take a city off this list because you are then tacitly saying that the risk is now lowered to the point it no longer falls into this high-threat, high-density, and I think that that is a consideration that hasn't been fully thought through by your office. When you add Fresno, it becomes very difficult next year to take Fresno off. And so your answer is, this thing could—you could add another 20 cities next year.

Ms. MENCER. Mr. Chairman, I think it—I don't know. I mean, we're going to get these strategies and assessments from the States at the end of this year and we will look at those and that will give a good indication to us where the vulnerabilities still remain, where the needs still exist, and that's a needs assessment, as well, so—

Mr. WEINER. Well, let me ask you about the formula that's written into the law by Congress. The Secretary shall take into consideration credible threat—and by the way, this order was not random, this was the intent of Congress to order it in this way—take into consideration credible threat, presence of critical infrastructure, population, vulnerability, cooperation, and multiple jurisdictions.

Can you tell me—it has been reported that population is weighted by a factor of nine, infrastructure is weighted by a factor of six, credible threat is weighted by a factor of three. Can you confirm that?

Ms. MENCER. I believe that's correct.

Mr. WEINER. Can you explain to me how credible threat, meaning a reason that the gentleman to your left, the two gentlemen to your left, have reason to believe that there is going to be a threat to their locality, is weighted less than, say, population?

Ms. MENCER. Well, I think it's all part of the mix and I think—

Mr. WEINER. I'm not saying it's not. I'm saying, how come you and your office, when deciding how dollars will be distributed, weight the credible threat, the likelihood that al Qaeda is going to try to blow up a bridge, a tunnel, a building, is weighted less than population?

Ms. MENCER. I think because threat is a fluid thing and we can't—it's difficult to assess, if you say you have a threat against one facility, what the level of threat is on that, and we don't, in the Office for Domestic Preparedness, we don't have the raw intelligence data to determine that.

Mr. WEINER. But the whole purpose of this element of the grant, the high-threat, high-density urban area grant, if you don't have

the wherewithal to determine the threat part of that grant, then, madam, perhaps you're the wrong person to be distributing it, because I certainly know the gentleman to your left has that data.

Ms. MENCER. I think, sir, that even though we have threats that are audible threats, or visible threats, or identifiable threats, we in no way as a Government, in the intelligence community or in the law enforcement community, can say definitively that we know all the threats out there. We will never know all the threats.

Mr. WEINER. I don't think I've asked you, madam, to identify all the threats out there. I'm asking you how you allocate funds that are to be used for high-threat, high-density areas. And if you're saying that you don't have the ability to weigh it sufficiently, so you put it lower on the list, I can tell you that there's someone sitting at your table who does, who can take you into a quiet room right now and tell you about them, and that's the purpose of this grant.

If you don't have the ability to assess that, then frankly, madam, I think we should give the authority to someone who has that ability, and there are people in this country who can tell you that the threat to New York City today is exponentially higher than the threat to, say, Boise.

Ms. MENCER. Well, sir, I'm not sure that we know where all the threats are.

Mr. WEINER. Madam, I'm not asking you to identify what all the threats are.

Ms. MENCER. But you—

Mr. WEINER. I just want to make that clear. But your job is trying to give out the high-threat, high-density urban area grant is based first and foremost on high threat, and we have had hearing upon hearing upon hearing about improving our intelligence gathering to the point now that we do know where the high-threat areas are. We do know that. I mean, I can tell you where they are, and this isn't violating any State secret. Wall Street, high threat area. U.N., high threat area. Brooklyn Bridge, high threat area. These are them. I can keep listing them for you and I can help you do your formula. But by weighting threat lower than, say, population, you are simply not doing the job that Congress intended when they set up these grants.

Mr. COBLE. Your time has expired, Mr. Weiner.

Mr. WEINER. Thank you, Mr. Chairman.

Mr. COBLE. Again, folks, I apologize to you. Mr. Weiner, do you want—Ms. Mencer, do you want to correspond by mail in response by writing Mr. Weiner and to further extend your questioning to the Director?

Mr. WEINER. I think it actually might be much more productive for Commissioner Kelly to be corresponding with the Director because he apparently has the information necessary for her to make these grants—

Mr. COBLE. Well, perhaps they can get together.

I again apologize to the witnesses for keeping you all here, but we can't control the voting and this is too important an issue, it seems to me, to give it short shrift.

Let me put a question—well, strike that. I have a question for Mr. Feeney and a question for Mr. Scott. Let me put this question

to you, Ms. Mencer, and maybe we've touched on this, but what steps are the Department of Homeland Security and the Office for Domestic Preparedness taking to assess the nation's emergency response capabilities and what guidance is DHS providing States and locals in assessing their own needs?

Ms. MENCER. Yes, Mr. Chairman. As I've mentioned earlier, we are requesting the States to do a State homeland security assessment and a strategy, which is due to us December 31, and they are required to look at all their needs, their gaps, their vulnerabilities, what kind of equipment, training, what kind of resources do they presently have and what do they need. So we are waiting for that. We did a previous assessment back in 1999, so we have a baseline, and this will now give us a more current, up-to-date view of what their needs are.

Mr. COBLE. Now, this is from Mr. Feeney, the gentleman from Florida, and Commissioner Kelly, I think it was directed to you. Let me reiterate the question. What are the concerns about the Congress using the grant program for pork barreling on the one hand, and on the other hand, because the formula is intelligence driven in part, the program not being accountable and responsive to the public? I think that was the question that he ended on when his time expired.

Mr. KELLY. Mr. Chairman, I believe he did ask a question concerning intelligence information that we're gathering. Is there sharing of information among the Federal agencies, at least in New York City? He mentioned whether or not we were getting information from Guantanamo Bay, for instance, and I would submit to that question the answer in response to that, yes, we are.

There is much more effective sharing of information, intelligence information, now. We, in fact, have 121 investigators working with the FBI and other agencies in our Joint Terrorist Task Force, and indeed, our investigators have been to Guantanamo Bay, have been to Afghanistan, and I think we're working closely with our Federal partners and we are sharing intelligence information.

That was the question that Mr. Feeney asked. He had three questions that he put out in the last 30 seconds of his time.

Mr. COBLE. And I think two of them were answered and then the red light was illuminating in our eyes—

Mr. KELLY. Yes, sir.

Mr. COBLE.—so I cut him off and didn't mean to do that.

Now, this is Mr. Scott's question. Some of the bills propose modifying the threat advisory system—now I presume that's the color coding system—by shifting to a regional or economic sector focus. Do you agree with these proposals? Why or why not? And either of the three or all three of you can answer. Why don't I start with you, Ms. Mencer.

Ms. MENCER. Yes, sir. I think there is that flexibility now within the threat advisory system that it could be done on a regional basis, if necessary. So I think that flexibility currently exists.

Mr. COBLE. Mr. Kelly, do you or Mr. Bishop want to weigh in on this?

Mr. KELLY. I haven't seen it done on a regional basis, but it makes sense to me. Obviously, you know, there are very few threats that would impact on the entire country. So it seems rea-

sonable to have a regional or perhaps a sector-based warning system. So I would agree with that.

Mr. COBLE. Mr. Bishop?

Mr. BISHOP. Mr. Chairman, what we're developing in Idaho through some ODP-funded exercises is a system whereby our local emergency planning committees will meet and specific sectors, and law enforcement being a principal one, will meet at the time the Federal Government changes the threat level, and then through that meeting, decide, based on the intel as we understand it that led to the Federal change, we will decide on local and regional actions that are specific to the cause of the threat level being raised. So in a strong sense, we're regionalizing in Idaho and we're not, of course, not changing the Federal color, but we're reacting to the Federal color in shades, if you will.

Mr. COBLE. Thank you.

Bobby, do you have any questions?

Mr. SCOTT. I understand the question I had just been asked, and I appreciate the response.

Mr. COBLE. Again, I thank you all for being here. Commissioner Kelly—oh, do you want one more, Mr. Weiner? Okay.

Mr. WEINER. A brief follow-up directed to Commissioner Kelly. Commissioner Kelly, is part of the problem here something that Congress created? Let me read again the language that we included in the conference report on how this money is to be distributed. Quote, "The Secretary shall take into consideration credible threat, presence of critical infrastructure, population, vulnerability, cooperation of multiple agencies, of multiple jurisdictions preparing domestic preparedness plan," and let me just stop there.

Is the fact that our police department is such an extraordinary one and that we have invested so much and we have hired so many, and frankly done an extraordinary job beyond, frankly, many of the Government agencies, is it your view in watching this process as a participant that, in fact, it is the very fact that the city police department has done a good job that is now being scored against them and the very fact that other police departments perhaps are not up to snuff and, therefore, have greater vulnerabilities that they are now kind of leapfrogging ahead in terms of the Federal dollars they are getting from this limited fund?

Mr. KELLY. I don't—or at least I hope that's not the case. I don't believe that's the case. I think, having spent four and a half years here in Washington, I understand that there is this desire to share the wealth, you might say, to make certain that everybody gets something good for their districts. I think what's different now is the post-9/11 world that we find ourselves in. You would hope that in this area of securing the country that it wouldn't be business as usual.

What we are proposing here in these pieces of legislation makes eminent common sense to me. All it says is—that is legislation, Congressman Sweeney's legislation and the two others, as well—is that you take the preponderance of your resources and you distribute it based on the threat that we face. You now have a situation where only roughly 20 percent of the resources dedicated to protecting the country, roughly \$3.5 billion each year, is being dis-

tributed based on threat, and we can talk about how you do that analysis.

It just is common sense that you would, in my judgment, anyway, shift the preponderance of those resources to be distributed based on threat analysis. That's not what it is now. Eighty percent of it, or roughly 80 percent, is distributed based on population or based on each State gets the same amount, and to me that's illogical.

Mr. WEINER. And I just want to reiterate the history here, because, in fact, Mr. Bishop and other members of the panel have alluded to the general need. The history of this was the block grant formula that was originally conceived, that it was based essentially on a per capita formula. It was widely criticized. Even Secretary Ridge said it was flawed, it was fatally flawed.

And Congress, and the Secretary and the President of the United States, came back with this proposal to create this fund of money that was based on threat, just as Commissioner Kelly just said, and what we are essentially doing is transforming that element of the funding that was supposed to be targeted toward threat, putting aside the other fund, which continues to exist, the funding that's supposed to be targeted toward threat, and we are now transforming it into another generalist pot of funds.

I just want to remind you, Ms. Mencer, that the reason this fund was created is not to do those other things, to do exactly the thing you said you're having a tough time getting your hands on. That's the purpose of the fund. It is to—it was not a mistake that it was called the high-threat, high-density urban area grants. And if it's the testimony of the Director today that you are unable to get your hand around that threat, well, in that case, fundamentally, then this program is not the way that Congress designed it. If you're saying we're not really good at that so we're going to weigh it a little less, that is countervailing the intention of Congress when we drafted this element of the program.

And I see that you're shaking your head, but I want to just say the testimony you've given today is that you have a lower ratio basing the formula on credible threat than you do on either population or infrastructure because, in your words, it's a fluid thing that you have a difficult time assessing from day to day. That, to me, is an argument that if you have a difficult time doing it, not to weight it less, develop a better way to do it better.

Weighting it less was not an option Congress intended to give you. We said very clearly how we wanted this to be assessed, and we said first in the language, first in the name of the section that you're administering, threat was supposed to be the preponderance of the way that your office distributed this money, not third or fourth or fifth. So if you are having difficulty, ask this Congress. I am sure we'll give you help. Ask the Homeland Security Committee. Ask your boss. We will give you help in addressing the threat if it's really so difficult. Thank you.

Mr. COBLE. I thank the gentleman.

Finally, Mr. Kelly, the spokesman for the fire fighters asked if I would put this question to you, and I'm reading from the question. Your statement regarding the assistance to fire fighters grants in your testimony presented before the Select Committee on

Homeland Security regarding homeland security grants has caused concern among fire fighter groups who have contacted this Committee. They appear to be concerned with your statement that these grants are of little help in HOES areas that have significant counterterrorism needs. And from reading your testimony, they say, I am not sure what you are suggesting be done with these grants, if anything. Can you clarify or elaborate on that, Mr. Kelly, for the record?

Mr. KELLY. Yes, Mr. Chairman. Those grants are capped at \$750,000 per locality. It doesn't make sense to me to have that cap in place for cities such as New York or other major cities. My understanding of that piece of legislation says you can't get more than \$750,000 per city. So my suggestion was that that cap be eliminated. New York—the Fire Department of New York City has 13,000 employees, has a budget of probably \$1.5 billion. So, clearly, \$750,000 is not going to make significant impact on their budget, not going to help them very much.

Mr. COBLE. Folks, again, we thank you all for being here. I apologize again for the delay, but as I say, we can't control the voting on the floor.

Let me conclude with this. I revisit something Mr. Bishop, Director Bishop said, and granted, folks, we're still a work in progress. I mean, who would have anticipated 9/11? I think on balance, we're doing a good job. But you said, Mr. Bishop, and I'm inclined to concur, that when we emphasize or concentrate our focus in one area, that inevitably may cause other areas to be more vulnerable. And I realize this is a balancing act with which we're dealing, but I want you all to keep that in mind as you go about your day to day work.

I thank you again for your testimony and your presence here. This concludes the legislative oversight hearing on "Homeland Security: The Balance Between Crisis and Consequence Management Through Training and Assistance, Review of Legislative Proposals." The record will remain open for 1 week. So if you all want to come forward with something you think about that you failed to say today, or if we, in turn, think of something we failed to mention, we can come—we have a week's time in which to tread water.

Thank you again, and the Subcommittee stands adjourned.

[Whereupon, at 12:04 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

SHEILA JACKSON LEE
18TH DISTRICT, TEXAS

COMMITTEES:
SELECT COMMITTEE ON
HOMELAND SECURITY
SUBCOMMITTEES:
INFRASTRUCTURE AND BORDER SECURITY
CYBERSECURITY, SCIENCE, AND
RESEARCH & DEVELOPMENT
JUDICIARY
SUBCOMMITTEES:
CRIME
RANKING MEMBER
IMMIGRATION AND CLAIMS
SCIENCE
SUBCOMMITTEE
SPACE AND AERONAUTICS

MEMBER
DEMOCRATIC CAUCUS POLICY AND
STEERING COMMITTEE
100% GEAR
CONGRESSIONAL BLACK CAUCUS

Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE:
2435 RAYBLIN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3816
DISTRICT OFFICE:
1919 SMITH STREET, SUITE 1180
THE GEORGE "MICKY" LEJANO FEDERAL BUILDING
HOUSTON, TX 77002
(713) 665-0950
ACRES HOME OFFICE:
6719 WEST MONTGOMERY, SUITE 204
HOUSTON, TX 77061
(713) 891-4882
HEIGHTS OFFICE:
400 WEST 19TH STREET
HOUSTON, TX 77008
(713) 861-4070

STATEMENT BY
CONGRESSWOMAN SHEILA JACKSON LEE
COMMITTEE ON THE JUDICIARY:
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND
SECURITY
LEGISLATIVE OVERSIGHT HEARING ON

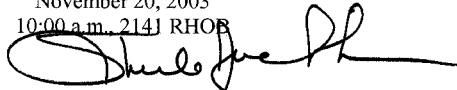
“Homeland Security – the Balance Between Crisis and Consequence
Management Through Training and Assistance (Review of Legislative
Proposals)”

H.R. 2512, the “First Responders Funding Reform Act of 2003”;

**H.R. 3266, the “Faster and Smarter Funding for First Responders
Act”;** and

**H.R. 3158, the “Preparing America to Respond Effectively Act of
2003” or the “PREPARE Act”.**

November 20, 2003
10:00 a.m. 2141 RHOB



Chairman Coble and Ranking Member Scott, thank you for
assembling the witnesses and for organizing today’s legislative

oversight hearing. Although I sat last month as part of the House Select Committee on Homeland Security in a hearing for purpose of reviewing the first responder and emergency preparedness legislation that was presented, I was unable to satisfy my inquiries with respect to the witness panel as to that legislation. Therefore, my capacity as part of this body will offer me the privilege of a "second bite at the apple," if you will, as we will today analyze our legislative needs relative to the law enforcement operations of our first responders and to extract the best parts of each piece of legislation available so that in the end, our nation will benefit by having the best blueprint for making it safe for its children.

I advocate the legislation introduced by my the Ranking Member of the House Select Committee, Mr. Turner, myself as an original co-sponsor, and other Democratic Colleagues of the House Select Committee on Homeland Security, H.R. 3158, also known as the "PREPARE Act of 2003." With respect to the overall homeland security grant process presented by House Select Committee Chairman

Cox, H.R. 3266, the "Faster and Smarter Funding For First Responders Act," as compared to H.R. 3158, the key difference and the most practical distinction is that while H.R. 3266 takes an "ad hoc" approach to threat assessment, the PREPARE Act takes a "bottoms-up" approach and places a greater emphasis on overall assessment of vulnerability.

Furthermore, this will be my first opportunity to examine and respond to the legislative proposal made by Mr. Sweeney, H.R. 2512, the "First Responders Funding Reform Act of 2003." Given my emphasis on giving the states the maximum level of *tools necessary to succeed* in threat assessment and emergency preparedness, I would seriously question the reduction of the fixed amount of domestic preparedness grant money from 75% to 50% of the total amount appropriated for domestic preparedness grants as proposed.

The Need for Smart and Planned Grant Dispersal

Given the huge price tag that comes with securing our homeland, and especially in light of the likely \$87 billion burden that will be caused by the Administration's Supplemental Appropriations Bill for

FY 2004, H.R. 3289, it is very important for this Committee to conserve funds by first carefully and thoroughly mapping out need in a systematic way that is proposed by the PREPARE Act. The House Select Committee Chairman's bill focuses on brevity in allocating grant funds, as evidenced by the 45-day grant dispersal provision; however, the PREPARE Act, I believe more appropriately, focuses on thorough vulnerability and threat assessment that lead to the creation of a standard. The ad hoc method will result in faster depletion of our resources because there will always be a valid justification for a grant request. Under H.R. 3266, grants would be allocated based on whether adequate justification has been made. The PREPARE Act will create a preparedness goal, or standard, by which progress and need can be measured.

Further addressing the need for a smart spending plan for our homeland security needs, the bill introduced by Mr. Turner, in Section 1805 subsection (g), paragraph (2) outlines its system of reporting and a 5-year budget cycle. A report as to the assessment of State and local government needs will be submitted to the Committee on

Appropriations, the Select Committee on Homeland Security, and the Committee on Governmental Affairs of the Senate. Finally, a plan for meeting these needs is included over a five- (5) fiscal year period so as to ensure the most efficient spending.

H.R. 2512 as introduced by Mr. Sweeney requires the submission of a quantitative assessment to Congress by March 1 of each year. This assessment can be useful in helping us to more effectively conduct our oversight duties, especially given the highly volatile and time sensitive nature of domestic preparedness and threat assessment capabilities.

More Emphasis on First and Second Responder Communities

Another important distinction between the House Select Committee Chairman's bill and the PREPARE Act is the attention given to first responder community. While the PREPARE Act would call for the creation of an independent First Responder Taskforce whose mission would be to determine (1) existing capabilities, (2) the capabilities required for adequate preparedness, and (3) the amount and form of resources necessary to satisfy this need. H.R. 3266, on the

other hand, gives the Department of Homeland Security (DHS) full discretion and responsibility to distribute grant monies on an ad hoc basis as justified by a particular State or region.

The “Preparing America to Respond Effectively Act of 2003,” or the “PREPARE Act” is a comprehensive attempt to *prepare the U.S. to respond* to acts of terrorism. Among the provisions of the bill are those that propose to improve first responder funding systems, bolster information sharing, enhance threat warnings, communications, and equipment interoperability, and to integrate private companies and the public into distinct response plans.

As for the Sweeney bill, H.R. 2512, the proposed reduction of the percentage of total domestic preparedness grants will undoubtedly weaken the training and equipment programs that are being developed for our first and second responders. Reducing this fixed amount from 75% to 50% shifts the burden of proper administration from the federal government to the state governments essentially. Absent more clearly

established provisions within this bill to justify the reduction, my impression would be that the reduction is proposed to better manage the funds earmarked for domestic preparedness at the federal level. However, if the financial accountability, for example that which would be enhanced by the “Department of Homeland Security Financial Accountability Act (H.R. 2886),” is functioning optimally, there is no need to reduce the resources made available to the states by way of domestic preparedness grants.

Texas and the 18th Congressional District

Harris County, the third most populous county in the country with 3.6 million residents, has been identified by the FBI as the only region in the United States that possesses all of the nine assets vulnerable to terrorism: energy, a major seaport and airport (Port of Houston and the Houston Airport System), manufacturers of substances that have a potential for misuse, aerospace (NASA), computer manufacturing and software, media, and telecommunications.

Furthermore, Texas border crossings are among the busiest in the nation. Texas has 14 border crossings – more than any other state – including seven of the nation’s 10 busiest southern border crossings. In addition, about 80 percent of U.S.-Mexico commerce passes through Texas. Under the PREPARE Act, a standard of need would be created based on an initial assessment, and these border crossings would be properly addressed.

With such a high concentration of need and vulnerability in Houston and in Texas as a whole, it is important that we use the provisions of the PREPARE Act that include creating mechanisms to protect and “prepare” the first and second responders and the border infrastructure. We need funds and programs to save the economic situation from suffering due to the need to reallocate budget funds to homeland security measures. This situation would suffer under an ad hoc homeland security program.

In a 15-month period after the September 11, 2001 terrorist attacks, American cities spent more than \$2.6 billion on additional

homeland security costs, such as reassignment of police officers from routine tasks to homeland-security-related tasks.

At the top of the list of cities in the survey is New York, spending an extra \$5 million a week for security since the war started, according to the survey. San Francisco, California is next at \$2.6 million, followed by Los Angeles, California, \$2.5 million; Atlanta, Georgia \$2.25 million; and Fresno, California, \$1.5 million.

Compared to these cities, Houston, Dallas, and San Antonio reported relatively little extra spending for the heightened security alert. Houston reported spending only about \$154,000 extra a week, while Dallas, Texas reported \$74,000 and San Antonio, Texas a mere \$15,000. This disparity in spending is most likely due to the inability to do so. Texas shares a border with Mexico, and it houses several high-volume ports of entry. Therefore, the overall financial overhead is demonstrably higher than in a smaller city.

The first section of the PREPARE Act calls for the creation of a Taskforce to assess local needs. Specific grants would accompany the creation of this Taskforce that address the highest priority needs for each jurisdiction. Given the high level of need to be found in Texas, the PREPARE Act would more adequately serve a state like Texas that has such a tremendous border control volume overhead.

Next, the bill would reform the national threat advisory system to issue alerts to the affected geographic area or industry sector. The Department of Homeland Security (DHS) would notify Congress prior to issuing threat advisories, provide threat information, and recommend actions at the state and local level for the general public and the private sector.

In addition, the PREPARE Act accounts for the failed information sharing between DHS, the FBI, and the Terrorism Threat Integration Center.

Lastly, the bill calls for the provision of communications equipment for first responders and for inclusion of second responders in the pool of resource allotment. H.R. 3266 does not contain such a

comprehensive program for equipment procurement and system interoperability. Unfortunately, while H.R. 3266 proposes to address the emergent needs of our nation's responsiveness, the lack of adequate attention to local needs will create a situation of disparate protection. This disparate protection will potentially take valuable administrative and governmental hours away from the actual securing of the homeland on a national level.

Thank you.

PREPARED STATEMENT OF REPRESENTATIVE ADAM B. SCHIFF

Chairman Coble and Ranking Member Scott, thank you for holding this hearing today on an extremely important issue facing our country as we work to prevent and best prepare to respond to future terrorist attacks in our local communities.

Earlier this month, the Department of Homeland Security announced their FY04 homeland security grant funding distribution—and once again, the Department's formula has failed the most vulnerable communities in our country.

The current formula used to allocate funding to states and localities through the State Homeland Security Grant Program continues to give states with smaller populations more money per person than states with larger populations. This leads to the reality of Wyoming receiving \$35.31 in per capita funding as compared to merely \$4.68 in per capita funding for my home state of California.

The Department has acknowledged that this formula has serious shortcomings, but changes have not been made. The Urban Areas Security Initiative (UASI) was designed to allocate funds in a manner to address the security requirements of high density and high threat urban areas, as well as to protect critical infrastructure. However, this program has failed the highest density and highest threat urban areas as well, due to the fact that over 50 localities now compete for this funding originally focused at a few major urban high-threat areas.

It is clear that a new formula is desperately needed, and I am pleased that we will be examining three such alternative approaches during today's hearing. I am a cosponsor of one such approach, H.R. 3158, the "Preparing America to Respond Effectively Act of 2003," or the "PREPARE Act" introduced by Rep. Jim Turner. This piece of legislation would create a task force to identify the essential capabilities needed by every state and local government and determine the extent to which each state or local government has achieved or failed to achieve these essential capabilities.

I believe this approach is more preferable than the static formula-based approach that has failed those areas that are most at risk. I am pleased that the Chairman and Ranking Member of the Select Committee on Homeland Security are working together on an approach that will incorporate a number of important provisions in the various bills before us today.

Community leaders and disaster preparedness coordinators in my district have also expressed concern with the inability to quickly access grant funding because of the current practice of distributing these funds from the federal government to the states. I urge the Department to examine whether this practice needs to be refined or changed in order to ensure that we expedite the distribution of these crucial funds to our local first responders who need it most.

Once again, thank you Chairman Coble and Ranking Member Scott for holding this important hearing and providing a forum for a closer examination of these important legislative proposals.

PREPARED STATEMENT OF DR. JOSEPH P. INDUSI, NONPROLIFERATION AND NATIONAL SECURITY DEPARTMENT, BROOKHAVEN NATIONAL LABORATORY

This work was performed under the auspices of the US Department of Energy, Contract No. DE-AC02-98CH10886.

ABSTRACT

Since the events of 9/11, there have been considerable concerns and associated efforts to prevent or respond to acts of terrorism. Very often we hear calls to reduce the threat from or correct vulnerabilities to various terrorist acts. Others fall victim to anxiety over potential scenarios with the gravest of consequences involving hundreds of thousands of casualties. The problem is complicated by the fact that planners have limited, albeit in some cases significant, resources and less than perfect intelligence on potential terrorist plans. However, valuable resources must be used prudently to reduce the overall risk to the nation.

A systematic approach to this process of asset allocation is to reduce the overall risk and not just an individual element of risk such as vulnerabilities. Hence, we define risk as a function of three variables: the threat (the likelihood and scenario of the terrorist act), the vulnerability (the vulnerability of potential targets to the threat), and the consequences (health and safety, economic, etc.) resulting from a successful terrorist scenario.

Both the vulnerability and consequences from a postulated adversary scenario can be reasonably well estimated. However, the threat likelihood and scenarios are much more difficult to estimate. A possible path forward is to develop scenarios for each potential target in question using experts from many disciplines. This should yield a finite but large number of target-scenario pairs. The vulnerabilities and consequences for each are estimated and then ranked relative to one another. The resulting relative risk ranking will have targets near the top of the ranking for which the threat is estimated to be more likely, the vulnerability greatest, and the consequences the most grave. In the absence of perfect intelligence, this may be the best we can do.

RISK CONCEPT

The concept of risk has different meanings depending on the context and individual. Here we use a logical or systematic definition based on the mathematical construction used in nuclear reactor safety and other physical systems. In this context, the risk is generally defined as

$$(1) R = P \times C,$$

where P = probability that a system failure occurs and C is an estimate of the consequences resulting from the system failure. The analyses of the various failure events and consequences associated with nuclear power reactors have been extensively studied and delineated.

In an effort to introduce the concept of risk to the design of nuclear materials safeguards systems, there evolved the formulation known as the Societal Risk Approach to Safeguards.¹ In this formulation, the safeguards risk is approximated by an equation of the form:

$$(2) R = P_a \times (1 - P_i) \times C,$$

where P_a = probability that a person or group attempts an adversary action, P_i is the probability of adversary interruption (by the safeguards system), and C is an estimate of the consequences from the action. The implementation of this societal risk approach is problematic because of the difficulty in estimating the probability of attempt P_a . The situation for estimating the probability of interruption P_i and the consequences C is somewhat more amenable to analysis. Indeed, there has been significant progress in analyzing and quantifying both of these factors, at least in the case of nuclear facilities safeguards analysis. To cope with the difficulty in determining P_a and in an attempt to develop a useful formulation for protective system planning, we may use a less formal mathematical version of equation (2). In equation (2), we may think of P_a as the threat, that is, the element controlled by the

¹"Societal Risk Approach to Safeguards Design and Evaluation," C. A. Bennett, W. M. Murphy, and T. S. Sherr, ERDA-7, 1975.

adversary or terrorist group. The factor $(1-P_i)$, the probability that the adversary is not interrupted, is analogous to the vulnerability (to the potential threat) of the protective system. Just as in equation (2), the consequences must also be considered. With these concepts, we now define risk as:

$$(3) R = \text{Threat} \times \text{Vulnerability} \times \text{Consequences}$$

which is estimated for each threat scenario at a given facility. A risk value for each threat scenario at a given facility may be analyzed to give a set of risk values for the given facility. Now these risk values may be ranked, relative to one another, from the highest to the lowest. Since there is no certainty or mathematical accuracy in developing the probability of attempt or threat, the risk values so derived are necessarily relative to each other.

RISK CONCEPT ATTRIBUTES

In the weeks and months following the attacks of 9/11, there were many calls for vulnerability, threat and risk assessments. Often, these terms were used with no standard or agreed meaning for each. In the risk formulation of equation (3), it is clear that each element has a meaning and the relationship between them is consistent and systematic. For example, using equation (3), a high risk implies a very plausible adversary scenario (threat), a target which is very vulnerable to the threat, and a severe set of consequences will occur if the threat is carried out. It should follow easily that upgrades or security plans should be based on risk and not on one or two of the elements of risk alone. Clearly, basing security upgrades on say vulnerability alone does not optimize the use of resources.

Unfortunately, upgrades in facility security were often based on vulnerabilities alone. Similarly, the general public tends to focus on high consequence events, even when other elements of the risk are low. The National Strategy for Homeland Security in its July 22, 2002 report stated "Accordingly, the federal government will apply a consistent methodology to focus its efforts on the highest priorities."² In practice, a relative value, such as low, medium or high, can be assigned to the threat, vulnerability and consequences for each threat scenario. As in the case with equation (2), given a threat scenario at a given facility, we are capable of assigning relative vulnerability, and consequence values. In utilizing equation (3), the difficulty again lies in the threat element. Of course, with perfect intelligence, the threat can be neutralized before the adversary acts. However, in the absence of reliable threat intelligence, we must act prudently to use resources for the highest risk scenarios and targets.

To proceed, it is necessary to delineate the full spectrum of potential threats against a given target or facility. For purposes of homeland security, these targets are largely the elements of the critical infrastructure such as transportation (bridges, tunnels, aircraft), energy (pipelines, power lines, etc.), finance and banking and the others. Developing these threat scenarios requires that we focus on the future, integrating and analyzing available intelligence, and thinking in the ways an adversary thinks. This is part of the message given by Col. Randall J. Larsen, (USAF-Ret.), Director of the ANSER Institute for Homeland Security in his statement for the National Commission on Terrorist Attacks Upon the United States.³ Similarly, the National Strategy also states "Mapping terrorist threats . . . against specific facility sectoral vulnerabilities will allow authorities to determine . . . which facilities and sectors are most at risk". The process of developing the threat scenarios will require participants from many disciplines and experiences, including historians, intelligence specialists, technical experts, and including military and law enforcement organizations. Once this formidable task is completed, the development of a relative risk ranking may proceed.

IMPLEMENTATION

Constructing a relative risk ranking begins with the list of threat scenarios against targets or facilities. Presumably this list may be small or large, but countable in number. While there is no guarantee of completeness, the mere act of developing threat scenarios is instructive in itself and provides insight into potential future threats. For each threat scenario, the vulnerability and consequences are then estimated. Fortunately, there are mathematical models to analyze both, developed in the nuclear safety and safeguards community and the military operation research community. These estimates may be qualitative such as low, medium or high. The exact values are not important for purposes of this analysis.

²National Strategy for Homeland Security, Office of Homeland Security, July 2002.

³Col. Randall J. Larsen, (USAF-Ret.) Director, ANSER Institute for Homeland Security, Statement for National Commission on Terrorist Attacks Upon the United States, April 1, 2003.

The risk values are then determined and ranked from the highest to the lowest producing a relative risk ranking. Obviously, resources should be used to reduce the vulnerabilities or mitigate the consequences from the highest ranked threat scenarios first. In the National Strategy for Homeland Security, it is stated "Protecting America's critical infrastructures thus require that we determine the highest risks . . ."

In planning security upgrades at Brookhaven National Laboratory, a select committee was established and this relative risk ranking concept was used for ordering the upgrade schedule.

CONCLUSION

The relative risk assessment concept or approach for protection system planning provides a framework for systematically allocating resources. It avoids the tendency to focus only on one element of risk such as vulnerability. It also forces planners and protection managers to look to the future and identify potential threat scenarios. Given the current global threat of terrorism, we cannot continue the methods of the past or follow the path of business as usual.

QUESTIONS FOR DIRECTOR MENCER FOR THE NOVEMBER 20, 2003 HEARING.

1) How effective has ODP been in supporting you in development and implementation of your homeland security program?

2) How have you included local jurisdictions in the development of your State Strategic Plan for Homeland Security?

3) How is the Department currently working to reduce the paperwork burden on state and local governments by simplifying and streamlining planning, application, reporting, and administrative requirements?

Answer:

As a result of feedback from our grantees, and to continue to improve the nation's ability to prevent, deter, respond to, and recover from threats and acts of terrorism, the Office for Domestic Preparedness (ODP) combined three programs into a single solicitation in Fiscal Year 2004. The following grant programs will be awarded and administered in one application: State Homeland Security Program (SHSP), Law Enforcement Terrorism Prevention Program (LETPP), and Citizen Corps Program (CCP). These three programs will be administered under a single application called the Homeland Security Grant Program.

This consolidation was done to streamline the grant application process and better coordinate Federal, State, and local grant funding distribution and operations. The homeland security assessments and strategies currently being finalized by the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. territories, and selected urban areas for submission to ODP will play a pivotal role in the identification, prioritization, and allocation of financial resources provided through the three grant programs. The funding provided will be applied against critical resource gaps identified through the assessments and prioritized in the State strategies. Providing funds through a single application and award process facilitates coordination of preparedness activities related to the goals and objectives identified in the State strategies, resulting in a more effective and efficient use of funding. A single application also minimizes time spent on the application process and consolidates reporting requirements.

The three programs further provide the opportunity to enhance regional preparedness efforts. ODP is strongly encouraging States to employ regional approaches to planning and preparedness and to adopt regional response structures whenever appropriate to meet the needs identified through the assessments and in the State's strategy. Furthermore, it is DHS' intent to steer State and local security and preparedness efforts toward a project-oriented process to address common, measurable objectives. Security and preparedness officials at all levels should seek opportunities to leverage funding from multiple sources whenever possible and not restrict their activities to Federal funding alone.

4) What specific steps would you take to establish consistency across federal grant programs, especially those programs administered by different agencies/offices, to make it easier for states, communities, and first responders to apply for homeland security grants?

Answer:

The Department of Homeland Security (DHS) has developed a Website—<http://www.dhs.gov/dhspublic/display?content=2155>—that contains information on all DHS first responder and training grants. In an effort to assist the emergency response community, this Website also provides information on homeland security and public safety grant opportunities offered by other Federal agencies. This site was developed by DHS, working in conjunction and cooperation with our Federal partners, to simplify access to these grants by placing information in a single, easily accessible site. Critical State and local missions supported through these grants include the preparedness of first responders and citizens, public health, infrastructure security, and other public safety activities. While these programs vary considerably in their size and scope, they all contribute to making our nation more secure against the threat of terrorism, as well as other natural and man-made hazards.

In addition to grant opportunities, this Website contains a link to the Compendium of Federal Terrorism Training for State and local audiences, a database of the terrorism-related training offered by Federal departments and agencies that is available to State and local emergency personnel. It is designed as a resource for State, local and tribal officials and especially for those responsible for arranging training for emergency personnel. The Compendium includes details such as course objectives, intended audience, how the training is delivered (in the field, at a training center, by distance learning), and how to enroll students or arrange for the training to be delivered in a particular jurisdiction. Users can search for courses based on the course title and sponsoring agency, but they can also find very specific courses by entering the desired training topic or other criteria on a special search page.

Additionally, ODP organized the Training Resources and Data Exchange (TRADE) Group, consisting of Federal interagency partners, to address synchronization of training efforts and the need for a standardized training curriculum for State and local responders. The TRADE Group consists of representatives from a number of Federal agencies, including the Department of Health and Human Services, the Centers for Disease Control and Prevention, the Environmental Protection Agency, the Federal Bureau of Investigation, the United States Fire Administration, and the Department of Energy.

5) The House Intelligence bill will authorize the Department of Homeland Security to provide training for first responder managers for “identifying sources of potential terrorist threats” and improving information sharing. Would the Office of Domestic Preparedness handle this training? Do you provide any such training now?

Answer:

ODP currently provides a wide-range of awareness level training courses through the National Domestic Preparedness Consortium (NDPC). As you know, the NDPC includes ODP’s Center for Domestic Preparedness in Anniston, Alabama, the New Mexico Institute of Mining and Technology, Louisiana State University, Texas A&M University, and the Department of Energy’s Nevada Test Site. ODP also works with a number of other training partners to provide training to the Nation’s emergency prevention and response community.

Through the NDPC and our other training partners, ODP provides more than 30 direct training and technical assistance courses and programs to state and local jurisdictions. This includes training delivered in residence at ODP training facilities, on-site in local communities through mobile training teams, and through such electronic means as the Internet, closed circuit broadcasts, and video-conferencing. ODP training is tailored for a wide range of emergency responders, including courses for fire and rescue personnel, law enforcement officers, public works and public safety communications officials, emergency medical personnel, and many other disciplines. It also addresses a range of emergency response levels available to State and local emergency responders—awareness, performance, planning, and management.

6) H.R. 3158, the “PREPARE Act,” introduced on September 24, 2003, by Mr. Jim Turner D-TX, has listed as one of its findings that a lack of national standards and an absence of functioning methodology makes it impossible to determine how prepared a state or local government is and how prepared they need to be. Do you agree? How does ODP determine what the states need?

Answer:

ODP has implemented and continues to develop additional standards and guidelines for the equipment, training, and exercise support funded through its grants. These standards and guidelines have been and are being developed collaboratively with subject matter experts within ODP, other Federal agencies and the State and local emergency response community. They are intended to ensure that an appro-

appropriate preparedness baseline is achieved nationally for response to incidents of terrorism involving weapons of mass destruction. Compliance with many of these guidelines and standards is achieved by tying receipt of grant funds to their acceptance. For example, in an effort to improve emergency preparedness and response interoperability, all new or upgraded radio systems and new radio equipment purchased with Fiscal Year 2004 Homeland Security Grant Program funds should be compatible with a suite of standards called ANSI/TIA/EIAA-102 Phase I (Project 25). These standards have been developed to allow for backward compatibility with existing digital and analog systems and provide for interoperability in future systems.

Also, ODP sponsors and is active in the Interagency Board (IAB) for Equipment Standardization and Interoperability. The IAB is comprised primarily of local responders, but is also represented by State and Federal officials. ODP has used the standardized equipment lists developed through the IAB as the basis for the equipment it allows grantees to purchase through its grant programs. The IAB has also taken an active role in supporting the development and implementation of federal equipment and operational standards.

In a related effort, ODP has developed a methodology and guidance for the evaluation of performance-based exercises, which are described in *Homeland Security Exercise and Evaluation Program (HSEEP), Volume II: Exercise Evaluation and Improvement*. The exercise evaluation methodology outlined in HSEEP Volume II is designed to enhance the quality and usefulness of homeland security exercises by evaluating performance against standardized criteria, enhancing data analysis, and focusing greater attention on implementation of improvements.

It is a methodology that recognizes that homeland security is a new activity for most Federal, State, and local agencies and that capabilities will need to be built and enhanced over time. The evaluation process recognizes those critical tasks that the exercise participants perform well and identifies improvements that need to be made. The goal is to improve the overall preparedness of the Nation so that all jurisdictions can perform required tasks at least at the 90 percent level.

The evaluation guides included in Volume II are an initial effort to define expected levels of performance. They build on past experience and will continue to be refined. The guides are incomplete at this time because they focus on response, with emphasis on a chemical attack. Additional evaluation guides are being developed to address prevention and deterrence, recovery, and other types of weapons of mass destruction. ODP plans to issue subsequent editions of Volume II as additional guides are developed and as the evaluation methodology is refined.

Finally, it is a strategic goal of ODP to provide information to first responders on best practices. Currently ODP established and maintains several programs through which it provides for the sharing and dissemination of best practices. Programs to disseminate best practices information include training, publications, and Web pages. Programs that focus on providing best practices information include the previously mentioned HSEEP and ReadyNet. HSEEP establishes a formal process for State and local communities to test their practices in a terrorism scenario. From this the participants learn what works and what does not. The lessons learned or best practices obtained from the exercises are incorporated into a web-based system called ReadyNet for national on-line distribution to first responders.

While ODP maintains a number of current efforts to disseminate and share best practices information with the field, ODP is simultaneously looking prospectively at how to improve and augment these efforts. This includes ODP's plan to establish the Homeland Security Best Practices (HSBP) program. Under HSBP, ODP will establish a national grant program to encourage and support the development of best practices in homeland security. Consistent with the mission and goals of DHS, the HSBP initiative will provide grant funding to address awareness, prevention, preparedness, and response.

7) Commissioner Kelly recommends that States and local governments should be able to make procurement purchases through the Federal contracts already negotiated by the General Services Administration. He suggest that this would help ensure interoperability of equipment and may produce costs savings. This sound like an good idea. Do you agree?

Answer:

ODP agrees that State and local governments should be provided the opportunity to use the General Services Administration's (GSA) purchasing schedule if they so choose. ODP is currently discussing this option with GSA to determine how best to accomplish this objective.

The House Select Committee on Homeland Security
Funding for First Responders
October 21, 2003

NYPD Commissioner Ray Kelly
Response to Committee Questions Submitted for the Record

- 1) In your testimony, you state that the Urban Areas Security Initiative has been watered down as more and more localities are added to the list. How would you improve that Initiative? Would it be better to change this Initiative than the funding formula for the State grant program?

The Urban Area Security Initiative, which seemed so promising at the outset, has been watered down as more and more localities are added to the list. In the first round, New York City received 25 percent of the funding allocated among seven cities. By the time last year's supplemental was announced, the list had grown to 30 cities, and New York's share had shrunk to about 18 percent. Now there are over 50 localities plus 30 transportation agencies on the list, and the share for the New York metropolitan area has dwindled to below 7 percent. As more and more entities share in the small pie of Urban Area Security Initiative funds, less and less money is available for the truly at-risk localities.

Presently, the bulk of homeland security grant money -- about 80% -- is distributed through the State Homeland Security Block Grant. This grant distributes money based on a minimum to each state plus the remainder by population. There is no risk analysis to this method; it merely distributes money to grantee states without regard to risk, utility or even a state's own homeland security plan. By comparison, only 20% of the funds are based on a risk assessment, through the Urban Area Security Initiative.

I would improve the Urban Area Security Initiative in two ways: First, I would redistribute the funds for State and Local Programs from the State Homeland Security Grants into the Urban Area Security Initiative program in order to increase the UASI funding. Second, I would limit the number of grantees to ten localities for the UASI grants.

As to part two of your question, I think a change to the UASI should go hand-in-hand with a change in the SHSG. I would eliminate the "minimum plus population" method of funding the State Homeland Security Grants and replace it with a risk-based allocation. Each state should, nevertheless, receive some minimum amount. However, the minimum should be threat-based, as determined by the Department of Homeland Security, and based in part upon each state's plan.

- 2) H.R. 2512, introduced by Mr. Sweeney, changes the formula for grants authorized under the PATRIOT Act. The Sweeney bill would base the amount for each grant on a risk assessment for threat, vulnerability, and consequence. How do you believe this risk assessment would be conducted? How do you determine the threat for a grant that would be provided annually? How would you determine the consequences of an attack?

There is no doubt that the Department of Homeland Security has the assets necessary to perform a risk assessment. In addition to their own intelligence gathering, DHS would rely upon the

Central Intelligence Agency, National Security Agency, Federal Bureau of Investigation and other national intelligence agencies to provide the information necessary to determine the threat to our cities. The Terrorist Threat Integration Center, whose director was appointed by the Director of Central Intelligence, in consultation with the Director of the F.B.I., the Attorney General, and the Secretaries of Homeland Security and Defense, could surely assist DHS in producing an assessment for this purpose.

Vulnerability and consequence analysis can be assessed, in-house, at the Department of Homeland Security. States have already submitted plans to DHS that outline their perceived critical infrastructures and attendant needs. The Department of Homeland Security, specifically the Information Analysis and Infrastructure Protection directorate, can sift through the information and prepare a comprehensive assessment of our nation's vulnerabilities and consequences in a variety of infrastructure sectors: banking and finance, transportation (air, road, rail, ports, waterways), information and telecommunications, food, water, agriculture, health systems and emergency services, energy (electrical, nuclear, dams, gas and oil), national monuments and icons, and others.

The easiest way to discuss consequences of an attack is to think of examples. If the New York Stock Exchange or the US Capitol were attacked, the consequences are evident and need no elaboration. Equally evident would be the consequences of an attack at JFK Airport, where nearly 20 percent of all air cargo enters our country or the Port of Long Beach, where 43 percent of all container shipping arrives. That does not mean that life is any more precious in one locale or another; every life is equally cherished. It merely means we must look at where the pressure points are to keep the government and economy functioning.

As to the question of the annual grant cycle, the current funds are going out annually so that would not change under the Sweeney bill. In any event, there is no method available at present to distribute grants piecemeal. It is not workable. Grants need to be distributed annually so that localities can spend wisely to prevent terrorist attacks – as, I testified, we have done in New York City, arresting al Qaeda operatives who plotted to bomb our subway system and tunnels, the United Nations, federal buildings and national icons like the Brooklyn Bridge – not only to clean up after the fact.

- 3) Many people did not believe that Oklahoma City was a high risk target for terrorism, albeit, domestic terrorism? Wouldn't this new formula reduce the amount of money going to such cities as Oklahoma City?

Oklahoma did not receive high threat money under the analysis done by the Department of Homeland Security. Apparently, they determined that there is not currently a high risk there.

We cannot possibly protect against every imaginable threat. It took over 20 years to catch the Unabomber and more recently we had the sniper cases here in the Capital Region. I can go on with examples of individual acts of domestic terror. We usually treat these occurrences as the criminal acts that they are. If we have credible threats of domestic terror, those should be addressed.

However, the current war is a Global War on Terrorism. We must base the distribution of the money on what we know about the terrorists with which we are dealing. We are in a war on

terrorism against radical Islamic terrorists. Among other things, we have learned that they go back repeatedly to the same target sets.

I would also note that if the State of Oklahoma determines Oklahoma City is a priority, the Department of Homeland Security would provide for that in its award to the State. The State should then follow its "state plan" submitted to DHS and provide the appropriate level of their allocation to Oklahoma City.

- 4) No one can dispute that New York City has been and is a prime target for terrorism. But the United States as an open and free country is vulnerable in several states, and my worry is that if we focus too much on just a few cities and states, we will just transfer the focus of the terrorist to other areas of the United States. How do we improve the security of the highly targeted areas such as New York City and Washington, D.C. without transferring the attentions of the terrorists on less protected areas?

We must never ignore a credible threat against our Nation and its citizens, regardless of where they may be physically located. However, we cannot afford to squander our limited funds, either.

It is a possibility that al Qaeda will shift focus but highly unlikely. Everything we know about them is that they return time and again to the same national and international symbols of importance and to the same locations. They return, as they did at the World Trade Center, even after the places are fortified. Indeed, they are determined to evade and challenge our defenses. We cannot allow this to happen.

- 5) In your testimony, you stated that the New York City Police Department alone spent \$200 million in the last fiscal year to prevent attacks. The Police Department has estimated that \$261 million is needed in addition for training, equipment, and supplies. For all of its agencies, New York City estimated it needed \$900 million in counter terrorism needs. New York received less than \$60 million. Will changing the formula help make up such a substantial difference?

On September 11, New York took a hit for the nation. New York City has been attacked five times. We deserve more consideration than we have received to date, where New York State has been getting the second least amount of funds on a per capita basis. Yes, our needs are enormous but they are well founded needs nonetheless. A change in the formula will certainly help.

All the money that we have been spending went to prevention and the fact that we have prevented attacks has been widely reported and is well known. We intercepted the man plotting to attack the Brooklyn Bridge, the men performing reconnaissance in the subway, the plot against the tunnels and the UN and the Federal Building.

New York City has been putting federal money to good use protecting national assets, protecting national and international tourists, protecting business visitors and protecting our residents. We want to continue our valued partnership with the federal government in a constructive way. That means having the resources to continue the fight.

- 6) Please explain your comments about why the funds should not require maintenance of effort as a condition for receiving the funds. How does this work?

Receipt of these funds should not be conditioned on maintenance of effort. It makes no sense to say that at a time when a local government is experiencing budget problems, they could not access counter terrorist funds. If New York City is already spending \$200 million per year, would we have to forever maintain \$200 million in local revenues in order to pull down a dollar of federal help? Small rural communities may be most affected; frequently they have budget problems and an inability to provide a maintenance of effort would penalize their efforts to increase public safety and security.

- 7) I understand that you support Mr. Sweeney's bill. Have you had a chance to review Mr. Cox or Mr. Turner's bill? If so, do you have any recommendations or concerns for those bills?

I am supportive of all measures that move toward a threat analysis rather than the current per capita approach. Each bill has a threat-based plan for distributing the homeland security grants and that is good.

The Cox bill does not include a set aside, however, for high threat areas and that concerns me. This program is crucial in order to address the special security needs that are not found across the country in most communities. Not all jurisdictions have the same needs. If the risk is nil, there is no critical infrastructure, no real threat intelligence traffic, will that jurisdiction nevertheless be entitled to some level of capability in the unlikely event of a terrorist episode? It would indeed be wasteful to fund every such jurisdiction just because it submitted a plan.

The Cox bill would set up a system whereby each jurisdiction would do an assessment of what is needed to bring them up to par to prevent, respond to terrorism. The federal funds would then be based on such assessments. The bill calls these assessments of "essential capabilities". I am concerned that the bill has too many bureaucratic layers and would take too long to implement. Funding needs to go out quickly and unimpeded.

It is not clear how the "essential capability" assessments done by jurisdictions would dovetail with the threat based distribution criteria.

My overarching concern is that any plan be easily implemented, without delay. If we procrastinate we will present another opportunity for the terrorists to act. So, my recommendation is that a quick, uncomplicated, threat-based modification to the grant process is best.

- 8) Your statement regarding the Assistance to Firefighters Grants in your testimony presented before the Select Committee on Homeland Security regarding homeland security grants has caused concern among Firefighter groups, who have contacted this Committee. They appear to be concerned with your statement that these grants are of little help in those areas that have significant counter-terrorism needs. And from reading your testimony, I am not sure what you are suggesting be done with these grants, if anything. Please clarify?

I understand that the firefighter grants have been successful over the years and I do not mean to cause concern in the fire community. I support these grants. The fact is that firefighter grants

were substantially increased after September 11 in response to the terrorist threat. And, I believe these grants should remain available at least at their current funding levels.

What I meant to highlight in my statement was that, although the total amount of grant money available was increased, the \$750,000 maximum per locale was not increased. The \$750,000 maximum makes it impractical for any large city fire department, like the FDNY, to obtain any meaningful amount of money to support their role in homeland security.

Therefore, I suggest that the maximum amount of firefighter grants available to large cities be increased to at least \$5 million.

Page 5 of 5

QUESTIONS FOR DIRECTOR BISHOP FOR THE NOVEMBER 20, 2003 HEARING.

1) Mr. Bishop, after reading your prepared statement, I am left with an optimistic view of the current state of affairs. Not that you do not acknowledge that much work remains to be done, but your remarks offer a refreshing glimmer of hope. You state that emergency responders on the Federal, state, and local level have training and skills that seemed irrelevant 4 years ago. *What type of training and skills are you alluding to? Do new skills come at the expense of maintaining skills that were viewed as critical in the pre 9/11 world? What types of equipment do you now have that you would not have dreamed of 4 years ago?*

As Idaho began to broaden its weapons of mass destruction perspective in 1998, we identified a number of training needs—the most basic of which concerned responder awareness. We began revision of basic responder curricula to include Chemical Biological Radiological Nuclear and Explosives (CBRNE) response and terrorism awareness. We also began a round of seminars for elected officials and responder leadership. We believe that we've made substantial inroads at the awareness level, but continue to work the issues. We've broadly developed specific skills concerning incident analysis and size-up for both responders and leadership. We evaluate incidents more thoroughly these days and in a manner that improves strategy and tactic development for all incidents. Idaho responders are acquiring good CBRNE recognition skills and understand how to ask for technical help as well as additional resources. Our hazmat teams have acquired substantial specific skills in mass decontamination and in operation of acquired leading edge detection equipment.

Idaho has had great training experiences with ODP funded facilities in Alabama, Nevada, and Socorro. That training is sound, efficient and extremely effective. It is particularly valuable to our First Responder leadership because of the great peer interaction and nationwide connections.

We do struggle integrating responder CBRNE skills into responder training. Our fire and medical responders are about 85% volunteer or paid-on-call personnel. Our ability to train CBRNE is limited by our need to train to basic skills. We are well underway, however, to use non-traditional course deliveries to provide effective training. With ODP assistance we are using CD ROM based training for awareness. We will be using video conference based training for more advanced training. We are designing modularized training so that we can capitalize on two-hour presentations during traditional "training nights" with volunteer departments. We will also continue efforts to integrate training into present curricula. Basic level Firefighters, EMTs and Firefighters should have CBRNE "Operations Defensive" competency when they complete their basic training. Almost every skill and tactic that they learn can easily be enhanced within the context of their basic training. Over the long term, we expect a very limited need for "follow-on" courses that impart CBRNE skills outside of the context of training a responder to do their job.

In Idaho we are using a lot of leading edge infrared technology to deal with unknown substances. We have acquired equipment, through the ODP grant process, that allows us to more quickly and precisely determine the composition of a variety of solids, liquids and gases on scene. In as little as 15 minutes we can get a more definitive identification today than we would have been able to obtain with over an hour's work four years ago. This class of equipment also requires fewer training

hours to maintain competence. Tactically it allows us to clear a scene for benign substances in a fraction of the time we would have required two years ago. For truly threatening substances, we are able to focus our strategy and tactics to the particular hazard more quickly.

We've been able to make great advances with our ability to deal with suspected and actual explosive devices. The best example is the full development of a Bomb Squad in Twin Falls Idaho. The police department in that small city had invested the time and money to train bomb technicians and had ballistic suits. They lacked a robot, disrupters, and other equipment to truly operate as a bomb squad. The leader of that unit was sure that it would be years before they had full capability. Their "dream" happened much more quickly thanks to the ODP grant. Their local efforts were enhanced and they have become a fully functional Bomb Squad with a number of complex responses to their credit including improvised explosive devices.

2) It does seem clear that States still need more resources to protect against a terrorism attack. While I share your concern that providing more assistance to states with higher targets could shift the targets to rural states, we cannot ignore the level of risk that New York and these other cities face. How can we resolve this issue and still protect the other states?

We need to preserve the current fundamental grant formula. We then need to take a discriminating approach with grant enhancements—and make some tough decisions with those enhancements—decisions that members will often find unpopular. That New York City, for example, is an attractive target is reasonable—and the current formula provides the greatest amount of financial support to New York State. The concept of the "Urban Areas Security Initiative" is, I believe, an appropriate means of enhancing funding to higher threat Cities. But the management of that enhancement has to be based on pretty narrow criteria—and not based upon how much pressure is being brought to bear upon ODP or Members of Congress. If enhancements apply to every city in the country—then it is not an enhancement, but just another part of the funding formula. The halving the funding allocation to the states in order to fund enhanced programs in just fifty cities smacks of indifference to the security for that 51st city as well as all of the less urbanized areas of the country.

Criteria for enhancement should balance risk, threat, vulnerability AND local efforts. For example, I vested two new regional response teams in Idaho with particular departments and agencies because of what they have done on their own—with local funding, effort, and teamwork. It is not a "match" or a "reward." It is recognition that they took preparedness seriously and that we could make a big gain by enhancing local efforts.

I believe homeland security is not just a federal government responsibility. The federal support is a grand resource that lets us move rapidly ahead. But it is our neighbors that we have to rescue and save. The responsibility is shared. Local and state governments are providing response personnel, buildings and basic response equipment.

Having spoken about shared responsibility, please don't interpret my remarks as a request for moving to a matching funds environment. The administration and management of grants requiring match will reduce the usefulness of this effort. Reward effort or provide seed money and evaluate results. Don't ask us to implement and monitor matching funds or "in kind" contributions.

I will discuss threat and vulnerability assessment management in my reply to Question 7.

3) You express concern with the notion advocated in H.R. 3158, Sec. 1802 (6), that the Federal government should play a predominant role in assisting communities in reaching the level of preparedness they need to respond to a catastrophic terrorist attack. *Have you had negative experiences where the Federal government was the lead on any matter? What role should the Federal government play and why?*

I will try to be brief, but I may fail. I have had personal experience, shared experience and studied events when the federal government's need to be the "lead" ended in poor outcomes. I hasten to add that I have had great experiences with federal, state, local partnerships.

A good incident for all of us to examine and understand is the "Ruby Ridge" event that occurred in Idaho during 1992, prior to my moving to the state. I've spent more than a little time studying the circumstances because the event has such far-reaching and long lasting effects throughout Idaho and the nation. The outcomes were federal and civilian deaths, damage to confidence in federal law enforcement from which it is still recovering, an intensification of radicalism of the extreme and vio-

lent right wing throughout the our country, and ongoing damage to all the people involved—federal agents and private citizens alike.

The assertion of primacy and predominant role on the part of the federal government set events in motion that led directly to the outcomes that I've listed. Had the agents formed an effective partnership with local law enforcement, there would have been no "Ruby Ridge." The person sought by the federal agents would have been arrested without incident within a reasonable period of time when he came to town to conduct normal business.

A better outcome occurred in 1996 in Garfield County, Montana when local, state, and federal officials managed to arrest radicals after an 81-day standoff. While there was no question that this was a federal case under federal leadership, the federal, state, local partnership produced much more desirable results.

The model we anticipate and which we have used well includes appropriate federal, state and local partners. That model does work and is the means by which we can ensure a much greater chance of success. No federal official can reasonably be expected to have enough intimate knowledge of the local influences that shape the environment in which we plan for and respond to incidents. No local official can reasonably be expected to have broad perspective and specific knowledge of external forces acting upon the response environment. While state officials do have bridging knowledge between local and federal perspectives, state officials often lack the specificity of either.

So, the role of the federal officials is to advocate and accomplish federal and national goals and objectives. The federal officials should also bring the appropriate, extraordinary federal resources to bear on the problem at hand. If the federal official wants to succeed, however, he or she will understand that they will do so not through "predominance" but through partnership. I would object just as strenuously to a local official who might assert some sort of predominance.

Asserting predominance just does not work very well. Such efforts usually end badly and people are often harmed unnecessarily.

I have worked with a number of federal Incident Commanders on large fires. The best of the Best—Type I team Incident Commanders—work extremely hard at not exercising their "predominance." While they have overarching authority, their approach is focused upon collaborative problem solving.

In my experience, when federal officials are forced to express their "predominance," it is because they have already failed to find viable solutions to problems. What follows is inevitably of great interest to litigators.

4) *Calling on your experiences as a former fire chief, what role do volunteer fire departments play as first responders to terrorist events? Do you believe that the Fire-fighter Assistance grants programs should be included when considering changing first responder grants? Please explain why?*

5) *How do volunteer fire departments benefit from grant programs? Do they have a role in homeland security?*

I will answer questions 4 and 5 together. In our state, and many states, volunteer firefighters are the backbone of response to incidents requiring rescue in towns and small cities. It will be they who have the greatest potential to limit the loss of life after an incident occurs. In many areas, our volunteer firefighters work directly with volunteer Emergency Medical Service providers—the two are often separate entities within a local jurisdiction. With their colleagues in local law enforcement (usually paid, but often with very active reserve officer programs), they are the ones that will identify the homeland security incident first, have the greatest change to save lives, protect property and the environment, as well as preserve evidence. In Idaho, they constitute 85% of our "front" line. They are the men and women who will help us staff the second and third operational periods in our major city that have paid departments. They are the men and women who will help restore our initial response capability, while the affected jurisdictions work large, overwhelming incidents.

When I was a chief in a small rural volunteer department in Montana, we provided mutual aid and response resources throughout Montana and occasionally adjoining states. We had that capability because of support from Montana state government and we had the desire to assist because we knew that, sooner or later, we would need the help of our neighbors. The smaller department and the volunteer departments "cover the backs" of the larger and paid departments by providing an extraordinary pool of human resources for the extraordinary incident.

In fact, two important components of Idaho's hazardous materials response system are volunteer, paid on call departments that host hazmat teams. They are trained, effective and of great value to our response system. The most complex of their equipment was purchased through the ODP grant program.

I suggested in the past that the “Fire Grant” program wasn’t broken when it was vested with FEMA and didn’t really need to be fixed by moving it to ODP. I remain concerned that separating the program from the U.S. Fire Administration will result in a loss of vigor, advocacy, and effectiveness of the program.

I have great respect for my friends and colleagues in ODP and I know they will work extraordinarily hard to make the Fire Grant system work. I even have an appreciation of the need to create a one-stop shop concept for grants. I still remain nervous, however, about grant programs that are not directly administered by an agency populated by individuals who have “been there, done that.”

I have heard some rumors about eliminating the award cap on individual fire grants in a manner that would benefit larger cities. The Fire Grant was originally conceived to help fire departments in their basic mission. The current cap helps preserve that intended purpose, I think, as opposed to becoming just another source of homeland security funding. While firefighting capability is important to our security, this grant should remain focused upon rescue and putting out fires. The program does currently help most those departments that have limited revenue resources. I’d like to see that maintained. The proposed \$2,000,000 cap simply reduces the number of departments receiving assistance and therefore reduces the area benefited by the grant. We are already emphasizing the largest urban areas in the State Homeland Security Grant. The Fire Grant really needs to stay focused on helping fire departments with basic capability.

The 2005 budget proposal that emphasizes Homeland Security in the Fire Grant is a great change in the purpose of the grant. The name should be changed to reflect the new role—the Homeland Security Grant for Fire Departments. It is so much more important that we continue to build firefighting capability nationwide—that capability is also of great value to homeland security response—providing decontamination support, dust abatement and putting out fires

6) H. R 3266, Sec 802 (h), relates to penalties for failure of a grant recipient that is a state or multi-state entity to provide the funds /resources to local governments/ first responders within 45 days. *Why do you believe waste fraud and abuse will increase under this section? What alternative would you propose to ensure timely disbursement?*

I worked for a while for an agency of the federal government. I have seen, and the members of the committee certainly have heard horror stories about spending “end of year funds.” In order to meet the spending deadline, federal agencies, state agencies, and local agencies have done some pretty strange and wasteful things. While it’s important to press for urgency and to streamline processes, providing a fiscal penalty probably will likely tend to push some states into obligating funds in a manner that is careless, poorly thought out, and occasionally intended to obscure the true nature of the obligation. We already are seeing some news coverage suggesting inappropriate purchases in the SHSGP.

Rather than a financial penalty, I would suggest a requirement that the Secretary communicate any failure to commit funds with in the required period directly to the affected state’s Governor as well as to the Congress. I know my Governor well enough to know that I will improve my efforts or someone else will have an opportunity to meet future deadlines. I also know the Governor well enough that he will understand when there is a problem with a local jurisdiction that must be resolved before a sub-grant or other obligation is made.

The other problem with a financial penalty is that it is likely to harm the responder, not necessarily motivate the administrator. The value in having the Secretary communicate directly with the Governor is that more focused effort will be brought to bear upon fulfilling the purposes of the grant.

7) *What do you mean when you say that the current management of threat, vulnerability and risk are working well because it is used dynamically? How do any of these proposed bills impact these dynamic qualities?*

Several bills seem to over emphasize the element of threat in relationship to risk and vulnerability. Threat varies daily either because those who would do us harm change tactics or because we perceive the threat differently. Greater emphasis given threat legislatively reduces the executive branch’s ability to adapt to meet changes in targeting intelligence or developments in tactics.

I certainly would never wish to offend the members of congress, but I have noticed that, occasionally, Congress finds it difficult to act with rapidity. Vulnerability and risk tend to be a little more stable. I think the current mix of emphasis is serving us well allow adaptability and flexibility nationwide. I would again suggest that enhancements are great ways to cope with changing conditions in threat. The base relationship really ought to reflect a long-term balance.

It is also worth noting that jurisdictions are perfectly willing to find ways to enhance their “threat rating” when they understand that it may mean more money. I have had some difficult moments convincing some communities that their appraisal of threat just wasn’t realistic. The more we emphasize threat, the more likely we are to see inflated threat ratings meant to capture more funding.

I believe that our national threat analysis continues to overemphasize more traditional targets consistent with the traditional battlefield. While we certainly must plan to protect critical infrastructure, we may be focusing too tightly upon those targets. We call them “terrorists” because they wish to create terror. We see, in Israel for example, attacks upon places and facilities that are certainly not “critical infrastructure.” Instead, there are attacks that are designed to promote terror by convincing citizens that their government cannot protect them in any location.

Because we can cope more easily with threat analysis that focuses upon “critical infrastructure,” I believe we are relying too heavily upon that analysis. We are, in a sense, “fighting the last war” instead of the present one. The attacks of September 11, 2001 should not create an expectation that the next attack will be similar. I would not rule out a similar attack certainly, but it is foolish to overly focus on what has occurred as the principal predictive element of what will occur. I think we’re close to doing that.

There is currently a reasonable, even allocation of resources among jurisdictions that includes reasonable emphasis upon threat to well-defined and clearly definable targets as well as room for funding to accommodate protecting targets of opportunity and such non-traditional targets as we have seen in other areas of the world. I am as concerned about a personal suicide attack at a middle class restaurant in a small city in America’s Heartland as I am about an attack upon a substantial piece of infrastructure. Terrorists are predators. Predators cannot use more energy in obtaining the “kill” than they will derive from it.

I would add that I am very suspicious of experts who believe they can pin down terrorist threat analysis. There is not a good track record for such experts—that’s how we got here.

I am fond of experts who couch their analysis in terms that suggest that their analysis has highly transitory components and suggests that their readers constantly obtain and evaluate other analyses.

