

MOVING BEYOND THE FIRST FIVE YEARS: IMPROVING THE FUNCTIONALITY, GOVERNANCE, AND ACCOUNTABILITY OF THE DEPARTMENT OF HOMELAND SECURITY

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY

HOUSE OF REPRESENTATIVES

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CONTENTS

	Page
STATEMENTS	
The Honorable Bennie G. Thompson, a Representative in Congress from the State of Mississippi, and Chairman, Committee on Homeland Security ..	1
The Honorable Peter T. King, a Representative in Congress from the State of New York, and Ranking Member, Committee on Homeland Security	2
The Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas: Prepared Statement	3
The Honorable Ginny Browne-Waite, a Representative in Congress from the State of Florida: Prepared Statement	6
WITNESSES	
The Honorable Paul A. Schneider, Acting Deputy Secretary, Department of Homeland Security: Oral Statement	6
Prepared Statement	8
FOR THE RECORD	
The Honorable Mike Rogers, a Representative in Congress from the State of Alabama: Article	40
APPENDIX	
Questions From Chairman Bennie G. Thompson	47

MOVING BEYOND THE FIRST FIVE YEARS: IMPROVING THE FUNCTIONALITY, GOVERNANCE, AND ACCOUNTABILITY OF THE DEPARTMENT OF HOMELAND SECURITY

Wednesday, April 23, 2008

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

The committee met, pursuant to call, at 10:07 a.m., in Room 311, Cannon House Office Building, Hon. Bennie G. Thompson [chairman of the committee] presiding.

Present: Representatives Thompson, Sanchez, Harman, Lowey, Jackson Lee, Christensen, Etheridge, Langevin, Cuellar, Clarke, Pascrell, King, Rogers, Dent, Davis of Tennessee and Miller.

Chairman THOMPSON. The Committee on Homeland Security will come to order. The committee is meeting today to receive testimony from Mr. Paul A. Schneider, Acting Deputy Secretary for the Department of Homeland Security, to evaluate the state of the Department as it moves beyond its first 5 years, and to assess the Department of Homeland Security's plans for undergoing its first Presidential transition in 2009.

Good morning. I would like to welcome you, Mr. Deputy Secretary, on behalf of the members in this committee. Last September, as you know, you appeared before this committee for the first time. At that time you testified about GAO's report assessing the Department's progress over the last 4 years. GAO found that the Department's implementation of critical programs is substantially hindered by the lack of strategic planning and management, risk management, information sharing, agency transformation, partnership formation and internal and external coordination.

Last September the committee pressed the Department to improve its functionality, governance and accountability. I am sure you and I can agree that the Department of Homeland Security must operate in the spirit of excellence in order to effectively secure the Nation. I hope your testimony demonstrates that the Department has taken affirmative steps to strategically plan for the transition from this administration to the next administration.

History demonstrates that we are most vulnerable during a leadership transition. The World Trade Centers were first struck February 1993 at the start of the Clinton administration and then again in September 2001 during President Bush's first term. Similarly, the mass transit terrorist attacks occurred in Madrid just 3 days prior to Spain's 2004 election. England's Prime Minister

Brown was installed for only 2 days when two bomb-laden cars were detected and disabled. Given the fact that DHS has never experienced a Presidential transition it is absolutely imperative that the Department is ready to carry out its mission.

Now, Mr. Schneider, the last time you testified before the full committee, you had only been in the post of Under Secretary for Management for 9 months. The Department balked at the committee's request to send your predecessor, who was then responsible for managing the Department's day-to-day operations. Today the Department has again sent you to testify about the transition of the Department, but this time it is in the stead of Secretary Chertoff.

What is even more unsettling is that when the committee sent the Department letters back in February about the committee's intent to examine the Department's ongoing transition process to ensure a seamless and orderly changeover, both you and Secretary Chertoff failed to share the information requested with this committee, which, as you know, is charged with oversight of the Department.

Specifically, the Department claimed that the transition planning documents were, No. 1, under development; No. 2, constitute executive branch materials; and No. 3, that you would share them first with the incoming administration.

Let me state emphatically that the refusal to answer this committee's inquiry contradicts Secretary Chertoff's promise and his obligation to provide Congress with the Department's transition plans and activities. In fact, at the fiscal year 2009 DHS budget hearing on February 13, Secretary Chertoff told this committee, I think we owe it to you, when asked about the Department's transition plans and activities. Yet the committee's staff contacted the component offices at DHS to prepare for a series of hearings regarding the transition of the Department's plan beyond the 5 years. They were told that you and the Secretary had ordered them not to comply with the committee's request.

Let me be clear again, the Department must not evade its responsibility to this committee, Congress or the American people. The Department must be accountable for its transition plans. It must be equally accountable for its other mishaps, whether we are talking about formaldehyde in the Katrina trailers or spy satellites. I am confident that you will keep this in mind as you detail the Department's transition plans in your testimony.

I will close by saying once again that we owe the American people security, we owe them accountability, and, most importantly, we owe them freedom from fear. With that, I thank you for being here today and look forward to your testimony, Mr. Schneider.

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

Mr. KING. Thank you, Mr. Chairman.

I look forward to the hearing. I want to thank Mr. Schneider for his service and for assuming a very tough job, and I believe doing a very outstanding job, and we certainly look forward to your testimony today.

I know in a number of conversations I had with your predecessor Mr. Jackson the tremendous concern he had about the whole transition period and to ensure that that was done as seamlessly as possible and providing the greatest protection. There are so many events that could occur between November 4 and January 20, and then, of course, in the first months of the next administration, that this is really a key moment which has to be addressed, and I look forward to your testimony on that.

I also want to say I think this is the time to acknowledge all the work the Department has done. I mean, it is now 5 years; the country has not been attacked in the last 6½ years. Yes, there have been growing pains, but all things considered, I believe the Department has done a very good job in coming forward, certainly in comparison to the Defense Department 50 years ago. I think that is important to keep in mind. But this is really a first major test as far as the transition period, so your testimony is going to be extremely important on that.

But also, as far as your responsibility to the American people, I think the Congress also has a responsibility, and I wish we had made as much progress as the Department has. I wish we still didn't have 86 committees and subcommittees claiming jurisdiction over the Department of Homeland Security and impeding you from getting your job done. To me, if we want real oversight of the Department, it should be centralized in one or two committees, maybe parts of a third committee at most, but to have this spread out the way it is over the Congress to me is a failure—it is an abdication of our responsibility. So I think that before we criticize the Department so much, we should look at ourselves and say why haven't we done a better job so there can be real oversight and not have it spread so far and so thin that it becomes meaningless.

Also, as far as responsibility, I believe as a committee, and I have said this to the Chairman, we have a responsibility to enact an authorization bill. The fact that we haven't; I mean, here we are demanding what the Department does and the Department comes forward, that is what they are supposed to be doing, and yet we so far have no plans even to enact an authorization bill, which is a failure of responsibility on our part.

So I look forward to your testimony so you can show how you are complying with your responsibilities and your duties, and I look forward to your testimony.

I yield back.

Chairman THOMPSON. Other members on the committee are reminded that under the committee rules, opening statements may be submitted for the record.

[The statements of Hons. Jackson Lee and Brown-Waite follow.]

PREPARED STATEMENT OF THE HON. SHEILA JACKSON LEE

APRIL 23, 2008

In the business of security, there is always work to be done. For those of us charged with doing all we can to protect the American public from those who wish to do us harm—the work never ends, and we can never rest. As such, we are here today to discuss not only what has been accomplished but what is yet to be done, how we might improve the functionality, governance, and accountability of the Department of Homeland Security in the years to come.

In the past week, we have held hearings in each subcommittee to examine the plans for transition for the programmatic offices within the Department of Homeland Security. This hearing will be the culmination of this inquiry; we need now to consider the peoples, policies, and programs of the Department of Homeland Security and their specific plans for transition.

What we need to know today is that the Department has a comprehensive plan for transition on both a micro and a macro level. This committee has sent multiple letters of inquiry asking Secretary Chertoff and other high-level officials from the Department of Homeland Security to outline their plans for transition. Much to this committee's dismay, when Secretary Chertoff did respond to our entirely warranted inquiry, he stated the following: "I think it is important to underscore the fact that over 200,000 of our Department's employees are located in the seven major operating Components. The change in administration will have little, if any, impact on their critical front line operations and a fairly negligible effect on senior management." Mr. Chairman, Members of this committee, that is not a sufficient answer. Stating that the transition will not affect the majority of employees does not address the fundamental question that we are seeking to have answered today: what are the Department of Homeland Security's specific plans at a micro and macro level for the impending transition?

As the Chairwoman of the Subcommittee on Transportation Security and Infrastructure Protection, I was happy to hear from Assistant Secretary Hawley. As we recognized the significant milestone that is the Department of Homeland Security 5-year anniversary, my subcommittee reflected on the work that the TSA has done to secure our Nation's aviation and surface transportation systems, and what work has to be done.

The TSA is responsible for the security of highways, railroads, buses, mass transit systems, ports and the 450 U.S. airports, and employs approximately 50,000 individuals who have the very important mission of keeping the traveling public safe from terrorist threats.

There are many aspects to securing transportation. First, there must be an overarching plan and comprehensive strategy under which all programs and policies must flow. Those programs need to be administered efficiently in combination with developments in screening and detection technology to make sure that threats are discovered. We must have well thought out grant programs that quickly gets money to transit systems under an appropriate risk assessment so that continuing security investments can be made that are tailored to particular transit systems to provide the most comprehensive security network. An all-important component of security that I consider a paramount priority is the continuing training of frontline workers. They are our first line of defense against our enemies, and we owe it to them to provide them with the best training, supportive work environment, and opportunities for professional development.

When this Congress passed into law the 9/11 bill, we directed the Department to make improvements in aviation cargo screening, expanded up the surface transportation security grants, defined criteria for the handling of security sensitive materials on railroads, and provided significant employee training programs and protections. It is vitally important that the Department continues to carryout the mandates created in the 9/11 bill. These provisions were created in a bi-partisan matter, with significant input from the Department and industry stakeholders, to close security gaps and fulfill the recommendations of the 9/11 Commission.

To be sure, the TSA has taken steps to secure the plane and the passenger but has still left the system vulnerable to attacks. In essence, I believe that our focus has disproportionately been on protecting aircraft from past attack scenarios—such as suicide hijackings and IEDs carried out by airline passengers—and has not given enough attention to other potential vulnerabilities.

I am encouraged by the progress that has been made within the TSA, such as including refining the checkpoints, the advancements made in Behavior Recognition, and introducing technologies that improve screening. However, there remains cause for concern as well. By TSA's own covert testing, TSA screeners are still underperforming when it comes to detecting potential bombs and bomb parts, calling into question whether TSOs are getting the training they need to do the job that we need them to do and that they desire to do.

We must also not lose sight of the need for a robust surface transportation security program. The intelligence tells us that transportation continues to be the most significant security threat facing us today. Aviation is still a premium target for terrorists, but as attacks around the world have shown us, rail and mass transit is also an extremely attractive target for those who want to cause mass casualties and panic. With 11.3 million people traveling by mass transit each weekday, we cannot afford to lose site of this vulnerability. That is why this hearing is so vitally impor-

tant. The TSA is one of the most high profile components of the Department of Homeland Security, and based on known threats, the most important.

Because of our collective efforts and vigilance, we have managed to avert a terrorist attack on our soil since the tragic events of September 11. However, even more important than celebrating our efforts is thinking critically, creatively and with foresight about the systemic steps we need to take to better secure our Nation's transportation systems and ensuring that we are committed and dedicated to the implementation of these steps. In the wake of the tragic events of September 11, 2001 and during a global war on terror, the Department of Homeland Security has an increasingly significant role to play.

September 11, 2001, is a day that is indelibly etched in the psyche of every American and most of the world. Much like the unprovoked attack on Pearl Harbor on December 7, 1941, September 11, is a day that will live in infamy. In addition, as much as Pearl Harbor changed the course of world history by precipitating the global struggle between totalitarian fascism and representative democracy, the transformative impact of September 11 in the course of American and human history is indelible. September 11 was not only the beginning of the Global War on Terror, but moreover, it was the day of innocence lost for a new generation of Americans.

Just like my fellow Americans, I remember September 11 as vividly as if it was yesterday. In my mind's eye, I can still remember being mesmerized by the television as the two airlines crashed into the Twin Towers of the World Trade Center, and I remember the sense of terror we experienced when we realized that this was no accident, that we had been attacked, and that the world as we know it had changed forever. The moment in which the Twin Towers collapsed and the nearly 3,000 innocent Americans died haunts me until this day.

At this moment, I decided that the protection of our homeland would be at the forefront of my legislative agenda. I knew that all of our collective efforts as Americans would all be in vain if we did not achieve our most important priority: the security of our Nation. Accordingly, I became then and continue to this day to be an active and engaged Member of the Committee on Homeland Security who considers our national security paramount.

Our Nation's collective response to the tragedy of September 11 exemplified what has been true of the American people since the inception of our Republic—in times of crisis, we come together and always persevere. Despite the depths of our anguish on the preceding day, on September 12, the American people demonstrated their compassion and solidarity for one another as we began the process of response, recovery, and rebuilding. We transcended our differences and came together to honor the sacrifices and losses sustained by the countless victims of September 11. Secretary Chertoff, let us honor their sacrifices by adequately funding not only DHS, but also the first responders who so bravely sacrificed their lives on 9/11 and who work tirelessly every day to ensure that the tragedy of 9/11 is never repeated. Let us learn from the lessons offered by our history so that we are not destined to repeat them.

After the events of September 11, 2001, the American people became painfully aware of the differences between feeling secure and actually being secure. In addition, after Hurricanes Katrina and Rita, we learned that the Department's readiness for and response to natural disasters is woefully inadequate. We must take decisive steps to ensure that adequate funds are available and allocated so that the trust that the American people have placed in our hands is not compromised and that we take strategic steps to ensure their future safety from both terrorist attacks and natural disasters.

The President has a fiscal year 2009 budget request of \$50.5 billion for the Department of Homeland Security, excluding emergency funding, a 7% increase of the enacted fiscal year 2008 level. Despite this increase in the overall budget request for the Department, I am concerned that the President's proposed budget nevertheless contains substantial cuts and eliminations of important programs that are vital to the security of our Nation, States, and communities.

I do not feel that the administration's rhetoric has matched its actions. I am concerned about the commitment to the future and the unprecedented transition that will occur in less than a year. We are here today because we are looking for a specific plan and commitment to this transition and I look forward to today's testimony and ensuring the prosperity and progress of the Department of Homeland Security and consequently the safety of the American people.

PREPARED STATEMENT OF THE HON. GINNY BROWN-WAITE

APRIL 23, 2008

Thank you Chairman Thompson and Ranking Member King for holding this hearing today. Discussing the future of the Department of Homeland Security, and how DHS should prepare for the coming change of administration, is certainly worthwhile.

However, I was deeply disappointed to hear that the Chairman does not intend for the committee to draft or pass an authorization bill this year. As my colleagues and I have repeatedly stated, crafting an authorization bill is a fundamental duty of this committee, and ignoring this responsibility is ill-advised. During these uncertain times, an authorization bill would serve as a valuable tool in prioritizing the Department's goals and activities.

Regarding the future of DHS, I look forward to learning more about how the Department will preserve continuity as a new administration takes over next year. I think those of us on the committee would agree that limiting any disruptive Department reorganization or restructuring would prove extremely beneficial to the Department's mission.

Defeating the numerous and changing security threats facing our nation in the post-9/11 world is a tall order. Securing the borders, keeping transportation systems safe, and protecting critical infrastructure are just a few of countless efforts that require a constant, focused investment of time and resources by the Department.

While we continue working to improve the Department's performance, we should never forget the Department's success in keeping Americans safe, since DHS was created 5 years ago.

I am sorry I am unable to attend the hearing today, due to a family medical emergency, but I will be sure to discuss the proceedings with my staff as soon as possible.

Thank you.

Chairman THOMPSON. Again, I welcome our witness today, the Honorable Paul Schneider, who was appointed on February 26, 2008, to the position of Acting Deputy Secretary for the Department of Homeland Security. Prior to joining the Department in January of 2007, Under Secretary Schneider was a defense and aerospace consultant for 3½ years. Before that he was a civil servant for 38 years, including serving as senior acquisition executive for the National Security Agency.

Mr. Schneider, I thank you for your service, and I look forward to your testimony.

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

Acting Deputy Secretary, I now recognize you to summarize your statement for 5 minutes.

STATEMENT OF HON. PAUL A. SCHNEIDER, ACTING DEPUTY SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Mr. SCHNEIDER. Thank you, Mr. Chairman, Representative King and members of the committee. It is a pleasure to appear before you today to discuss how the Department of Homeland Security is preparing for the administration change in 2009.

Our major objectives for the transition are to first have the right career people in place when the political leadership changes to ensure that the day-to-day operations of the Department are not impacted; second, to ensure our critical processes are well documented and mature; third, to ensure our major programs are properly structured; and fourth, but certainly not last in terms of importance, be able to respond to a national emergency during the transition.

I would like to start by briefly addressing a misperception about the number and the role of political appointees at the Department and the impact of their departure at the end of this administration. There are approximately 200 political appointees in the Department. That is roughly $\frac{1}{10}$ of a percent of the entire Department. Of these 200, only 82 are in positions that are considered senior executives. These include the Presidential appointment with and without Senate confirmation, noncareer Senior Executive Service, senior-level and scientific and professional positions. Of these 82 political appointees, 45 are at headquarters. These 45 positions are primarily Under Secretaries, Assistant Secretaries, Deputies to these positions, Chiefs of Staff and others, such as the Chief Financial Officer, Chief Human Capital Officer and the Chief Information Officer. Approximately 50 percent of these 45 positions at headquarters are in the immediate Office of the Secretary and the Office of Policy. This distribution of appointees in these offices is expected, given their primary policymaking roles.

I personally manage the status of political appointees and their career back-ups for the top 25 positions in the Department. In previous discussions with you, Mr. Chairman, and your staff, I have provided a copy of the chart that I used to manage each one of these individuals and their constant status to make sure that we, in fact, have the right back-up in place.

It is important to note that approximately 204,000 of the Department's 208,000 employees are located in our seven operating components. The change in administration will have a minimal impact on their day-to-day operations or their ability to respond in the event of a national incident.

I would like to summarize our posture in the seven major operating components. The United States Coast Guard and the Secret Service have no political appointees. At the Transportation Security Administration, the Deputy Administrator, Ms. Gale Rossides, a 30-plus-year civil servant, will assume the responsibilities of the Acting Administrator during the transition.

FEMA, by law, has an Administrator and a Deputy Administrator who are Presidential appointees. A Regional Administrator, Ms. Nancy Ward, will serve as the Acting Administrator during the transition.

Immigration and Custom Enforcement, the Deputy Assistant Secretary John Torres, a career civil servant, will serve as the Acting Assistant Secretary during the transition.

At U.S. Citizenship and Immigration Services, the Acting Director will be the Director of Operations Mr. Michael Aytes, a 32-year career civil servant.

At Customs and Border Protection, the Deputy Commissioner Jayson Ahern, a 31-year career civil servant, will serve as the Acting Commissioner. In addition, at CBP the Chief of the Border Patrol, the Director of Field Operations and the Assistant Commissioner for Air and Marine are all long-standing, experienced career civil servants.

The facts are pretty clear. The leadership of our operational components will be in good hands with experienced, proven leaders. The same applies for our headquarters. They lead today and will lead tomorrow.

Overall, we are taking a multipronged approach to our transition planning to ensure operational continuity of Homeland Security responsibilities during the transition. On August 13, the President signed an Executive Order that specifies the order of succession for the position of the Secretary of the Department of Homeland Security. It now reflects our current organization. In October, we completed a component-level succession order and a delegation of authority for each component head position within the Department. There is at least one and sometimes two, and in some cases three, back-ups. We identified critical positions and the interim acting career executives for the departing appointees.

There are several things we are doing. We are building the DHS employees' knowledge of the national security protocols and interfaces with other departments, as well as State, local and tribal governments. We are working with the Homeland Security Council to ensure that other departments with homeland security roles are integrated with our transition efforts. We are learning the best practices from State and local government, as well as the private sector, through the Homeland Security Advisory Council, NAPA, and the Council for Excellence in Government. We are holding training briefings and exercises to prepare our senior-level career personnel to be the decisionmakers and to ensure preparedness to act should a crisis, either natural or manmade, arise. We are fostering—focusing on maturing our management processes that include the budget requirements and our major investments. We are providing an integrated operational planning and coordination effort across the Department.

In summary, we have a comprehensive transition plan in place to ensure that we are prepared not only for the 2009 administration change, but also an incident.

Thank you for your support and this opportunity to be here today. I would be pleased to respond to any questions you may have.

Chairman THOMPSON. Thank you very much, Mr. Schneider.
[The statement of Mr. Schneider follows:]

PREPARED STATEMENT OF PAUL A. SCHNEIDER

APRIL 23, 2008

Thank you Mr. Chairman, Representative King and members of the committee. It is a pleasure to appear before you today to discuss how the Department of Homeland Security (DHS) is preparing for the administration change in 2009.

I appreciate the on-going discussion that DHS and the committee have had on DHS's transition efforts and look forward to continuing the dialog. The Department began to prepare for the administration change over a year ago. Today, you will hear about our efforts to plan for the change in political leadership and the progress we are making. We take our duty to prepare the Department very seriously.

Our major objectives for the transition are to:

1. Have the right career people in place when the political leadership changes to ensure day-to-day operations of the Department are not impacted.
2. Ensure our critical processes are well documented and mature.
3. Ensure our major programs are properly structured.
4. Be able to respond to a national emergency during the transition.

I would like to start by briefly addressing a misperception about the number and role of political appointees at DHS and the impact of their departure at the end of this administration.

There are approximately 200 political appointees in the Department. That is one-tenth of a percent of the entire Department. Of these 200, only 82 are in positions

that are considered senior executives. These include Presidential Appointment with Senate Confirmation, Presidential Appointment, Non-career Senior Executive Service, Senior Level and Scientific and Professional positions. Of these 82 political positions, 45 are at headquarters. These 45 positions are primarily Under Secretaries, Assistant Secretaries, Deputies to these positions, Chiefs of Staff, and others, such as Chief Financial Officer, Chief Human Capital Officer and Chief Information Officer positions. Approximately 50 percent of these 45 positions at headquarters are in the immediate Office of the Secretary and the Office of Policy. This distribution of appointees in these offices is to be expected given their primary policymaking roles. While the other 50 percent of these political appointee executive positions are interspersed throughout DHS headquarters, the majority of the headquarters offices have senior career individuals as the No. 2 official.

In addition, one of the key political appointee executive positions, the Under Secretary for Management (USM), by law is authorized to stay in office to help ensure a smooth transition until there is a senate confirmed political appointee for this position.

It is important to note that approximately 204,000 of our Department's 208,000 employees are located in our seven major operating components. The change in administration will have a minimal impact on their day-to-day operations or their ability to respond in the event of a national incident. The following is a summary of the transition posture for our seven major operating components.

- The United States Coast Guard is a military organization and has no political appointees. Over the past 2 years we have greatly strengthened it with experienced civilian leaders primarily in acquisition, to respond to the increased challenges in this area. We have been steadily increasing the professionalism, capability and competency of this acquisition corps.
- The United States Secret service has no political appointees.
- Transportation Security Administration is headed by a Presidential appointee requiring Senate confirmation. The Deputy Administrator, Gale Rossides, a 30-plus-year civil servant will assume the responsibilities of the acting Administrator during the transition.
- Federal Emergency Management Agency (FEMA) by law has an Administrator and Deputy Administrator who are Presidential appointees requiring Senate confirmation. Our plan is for the Regional Administrator, Nancy Ward, to serve as the acting Administrator during the transition.
- Immigration and Custom Enforcement is headed by a Presidential appointee requiring Senate confirmation. The Deputy Assistant Secretary, John Torres, a career civil servant will serve as the acting Assistant Secretary during the transition. In addition, the Detention and Removal Office, Federal Protective Service and Investigations Offices are lead by career employees.
- Federal Law Enforcement Training Center leadership are all career civil servants.
- Domestic Nuclear Detection Office is headed by a Presidential appointee requiring Senate confirmation. The Deputy Director and the senior leadership positions are filled by career civil servants.
- U.S. Citizenship and Immigration Services (USCIS) is headed by a Presidential appointee requiring Senate confirmation. The acting Director will be the Director of Operations, Michael Aytes, a 32-year career civil servant.
- Customs and Border Protection is headed by a Presidential appointee requiring Senate confirmation. The Deputy Commissioner, Jayson Ahern, a 31-year career civil servant will serve as the acting Commissioner. In addition, the Chief of the Border Patrol, the Director of Field Operations, and the Assistant Commissioner for Air and Marine, are all long-standing, experienced career civil servants.

In discussing transition, it is important to note that the Department underwent a major organizational transition that started in 2005 when there was a change in Secretaries, and Deputy Secretaries that was followed with the replacement of the majority of the top political leadership. The Department's operations continued unabated primarily due to the strength, knowledge and experience of our senior career employees.

This is not to say our work is done. To the contrary, we recognize that as a new Department with the critical mission of securing the homeland in a post-9/11 world, we must ensure our people are prepared and the incoming leadership is prepared to respond to any kind of national incident. We have already begun initiatives that enable us to plan and execute the transition effort well.

We are taking a multi-pronged approach to our transition planning to ensure operational continuity of homeland security responsibilities during the Presidential Administration Transition. These areas of focus and related activities are as follows:

1. *Order of Succession.*—On August 13, 2007, the President signed an Executive Order that specifies the order of succession for the position of Secretary of the Department of Homeland Security. The previous Order of Succession for DHS had not been revised since the Department was established in 2003. The Executive Order now reflects our current organization. In October 2007, DHS completed a component-level succession order and delegation of authority for each component head position within the Department. I have submitted the Department's order of succession as part of my testimony.

2. *DHS Succession Planning.*—We are identifying and planning succession for critical homeland security positions within components to provide continuity at the time of transition. For departing senior level political appointees we have identified interim acting career executives. In addition, Public Law 110–28 required and appropriated funds for the Office of the Under Secretary for Management to commission an independent study with the National Academy of Public Administration (NAPA) to compare the Department of Homeland Security senior career and political staffing levels and senior career training programs with those of similarly structured cabinet-level agencies. NAPA will deliver this report in May, 2008. This report should give us great insights into how we compare with other agencies and identify areas of strength or needed improvement.

3. *Cross-government Collaboration.*—The Department engaged the Council for Excellence in Government (CEG) to help ensure our senior career employees, incoming appointees and leaders of other agencies critical to homeland security are prepared to respond should a national incident occur. CEG is facilitating our efforts on inter-agency collaboration. This inter-agency collaboration effort centers on structured, deliberate processes where DHS will engage key groups and individuals. In concert with FEMA and other parts of DHS, CEG will utilize the National Response Framework and deliver multiple table top exercises during the time of the Presidential election campaign, inauguration, and subsequent appointments of Senate-confirmed positions. With these exercises, participants will not only practice their roles but also build relationships and camaraderie with other key decisionmakers in a variety of emergency scenarios. This effort will strengthen DHS employees' knowledge of national security protocols and interfaces with other departments as well as State, local, and tribal governments to ensure we are prepared should a crisis arise. We are also working closely with the Homeland Security Council at the White House to ensure other departments with homeland security roles are integrated with our transition efforts.

4. *Best Practices.*—We are learning about other approaches to administration transition from Federal, State and local governments as well as the private sector by leveraging the expertise of the Homeland Security Advisory Council (HSAC). In January 2008, the HSAC Administration Transition Task Force (HSAC-ATTF) delivered a report that identifies transition best practices. The recommendations in this report will help the Department develop transition guidance to address the operational challenges during leadership change. Such operational challenges can include ensuring proper succession of career personnel to serve in an acting capacity for departing appointees, organizing table top exercises for incoming appointees, creating a cadre of individuals to focus on transition and ensuring proper out-processing of departing employees.

We have already implemented many of the HSAC-ATTF report recommendations. For example, we created the Deputy Under Secretary for Management career position to ensure operational continuity during transition for a key element of the DHS management structure. We have also identified senior-level career personnel within each component to serve in an acting capacity once the appointees depart. We also implemented the recommendation to identify a cadre of individuals to serve as Senior Transition Officers within their components to help lead transition efforts. We have taken it a step further and in keeping with our desire to train future leaders of DHS, we have identified career employees at the General Schedule-14 and -15 levels, many of whom have graduated from our DHS Fellows and other DHS sponsored graduate-level educational programs, to serve as Deputies to the Senior Transition Officers.

We are also holding training conferences as well as briefings and exercises to prepare these senior level career personnel to be the decisionmakers should they be called upon to manage an incident in the absence of senior leadership. In February 2008, DHS hosted a 2½-day conference that brought together the Department's top leadership from all components including field-based employees. The attendees consisted of career and non-career employees who participated in a FEMA exercise and received briefings on the Department's major ini-

tatives. These briefings focused on execution of policies in the field. In May, the Department will host another 3-day event for senior career employees from all of the components at the Federal Law Enforcement Training Center in Georgia. This training will engage senior career employees in a series of briefing scenarios and FEMA exercises to reinforce integrated operational preparedness and execution throughout the Department. Additionally, beginning this summer and continuing through inauguration, we will be holding more incident response table top exercises that will ensure senior career and incoming appointees have the ability to put into practice the guidance of the National Response Framework, the National Infrastructure Protection Plan and National Incident Management System.

5. Administrative Transition Guidance.—The Senior and Deputy Transition Officers that have been identified are working closely with the USM's core transition team to evaluate internal processes and develop briefing materials. It is particularly important to evaluate our internal processes to ensure effectiveness during the anticipated surge of incoming and exiting staff. The internal processes initiative will involve reviewing Directives, strengthening records management and ensuring for incoming staff, that both new appointees and career employees are equipped with the tools they need and the information and relationships required to be effective in their jobs. We will also be developing briefing materials to convey to career executives and incoming appointees the requisite information and knowledge to maintain operations. For exiting staff we will ensure proper briefings.

6. Processes.—In addition to focusing on internal administrative processes of what we call the “nuts and bolts”, we are also focusing on management processes that include the budget, our major investments and the role of the Operations, Planning and Coordination Component. In planning the Fiscal Year 2009 budget we instituted a recommendation by the Homeland Security Advisory Council—Cultural Task Force (HSAC-CTF) and commenced a Department-wide process of engaging the Components in their strategies, investments and financial objectives. For Fiscal Year 2010 we took it a step further and involved a heavy concentration of career civil servants in the budget process to ensure it continues seamlessly during transition. To continue with the HSAC-CTF recommendation of providing a cohesive, integrated and operationally efficient means of protecting the homeland, we are enhancing our operational planning and coordination efforts across the Department.

7. Programs.—The past 2 years we have spent considerable effort to make sure our major programs are properly structured and resourced to be successful. In August 2007, we formalized our oversight efforts and support for acquisition programs by establishing the Acquisition Program Management Division (APMD) within the Office of the Chief Procurement Officer. To date, APMD has performed Quick Look assessments of 37 Level 1 programs and has overseen Deep Dive reviews of the SBInet and Advance Spectroscopic Portal programs. APMD has provided advice and guidance to a number of programs, particularly in the area of cost-benefit analysis. We are ensuring that the requirements are clear, cost estimates are valid, technology risks are properly assessed, schedules are realistic, contract vehicles are proper, and the efforts are well managed.

We have restructured the Deepwater and Secure Border Initiative efforts. The Transportation Worker Identification Credential Program, a tamper-resistant credential that contains biometric information about the holder which renders the card useless to anyone other than the rightful owner was restructured and is being successfully executed. Each transportation facility will be able to verify the identity of a worker and help prevent unauthorized individuals from accessing secure areas. We have also implemented the first phase of the Western Hemisphere Travel Initiative, a 9/11 Commission recommendation, which requires all travelers, U.S. citizens and foreign nationals alike, to present a passport or other secure document to denote identity and citizenship when entering the United States. Another 9/11 Commission recommendation to improve our system for issuing identification documents that we are implementing is REAL ID. This initiative will improve the integrity and security of State-issued driver's licenses and identification cards, which in turn will help fight terrorism and reduce fraud. Within USCIS we are about to initiate a major transformation that will enhance national security, improve customer service, and increase efficiency. DHS's Office of Intelligence and Analysis is developing a transformation plan to integrate the Department's intelligence functions and capabilities in accordance with the 9/11 Act.

Our goal is ensure the programs we are implementing are on track for the next administration.

In summary, we have a comprehensive transition plan in place to ensure that we are prepared for not only the 2009 administration change but also an incident. In addition, the response we have received from our briefings on our transition efforts to this committee, the U.S. Government Accountability Office, and the Office of Management and Budget, has been extremely positive where our plan has been touted as a best practice for other departments to follow.

Thank you for support and this opportunity to be here today. I would be pleased to respond to any questions that you may have.

ANNEX A.—ORDER FOR DELEGATION OF AUTHORITY BY THE SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY

(PURSUANT TO EXECUTIVE ORDER EXECUTIVE ORDER 13442 (AUGUST 13, 2007))

1. Deputy Secretary for Homeland Security
2. Under Secretary for National Protection and Programs
3. Under Secretary for Management
4. Assistant Secretary of Homeland Security (Policy)
5. Under Secretary for Science and Technology
6. General Counsel
7. Assistant Secretary of Homeland Security (Transportation Security Administration)
8. Administrator of the Federal Emergency Management Agency
9. Commissioner of U.S. Customs and Border Protection
10. Assistant Secretary of Homeland Security (U.S. Immigration and Customs Enforcement)
11. Director of U.S. Citizenship and Immigration Services
12. Chief Financial Officer
13. Regional Administrator, Region V, Federal Emergency Management Agency
14. Regional Administrator, Region VI, Federal Emergency Management Agency
15. Regional Administrator, Region VII, Federal Emergency Management Agency
16. Regional Administrator, Region IX, Federal Emergency Management Agency
17. Regional Administrator, Region I, Federal Emergency Management Agency

ANNEX B.—DHS SUCCESSION ORDER AND ORDER FOR DELEGATION

Component/Position	Career Status
U.S. Coast Guard:	
Commandant	S
Vice Commandant*	C
Chief of Staff	C
Commander, Pacific Area	C
Commander, Atlantic Area	C
Federal Emergency Management Agency:	
Administrator	S
Deputy Administrator and Chief Operating Officer*	S
Deputy Administrator, National Preparedness	S
Associate Deputy Administrator	C
Director, Office of Policy & Planning Analysis	N
Region V Administrator	N
Region VI Administrator	N
Region VII Administrator	N
Region IX Administrator	C
Region I Administrator	N
U.S. Secret Service:	
Director	C
Deputy Director	C
Assistant Director, Administration	C
Assistant Director, Protective Operations	C
Assistant Director, Investigations	C
Assistant Director, Protective Research	C
Assistant Director, Human Resources and Training	C
Assistant Director, Inspection	C
Assistant Director, Government and Public Affairs	C
U.S. Immigration and Customs Enforcement:	
Assistant Secretary	S

ANNEX B.—DHS SUCCESSION ORDER AND ORDER FOR DELEGATION—
Continued

Component/Position	Career Status
Deputy Assistant Secretary, Operations*	C
Director, Office of Investigations	C
Director, Office of Detention & Removal Operations	C
Director, Office of the Principal Legal Advisor	N
Deputy Assistant Secretary, Management	C
U.S. Citizenship and Immigration Services:	
Director	S
Deputy Director*	N
Associate Director, Domestic Operations	C
Associate Director, National Security & Records Verification	C
Chief Financial Officer	C
Director, New York District	C
U.S. Customs and Border Protection:	
Commissioner	S
Deputy Commissioner*	C
Chief, Border Patrol	C
Assistant Commissioner, Field Operations	C
Director, Field Operations, New York	C
Sector Chief, El Paso	C
Director, Field Operations, Houston	C
Sector Chief, Tucson	C
Sector Chief, San Diego	C
Director, Field Operations, Miami	C
Transportation Security Administration:	
Assistant Secretary/Administrator	S
Deputy Administrator*	C
Assistant Administrator, Office of Transportation and Sector Management	L
Assistant Administrator, Office of Security Operations	C
Assistant Administrator, Office of Law Enforcement/Federal Air Marshal Service	C
Federal Security Director, Los Angeles International Airport	C
Federal Security Director, Orlando International Airport	C
Management:	
Under Secretary	S
Deputy Under Secretary*	C
Chief Financial Officer	S
Chief Information Officer	P
Chief Human Capital Officer	P
Chief Procurement Officer	C
Chief Administrative Officer	C
Science and Technology:	
Under Secretary	S
Deputy Under Secretary*	C
Director, Office of Transition	C
Director, Interagency Programs	L
Director, Office of Innovation	C
Division Head, Office of Explosives	C
Division Head, Office of Borders & Maritime Security	C
National Protection and Programs Directorate:	
Under Secretary	S
Deputy Under Secretary*	P
Assistant Secretary, Infrastructure Protection	P
Assistant Secretary, Cybersecurity & Communications	N
Assistant Secretary, Intergovernmental Affairs	N
Deputy Assistant Secretary, Infrastructure Protection	N
Director, U.S. Visitor & Immigrant Status Indicator Technology (US-VISIT)	C
Office of Policy:	
Assistant Secretary	S
Deputy Assistant Secretary*	N
Assistant Secretary, Policy Development	N

ANNEX B.—DHS SUCCESSION ORDER AND ORDER FOR DELEGATION—
Continued

Component/Position	Career Status
Assistant Secretary, International Relations	L
Director, Screening Coordination Office	L
Office of Intelligence and Analysis:	
Under Secretary, Chief Intelligence Officer	S
Deputy Under Secretary*	C
Deputy Under Secretary, Operations	N
Assistant Deputy Under Secretary, Intelligence	C
Assistant Deputy Under Secretary, Mission Integration	C
Assistant Deputy Under Secretary, External Communications	C
Office of Operations Coordination:	
Director	L
Deputy Director	C
Director, National Operations Center	C
Chief of Staff	C
Director, Incident Management & Interagency Planning	C
Office of Health Affairs:	
Assistant Secretary, Chief Medical Officer	S
Principal Deputy Assistant Secretary, Deputy Chief Medical Officer*	C
Chief of Staff	C
Associate Chief Medical Officer, Medical Readiness	T
Associate Chief Medical Officer, Component Services	C
Associate Chief Medical Officer, Weapons of Mass Destruction & Biodefense	C
Federal Law Enforcement Training Center:	
Director	C
Deputy Director	C
Assistant Director, Training	C
Assistant Director, Field Training	C
Assistant Director, Training Innovation & Management	C
Assistant Director, Administration	C
Assistant Director, Chief Financial Officer	C
Assistant Director, Chief Information Officer	C
Senior Associate Director, Washington Operations	C
Domestic Nuclear Detection Office:	
Director	P
Deputy Director	C
Assistant Director, Mission Management	C
Assistant Director, National Technical Nuclear Forensics Center	C
Assistant Director, Transformational & Applied Research	C
Assistant Director, Product Acquisition	C
Office of the General Counsel:	
General Counsel	S
Principal Deputy General Counsel*	N
Deputy General Counsel	C
Associate General Counsel, General Law	N
Chief Counsel, TSA	C
Director of Field Legal Operations, Principal Legal Advisor, ICE	C
Office of Legislative Affairs:	
Assistant Secretary	N
Deputy Assistant Secretary, Operations	C
Deputy Assistant Secretary, Senate Liaison	N
Deputy Assistant Secretary, House Liaison	N
Director, Intelligence & Analysis/Operations	N
Director, National Protection & Programs Directorate	C
Office of Public Affairs:	
Assistant Secretary	N
Deputy Assistant Secretary	N
Director, Strategic Communications	N
Director, Internal Communications	C
Office of Inspector General:	
Inspector General	S

ANNEX B.—DHS SUCCESSION ORDER AND ORDER FOR DELEGATION—
Continued

Component/Position	Career Status
Deputy Inspector General *	C
Counsel to the Inspector General	C
Assistant Inspector General, Audits	C
Assistant Inspector General, Investigations	C
Assistant Inspector General, Inspections	C
Citizenship and Immigration Services Ombudsman:	
Ombudsman	N
Executive Officer	C
Chief, Programs, Policy, Strategy & Research	C
Chief, Intake Evaluations & Problem Resolution	C
Chief Privacy Officer:	
Chief Privacy Officer	N
Deputy Chief Privacy Officer, Privacy	C
Deputy Chief FOIA Officer, Freedom of Information Act	C
Civil Rights and Civil Liberties:	
Civil Rights and Civil Liberties Officer	P
Deputy Officer, Equal Employment Opportunity Programs	C
Deputy Officer, Programs and Compliance	C
Executive Officer	C
Office of Counternarcotics Enforcement:	
Director	S
Chief of Staff*	C
Principal Asst Director	C

AAAAAS = Presidential Appointee with Senate Confirmation.
 AAAAAP = Presidential Appointee.
 AAAAAN = Non-Career SES or Schedule C.
 AAAAAC = Career.
 AAAAAL = Limited term appointee.
 AAAAAT = Scientific Professional.
 AAAAA* = First Assistant, pursuant to the Federal Vacancy Reform Act.

Department of Homeland Security
Delegation Number: 0106
Issue Date:

**SUCCESSION ORDER
AND DELEGATION OF
AUTHORITIES FOR
NAMED POSITIONS**

I. Purpose

This is a succession order for named positions and a delegation of authority for the continuity of essential functions of officials at the Department of Homeland Security (DHS) in case of absence, the inability of the incumbent to act during disasters or catastrophic emergencies or vacancies in offices.

II. Succession Order / Delegation

A. In case of the Secretary's death, resignation, or inability to perform the functions of the Office, the orderly succession of officials is governed by Executive Order 13442 (August 13, 2007).

B. I hereby delegate to the officials occupying the identified positions in the order listed (Annex A), my authority to exercise the powers and perform the functions and duties of my office, to the extent not otherwise prohibited by law, in the event I am unavailable to act during a disaster or catastrophic emergency.

C. The order of succession for the named positions, other than the Office of the Secretary, is in Annex B.

D. I hereby delegate authority to the officials occupying the identified positions in the order listed (Annex B), to exercise the powers and perform the functions and duties of the named positions in case of death, resignation, inability to perform, absence, or inability to act during a disaster or catastrophic emergency until that condition ceases.

E. In terms of named positions in which appointment is required to be made by the President, by and with the advice and consent of the Senate (PAS), if positions are vacant as that term is used in the Federal Vacancies Reform Act of 1998, the First Assistant shall act as the incumbent until a successor is appointed. The individual serving in the position identified as the first to succeed is designated the "First Assistant" for the purposes of the Federal Vacancies Reform Act of 1998. If the First Assistant position is vacant, the next designated official in the order of succession that is not vacant may exercise all the powers, duties, authorities, rights, and functions authorized by law to be exercised by the incumbent, but may not perform any function or duty required to be performed exclusively by the office holder.

F. For all other positions that are not subject to the Federal Vacancy Reform Act of 1988, any official in the order provided for in the succession order may, upon vacancy of the principal position, become the acting principal and exercise all the powers, duties, authorities, rights, and functions authorized to be performed by the incumbent, to the extent not otherwise limited by law.

G. Only officials specifically designated in the order of succession for each of the named positions in Annex B are eligible. Persons appointed on an acting basis, or on some other temporary basis, are ineligible to serve as a successor; therefore, the order of succession would fall to the next designated official in the approved order of succession.

H. Nothing in this delegation is intended to limit my discretion, as Secretary to depart from this delegation.

I. The Executive Secretariat, in consultation with the Office of the General Counsel, is responsible for maintaining a current list of incumbents holding all positions identified in Annex B.

III. Authorities

A. The Homeland Security Act of 2002, P.L. 107-296, as amended

B. The Federal Vacancies Reform Act of 1998, 5 U.S.C. § 3345, et seq., as amended

IV. Cancellation

The following delegations are hereby rescinded:

A. 0101 Delegation of Authority on Succession


B. 0155 Delegation of Authority/Succession to the Director, United States

Citizenship and Immigration Services

- C. 0210.2 Delegation of Authority/Succession to the Office of the Under Secretary for Management
- D. 0401 Delegation of Authority/Succession to the Office of the General Counsel
- E. 0810 Delegation of Authority/Succession to the Office of Inspector General
- F. 2000 Delegation of Authority and Succession for the Office of Public Affairs
- G. 3610 Delegation of Authority/Succession to the Office of Counternarcotics Enforcement
- H. 5000 Delegation of Authority and Succession for the Assistant Secretary for Health Affairs and Chief Medical Officer
- I. 7002 Delegation of Authority/Succession to the Office of the Under Secretary for Border and Transportation Security
- J. 7011 Delegation of Authority/Succession to the Office of the Commissioner of U.S. Customs and Border Protection
- K. 7031 Delegation of Authority/Succession to the Office of the Assistant Secretary for Immigration and Customs Enforcement
- L. 7065.1 Order of Succession and Delegation of Authority from the Office of the Assistant Secretary (Transportation Security Administration)
- M. 7080 Delegation of Authority/Succession to the Office of the Assistant Secretary for Border and Transportation Security Policy and Planning
- N. 8010.3 Delegation of Authority and Succession for the Office of the Under Secretary for National Protection and Programs
- O. 9002.1 Delegation of Authority and Succession for the Administrator of the Federal Emergency Management Agency
- P. 10010.1 Delegation of Authority/Succession to the Office of the Under Secretary for Science and Technology
- Q. 13001 Delegation of Authority and Succession for Privacy Office

R. 20000 Delegation of Authority and Succession for the Office of the Director, Federal Law Enforcement Training Center

S. 23001 Delegation of Authority and Succession for the Office of Policy



Michael Chertoff
Secretary of Homeland Security

10/25/07

/Date

Chairman THOMPSON. I will recognize myself for 5 minutes for the first set of questions.

I listened with great interest what you see as the transition plan. Is there any reason why we did not get a copy in writing of what you just outlined to us when we requested in writing?

Mr. SCHNEIDER. Mr. Chairman, I believe we gave you the succession order. We gave you a significant amount of documents. The documents that we did not give you, and I think we were pretty clear, at least I think I was pretty clear in the letter I sent you, was preliminary information about priorities that you asked us to identify that we felt we needed to first develop and then provide

to the incoming administration. But in terms of succession order, in terms of key positions, in terms of a tremendous amount of documentation that you requested, we provided that. In addition, we have had numerous conversations with your staff and other staffs regarding the details of our individual transition plans.

Chairman THOMPSON. I understand the meetings, but I think what we are trying to get to is what do you have as the written principles for transition for the Department? If you have them, I will make the request again that you make those documents available to the committee. I have heard your testimony here today that there is a comprehensive transition plan. If that document exists, based on what you just indicated in your testimony, then the committee members, I am assuming in its totality, would like to see it.

Mr. SCHNEIDER. Mr. Chairman, the law requires me as the Under Secretary, and I am the Under Secretary for Management, to submit to the Congress a transition plan, I believe, by October 2008. We will comply with that requirement. Our intention is to have that before that. But that is what we are required to do. I believe in my letter I clearly—

Chairman THOMPSON. My point is if the committee in its function requests certain information that you are in the process of preparing and would like to see it, that is the spirit in which the request is made.

Mr. SCHNEIDER. I understand, sir.

Chairman THOMPSON. So you will not provide the information?

Mr. SCHNEIDER. I will go back and look at the specific information that you asked for. I will look at what we have already provided. But again, I am required by the law to submit the formal transition plan in October 2008, and that will be a clear documentation of how we disposed of all the recommendations from the Homeland Security Advisory Council, the NAPA study and the Council of Excellence in Government.

I might point out that we are already implementing many of the recommendations that came out of the Homeland Security Advisory Council transition study report, and based on our initial discussions with NAPA, we have already learned about some of the recommendations that they have suggested, and we will do that. This will all be documented in the transition plan that we are required to submit. I will look to see if there is other documentation that we can provide.

The specific things that I did not provide, and I indicated in my letter, were those things that we honestly felt were those that ought to be between the administrative branch of—excuse me, the executive branch of the current administration with the executive branch of the future administration. It probably didn't come out how I meant it, but the fact of the matter is issues and things like that that are in existence at that time. A lot happens, as I have learned in this job, in 30 days or 60 days and 90 days, and to start identifying those issues now that would be relevant and that a new administration would need to tackle in my view is somewhat premature.

Chairman THOMPSON. Well, I guess your definition of executive branch material is probably different from some of us. Give me an

example of what you think a Member of Congress on this committee would not be afforded the opportunity to see.

Mr. SCHNEIDER. I don't think, quite frankly, you specifically wanted copies of draft briefing material that I would use at a leadership conference of the top 200 people in the Department at a leadership off-site that we had as part of our transition planning effort, and that was specifically called out in your letter. You wanted to see copies of all the individual briefing material. Frankly, I thought that—

Chairman THOMPSON. So you do remember my letter?

Mr. SCHNEIDER. Yes, sir. I personally wrote the answer to your letter.

Chairman THOMPSON. But what I am trying to get to you, Mr. Schneider, is even though you responded, there were issues in the letter that we take exception with, and I am clear on that.

But let me give you an example. We asked for contact names for the individuals responsible for the transition process within each component. We asked for that. We asked the budget for the transition team. Those—

Mr. SCHNEIDER. We don't have a budget for the transition team.

Chairman THOMPSON. Well, then—excuse me, then all you have to do is provide that back to us. As a courtesy for the committee we asked for the information. If you don't have it, if you don't have a budget, if you don't think a budget is necessary, then all you have to do is provide the information. But to ignore or not respond is not the manner that we expect you as a member of the Department to do.

Mr. SCHNEIDER. Mr. Chairman, with all due respect, and I quote from my February 12 letter to you, budget—your question, to the extent possible we have provided transition planning information in response to your questions; specifically budget information for the transition process. My answer: There is no specific budget allocated for transition, however—it goes into talk about public law, blah, blah—identified \$900,000 for a specific study. I did exactly what you just asked me to do. I provided that information hard copy, and I wrote the answer myself. So I have responded to your request as best as I could.

Chairman THOMPSON. Well, then there are some differences.

I yield to the Ranking Member for his questions.

Mr. KING. Thank you, Mr. Chairman.

Mr. Schneider, as I understand your testimony, this is a work in progress. Your target date is October. You are providing us with the information you have right now; as you said, the world can change in 30 days, 60 days or 90 days. You know, that is the reality. Also, I would think this dialogue would be a lot more meaningful if you only had one committee to respond to, not 86 different committees and subcommittees, rather than have to respond to every request that everyone is making based on suppositions as to what might happen later this spring, early this summer or next fall.

If I could go to another topic, which maybe technically is not part of the transition, but in my mind I think is important as we go from one administration to the other, and that is if you could clarify the issue about the fence along the border. There is a news re-

port yesterday and today about Project 28, which basically says that the Department is backing away from that project. Then I think the Department put out a statement clarifying they are not. I just want to ask you, what is the status of the fence going to be when the next administration takes over?

Mr. SCHNEIDER. The fence—well, let me answer it in two parts, a couple of things. I literally just saw that AP—

Mr. KING. I am sorry—okay.

Mr. SCHNEIDER [continuing]. As I walked into the room here, and it is partially correct and partially incorrect. I would refer back, quite frankly, to the Secretary's I think it was February 13 testimony in front of this committee where he explained in a fair amount of detail what SBInet was or is; how P-28 relates to it; how it is part of, just part of, a solution that includes vehicle defense, pedestrian defense, high technology, low technology, increased Border Patrol agents and the like, and it is kind of a compilation, and as well as natural boundaries.

So I think in rereading his testimony before this hearing, I think his testimony in that particular hearing goes into quite a bit of detail about P-28, SBInet, the fence and Border Patrol agents. So that is what the status was then. The only thing that has changed, frankly, is that we accepted P-28, and he indicated in his testimony that he was likely to do that in the next couple of days, and he did.

With regard to the—and he also specifies in his testimony, I think, the number of mileage—excuse me, the number of miles of fence that will be in place by the end of 2008. I think it is roughly 670 miles, of which 370 is pedestrian fence, and I think the other 300 is vehicle fence.

So, I mean, those are the numbers. That is the status. I can get you the exact number of miles of the fence that has actually been laid down.

With regard to this article, some of the stuff is correct, some of the stuff is not. The problem we have is that the way these things are interpreted ends up twisting the story around a little bit, and for what objective, frankly, just astounds me. But the fact of the matter is there is things in this article that is just factually incorrect.

Mr. KING. Whatever clarifications you could send to the committee, I would appreciate that.

Mr. SCHNEIDER. Yeah. This thing is, I would say specifically, a Kelly Good—although the fence continues to operate, it hasn't come close to meeting the Border Patrol's goals.

I think in terms of the staff briefings that have been provided to the committee staff, in terms of the Secretary's testimony, he explained explicitly about what P-28 demonstrated, what it didn't; the fact it is not a full-up operational capability; what we were doing in terms of coming up with upgraded software, upgraded hardware. We would be doing integration testing in a software integration lab, marry that software with the hardware, and ultimately go back and field an upgraded capability.

So that is why this thing is inaccurate, because it doesn't really reflect what the Chief of the Border Patrol's view is, and it doesn't reflect the various discussions that staff has had. Now—

Mr. KING. Mr. Secretary, before my time expires, can I ask one further question, which is actually separate from that, if the Chairman will indulge me? I know that the Intelligence Communities, once candidates are chosen by the respective parties, begin briefings of the staffs of those candidates. Does Homeland Security plan to do anything like that that is almost like a prelude to transition as to telling candidates what ongoing threats there might be or what transition plans there could be so they could, in effect, realize what is happening during the campaign?

Mr. SCHNEIDER. I am aware about the intelligence aspects from my previous life in primarily defense and the like. The Homeland Security Advisory Council, and I suspect NAPA, will recommend that the administration reach out to both parties at different points in time. Having served as the Acting Deputy Secretary now for 4½ months, that is a good recommendation, and the reason is, as I have learned, you don't really understand what—in the case of my job, which involves basically the operations of the entire Department, you don't really get an appreciation for it until you are really in the job and how much you really think you know about the total operations of the Department. There is absolutely no question that that would be of value. From a practical standpoint, I have been talking to folks within this current administration about how do we do that practicably, what would be the right point in time. There is absolutely no question that that would be a benefit.

This is what we are doing. We are preparing training materials and the like for the incoming administration. We will be doing exercises with—we have already—starting with exercising our people, those people that are going to be in the leadership positions. We are going to reach out to the other Cabinet departments, those who interface with us in case of a manmade or natural disaster, to have their leadership involved with our transition leadership so that everybody knows each other, everybody knows how we operate together in these particular times of crises, and we would have that available for an incoming administration to take advantage of or, if it was determined that they wanted it and appropriate for both particular candidates and their staffs, to make use of that opportunity.

I personally and others in this administration think that that would be extremely valuable. The reason is this: Frankly, before I came to Homeland Security, I didn't have a clue in any—I didn't have a good understanding of what this Department was. You can read the Web sites, you can do this, and you can study. But the fact of the matter is until you are here, until you realize how you deal with HHS, how you deal with HUD, how you deal with Energy, how you deal with Defense, how you deal with Interior, especially in terms of crisis, until you are here, you really don't understand it. That is one of the reasons why our effort with the Council on Excellence in Government is to identify all these interfaces, identify how we work with these other departments. So it would basically be an educational device, if you will, so that the incoming administration would have a great appreciation for the sensitivities, the interfaces, et cetera, which, frankly, would help them in selecting people for some of the key leadership positions that are involved in Homeland Security.

Mr. KING. Thank you.

Thank you, Mr. Chairman, for the extra time.

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

The Chair now recognizes for 5 minutes the gentlewoman from California, Ms. Sanchez.

Mr. SANCHEZ. Thank you, Mr. Chairman.

Mr. Schneider, the Government Performance and Results Act requires every department to draft a 5-year strategic plan identifying departmental goals and strategy and to update it every 3 years. The Department of Homeland Security last updated theirs in 2004, and therefore the next update should have been in 2007, but it is not done yet. The Department is only one of four Federal agencies that hasn't gotten their up-to-date strategic plan. A few weeks ago Department Under Secretary for Management Elaine Duke told us that the Department's update is still being reviewed by the OMB, and, according to her, OMB withheld approval because DHS did not include adequate performance measures in its plan.

Do you know if you have gotten around to doing quantifiable measurements for that plan, for the updated plan now?

Mr. SCHNEIDER. They are currently in the process of being more fully developed. I might point out that at the same time, just like the Chairman referred to my hearing in front of, I think, this committee on the GAO 5-year report, I also had to testify in front of the Senate committee with Mr. Walker, and what we worked out was, as you know, we had serious disagreements about the GAO 5-year report. But that was a good discussion. It ultimately led to a series of discussions between us and GAO where we agreed with the Senator to figure out a way so we can identify for future reference what measures of performance should be to judge us for future, whether it be 6 years, et cetera.

So what we did was we worked out really hard for several months with the GAO, and we had a set of metrics that we thought were pretty good. So then in submitting up through OMB, they had some disagreements with us. So what we are trying to do, frankly, is reconcile our identified—that we negotiated with GAO in terms of performance metrics with what OMB wants us to see, agree on a set that will be happy to GAO, because I never want to go through or my successor will never want to go through, say, the GAO 6-year report that I had to go through, and yet at the same time satisfy OMB's requirements.

So I forgot the date that Ms. Duke committed to provide the plan. I think it was in the fall or early fall or something like that, and we are on track to make that.

Mr. SANCHEZ. So are you saying that the strategic plan will be published before the Presidential election?

Mr. SCHNEIDER. It is the early fall. I would have to ask her about the precise date.

Mr. SANCHEZ. She is nodding yes behind you.

Mr. SCHNEIDER. She is nodding yes? Okay.

Mr. SANCHEZ. How can the Department plan for the next—well, okay. So we are going to have it in time then for us to take a look at it and make sure that we have them in place as we go through transition. That was really my question.

I have another question with respect to the US-VISIT system. The statutory requirement for entry and exit system to the United States, as you recall, has been on the books now for over 10 years, and in the beginning the administration made a priority, the only priority, to do a biometric system for entry into the United States, and now it is working on the biometric exit system. So what steps is the Department taking to ensure that the US-VISIT system won't be losing any ground during this transition time? Because I think this whole issue of overstaying visas is incredibly important as we try to figure out how we get people to go back to their home countries and not overstay them. So what is in the works with respect to US-VISIT so that we make sure that we keep gaining ground rather than losing ground?

Mr. SCHNEIDER. Okay. This is really a big priority with the Secretary. We have published a rule, or it has either been published—I have lost track of—since 2 days ago—in the *Federal Register* that establishes the requirements for exit for the exact reasons, Congresswoman, that you just cited.

The way this thing works is we publish the rule for 60 days. Comments come in, and then they are adjudicated. Then basically the rule gets published. So we requested as part of the publishing the rule specific feedback on certain aspects of the rule regarding implementation.

I need to tell you, and I saw some press clips just before I came in here, some of the airline industries are really not happy. They are really concerned about the cost of this thing. As Secretary Chertoff testified, I believe, in his testimony in February on this committee, we take our responsibilities in the law very seriously, we go through the rulemaking process, but there are many that do not want to pay the cost of keeping our homeland secure, and this is one of them.

So we are committed to get this thing out. We work very closely with OMB on this thing. One of the things you have to do as part of publishing a rule is to go through various cost-effectiveness analysis, look at different alternatives. We had a look at a whole host of alternatives to cost them out. Our job is not to tell the airlines how to comply, not to tell them what they have to do, but rather let them figure it out within the most effective and cost-effective way within their method or flow process within the individual airports.

So this thing is moving, it has not stopped, and the Secretary is absolutely committed to getting this thing done.

Mr. SANCHEZ. To just rephrase it then, the Secretary and the Department are continuing to want to have all of that check-out process being done by the airlines before they get to the TSA portion of the airport?

Mr. SCHNEIDER. We don't specify where they do it. This is where they have—there are lots of ways to do it. You could do it up front in the airport, you could do it in between, you could do it when they get to the counter. This is where the—you could have kiosks.

There are lots of ways to do this. We don't think our responsibility, though is it appropriate, for us to tell the airlines how to do this, okay? Different airlines may want different solutions, and it is all based on their individual business model and passage of throughput model within each of the airports. I would expect there would be different solutions for different airlines.

Mr. SANCHEZ. Thank you.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

The Chair now recognizes Mr. Rogers for 5 minutes.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Schneider, thank you for being here and your service to our country.

I want to start off following up on something that Ranking Member King addressed in his questions, and that is the fact that this Congress has yet to deal with the consolidation of jurisdiction over DHS as recommended by the 9/11 Commission. Just in the 110th Congress, the current Congress, how many times have you had to testify, or do you know?

Mr. SCHNEIDER. As the Under Secretary—I was, before I became the Acting Deputy Secretary, I was Under Secretary for 10 months, or until I basically assumed this position. I don't know, it might have been nine times maybe. Small Business, two hearings; one of the field hearings when we had proposed that somebody else testify, a more knowledgeable person. I, under threat of subpoena, had to testify in front of E&C, Energy and Commerce, and the reason was they just wanted—you know, it wasn't a question of having the subject matter expert. I am not the subject matter expert on radiation, portal monitors, et cetera, spectroscopic analysis. So what happens is you—so I think it was about nine times. This is the first time—I don't want to say it is one of the benefits of being the Acting Deputy Secretary. This is the first time I have had to testify as the Acting Deputy Secretary.

Mr. ROGERS. Does this phenomenon occur with all of your folks in management?

Mr. SCHNEIDER. It is terrible.

Mr. ROGERS. How does it affect your ability to run the Department?

Mr. SCHNEIDER. It really does affect you because, first of all, especially when you deal with committees that are just interested in a—I will call it a slice or a piece of you or a piece of the Department, and the reason being is they don't have a broad oversight, they don't understand fully the trade space that a department has to make in terms of allocation of resources like you do or your Senate counterpart or the appropriators. So what happens is there is a laser-beam focus on that particular issue as if that is the only thing the Department is concerned about. Then it gets even worse when you see that some of these other committees try to introduce legislation which, frankly, just focuses on that.

As we speak, we are fighting a big issue today with the T&I Committee, if you will, that has come up with a proposed amendment that will basically totally affect the way the Coast Guard operates, command/control, allocation of officers, on and on and on and on. It was like 300 pages.

Mr. ROGERS. What I am hearing is, bottom line, it is a drain on your resources, an anchor around your neck, and it is Congress' fault that we haven't addressed it?

Mr. SCHNEIDER. That is not for me to say it is Congress' fault.

Mr. ROGERS. Well, that is what I say, and it is a fact. We as Congress have let the Department down by not taking this issue on.

I want to ask you about another matter, ICE. In recent years we have increased CBP by 35 percent, and we are getting close to a level that ostensibly will be adequate for CBP. I think that is arguable. But over the same period of time, we have made a zero increase in ICE officers. That seems incongruent to me. Why has that happened, and do you see any effort to try to remedy the inadequacy of ICE officers as we move forward in trying to deal with illegals in this country?

Mr. SCHNEIDER. Yes. I think it gets back to what was our immediate priority and how did we make those resource decisions. No. 1 priority was basically secure the border. That is why we needed to go to build, start to build a big build-up of Border Patrol agents initially at the southwest border, and now, as you know from our 2009 budget submit, we are focusing our efforts now on expanding and increasing our capability both with people, technology, et cetera, on the northern border.

Likewise with ICE, we had some very serious issues with regard to the detention facilities, number of beds. So what we did was we put dollars into increasing the number of beds, increasing the—I will call the worthiness or the acceptability of a lot of these facilities, and so we have done that.

We know that to go and find the illegals that are in this country and do not belong here, we have to start increasing the number of ICE agents, and as we look downstream, that is how we start rolling that thing in.

Mr. ROGERS. So you do plan to increase it?

Mr. SCHNEIDER. Our plan is to increase it, yes.

Mr. ROGERS. Over what period of time do you expect to see this happen?

Mr. SCHNEIDER. I will have to get you those numbers.

Mr. ROGERS. I would like to see those.

Mr. SCHNEIDER. I have a better handle on beds. I track beds only because that basically—I don't want to say influences our ability to be able to detain these people satisfactorily so that we can basically remove them from the country.

I will get you our projections.

Mr. ROGERS. My time has expired. I hope we have another round of questions. Thank you.

Chairman THOMPSON. Thank you.

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

Ms. HARMAN. Thank you, Mr. Chairman, and thank you for holding this hearing. I think it is important to have our records show where we are on this question of transition.

I, sitting here, read your letter to Secretary Chertoff and his response, and I think they are both useful parts of this committee's hearing record.

I do think there has been progress at the Department, and I want to thank the Department for progress. However, I also think there is a long way to go, and I think there are some outstanding issues, particularly with respect to the National Applications Office, concerning the use of military satellites over the United States.

Let me just make several comments. That is what I would like to do with my time. First, I agree with the Ranking Member and the more recent comments that Congress should do more to reform itself. This is a glaring omission. The 9/11 Commission was right that an unfinished piece of business is congressional reform. I also feel, and you know I have said this to you, Mr. Chairman, that part of that reform should result in more jurisdiction for this committee.

This is the committee that is called the Homeland Security Committee. I don't know what people miss about this. We have expertise on a bipartisan basis, and we should have jurisdiction to match that expertise because this is urgent business. I think if we got more jurisdiction in this committee, some of this problem would simplify. So that is my comment on that.

On the Department, let me just make several comments from my vantage point as Chair of the intelligence subcommittee. I think this work should be going on now. I also think the next administration will need to continue this work. Three areas: One, information sharing. I know the Deputy Secretary has heard me talk about this, and Under Secretary Allen has heard me talk about this more, but that is still a work in progress. The point is to get the information that is accurate, actionable and timely to people who need it—to people who need it, period, and that is not happening fast enough or often enough.

We don't have to go into it now, but I think the Department has had to be dragged kicking and screaming into the business of involving State and local representatives in its activities. Progress has been made, but this is unfinished work.

I was just in Minneapolis visiting the fusion center there, and there is no question that grant guidance needs work, and that more effort has to be made to include our State and local first preventers in helping to design intelligence products and making certain that they are fully shared.

Second, R&D. I represent a part of California where there is incredibly good technology developed by the private sector—Ms. Sanchez knows this, too—for all kinds of activities the Department is engaged in. I don't want to just show my local products, although they are great. But the Science and Technology Directorate is still a work in progress. It was supposed to be the front door for technology. It is beginning to function as the front door for technology. But if the Department doesn't fully leverage the products that the private sector has developed, the Department will never get there in terms of having sensors and other—you know, the most advanced screening mechanisms for the TWIC cards and other things that are critically important for it to carry out its work.

The third area seems to have been substantially overlooked. I know that the Secretary has been traveling lately. I think that is a good thing. But it relates to our international relationships. It seems to me that we should be working closer with our allies, and

we should be learning the best practices that our allies are using to do many of the functions that are necessary for them and are necessary for us. I think, again, the welcome mat hasn't been as open as it should be. I think this is work the next administration will have to carry on.

But let me just close by suggesting that information sharing, R&D and international relationships are all areas that need to be addressed more carefully, and I would hope that you and the Secretary would spend some time on these things before your terms end.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Thank you very much.

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

Mr. DENT. Thank you, Mr. Chairman.

Mr. Schneider, a quick question I wanted to ask you. You submitted that—the order for delegation authority for the Department. Could you explain how the Department arrived at this order of succession? For example, I saw that given the mission of FEMA, one would think FEMA would be higher on that succession order than, say, the Under Secretary for Science and Technology, but that wasn't the case. I guess I want to understand the rationale how you came up with that process.

Mr. SCHNEIDER. Actually, that was a realization that if in the unfortunate circumstance that they needed to execute that succession order, that by and large there would probably be a national incident of major proportions that would require emergency response.

Chairman THOMPSON. Can you speak up just a little bit?

Mr. SCHNEIDER. Our thought process was that if there was a situation that would require going down that list where either the Secretary, the Deputy Secretary or the two Under Secretaries were basically not available to execute the responsibilities of the Secretary, that it would probably be a situation where we would have an extensive recovery-type effort under way in response to either a natural or a manmade disaster. It was our view that the head of FEMA is so critical in terms of executing the Department's responsibilities in that particular area, that that was a judgment call we made that that individual, the head of FEMA, ought to be focused on that as his or her primary mission.

That was our thought process, as opposed to I will call it the continuity of government actions. Having been in this job now for 4½ months and watching how FEMA operates in cases of wildfires, in cases of ice storms, in cases of flooding and tornadoes and the like, I think that was the right decision. We want the head of FEMA managing FEMA, and we have other capable people in terms of a couple of Under Secretaries and Assistant Secretaries who could fill in as the Acting Secretary.

Mr. DENT. So I guess, stated another way, you see that the head of FEMA takes on a critical role during such an event, but should not be placed at the top of the organization or close to the top, because under your program you have established him as the—the Administrator as No. 8 in succession as opposed to, say, S&T at No. 5. So you are stating that it is a critical position, and he must be focused on those activities, I guess?

Mr. SCHNEIDER. It really is. Congressman, my appreciation has just—for what FEMA does in this position where—you know, FEMA is one of our seven operational components. Our operational chain of command is basically those operational component heads work directly for the Secretary and, in his absence, me. So in any one of these particular situations, the chain of command or communications is the Secretary or myself directly to the head of FEMA. I can tell you we want those people, we want the head of FEMA doing what he is doing or in the future doing what they are doing because it is absolutely critical. They exercise tremendous judgment in terms of how forward-leaning in the case of natural events, how forward-leaning they need to be. It is the dealings with the Governors and the local people, and that is what our view was, that that was so critical that we ought to let them do that.

Mr. DENT. Then I guess my next question then just deals with the issue of transition, which of the components that you feel face the greatest challenge as the Department prepares for transition, and specifically what particular challenges do you see for FEMA as it moves to this transition period?

Mr. SCHNEIDER. I think the biggest challenge for FEMA is, frankly, the fact that both the principal—the Administrator and Deputy Administrator are political appointees. So we don't have that one, two, you know, political career back-up. That is by law, you know.

So what you have is you have the top two people leaving at the same time. We don't have that in CBP, we don't have it in ICE, we don't have it in TSA. There are several other organizations within our Department that I didn't mention; like FLETC doesn't change, our Director of Operations doesn't change, I mean their careers.

So here we have one of our major operating components, the top two people leave. Not to say that the Regional Administrator Ms. Ward is not fully capable; the fact of the matter is she does not deal with Governors across the United States every day. She does not deal—or if we picked another Regional Administrator. So just by the nature of structure, okay, that is the one that is somewhat of an anomaly relative to the rest of the Department. So the rest of the Department I am personally very comfortable with.

Mr. DENT. I see my time is up. I yield back.

Chairman THOMPSON. Thank you.

I would now recognize the gentleman from North Carolina for 5 minutes. Mr. Etheridge.

Mr. ETHERIDGE. Thank you, Mr. Chairman, and Mr. Secretary, thank you for being here.

Let me join my colleague Ms. Harman on the issue regarding technology, having the great privilege of representing the State that has a lot of Technology and Research Triangle area. I think the Science and Tech Directorate is a critical piece, and I think that needs, obviously, more attention as we move forward to make sure we mind those best practices out there in the private sector we can use.

But let me move back, if I may, to the transition and leadership, because I think it is a critical piece, as it always is, and you have just touched on it, because I think now more than ever it is critical

to have that strong leadership. Really for a fully prepared and trained workforce in the Department, you just alluded to one of the real challenges. I think we have got to ensure that the transitional continuity in the administrative—in the programs and the key decisionmakers are in place. I think that is a critical piece. In light of the Department's vital mission during the upcoming Presidential transition, you have touched on this a bit. I think it is critical that sound policies and procedures are in place to really ensure that those professionals stay in place. So my question is this: What plans and programs are in place to ensure continuity in program administration and key decision-making areas?

Here is why I ask that question: Because if something should happen and there is that dead period, even when you start having—and we will get to the major election process pretty quick, and—what training and exercises are planned or under way to test our new roles and responsibilities if an event were to occur during this period of transition?

Mr. SCHNEIDER. Okay.

Mr. ETHERIDGE. Which is, I think, the most critical period because that is the gray area that a lot of folks don't really think about.

I hope you have been thinking about it.

Mr. SCHNEIDER. Yes, sir, I have. I spend quite a bit of time thinking about it.

Let's do this in pieces, okay? Up through and including up to January 20, we will—we plan and we have already started to run a series of exercises, both within our department, with all those career civil servants that will be assuming these positions of leadership as the acting head of an operational component—

Mr. ETHERIDGE. Sort of a handoff.

Mr. SCHNEIDER. A handoff. I mean this is basically an exercise. We do many of these in terms of desktop exercises.

We will continue to do these. We will change the venue, whether it be a pandemic flu, whether it be a chlorine leak, whether it be some other—one of the other scenarios that we have to respond to.

Our plan is to work through the Homeland Security Council to get the other departments in government to get their planned acting leadership during the transition to participate with us so that the people know one another. That may sound kind of minor, but I can tell you I spend a tremendous amount of my time each week dealing with my counterparts at the other departments in terms of interagency coordination; and it makes a big difference if you know who the other person is at the end of the line before you have a crisis.

Mr. ETHERIDGE. I hate to interrupt you because time is running out, but my question also interfaces, as we have got these people who obviously are going to be leaving. Before new people come in, you are going to be handing some of that off to career people?

Mr. SCHNEIDER. Yes, sir.

Mr. ETHERIDGE. I hope those career people are side by side with the political folks.

Mr. SCHNEIDER. Yes, sir.

Mr. ETHERIDGE. I hope you would touch on that before you finish your—

Mr. SCHNEIDER. Yes. In my testimony, and I captured some of it in my opening statement, the people that are going to be running the seven—or five of the seven operating components have, on the average, 30–32 years' experience in government. I deal and the Secretary deals with them interchangeably with their principals. If I can't get the head of TSA, I deal with the deputy. If I can't get the head of CBP, I deal with Jay Ahern.

They are interchangeable; and the reason is, their responsibilities are so broad. So I am not worried about that.

What we have been doing is, we have been bringing those people and their subordinates one or two levels beneath them into the decision-making process. So when I ran a leadership event for 2½ days a couple of months ago, it was not just the No. 2 people, it was the No. 3 and the No. 4, so that everybody understood our current priorities, where we were headed.

They understood what our current programs were, where we were headed. We shared lessons learned for how we—we are basically a law enforcement organization; how we operate—my term on the deck plate, whether it be in Miami, whether it be in Key West, whether it be in Seattle or San Diego, we share those best practices. Because that organization, that day-to-day operation will go on regardless of whether or not you have a political appointee at the head of the operating component or an acting career executive.

So as part of our fiscal year 2010 budget process we have done it differently as we start preparing our budget. We have basically brought in—for the most part, 70 percent of the people participating in the budget are the second level leadership and the third and fourth level leadership of the Department so that everybody understands how this budget process works. Because one of the first things a new administration will take a look at is, do they agree with the priorities, the allocation of resources, et cetera; and it is a mad rush to basically determine what the new administration's priorities are.

I would put our Department, in terms of preparedness, in terms of the knowledge of the people that are in the Department, ahead of any other Department in this government in terms of being able to respond when a new administration takes place.

Mr. ETHERIDGE. Thank you, Mr. Chairman. That is somewhat reassuring. I appreciate that very much. I think that is critical—that, plus all the grant work that takes place in this Department is important.

Thank you and I yield back.

Chairman THOMPSON. Thank you very much.

We now recognize the gentleman from Tennessee for 5 minutes, Mr. Davis.

Mr. DAVIS OF TENNESSEE. Thank you very much. Thank you for being here. I appreciate your willingness to testify today.

Chairman THOMPSON. Can you check and see if your mic is on, Mr. Davis?

Mr. DAVIS OF TENNESSEE. I appreciate your being here. Thank you so much.

Could you tell me how important it is to the Department for the Congress to pass the authorization bill for the work that you do?

Mr. SCHNEIDER. I think an authorization bill is very important. The reason I think it is very important is because what it does is, it takes a total view of the Department in terms of priorities, where resources ought to be, et cetera.

Within the Congress, I think that brings together, as part of the legislative process, all the issues at one time that basically coalesce, if you will, all the different entities that might be interested in a slice of what we do here, a slice of what we do there in terms of the broad perspective of what is important to this Department in the view of the Congress. So I think it is important.

I come from a world where you always have, you know, Defense primarily, where you have an authorization bill. It kind of guides the priorities of the process. I think that is the way it was intended in terms of the legislative process. I think it is sound and good government. So I am very supportive of the value of an authorization bill for the Department of Homeland Security.

Mr. DAVIS OF TENNESSEE. Thank you for that answer.

I am going to try to focus a little more tightly now and talk about Border Patrol. When do you anticipate SBInet to be fully deployed? SBInet?

Mr. SCHNEIDER. Well, the SBInet is—and I will refer back to Secretary Chertoff's testimony of February 13 in front of this committee, where he gave a pretty comprehensive answer about what SBInet entails and what—which is a mixture of different types of low technology, high technology, unmanned ground sensors, cameras, et cetera.

So he gave where we would be by the end of 2008 in terms of, I think it was, the Arizona-New Mexico border with some further—we have a rollout planned, and I forget the exact dates, for 2010–2011, where we would go to Yuma.

So it gets deployed in various stages, and the mix of what is in it is different, depending upon the needs of the Border Patrol. It could be because of the geography, it could be because of natural boundaries; it could be we use perhaps mobile ground systems because we have 10 miles flat terrain in either direction. So as we start moving across the border, when we take into account the vehicle fence and pedestrian fence, the mix is going to be different.

So there are some very clear milestones that we have established for 2009–2010, and I would be glad to get that to you.

Mr. DAVIS OF TENNESSEE. That would be good.

I understand that Secretary Chertoff, using authority granted by Congress, has waived certain laws to expedite construction of critical Border Patrol fencing; and he did that under auspices of law. Can you talk, generally, when you think some of these things are starting to be seen by the American people? Where will they begin acquisition plans for land, survey sites, some of those things that can reassure the American people that we are moving forward to protect our security and our homeland?

Mr. SCHNEIDER. In the Secretary's waiver that he approved, we identified for him every specific tract that requires the waiver; and for various reasons, we have two waivers, one in general for each of the individual tracts, and then we have the one stand-alone waiver for Hidalgo County, where we are doing a cooperative effort with the county on a joint fence-levy construction project that

frankly makes sense, do the job once and save money. So the specific tracts are identified, if you will.

I tracked the mileage in terms of where we are in terms of fence miles for a week on our way to the total of 670 by the end of 2008; 370 are pedestrian, 300 are vehicle. In another 30 days or so, I will start tracking, if you will, where we are with each of these.

Some of these things are being contested, you know, in court. The law that gave the Secretary the waiver authority was very prescriptive about assigning to a specific court the responsibility to adjudicate these cases under certain circumstances, et cetera. So I am going to be looking at how many cases, how many tracts, what is the mileage in each tract, where we are relative to the acquisition, when do we actually start digging and preparing the site. So I am probably about 30 days away from getting into personally managing the details of every one of these tracts.

But the reason we did this was so that the Department could comply with the law. You know, there are two separate laws that we have to comply with. One that gave us—you know, specifies the fence, and the other gives us the waiver. There are two separate portions. So we did this because—and we did this it at the time we did it because there is no way we would have met the law requirement for the 670 miles.

Mr. DAVIS OF TENNESSEE. My time has expired. I hope you will share that information, the miles proceeding, with Members of Congress. With that, I yield back.

Mr. SCHNEIDER. Yes, sir.

Chairman THOMPSON. Thank you.

I will now recognize the gentleman from Rhode Island for 5 minutes, Mr. Langevin.

Mr. LANGEVIN. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for your testimony today. As we are looking further and further at issues in transition—is that better?

Mr. SCHNEIDER. Yes, sir.

Mr. LANGEVIN. Secretary, thank you for being here today. As the committee is looking further and further at the issue of transition, I wanted to look at the issue of burrowing.

This committee obviously has warned the Department several times about utilizing the practice of burrowing, which would basically allow the filling of critical vacancies with political appointees. It is the common practice, as you know, of OPM to issue a customary warning to agencies to ensure that political pressure doesn't enter into the personnel decision-making process during a Presidential transition. However, it appears as though the Department is already transitioning former political appointees into career positions.

A couple of examples: Brad Buswell was the former chief of staff to the Science and Technology Directorate. The committee was told that last week he was named deputy under secretary to S&T, which as you know is a career position. Another example is Sue Armstrong, acting chief of staff of the Office of Infrastructure Protection, who will replace Dennis Diesel as the deputy director of the Infrastructure and Security Compliance Division.

How are you going to prevent burrowing if the Department is already engaged in the practice that they had been warned against?

Mr. SCHNEIDER. Okay. First off, we advertise. We don't just unilaterally reassign somebody from a political position to a career position. What we do is, we advertise the position. People apply.

In the case of Mr. Buswell—and I will get the date for you—I think it was back in October we decided to advertise the job. We advertised the job. We have got—I think there might have been about a dozen applicants, including him.

It went through an evaluation process by a board that was—typically, we have three people. In many cases, they come from—they are not in the—people that are on the board are not in the directorate of the position.

Mr. LANGEVIN. Who appoints this board? Is this the Secretary's appointment?

Mr. SCHNEIDER. No, it is recommended by the selecting official that is approved, I believe, by the chief human capital officer; and if he or she has some issues with it, they would bring it to me.

Mr. LANGEVIN. Are you saying both these individuals went through that process, the positions were posted?

Mr. SCHNEIDER. First of all, I am not familiar with the other individual. I am familiar with Mr. Buswell, because the process that we used would ultimately lead to a recommendation for selection. That would come to an executive resources council that I chair that is made up of a cross-section of the political and the career leadership of the Department.

In that particular case, that board reviewed the backgrounds of the top three applicants and concurred with that recommendation. That recommendation and package was sent to the Office of Personnel Management. The Office of Personnel Management did a detailed scrub of that for two accounts: First of all, make sure the individual, as a routine, whether or not the individual was qualified, et cetera, et cetera; but also, because he was a political appointee, they do an extra scrub of that.

They basically concurred with that process and his qualifications. Then once they did that, that package was sent to a qualifications review board that is picked by OPM, that meets, I think, on a monthly basis to basically consider the qualifications for any—any new career SES across government.

The qualifications review board concurred with that. It came back to us, I think it was last Friday. So we are in the process of effecting that particular move. I think his last date as the chief of staff is April 27. Then on Monday, I believe, he would assume responsibilities of deputy under secretary.

I want to emphasize, these jobs are advertised, people compete. I am aware of only one other political appointee—I will check this other one out—I am only aware of one other political appointee since 2005 at the executive level—the executive level that was a political, competed for a job and was selected. Those are the only two cases I am aware of.

I will check this other one out.

Mr. LANGEVIN. You will get back to the committee in writing?

Mr. SCHNEIDER. Yes, sir.

Mr. LANGEVIN. Thank you.

I have one other question, unless the Chair wants you to get back to me in writing. Project BioShield has employed varying lev-

els of success. While the Department of Homeland Security has completed some of the necessary material threat determinations, HHS has yet to produce anything but small quantities of only a select few countermeasures.

This program is too important to fail, and yet I don't see any clear solution to transform this program into a success. I want to know what steps the Department of Homeland Security has taken to Project BioShield's successful transition to the next administration. Has your Department worked with the Department of Health and Human Services on recommendations for the successful transfer of this program?

I know my time has expired so, Mr. Chairman, I don't know if you want him to get back to me on the record or if he can answer the question.

Chairman THOMPSON. The gentleman can answer the question.

Mr. SCHNEIDER. Okay. Let me just—

Mr. LANGEVIN. Thank you, Mr. Chairman.

Mr. SCHNEIDER. First of all, we work closely with HHS. Dr. Runge, whom you know, our assistant secretary for health affairs, works very closely with his counterparts. I work very closely with Secretary Tevi Troy in HHS. Dr. Runge briefs the Secretary, I think every 6 weeks, on where we are with BioShield.

We know what we do. We have to field this thing. I think in our 2009 budget we ask for money to go—what is it—the third generation or next generation, which is very important because of its fidelity in terms of detection. That is about as much as I can tell you off the top of my head. I can give you a much more detailed thing.

I will tell you, there are a couple of things that Jeff worries about, that the BioShield, BioWatch and NVIC, which is our—how we basically use for the bio area, how we merge that with intelligence to give us a composite picture worldwide.

So our resources that we have allocated to this whole area have not been as much as we wanted, but this also is a new office. We have had problems, frankly, building it, getting the people; that was partially driven by the lack of resources.

We have increased our resource allocation in this area. I think as we move into the future years, based on updates and threats like that, I think a new administration will continue to evaluate whether or not that is a proper allocation of recurring resources.

Mr. LANGEVIN. All right. Just in closing, I want to say, Mr. Secretary, I am not at all impressed with the progress BioShield is making, and I think this is—one of the real and growing threats that we face is from potential bio-attack. We have got to step up our efforts to make this program a success. It is too important to fail.

With that, thank you, Mr. Chairman; I thank you for your indulgence, and I yield back.

Chairman THOMPSON. Thank you very much.

We now recognize Ms. Miller for 5 minutes.

Mrs. MILLER. Thank you, Mr. Chairman.

I appreciate the gentleman, your service to our Nation, your attendance here today. I am trying to face this microphone, but it is sort of awkward here because, then, I can't look at you. In fact, Mr.

Pascrell and I are drawing a new design for this table. If that could be done, it would be great.

Chairman THOMPSON. Duly noted.

Mrs. MILLER. I would like to address my questions, if I could, Mr. Secretary, to the consolidation of the Department. I have an interest in that. I had your deputy come in, who was briefing me, sort of giving me the wiring diagram, the overall of the agency and some of the various things she thought could happen.

I have a big interest in the consolidation because I was a former secretary of state before I got this job, and I had a number of different appendages with that job. We had the Department of Elections in one area of our capital city, I had 400 employees out in an annex, and another, you know, 5 miles away; and it was just the craziest situation, and we were able to consolidate.

I was reading through my notes here. I see even Secretary Chertoff, when you did this employee evaluation or survey, says many in the Department feel that the lack of a centralized headquarters location could be hindering employee morale, as well as, obviously, cost efficiency and effectiveness, et cetera.

Can you talk a little bit about how your consolidations are coming to have a single facility at St. Elizabeth's there, and how that will assist the agency in the long term?

Mr. SCHNEIDER. Thank you for the question.

This is actually a very sensitive subject with me. Our facilities are disgraceful. Probably the biggest disappointment, I would say, of the 2 years that I will have spent in this Department was the failure to get St. E's—the move to St. E's moving.

We are digging that place up every day. Sixty-two-year-old heating plants falling apart, no hot water, sewage lines breaking, digging up the roads every week, roof leaks. We tried to modernize our cafeteria for the couple thousand people, found asbestos. It is disgraceful.

We have an operations center, national operations center, ambient—can't run several crisis action teams at the same time—ambient temperature. I don't know why anybody would ever want to work there.

We are in competition for intelligence analysts with CIA, DIA, NGA, NSA. If you have a choice of coming to work in our dump versus working at CIA or DIA or NGA, where are you going to work? The answer is you are not going to work at our place unless you are a glutton for punishment in working conditions that are disgraceful.

The problem we have is that, you know, as part of the end game on the omnibus bill, it was not—the initial increment, or the big increment, was knocked out.

We jointly fund this with GSA; they fund about two-thirds, we fund about one-third. We have a partnership, and it really works very well together. I spend a lot of time with Administrator Doan, and we are their largest customer actually.

But the fact of the matter is, we structured our move to St. E's not just about packing a bunch of people up and moving them, but about totally restructuring the business model of the Department. We made a very conscious decision about what would be at St. E's, which of the 14,000 people, what segment of the leadership, what

we could basically do in terms of a back-room consolidation, just like a Fortune 500 company would do, where we could save money, where we could capitalize on integrating operational centers and the like. The fact of the matter is, we have a whole list of expiring leases that we deliberately had put off renewing because we wanted to sequence the end of the lease with the move of the organization.

So this setback not only affects our business model and our ability to operate efficiently, but in the end game it is going to cost us a lot of money that, frankly, we didn't plan on.

So, yeah, I think the place is terrible, to be honest with you. I think it puts us at a big disadvantage. I think—we do the best we can, and I think it is only because of—it is a testament to the people that want to do this kind of profession for a living, that they tolerate this condition.

Mrs. MILLER. Thank you. I am out of time. But I appreciate the answer to the question. I certainly look forward to helping however we can.

I am sure this committee will do whatever we can to assist you in your business plan, because it does serve the taxpayers—not only your Department, but the taxpayers as well—and the security of our Nation to have an efficient operation there. Consolidation, I think, is a priority.

Mr. SCHNEIDER. Thank you very much.

Chairman THOMPSON. We now recognize the gentlelady from New York for 5 minutes, Ms. Lowey.

Mrs. LOWEY. Thank you, Mr. Chairman. I would like to follow up, Mr. Schneider, on those comments, and particularly on a question posed by the chairman.

I thank you for having these hearings.

As a member of this committee and the Appropriations subcommittee, I am particularly interested in the costs associated with planning efforts.

Now, we have had 15 hearings in the Appropriations subcommittee; I have yet to see a cost estimate for all transition activities. In the February 12 response letter, Secretary Chertoff stated that the Department did not have an itemized budget for the Department's transition team. However, your testimony discusses the Department's implementation efforts in fiscal year 2009–2010.

So, as you know, implementing programs costs money. The absence of a formal budget proposal could lead to the lack of executive accountability. So it is not only the building—and as you recall, Mr. Price put the money in for the building, and it seems it has been a tool used on the floor to fund other goals of various members.

But I think this is absolutely critical. I would like to know how much will transition activities cost? Will the Department be able to prepare and submit to us an itemized budget?

Mr. SCHNEIDER. Congresswoman, the answer to that question is, we cannot submit an itemized budget because—and I think in the earlier discussion in response to the Chairman's question and my response to him, I answered that question. The reason is because it is part of my job; it is part of Secretary Duke's job.

I mean, planning for a transition is an inherent part of everybody's job, with the exception of that law that authorized the X hundred thousand dollars for the NAPA study of transition. So, you know, to try and figure out what the cost of every person's time is, in planning for a transition, frankly, with all due respect, that is impractical.

I mean, for example, the deputy in ICE is a career civil servant. He will assume the responsibilities as the head of ICE. So what I do, for example, is I try and work with that second-level team to understand a little bit more about the Department.

So—I had to go make a trip out to the West Coast, so I took several people, including him, to spend a weekend, to get a better understanding of how the different Departments or different components within the Department work together, not necessarily his people. I wanted him to see what happens in terms of the Seattle Harbor, okay? I wanted him to see how the Border Patrol in Artesia gets trained.

So from a practical standpoint his hours, if he was basically logging a clock or et cetera, he would have logged that self-development, transition, et cetera. We have that happening throughout the Department. I don't get a special budget for it, we don't get a special budget other than this one exception. I pointed out in my testimony, I believe, that not only did we have enough money to do the NAPA study, but more importantly, or as important, we are able to fund the Council on Excellence in Government effort, which is going to help us in our interfaces with the other Departments.

So I don't know how I can come up with a budget, if you will, that would stand alone for transition when it is an inherent responsibility, frankly, of an awful lot of people in this Department to make this successful.

Mrs. LOWEY. What I am trying to understand, if you are going to use your baseline funds for transition activities, doesn't that take away from the traditional, everyday activities?

For example, you are going to conduct exercises with interim administrators. Exercises cost money. Has this been discussed at all? Are there plans being made?

Mr. SCHNEIDER. We do exercises as a matter of routine. What changes and what we are changing is who participates. We have a full-blown exercise program. What I try and do is make sure the right people participate.

I will give you an example. The Secretary had arranged for us to do an exercise, very limited exercise, National Capital Region, governor of Virginia, governor of Maryland, the mayor of the District of Columbia and himself. He was out of the country at the particular point in time when it actually took place, so I acted for him.

I made sure that I had in the room about seven other people, okay, who would be in leadership positions during the transition to understand what would happen in that particular case. So they read the background material, they ran the scenario, and they watched the dialogue between the two governors, the mayor and myself to get a more hands-on feel of what types of things happen in this type of interaction.

So it is making sure that the right people who are going to be here after January 20 take advantage of existing opportunities in a more focused and disciplined manner. That is what we are really trying to do.

Mrs. LOWEY. Well, I thank you for your efforts.

My time is up, but the role of the Department is so critical. So many people have worked so hard to get it organized, moving in the right direction, that I just hope that there are people such as yourself focused on keeping the operation moving along. That will get the budget that the chairman and others have requested.

Thank you very much, Mr. Chairman.

Chairman THOMPSON. Thank you very much. I think the acting ranking member has a request of the Chair.

Mr. ROGERS. Thank you, Mr. Chairman. To coincide with the comments that Ms. Harman made and I made about the need for reforms and consolidation of jurisdiction, I would like to ask unanimous consent that the April 19 New York Times editorial, calling for that reform, be entered into the record.

Chairman THOMPSON. Without objection.

Mr. ROGERS. Thank you.

[The information follows:]

SUBMITTED FOR THE RECORD BY HON. MIKE ROGERS

THE UNFINISHED REFORMS OF 9/11

New York Times, April 19, 2008.

When the independent 9/11 commission warned that the nation's intelligence defenses were a shambles, Congress embraced nearly every call for reform. Guess which one it didn't? It has conveniently overlooked the commission's call to consolidate Congress's multiple intelligence oversight committees and subcommittees—which ends up leaving no one with real oversight power.

Any reduction of political turf was a nonstarter.

Now the idea has been at least partially revived. In a letter last month to the Senate leadership, 14 of the 15 members of the Intelligence Committee—which oversees intelligence operations—recommended creating a new intelligence subcommittee to oversee appropriations. The subcommittee would include members who sit on both the full intelligence and appropriations panels.

Over on the Senate Appropriations Committee—the Jedi masters of the budget universe—top members were not in a compromising mood and quickly volleyed in their own letter insisting that there is no such need. For them to surrender any of their authority, the appropriators declared, would hamper oversight.

We stand with the 9/11 commission that the national interest requires the two houses' intelligence committees to fully assume appropriation authority. Considering the thicket of egos, the proposed compromise is a start. The overlap would begin to address the situation in which the appropriations committees handle intelligence as only one of many specialties.

The leadership should let this debate emerge from the shadows and be settled in the public interest. If there is to be better oversight of the intelligence agencies—with their tens of billions in secret budget operations—the people who control the purse strings must have knowledge, expertise and clear responsibility.

Chairman THOMPSON. The gentleman from New Jersey, Mr. Pascrell, is recognized for 5 minutes.

Mr. PASCRELL. Thank you, Mr. Chairman.

Mr. Schneider, thank you for your candor. I trust it will continue. I also want to thank Assistant Secretary Duke; when she appeared before us, she was very forthright.

I want to start off by saying, I find it—I am trying to find the word—"alarming," let me use that word for now—that Secretary Chertoff didn't appear before this committee to discuss the Depart-

ment's transition process, as well as refusing, I think, to share documents with the committee in this regard.

I hope you understand the mission, the task that we have as a committee. We are supposed to conduct rigorous oversight of the Department of Homeland Security. You know that, Mr. Secretary; and the Department's lack of cooperation in this regard, I think, is a clear attempt to circumvent this committee's oversight of the Department, particularly when it comes to transition. Because we don't know who the President is going to be, but whoever that President might be, they need to have all of this information available to them to make the decisions.

I find this really troubling when we know from the recent past that al Qaeda has often executed its attacks on nations around times of governmental transitions. The historic nature of this thing is something we need to explore. The Department of Homeland Security, among all other Departments, must be fully prepared for that critical changeover to the next administration.

Quick question: Has the Department developed a priority list—"yes" or "no," a priority list of action items that the Department of Homeland Security's successors may want to address at the outset of the new administration?

Mr. SCHNEIDER. It will be in the transition plan that I am required as the under secretary to submit to Congress in October, 2008.

Mr. PASCARELL. So we don't have anything like that right now; is that what you are telling me?

Mr. SCHNEIDER. That is correct.

Mr. PASCARELL. Okay. Thank you.

Now, 2 weeks ago—

Chairman THOMPSON. Would the gentleman yield? I will yield back.

You say you are required by Congress?

Mr. SCHNEIDER. Yes.

Chairman THOMPSON. Can you provide the committee with your point of reference on that?

Mr. SCHNEIDER. Yes, I will provide—yes, sir, I will provide the segment of the law, the specific responsibilities assigned to the under secretary, as well as the specific direction by the Congress that the under secretary for management is authorized to stay as the under secretary for management past the—at the start of the new administration until there is a Senate-confirmed appointee in that position.

The other thing that law says basically is, it is the consensus of the Congress that the President or the incoming President should encourage the under secretary for management to stay in this position until there is a Senate-confirmed appointee because of the critical nature of that position.

Chairman THOMPSON. I understand.

But you are making reference to October.

Mr. SCHNEIDER. That is what I believe is the date specified that the under secretary for management is required to deliver to the Congress the transition plan.

Chairman THOMPSON. Well, we will look at it. But I think there is some difference of opinion as to that being a drop-dead date for the information.

But I yield back to the gentleman.

Mr. PASCRELL. Now—Mr. Chairman, correct me if I am wrong—in February you sent a letter to the Department and key components of the Department about the committee's intent to examine the transition process that I have been asking the Secretary about.

The committee learned that both—since that time, the committee learned that both you and Mr. Chertoff will not answer the questions, and directed component offices not to answer the questions or the committee's requests. Given that it is the Department's position that you are the person in charge, I am going to ask you some very, very specific questions.

Two weeks ago the committee received—all of us received this, the transition planning, 7 pages. Power—I love PowerPoints; they usually are very insignificant, but I love to look at them anyway. The committee received that PowerPoint presentation, what the deputy under secretary for management, Elaine Duke, purports is the Department's transition outline.

While this document has some helpful information in it, I find it difficult to believe that this PowerPoint is the Department's complete transition planning document. I want you to answer these questions, "yes" or "no."

Is this PowerPoint the sum total of the Department's transition planning documentation?

Mr. SCHNEIDER. No.

Mr. PASCRELL. Okay. Because not included in here is contact information. Whom do we call in each of the components? No itemized budget. No program priorities, Mr. Chairman, that I can find; I will stand corrected. No program priorities for the next administration. No outline of the political appointees to the Homeland Security Committee.

You cannot present to us documentation, you can't do it, and at the same time say that this is a comprehensive picture of what the next administration should know.

So if it is "no," as you said, I want this committee to be provided with a complete outline that the Department is using as a guide for the transition to the committee by May 23.

Mr. Chairman, I don't think I am out of order when I ask this. If the Department does not meet the deadline, Mr. Chairman, I ask you to consider calling a meeting to subpoena the information.

Am I out of order in requesting that?

Chairman THOMPSON. The gentleman is not out of order.

Mr. PASCRELL. Mr. Schneider, would you answer the following questions "yes" or "no"? For each of the following components I would like you to answer "yes" or "no" as to whether they have received a Department-wide transition outline. Is the question clear?

Mr. SCHNEIDER. No, Congressman, it is not. I don't know what you mean by an outline. Outlines mean different things to different people. Before I answer that question, I would like to know specifically what your intent would be for an outline, because it may be different than mine.

Mr. PASCRELL. Well, in a transition of each of the components, I am going to name the components, and you are either going to answer "yes" or "no," whether or not we have in our hands that information.

Mr. SCHNEIDER. I don't know what you mean by an outline, sir. If you could specify the details of what an outline would be, I would answer it.

Mr. PASCRELL. Excuse me, a department-wide transition outline of each of the components that I am about to ask you about.

Mr. SCHNEIDER. I don't know what you mean by—I am sorry, sir, but I do not know what you want to see in an outline.

Mr. PASCRELL. Very, very clear, even in your PowerPoints, you are supposed to give us specific information about some of the things I just outlined.

For instance, whether it is itemized budgets, whether it is who do we contact in each of the departments, whether it is the political appointees in each of the components. I think this is important information.

We have a right to know that, don't we?

Mr. SCHNEIDER. Yes, sir.

Mr. PASCRELL. Well, then let me go on.

Chairman THOMPSON. Will the gentleman yield just a minute?

Mr. PASCRELL. Sure.

Chairman THOMPSON. Mr. Schneider, I think the point from me is, the only thing we have is this 7-page document. You answered to Mr. Pascrell that that was not the only document that was involved in the transition planning. I think what we need as a committee is whatever information or documentation that you have that will go into your planning of the transition for the Department.

Mr. PASCRELL. We would like it by May 23.

Excuse me for interrupting.

We would like it by May 23. Is that request clear, Mr. Secretary?

Mr. SCHNEIDER. I will look at what documentation we have and, if appropriate, provide it.

Mr. PASCRELL. What do you mean "if appropriate"?

Mr. SCHNEIDER. In my letter, Congressman, in response to Chairman Thompson's letter, I outline very specific types of documents that we consider inappropriate to provide. I would refer back to that letter.

Mr. PASCRELL. Look, we have oversight.

Mr. SCHNEIDER. I know you do.

Chairman THOMPSON. You are stretching your letter, your response.

You reference executive material, and I think what we want, and again I referenced it, that there was some difference of opinion.

Mr. SCHNEIDER. Yes, sir.

Chairman THOMPSON. If we are in our jurisdictional track on the committee, I think your limit of executive material from our benefit is, in fact, not your call; and we will press it.

But I think if you go back and look at my point, you will see that as long as this committee is within its jurisdiction, that executive material reference does not stand muster in terms of denying us access to the information.

Mr. SCHNEIDER. Yes, Mr. Chairman. In response to the earlier discussion—earlier in this hearing, I agreed that given the context of the discussion that took place with you, I would go back and look at the specific requests and see how we could better comply. That is what I agreed to do.

Chairman THOMPSON. I think—I yield back to the gentleman.

Mr. PASCARELL. Just in conclusion, Mr. Schneider, Secretary Schneider, do you think that this committee has a right to know who the political appointees are to Homeland Security?

Mr. SCHNEIDER. You have a right, and they are well known. Yes.

Mr. PASCARELL. They are?

Mr. SCHNEIDER. Yes, sir.

Mr. PASCARELL. Then you have no problems giving them.

Mr. SCHNEIDER. I have already given them. Just for the record, Congressman, we have provided, and I think we continue to provide—I can double-check—to the chairman's staff a list of every one of our staffing plans for the Department in terms of—at the executive level. They list every one of the political appointees.

I mean, we provide this information.

Mr. PASCARELL. Mr. Chairman, I would hope that by May 23 the information that is requested, very clear, will be given to us. I hope that is important.

I know you are the messenger. With all due respect, I think you are doing a good job. But we want that information or else we are going to subpoena it. I mean, it is clear?

It is clear. Thank you.

Chairman THOMPSON. Thank you.

I will now recognize the gentlelady from New York for 5 minutes, Ms. Clarke.

Ms. CLARKE. Thank you very much, Mr. Chairman.

Honorable Mr. Schneider, I am going to pick up on Mr. Pascrell's assertions here; and I would like to get your response to very specific terminology by you and the Department, because in the February 12 response letter to our chairman, the Department claims that the transition-related documents would not be shared with the committee on the grounds that they constitute executive branch materials. You also echo the same sentiment or the same position in a March 4 response letter to the committee.

Can you explain what the term “executive branch materials” means and what is the authority that you are citing for this claim? Is it a statutory definition? Case law? Executive order? What is this “executive branch material”?

Mr. SCHNEIDER. I would—first of all, I don't have that March 4 letter in front of me. I would, since the nature of what you are asking is more of a legal-type question, I would prefer to get back to you with our basis for that.

Ms. CLARKE. Yeah, because that is the basis under which we are all talking right now.

Chairman THOMPSON. Will the gentlelady yield?

Ms. CLARKE. Certainly.

Chairman THOMPSON. We have copies of the March 4 letter that Congresswoman Clarke is referencing, and it is under your signature.

Mr. SCHNEIDER. Yes, sir. I need to go back and look at the basis that I asked for.

Chairman THOMPSON. I think the point is, that “executive branch material” question is tantamount to this committee having access to the information to do our job.

You still want some time to—

Mr. SCHNEIDER. Yes. The reason is, I think the operative words are—putting this matter in context, it is important to note, these efforts are being prepared by the executive branch for an incoming administration and, as such, would be inappropriate to send to the Congress in an interim fashion before it was received by the incoming administration.

Chairman THOMPSON. So you don’t think we have anything to do with looking at the Department for the transition?

Mr. SCHNEIDER. No, sir. It gets back to some of the very specific documentation that was specified in your original letter. That is what I agreed to go back and look at, given the context in which we had this earlier discussion.

You asked me to go do that, and I agreed to do that.

Chairman THOMPSON. I appreciate you for it, and I look forward to getting the information.

But I don’t think I can overemphasize the interest on the part of a number of members to get the information. So if the questions sometime are repetitive, they are based on the interests of those members.

Mr. SCHNEIDER. Yes, sir.

Chairman THOMPSON. I yield back.

Ms. CLARKE. Yes. Mr. Chairman, you know, I consider this, in effect, a denial of the request.

I mean, there is no way that you can say that until there is a new administration in place that we can’t have the information, which is—we are going to still be in session. Our constituents—and I can speak for myself as a New Yorker—need some reassurance, particularly in light of a number of the challenges that Homeland Security has faced nationwide, not only in the area of terrorism, but in the area of responding to natural disasters and everything else, that there is in effect a transition plan, a cogent one.

We all recognize and appreciate the level of security that must be in place. But at the same time it would be derelict of duty for us not to be able to say to the American people that we are aware that this has been worked through.

You know, that is a big stretch that you are asking of our chairman and of this committee by, in effect, throwing up “executive branch material.” There is going to be a point where that executive branch will not function as it does regularly. That is what the transition is about.

So this is really the crux of the matter. I hope that you will really take into account what my colleagues have said here today, because it is critical to us. It is critical to us as Members of Congress with the responsibility of oversight, and it is critical to us as Representatives of constituencies that are relying on our having the knowledge and the faith that we have put things in place in the eventuality of anything happening in that interim period.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you very much. I want to thank the acting deputy secretary for—hopefully somebody’s cell phone will—for your testimony. I want you to make every effort to get the information relative to the transition back to us by May 23.

I mean, we are not going to press you this hard, but we think it is reasonable for the committee of jurisdiction to have access to those planning documents and whatever you have in place addressing transition. I look forward to getting that and other information that committee members—Mr. Davis asked, and a couple of others, during the questioning.

Other members might have questions. If they do, we ask that you respond expeditiously in writing to those questions.

Mr. SCHNEIDER. Yes, sir.

Chairman THOMPSON. Hearing no further business, the committee stands adjourned.

[Whereupon, at 11:54 a.m., the committee was adjourned.]

A P P E N D I X

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON OF MISSISSIPPI FOR PAUL A. SCHNEIDER, ACTING DEPUTY SECRETARY, DEPARTMENT OF HOMELAND SECURITY

Question 1. Please provide the committee with the names, titles, and contact information for the specific individual's responsible for the transition process within each of the following components:

- Transportation Security Administration (TSA)
- Federal Emergency Management Agency (FEMA)
- Intelligence and Analysis (I&A)
- Science and Technology (S&T)
- Coast Guard
- Customs and Border Protection (CBP)
- Immigration and Customs Enforcement (ICE)
- National Protection and Programs Directorate (NPPD)
- Secret Service
- Domestic Nuclear Detection Office (DNDO)
- Office of the Gulf Coast Coordinator
- Privacy Office
- Office of Health Affairs
- Office of Civil Rights and Civil Liberties
- Director for Operations and Administration
- Office of General Counsel
- Management Directorate
- Office of Policy
- Office of Counternarcotics Enforcement
- Federal Law Enforcement Training Center
- Office of Operations Coordination

In addition, please indicate whether these individuals are government employees or contractors, and if they are government employees, whether they are political appointees or career civil servants.

Answer. Section 341(a)(9)(B) of Title 6, United States Code, vests the Under Secretary for Management (USM) with the responsibility for managing the Department's transition. The transition effort is centrally coordinated through the Office of the USM, with oversight provided by the Acting Deputy Secretary, Mr. Paul A. Schneider, as he currently encumbers the USM position. The day-to-day transition effort is being carried out by the Deputy Under Secretary for Management, Ms. Elaine Duke, a career civil servant, and her core transition team. The core transition team consists of four individuals supported by approximately 45 senior level employees located within the Components who are serving as either a Senior or Deputy Transition Officer. In addition, this June, RADM John Acton will be detailed to the USM's office from the United States Coast Guard to serve as the career DHS Transition Director to Elaine Duke. Below is a breakdown of the USM Transition Team. In Enclosure 1,¹ we are providing the names and titles of both the Senior and Deputy Transition Officers within each Component.

¹The above-referenced materials have been retained in committee files.

<p>Transition Executive: Paul A. Schneider Career Transition Senior Official: Elaine Duke.</p>	<p>Sets Vision for 2009 Transition. Leads overall Administration Transition effort:</p>
<p>USM Core Transition Team: Transition Director: RADM John Acton. Senior Transition Officer: Elaine Rigas. Deputy Transition Officers (Detailees): —Damian Kokinda, United States Secret Service. —Tiffany Lightbourn, Science and Technology.</p>	<p>Oversees planning and execution of Transition Planning Efforts. Ensures operational continuity through change of Presidential Administration. Manages day-to-day Administration Transition effort. Plans and coordinates development and facilitation of informational materials, briefings, training and other orientation activities to ensure smooth transition for the new leadership.</p>

Question 2. Two weeks ago, the committee received a 7-page PowerPoint presentation that Acting Under Secretary for Management Elaine Duke purports is the Department's transition "outline." While this document contains some helpful information, you stated in your testimony that this PowerPoint is not the Department's complete transition planning document.

Answer. The referenced outline is not the Department's Transition Outline but an Executive Summary of our Transition Planning Efforts. The document which I have provided as Enclosure 2² is the Department's Transition Briefing Book Outline and identifies what each component will provide to the incoming Secretary to ensure a smooth transition. Enclosure 3² is a list identifying the existing memoranda, plans, documents and strategies that are related to our transition and succession planning efforts. We have placed all of the documents in a binder and hope this organized layout will allow you to easily review the efforts currently completed or underway to ensure a smooth transition.

Question 2a. Please provide the committee with the complete outline that the Department is using as a guide for the transition.

Answer. Please see Enclosure 2² for the Department's Transition Briefing Book Outline listing the information each of the Components will provide to the incoming Secretary to ensure a smooth transition.

Question 2b. Please provide the committee with the complete outlines that each of the components referenced in Question 1 received from the Department for transition planning.

Answer. Please see Enclosure 2² for the Department's Transition Briefing Book Outline listing the information each of the Components will provide to the incoming Secretary to ensure a smooth transition.

Question 2c. Please provide all other existing memoranda, plans, documents, or strategies that the Department or the components referenced above have prepared or are using for the upcoming transition.

Answer. In an effort to provide to you the requested documents in an orderly and organized manner, please see Enclosure 3² which is a list identifying the existing memoranda, plans, documents and strategies that are Transition related. We have placed all of the documents in a binder and hope this organized layout will allow you to easily review the efforts currently completed or underway to ensure a smooth transition.

Question 3. In the February 12, 2008 response letter, Secretary Chertoff stated that the Department did not have an itemized budget for the transition team. However, your testimony discusses the Department's implementation efforts in fiscal year 2009 and fiscal year 2010. You also discussed weekend trips taken to prepare for transition. Please provide all budget information, including an itemized budget, for the Department-wide transition team and the components referenced in Question 1.

²The reply provided is for official use only and has been retained in committee files.

Answer. There is no specific budget allocated for transition. However, Public Law 110–28 appropriated for the Office of the Under Secretary for Management \$900,000 for an independent study with the National Academy of Public Administration (NAPA) to compare the Department of Homeland Security senior career and political staffing levels and senior career training programs with those of similarly structured cabinet-level agencies as detailed in House Report 110–107.

The Department of Homeland Security engaged NAPA to conduct this study for \$548,134 and then engaged the Council for Excellence in Government for \$305,127 to help DHS ensure it is prepared to continue operations in the face of leadership changes such as those attendant to an administration change. The engagement's emphasis will be the Department's homeland security interactions with other agencies such as the Departments of State, Treasury, Energy, Commerce, and Justice. These efforts have been coordinated with the House Appropriations Committee staff.

We view the Transition Planning efforts as one of the responsibilities that fall under the Office of the Under Secretary for Management and not something that requires a separate budget or is deemed as a Program. The implementation efforts for fiscal year 2009 and fiscal year 2010 are for the Department's Major Programs, such as Deepwater, the Secure Border Initiative, and the Western Hemisphere Travel Initiative, and not transition.

My reference in my testimony to the weekend trips I make to the field locations are intended to discuss Department operations and are not part of the transition planning efforts.

Question 4. How many FTEs does DHS currently have? How many actual employees does DHS currently have? How many contract employees does DHS currently have? How do these numbers relate the Department's 2007 figures? What, if any, changes should we expect to see in these numbers by January 20, 2009? Please provide a comprehensive list of staffing numbers, including a comparison of the number of FTEs assigned versus the number of actual "on board" employees and a listing of the ratio of FTEs to contractors for fiscal years 2007, 2008, and 2009. Please include pay plan and appointment type. (For any of these requests that may require the retrieval of data from Department of Homeland Security or Office of Personnel Management databases, we will work with your staff to craft file specifications that will enable them to easily retrieve the data in a form that will meet our needs.)

Answer.

2007

FTEs: 186,804.

Onboard strength: 182,397.

Contractor employees: DHS does not track contractor FTE or onboard strength because we often acquire support on a fixed-price basis or based on performance objectives. The number of personnel the contractor employs is not transparent or relevant since we are paying for a deliverable or outcome rather than man-hours. In those instances where DHS is acquiring a specific "level of effort" or man-hours, contractors may use several employees to accomplish tasks that total the number of man-hours in one FTE. While it is not possible to track or provide this information currently, we are working with the Chief Procurement Office to address this concern of Congress.

2008

Current FTEs: 197,055.

Current onboard strength: 202,060.

Contractor employees: DHS does not track contractor FTE or onboard strength because we often acquire support on a fixed-price basis or based on performance objectives. The number of personnel the contractor employs is not transparent or relevant since we are paying for a deliverable or outcome rather than man-hours. In those instances where DHS is acquiring a specific "level of effort" or man-hours, contractors may use several employees to accomplish tasks that total the number of man-hours in one FTE. While it is not possible to track or provide this information currently, we are working with the Chief Procurement Office to address this concern of Congress.

Question 5. Please provide a description of the major programmatic accomplishments of fiscal year 2007 and fiscal year 2008 for the Department and for each of the components referenced in Question 1.

Answer. Please refer to Enclosure 4,³ the Department of Homeland Security Annual Performance Report for fiscal years 2007–2008, for information on the Department's major programmatic accomplishments.

Question 6. Please provide a description of the fiscal year 2009 and fiscal year 2010 goals for each of the components referenced in Question 1.

Answer. Please refer to Enclosure 4,³ the Department of Homeland Security Annual Performance Report for fiscal years 2007–2008, for information on the Department's future goals.

Question 7. For the Department and for the components listed in Question 1, please provide a priority list of action items that the Department, agency and office's successors may want to address at the outset of the new administration. Please provide a justification for each priority item and detail the recommended actions for each priority.

Answer. In Enclosure 2,⁴ we are providing what will likely be placed in the briefing materials for the incoming Secretary. In Tab 4, Section 7,⁴ we list what we believe are the Department's major programs. In Tab 13, Section 1,⁴ we also identify what we believe are the important issues for the incoming Secretary to address in his or her first 30–60–90 days. Obviously the priority of these issues may change over time. Again, providing a justification for each priority item, as well as a detailed recommendation for action on each priority, would be inappropriate in a response to Congress before the items and prioritization are shared with the incoming administration, as is required by law. Such documents are pre-decisional in that they comprise no more than internal drafts for consideration by the decision-makers within the new administration. While we are committed to working with the Congress we must each respect the separation of powers set forth in our Constitution.

Question 8. Please provide a list and description of any new positions you anticipate creating to facilitate a smooth transition (e.g. the recently created Deputy Under Secretary for Management), as well as the plan and criteria for filling any such new position, both at the Department level and for each component referenced in Question 1.

Answer. We do not anticipate creating more positions.

Question 9. For the Department and components listed in Question 1, please provide a listing of contracts with a total dollar value in excess of \$100 million that are expected to carry over through the transition. This information shall be itemized by component, the name of the contractor, description of the project, and dollars obligated.

Answer. Please see Enclosure 5⁵ for a listing of contracts with a total dollar value in excess of \$100 million that are expected to carryover through the transition.

Question 10. Please provide the statutory authority that makes explicit reference to the October 2008 date for the Department of Homeland Security's submission of its overall transition plan to Congress.

Answer. I was incorrect regarding the October 2008 date. Section 341(a)(9)(B) of Title 6, United States Code requires the overall transition and succession plan to be made available to the incoming Secretary and Under Secretary for Management by December 1, 2008. Below is an excerpt of the law:

SEC. 2405. UNDER SECRETARY FOR MANAGEMENT OF DEPARTMENT OF HOMELAND SECURITY. (a) RESPONSIBILITIES.—Section 701(a) of the Homeland Security Act of 2002 (6 U.S.c. 341) is amended—

(1) by inserting “The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs.” before “The Secretary”;

(2) by striking paragraph (7) and inserting the following:

“(7) Strategic management planning and annual performance planning and identification and tracking of performance measures relating to the responsibilities of the Department.”; and

(3) by striking paragraph (9), and inserting the following:

“(9) The management integration and transformation process, as well as the transition process, to ensure an efficient and orderly consolidation of functions and personnel in the Department and transition, including—

“(A) the development of a management integration strategy for the Department, and

³The above-referenced materials have been retained in committee files.

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⁵The above-referenced materials have been retained in committee files.

“(B) before December 1 of any year in which a Presidential election is held, the development of a transition and succession plan, to be made available to the incoming Secretary and Under Secretary for Management, to guide the transition of management functions to a new Administration.”.

DHS has every intention of complying with the statutory framework created by Congress and providing the materials to the incoming administration in the time-frame specified. DHS is also fully committed to working with the Congress regarding transition planning. Transition and succession planning documents are being provided as stated in the text of this letter. However, it is important to distinguish between transition planning documents and policy documents. Transition planning documents relate to the planning necessary to ensure a fully functioning Department during the transition between the current and future administrations. In contrast, policy documents relate to plans to assist the incoming administration with selecting and prioritizing its policy initiatives. We are fully committed to sharing the transition planning documents with Congress; however, it would be inappropriate to send policy documents to Congress before they are shared with the incoming administration as required by law. Such documents are pre-decisional in that they comprise no more than internal drafts for consideration by the decision-makers within the new administration. In the meantime, what we believe is appropriate to provide is the outline on what policy documents we expect will be included in the DHS Transition Briefing Book Outline.

Question 11a. In the Department’s response letter dated February 12, 2008, the Department claims that transition-related documents would not be shared with the committee on the grounds that they “constitute executive branch materials.” You also echo that same position in your March 4, 2008 response letter to the committee. Please explain what the term “Executive Branch materials” means? Upon which authority are you relying to make such claim? What is the scope of items covered under “Executive Branch materials”? Explain in clear details, how does the term “Executive Branch materials” apply to the following:

Contact name for the individuals responsible for the transition process within the components.

Answer. Please refer to Enclosure 1⁶ for the list of individuals working with the USM Core Team to carry out transition planning within their Components.

Question 11b. Budget for the transition team.

Question 11c. Description of programmatic accomplishments.

Question 11d. List of the goals for the components at DHS.

Question 11e. List of staffing numbers at DHS, including FTEs and contractors.

Answer. The Secretary’s February 12, 2008 letter provided the committee with information about the Department’s transition-planning efforts in response to the committee’s February 7, 2008 inquiries. As indicated in that letter, there is no specific budget allocated for transition. Also, as indicated in that letter, as well as in my subsequent March 4, 2008 letter, many of the specific transition-related documents requested by the committee are still under development. These materials, many of which contain sensitive Executive Branch information or communications, will be shared with the incoming administration in accordance with the framework specified by Congress. Indeed, a recent amendment to the Homeland Security Act specifies that DHS is to develop a transition and succession plan and make that plan available to the incoming Secretary and Under Secretary for Management before December 1, 2008 (See 6 U.S.C. 341).

DHS has every intention of complying with the statutory framework created by Congress and providing the materials to the incoming administration in the time-frame specified. DHS is also fully committed to working with the Congress regarding transition planning. Transition and succession planning documents are being provided as stated in the text of this document. However, it is important to distinguish between transition planning documents and policy documents. Transition planning documents relate to the planning necessary to ensure a fully functioning department during the transition between the current and future administrations. In contrast, policy documents relate to plans to assist the incoming administration with selecting and prioritizing its policy initiatives. We are fully committed to sharing the transition planning documents with the Congress; however, it would be inappropriate to send policy documents to the Congress before they are shared with the incoming administration as required by law. Such documents are pre-decisional in that they comprise no more than internal drafts for consideration by the decision-makers within the new administration. In the meantime, what we believe is appro-

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appropriate to provide is the outline on what policy documents we expect will be included in the DHS Transition Briefing Book Outline.

Question 11f. Finally, several times during your testimony you referenced the National Academy of Public Administration (NAPA) study that was mandated by Pub. L. 110-28. Upon completion of this study in May, please provide this committee an updated copy of the draft Department-wide transition plan and list of tasks associated with the Department-wide transition plan and the Components referenced in Question 1.

Answer. NAPA expects to complete and release its study to the requestors, the Appropriations Committee by the end of May 2008. We have requested NAPA provide the committee a courtesy copy as well. The study focuses on the Department's executive staffing composition in terms of the number of vacancies, the type of senior leadership positions, and the allocation between career and non-career executives vis-à-vis other Federal Departments and Agencies. It is not a Department-wide transition plan. We are, however, providing in Enclosure 2⁷ the Department's Transition and Succession Planning Outline. The Department of Homeland Security is committed to ensuring operational continuity through the change of Presidential administration and looks forward to your continued support as we work to achieve our mission. Should you have any questions, please contact the Office of the Under Secretary for Management.



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