

**THE HOMELAND SECURITY TECHNICAL  
CORRECTIONS ACT OF 2003**

---

---

**HEARING**  
BEFORE THE  
**SELECT COMMITTEE ON  
HOMELAND SECURITY**  
**HOUSE OF REPRESENTATIVES**  
**SUBCOMMITTEE ON RULES**  
**ONE HUNDRED EIGHTH CONGRESS**

FIRST SESSION  
ON  
**H.R. 1416**

MARCH 28, 2003

**Serial No. 108-2**

Printed for the use of the Select Committee on Homeland Security



Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>

U.S. GOVERNMENT PRINTING OFFICE

96-175 PDF

WASHINGTON : 2004

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: [bookstore.gpo.gov](http://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

SELECT COMMITTEE ON HOMELAND SECURITY

Christopher Cox, California, Chairman

Jennifer Dunn, Washington	Jim Turner, Texas, Ranking Member
C.W. Bill Young, Florida	Bennie G. Thompson, Mississippi
Don Young, Alaska	Loretta Sanchez, California
F. James Sensenbrenner, Jr., Wisconsin	Edward J. Markey, Massachusetts
W.J. (Billy) Tauzin, Louisiana	Norman D. Dicks, Washington
David Dreier, California	Barney Frank, Massachusetts
Duncan Hunter, California	Jane Harman, California
Harold Rogers, Kentucky	Benjamin L. Cardin, Maryland
Sherwood Boehlert, New York	Louise McIntosh Slaughter, New York
Lamar S. Smith, Texas	Peter A. DeFazio, Oregon
Curt Weldon, Pennsylvania	Nita M. Lowey, New York
Christopher Shays, Connecticut	Robert E. Andrews, New Jersey
Porter J. Goss, Florida	Eleanor Holmes Norton, District of Columbia
Dave Camp, Michigan	Zoe Lofgren, California
Lincoln Diaz-Balart, Florida	Karen McCarthy, Missouri
Bob Goodlatte, Virginia	Sheila Jackson-Lee, Texas
Ernest J. Istook, Jr., Oklahoma	Bill Pascrell, Jr., New Jersey
Peter T. King, New York	Donna M. Christensen, U.S. Virgin Islands
John Linder, Georgia	Bob Etheridge, North Carolina
John B. Shadegg, Arizona	Charles Gonzalez, Texas
Mark E. Souder, Indiana	Ken Lucas, Kentucky
Mac Thornberry, Texas	James R. Langevin, Rhode Island
Jim Gibbons, Nevada	Kendrick B. Meek, Florida
Kay Granger, Texas	
Pete Sessions, Texas	
John E. Sweeney, New York	

JOHN GANNON, *Chief of Staff*

UTTAM DHILLON, *Chief Counsel and Deputy Staff Director*

STEVEN CASH, *Democrat Staff Director*

MICHAEL S. TWINCHEK, *Chief Clerk*

# CONTENTS

## MEMBERS STATEMENTS

The Honorable Lincoln Diaz-Balart, a Representative in Congress From the State of Florida, and Chairman of the Subcommittee on Rules .....	4
The Honorable Christopher Cox, a Representative in Congress From the State of California, and Chairman .....	1
The Honorable Donna M. Christensen, a Representative in Congress From the U.S. Virgin Islands .....	4
The Honorable Jennifer Dunn, a Representative in Congress From the State of Washington .....	5
The Honorable Bob Etheridge, a Representative in Congress From the State of North Carolina .....	5
The Honorable Barney Frank, a Representative in Congress From the State of Massachusetts .....	5
The Honorable Jane Harman, a Representative in Congress From the State of California .....	3
The Honorable Sheila Jackson-Lee, a Representative in Congress From the State of Texas .....	6
The Honorable Louise McIntosh Slaughter, a Representative in Congress From the State of New York .....	4
The Honorable Jim Turner, a Representative in Congress From the State of Texas, and Ranking Member .....	9
Smith .....	2

## WITNESS

Michael Dorsey, Director of Administration, Department of Homeland Security .....	7
---	---



## **THE HOMELAND SECURITY TECHNICAL CORRECTIONS ACT OF 2003**

**FRIDAY, MARCH 28, 2003**

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

The committee met, pursuant to notice, at 8:30 a.m., in room 345, Cannon House Office Building, Hon. Christopher Cox (Chairman) presiding.

Members present: Representatives Cox, Dunn, Diaz-Balart, Istook, Linder, Shadegg, Thornberry, Turner, Frank, Harman, Slaughter, Andrews, Pascrell, Christensen, Etheridge, Gonzalez, Lucas, Langevin, and Meek.

Chairman COX. This legislative hearing of the Select Committee on Homeland Security will come to order.

The committee is meeting today to hear testimony on H.R. 1416, making technical corrections to the Homeland Security Act. This should be a relatively brief hearing.

Chairman COX. Under committee rule 3, members who are now present can make opening statements of 5 minutes. I recognize myself for 5 minutes, although I intend to make a much more brief opening statement.

I would like to welcome the members who are here punctually. We are rewarding you by beginning on time.

Thank you, Mr. Dorsey, for being here, for agreeing to appear before the committee to testify.

Our Subcommittee on Emergency Preparedness and Response yesterday held a joint hearing with the Energy and Commerce's Subcommittee on Health, but this is the first legislative hearing of the full Committee on Homeland Security. The bill we are hearing testimony on will likely be the first legislation passed out of this new committee.

It was just a few months ago that the Homeland Security Act created the Department of Homeland Security. One of the principal reasons Congress created this Select Committee on Homeland Security was to oversee implementation of the new act and, of course, the creation of the new Department. H.R. 1416 is the first important step in this process.

Whenever a major bill is passed, there are errors and oversights that can negatively impact the bill and its administration and hamper or delay proper implementation of the law. This is especially the case with the Homeland Security Act which, due to the urgent threat against our Nation, was drafted under intense time pres-

sure. H.R. 1416 is designed to correct the smallest and most technical and most obvious of these errors.

The changes made are not controversial in any way. Mr. Dorsey is here with us today simply to walk us through these fixes. The process of fine tuning the Homeland Security Act will be ongoing throughout the 108th Congress. In the future we will be making more substantial changes to make the new Department as effective as possible, but that process begins here today.

The Chair now recognizes Mr. Turner, the ranking Democratic member, for any statement he may have.

Mr. TURNER. Thank you, Mr. Chairman. It is good to be here this morning at this second meeting of our select committee.

I was pleased, as you were, Mr. Chairman, with the joint subcommittee hearings that we had yesterday with the Energy and Commerce Committee. I think it is a very important and timely subject that was discussed, Project BioShield, and I think it was clear from the hearing that there are questions that need to be answered. We know we need to move with dispatch on that very important issue. So I hope we will have an opportunity as the committee to look at the various options that should be examined on the best way to produce the vaccines and the medicines necessary to face the very serious threat of bioterrorism. Yesterday's hearing was a good one and a good first step in that effort.

Also, I am pleased that we have started with a piece of legislation that is constructed in the way I think the chairman pledged to us it would be. It is a purely technical corrections bill, and I would anticipate that we could move this bill forward with unanimity.

I also want the committee to know, on our side, we have solicited ideas for future hearings, Mr. Chairman. Each of our subcommittee ranking members are talking with their members, and we will put together a good list of suggestions. I hope you and I could sit down and work through those because I know you feel, just as I do, that we have a heavy responsibility; and inasmuch as we are in perhaps the most perilous time of threat to our homeland security, we want to be very vigilant in moving forward on all of these critical issues as quickly as we possibly can.

So, it is good to be here at this second meeting; and I look forward to continuing to work on the very important matters that we have before us. Thank you, Mr. Chairman.

Chairman COX. Thank you.

Does any other member wish to be recognized?

Mr. SMITH. Mr. Chairman.

Chairman COX. The gentleman is recognized for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman.

I just want to acknowledge, as you already have, that this is a very auspicious beginning for a great committee, it being the first hearing of the Homeland Security Select Committee. I appreciate not only the hearing, but the fact that you are chairing this particular committee.

Mr. Chairman, two comments that aren't really an opening statement. One is, I know these are proposed technical changes, but it might be helpful in the future if we do have testimony and I know it might not be necessary today but if we could get advance copies

of testimony in the future, I think that would be helpful to members.

The second is and this is something we can discuss with your staff—I have a technical amendment I would like to see added to the list. It involves nothing more than inserting the number 7, and we can talk about that in more detail. But I would hope that that would be considered by the staff as we move forward.

I yield back the balance of my time.

Chairman COX. Your cryptic description of the proposed amendment is intriguing. We are anxious to find out what it means.

Ms. Harman?

Ms. HARMAN. Thank you, Mr. Chairman.

Chairman COX. Gentelady is recognized for 5 minutes.

Ms. HARMAN. I would like to echo some of the comments of the ranking member about the urgent need to go beyond technical issues in this committee and focus on some of the big ones, and I would like to put out there just a few that occur to me.

As we meet this morning, U.S. troops are approaching Baghdad, Iraq; and reinforcements are on the way. That war may take some time, and there may well be the possibility of attacks in our country as that war continues. There may well be the possibility of attacks in our country even without the war. I am one who thinks we are very vulnerable. But it seems to me critically urgent that we focus in this committee on many of the things that we can help achieve, such as accelerated disbursement of funds that are already at the Department of Homeland Security and designated for our first responders. There are several funding streams in place. Some of them take longer than others. I would like all of them to take 24 hours or less.

That is obviously a flip comment, but my point is I think most of our first responders know precisely what they need. Some of them, like the city of Los Angeles, are writing their own checks this weekend so that they can purchase the equipment that they need; and I think we could help accelerate that funding. That would be one.

Second, for the private sector, which has developed cuttingedge technology that I think is the key to making much of our homeland security efforts successful, we can make sure that they know where the front door is to the Homeland Security Department and they can get their technology evaluated and purchased if that technology turns out to be suitable.

Third, we can do what I think Mr. Turner mentioned, which is expedite consideration of not just BioShield but all the other ways in which we can make certain that we are protected from a bio-weapon or a chemweapon attack. We read in the newspaper this week that technology transfers from Russia to Iraq have aided tremendously that nation's ability to produce those weapons, and Iraq is not the only place producing those weapons. So it seems to me, again, that is another urgent area for us to address.

My basic point, in conclusion, is that there are bigticket items that this committee has jurisdiction over; and we have a membership that is keenly interested in them; and I would echo the comments of the ranking member and urge you to move out quickly and address the issues that confront our Nation.

Thank you, Mr. Chairman.

Chairman COX. Any member on this side wish to be recognized?  
Gentleman from Florida.

Mr. DIAZ-BALART. Thank you very much, Mr. Chairman.

I waive my opening statement. Thank you.

Chairman COX. Any other member on this side?

Ms. Slaughter is recognized for 5 minutes.

Ms. SLAUGHTER. Thank you. I won't take nearly that time.

I want to echo what Ms. Harman just said. The area that I represent, just outside of it, is where we are hearing in Federal Court now the case of the Lackawanna Five, which have already become Lackawanna Seven, apparently, with more to come. It was a fairly active al Qaeda cell that worked there, and we really need the first responder money desperately. That is the one issue I think we talk about constantly up on the border between United States and Canada. I saw a mayor last night who put it most succinctly that he is not going to be able to finance what he needs to do for homeland security by holding bake sales.

So I am very pleased to be on this committee and look forward to the work and hope that we can expedite some of these things for our citizens to give them security and some sense of hope that we are getting somewhere with this.

Thank you very much.

Chairman COX. Thank you.

Dr. Christensen.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman.

Chairman COX. The gentlelady is recognized for 5 minutes.

Mrs. CHRISTENSEN. I do have a written statement that I submit for the record, and I share many of the concerns also that Ms. Harman already voiced. But, as you can imagine, as I came onto the committee, one of my main concerns would have been that the territories be adequately covered; and I am satisfied that wherever the word State appears that it does include the territories of the United States.

But the other concern that I had is with respect to the Native American areas of our country. I think that there could be some improvements that I think would be considered technical to this bill, and I would like to be able to offer some technical amendments that will clarify this bill with respect to Native American reservations at an appropriate time.

#### PREPARED STATEMENT OF THE HONORABLE DONNA M. CHRISTENSEN

Thank you Mr. Chairman for the opportunity to make this opening statement. I am pleased that we are finally getting the opportunity to meet as a committee for the first time. Our constituents and indeed the American public in general, are anxious for our work to begin on the very important work of overseeing and guiding the efforts of the administration to protect our homeland.

Yesterday, we joined the Subcommittee on Health of the Energy and Commerce in hearing from Secretary Thompson on the Bush Administration's Bioshield proposal. While that meeting was a good start, we have much to do to craft an appropriate proposal that will fast track the various countermeasures that will be needed to prepare, protect or respond in the event of a bio-terrorism attack. As several of us pointed out yesterday, it is equally important that we ensure continuing research into the antibiotics, vaccines and other therapies needed to address the illnesses that plague our people every day, and that we repair and not further exacerbate the current deficiencies in our public health system.



Mr. Chairman, as to the bill before us today, which would make technical amendments, my concerns as I began my service on this committee are to ensure that the U.S. offshore areas and Native American reservations were fully included in all of the programs and protections of the underlined Homeland Security Act of 2002. After my initial review of the underlined legislation, I am satisfied at present, that the definition of "state" includes the offshore areas, but I believe that we need to make some technical amendments with regard to the areas under the jurisdiction of the Native American tribes in our country. I would like to offer those amendments at the appropriate time.

In conclusion Mr. Chairman, I want to note, that in addition to ensuring that the Territories and commonwealths are included in our Homeland Defense, I am also very concerned that we are not providing our first responders with the kind of support that they need to do the best job possible to protect us all. As was pointed out by the U.S. Conference of Mayors, since September 11 additional homeland security costs impact cities across the country, large and small. Exacerbated by the weak economy, which continues to severely pressure the budgets of local governments in all our districts there needs to be "an effective and cooperative partnership with Washington on homeland security—and that means direct financial assistance." I want to make sure that the Act is clear in this regard as well,

I look forward to working with you Mr. Chairman and my colleagues in making this a reality. Thank you.

Chairman COX. Thank you.

The gentlelady from Washington is recognized.

Ms. DUNN. Thank you very much, Mr. Chairman. I will be brief.

I am happy to welcome you, Mr. Dorsey. We are eager to hear your testimony and also to welcome Pam Turner. We are very pleased that you moved over to Homeland Security and look forward to working with you.

Chairman COX. Thank you.

Mr. Etheridge.

Mr. ETHERIDGE. Thank you, Mr. Chairman. I won't take all that time. I will be very brief, and I welcome our witnesses this morning.

Let me echo some of the comments that have been made, because I think it is important.

I met last Saturday at the dedication of the fire department and EMS. One of the things they impressed on me greatly, and I hope we will pay an awful lot of attention to it not only just in New York, Los Angeles and Washington but in a lot of small towns where things are very vulnerable, they need the resources to have the things to respond with. Because if a catastrophic thing should happen along a major interstate or a crossing of an interstate, we could have serious problems in this country and not have the ability to respond. I trust we will spend some time there and get the resources as quickly as we possibly can, and I hope this committee will hold hearings and do things in that regard.

Second, as relates to one of the issues—a lot of companies in this country, private companies, really do want to help; and we ought to provide an avenue that they can participate. I know that is not what this hearing is about, but I do hope we will make that opportunity available to them. They aren't profiteers. They are great Americans who want to help and make a difference.

Thank you, Mr. Chairman; and I yield back.

Chairman COX. Thank you.

Is there any other member who wishes to be recognized?

Mr. Frank, the gentleman from Massachusetts.

Mr. FRANK. Thank you, Mr. Chairman. I apologize for my lateness.

I am glad that we are beginning this very difficult process, and I agree that it is important for us to act on these corrections and make sure that everything is in order. I hope that will prepare the way for us to deal with very important substantive issues.

One that I want to note that is particularly important is the great stress we are putting on the higher education system of this country by the dysfunction in the new student visa program. It is a new program, and it has been complicated by a transfer of authority. I would like to point out, we would like to protect our borders, but we are talking here I think about harm that is being inflicted on higher educational institutions which is wholly unnecessary from the standpoint of security.

One of the things that foreign students do on the whole is to pay full tuition, and the absence of foreign students would have a very negative effect on the financial situation at many of our universities. Those of us who are concerned with the ability of people of more limited economic means in America to pay for college should understand that, to the extent that we dry up the pool of foreign students, we are going to put more financial pressure on the students from America. The foreign students on the whole are a significant source of economic help, but I think it is very important for this country to have that flow of ideas.

I saw the Secretary of State's comments the other day saying that one of the things we will need to do is to repair the incorrect, excessively harsh image of America many of them have. Colin Powell is the ideal person to do that. But one way we do that is to have young people from other cultures come here and see our country at its best at the university level. So I would hope we would give immediate attention in a hearing fairly soon and try to get them to fix that up.

We have a semester starting in September; and, as I said, I just hear why spread the stress on universities over bureaucratic and other snarls, some of which are inevitable. But I hope we give a high priority of straightening that out.

Thank you, Mr. Chairman.

Chairman COX. Any other member wish to be recognized?

#### PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON-LEE

One of my priorities is to ensure that the Homeland Security Department has adequate funding to meet the needs of its immigration components. At this point, we cannot determine the funding levels available to immigration operations because of the lack of specificity in funding allocations and the fact that this is the first budget that combines 22 agencies within the new department. I note in particular that some customs operations have been combined with immigration operations, which also makes it difficult to determine whether immigration operations will have adequate funding.

The Department separates immigration operations into two new organizations, the Directorate of Border and Transportation Security and the Bureau of Citizenship and an Immigration Services. The success of these organizations, however, depends in part on coordinating the operations of the two organizations. Such coordination receives inadequate attention in the new law and needs to be addressed through oversight and practice.

Equal emphasis needs to be placed on improving service, as well as on effective and fair enforcement of our immigration laws. Direct Congressional appropriations must supplement user fees to ensure the effective, efficient, and fair provision of services.

Officials charged with organizing our immigration functions and leading these divisions within the new department should understand immigration policy, recognize

the importance of both adjudications and enforcement, and work to ensure the necessary coordination of the separated adjudications and enforcement functions. I hope that these officials will be accountable and will be willing to address problems that result from this massive reorganization.

The new law is silent on how our immigration functions will operate at our ports. It is critical that those responsible for inspections at our entry points be fully aware of, and educated about, the policies and practices of the Bureau of Citizenship and Immigration Services. To ensure consistent and fair border adjudications, key responsibilities should reside with the Bureau of Citizenship and Immigration Services personnel present at each port.

Local offices must be staffed by knowledgeable people capable of making crucial, often life and death, decisions. These offices must be accessible to the communities they serve and operate within a clear chain of command. These offices must be adequately funded because expertise, accountability, and accessibility alone cannot solve the pervasive financial crisis and resulting backlogs.

It is essential that visas be denied to those who mean to do us harm, but we cannot allow the need to exclude our enemies to interfere with the access of people who come to our country for legitimate purposes. We must balance our national security and economic security needs in recognition that the United States is tied to the rest of the world economically, socially, and politically.

It also is essential that we do not lose sight of civil rights in addressing our security needs. I hope that the civil rights officials in the department are given the authority they need to effectively protect civil rights and liberties. Such authority is vitally needed, given the scope and authority of the department.

I am pleased that the department will have a national and local ombudsmen with authority to identify and report problems with recommendations on addressing them. This is another crucial function. It will assist in ensuring that the important goals of the department are achieved.

Thank you.

Chairman COX. If not, we will proceed to the business of this morning's hearing.

I want to join with the vice chairman in welcoming you again, Mr. Dorsey, and also welcoming Pam Turner. I want to—introduce Pam, if you would stand to the rest of the members of the committee—the new Assistant Secretary for Congressional Affairs. We have a big committee of 50 members. You have a much bigger Department of 177,000 people. So our liaison with you is going to be very important. But I think the President and the Secretary are very well served, and we are very pleased that you are in this position, and we look forward to working with you in the days ahead.

Mr. Dorsey, thank you for being here. As you can infer from the opening statements of members, the breadth of the Department's responsibilities are matched by the breadth of the interests of our members. We do not want to put a burden on you this morning—we are pleased that you are here in your role as Director of Administration. We don't want to put a burden on you this morning to respond to questions outside the scope of the purpose of the hearing, which is the technical amendments that we are making. We know you are prepared on that subject.

If you would, please run us through these technical amendments, which I think we all appreciate are noncontroversial, so that we have an understanding of why each of these is necessary and what we are doing in this very brief piece of legislation.

The chairman now recognizes Mr. Dorsey for your testimony.

**STATEMENT OF MICHAEL DORSEY, DIRECTOR OF  
ADMINISTRATION, DEPARTMENT OF HOMELAND SECURITY**

Mr. DORSEY. Good morning, Mr. Chairman, Congressman Turner, distinguished members of the committee. It is a distinct pleas-

ure to be here today as the first Department of Homeland Security witness to appear before the Select Committee on Homeland Security. Thank you for this honor and the opportunity to answer questions from the committee on the proposed Homeland Security Technical Corrections Act of 2003.

The Department has only recently received this version of the bill and, as I am sure you understand, has had very limited time to fully consider it. As a result, the administration has not yet taken a position on the legislation.

There is new language in the bill. We are evaluating the new provisions and look forward to working with your staff on these items. I would be pleased to respond to your questions relating to technical corrections.

Mr. Cox, you asked about walking through; and I would be glad to do that at this time.

Section 1 of the bill is just the title.

Sections 2, 3 and 4 are strictly typographical amendments.

Section 5 clarifies the role of the Secretary of Homeland Security and Secretary of Defense with respect to the Coast Guard, and our understanding is that it does not change the roles of the Secretary of Defense or the Secretary of Homeland Security but simply clarifies those roles.

Section 6 is simply a technical correction to a statutory reference.

Section 7, the Department is evaluating the language of section 7; and we would like to work with your staff on revisions to the language. We are not prepared to do that this morning, but we will be very quickly.

Section 8 simply corrects the typographical error.

Section 9, the references in the rest of section 1204 of the Homeland Security Act references the Secretary of the Department of Transportation, but this particular section references simply the Secretary and then says the Secretary will provide a report. This technical correction would clarify that the Secretary reference is to the Secretary of the Department of Transportation.

Section 10 is a typographical reference. There is a reference to section 6, and this would correct it to the appropriate section, section 1406.

Section 11 adds this committee as a committee to receive reports from the Department; and, of course, we are glad to cooperate with Congress and provide the reports that you are requesting.

And section 12 is simply the effective date.

So those are the provisions as we see them, and I would be glad to answer any other questions that the committee may have.

Chairman COX. Thank you, Mr. Dorsey, for your testimony.

As advertised, this is in fact a very straightforward and technical amendment to the act.

The Chair will now recognize any member for questions on this. I should add that, prior to bringing this piece of legislation before us to the hearing today, the majority and the minority have worked together on this; and I think, speaking for myself and the ranking member, on both sides, we were comfortable with what is in this legislation.

Mr. Frank.

Mr. FRANK. Thank you.

I had a question raised by this particularly dealing with the jurisdictions in the immigration area, which is the area that I had the hardest time sorting out exactly what we are doing. One of the changes does relate to jurisdiction about immigration, and there was a question suggested by some of our staff as to what this does to the Bureau of Citizenship. Could you clarify that? Can you explain what the effect of that will be on the division of immigration duties?

Mr. DORSEY. Congressman Frank, that is the area where the administration has not taken a position; and we are looking at that language and have some concerns and would like to work with you and the rest of the members of the committee to clarify that.

Mr. FRANK. That language in the bill did not come from the administration?

Mr. DORSEY. I don't know.

Chairman COX. If the gentleman would yield, the purpose of the provision in the technical corrections bill is to change references to the Attorney General to the Secretary and likewise references to the Commissioner of INS to the Director. Because the structure in the new Department of Homeland Security does not perfectly mimic the structure at the Department of Justice and INS, there is an opportunity—the translation is not completely technical, and that is why.

Mr. FRANK. I appreciate that. I do have a lot of people who would like me to mimic the Department of Justice, but that is not what we are doing here. Do I understand that this then completes the transfer of authority over these immigration issues to the Homeland Security Department from the Department of Justice? It changes some references—presumably some authority from the Attorney General to the Secretary? Is that in pursuance of completing that transfer of authority?

Chairman COX. It is elsewhere in the statute that transfer is made. What we are trying to do is make sure that the statute in its four corners is internally logically consistent.

Mr. FRANK. In the absence of the gentleman from Wisconsin, I will make that go easier this morning, I assume.

Chairman COX. To be entirely clear, there are a number of substantive issues about what is in and what is out of the Department of Homeland Security that not only could be taken up but that will be taken up by this committee. It is our aim to take up none of those issues in this piece of legislation. What we are aiming to do now with both the Department and OMB, which is conducting their separate review, and our own process here is to purge from this legislation—

Mr. FRANK. Thank you. I apologize for bringing a substantive issue. I hope there will be a time we can do that.

Chairman COX. The ranking member is recognized.

Mr. TURNER. Mr. Dorsey, on this same section, I wanted you to take a look at this and be sure that this section accomplishes your intent. The Homeland Security Act created, as we all know, two entities that have authority over immigration, the Directorate of Border and Transportation Security, which is in charge of Border Patrol and other functions, and the Bureau of Citizenship and Immigration Services is responsible for naturalization and other citizen-

ship services. When you read section 7, it gives the Secretary of Homeland Security the authority to delegate all authority exercised under the Immigration and Naturalization Act to the Under Secretary for Border and Transportation Security without mentioning the Director of Citizenship and Immigration Services. I was curious as to whether or not that was an oversight or whether that is intended to be that way. I would ask you to try to take a look at that as we discuss the other issues that have been raised.

Mr. DORSEY. That is the issue we are looking at, Congressman Turner.

Mr. TURNER. Another issue I would like your comments on relates to the technical correction in section 2. As you are aware, this section was the subject of considerable debate in the Congress because there were many who were sensitive to the erosion of the Freedom of Information Act that potentially could occur under this section. This provision, as you recall, allows private companies, private industry to disclose to the Department certain information about critical infrastructure and for that information, once conveyed, to be maintained in a confidential form by the Department.

In the technical corrections bill, it says, the term "critical information" "means information not customarily in the public domain and related to the security of critical infrastructure or protected systems." We add, "insofar as such information pertains to," and it goes on, "any actual, potential or threatened interference with or attack on or compromise of or incapacitation of critical infrastructure of protected systems," et cetera.

I want to be sure that the language that we have inserted here in no way expands the provision and ensure that we do not construe the provision any more broadly than we have to. I think it is a very important consideration here, considering the history of the debate of this issue in Congress, to ensure that companies do not utilize this provision to keep from the public information that otherwise should be available to them under the guise of national security.

So when I look at the language "insofar as such information pertains to"—a question was raised in my mind as to whether language could be—"directly relates" rather than the language chosen, in order to be sure that this provision is construed as narrowly as possible by the Department.

Mr. DORSEY. I am not here to interpret the statute this morning, but my understanding is that we were simply trying to correct a grammatical structure of the sentence. We weren't trying to change the meaning of the section itself at all.

Mr. TURNER. Well, I hope that is the case and certainly want that to be the case.

The other item I wanted to mention in passing is section 5. That amendment in section 5 implies that the Secretary of Homeland Security has statutory warfighting responsibilities with respect to his authority over the Coast Guard. It would be interesting I think for us to hear your thoughts on some examples of how the Secretary might utilize that authority I would also want to be assured that the Department of Defense concurs with the language that we have chosen in this technical corrections bill. Do we know if the

Department of Defense has reviewed this section and concurs with it?

Mr. DORSEY. The administration has not taken a position on this legislation at this point. It is being reviewed. I don't know if the Defense Department has provided comments yet, but it has not cleared.

Chairman COX. If the gentleman would yield on that point. The reason this is a technical amendment is that elsewhere in the act it is made very clear that the responsibilities of the Department of Defense remain the Department of Defense's responsibilities, and none of those is being assumed by the Secretary or the Department of Homeland Security.

In the existing statute, the Coast Guard can be placed under the control of the Secretary of Defense, although heretofore the Coast Guard has been under the control of the Secretary of Transportation. That requires, among other things, a declaration of war from the Congress. In all other circumstances, the Coast Guard has been under the control of the Secretary of Transportation; and so we are creating the perfect analog here. In fact, it was already created in the statute. We are simply making it clear that there is no possibility under any circumstances that is ever assumed by the Department.

But, likewise, there is not any question about who is in charge of the Coast Guard so long as they are not operating under pre-existing statute under the control of the Secretary of Defense. Then they are under the control of the Secretary of Homeland Security. The technicality here is to ensure that there is no time when the Coast Guard is under the control of no one.

Mr. TURNER. I thank the chairman for that clarification. And, Mr. Dorsey, if you wouldn't mind, please make sure that the Department of Defense concurs with the language we have there.

Mr. DORSEY. Absolutely. And the chairman is consistent with our interpretation of this. This language is not intended at all to change the roles. It is just to clarify the roles.

Mr. TURNER. Thank you, Mr. Chairman.

Chairman COX. Does any other member wish to be recognized?

I want to thank you for your testimony and the members for their excellent questions.

Members of the committee may have additional questions. To the extent that members do have additional questions, you may submit them in writing; and the hearing record will be open for 10 days for these responses.

If there is no further business before the committee, I will excuse our witness; and the Chair wishes to make announcement. Thank you again, Mr. Dorsey.

As you know, we have a markup scheduled of this legislation for next week on Monday. I have been working with the ranking member, with our staff and with the administration to find the earliest opportunity for members of this committee to be briefed by FBI and CIA on the threat assessment that they have recently completed for the terrorist threat to the domestic United States. That is apparently going to be possible. This will not be the last opportunity but the first opportunity for members, and we want to make it as convenient as possible.

We are trying to do it immediately after the markup that we have scheduled on Monday, and I am working right now to see if we can't provide you dinner as part of that. Of course, providing dinner in a secure room at the same time introduces some logistical challenges for us. The briefing is more important. So, if necessary—

Mr. FRANK. Will we have tasters, Mr. Chairman?

Chairman COX. Those members who request it may ask other members on their side of the aisle to taste for them.

So we are going to email your offices with further information on this. But I think that this is an excellent opportunity for us to segue immediately from what has been purely technical to what will be purely substantive and get us started very quickly on the more urgent business of this committee.

I want to thank—our witness. The Committee will Markup this bill at 3 o'clock on Monday.

This hearing is adjourned.

[Whereupon, at 9 a.m., the committee was adjourned.]

