



New Strategies to Protect America:

Terrorism and Mass Transit after London and Madrid

by Bill Johnstone



HOMELAND SECURITY

Critical Infrastructure Security Series

CRITICAL INFRASTRUCTURE SECURITY SERIES

New Strategies to Protect America: Terrorism and Mass Transit after London and Madrid

EXECUTIVE SUMMARY

There have been five attacks against transit systems in major international capitals over the past 17 months – two in Moscow, one in Madrid and now two in London – by terrorist cells either affiliated with or at least sympathetic to al Qaeda. However, other than the Department of Homeland Security (DHS) decision to place all U.S. transit systems on “Orange Alert” (signifying a “High Threat Level”) and new random searches of bags on the New York transit system, there is little sense of urgency about mass transit security here in the United States. It does not appear that DHS is making any significant adjustments in policies and priorities – even as it is clear that terrorists are adjusting their tactics and pursuing softer targets in major cities around the world.

There are a number of reasons for this. The current structure of homeland security emerged from the tragedy of September 11. Today, in terms of the protection of transportation infrastructure, the vast majority of resources – money and people – are dedicated to fixing what went wrong four years ago, to the detriment of other transportation modes that are increasingly at risk. Since homeland security emerged as the amalgamation of 22 existing federal agencies, there are still competing lines of authority and overlapping responsibilities when it comes to transportation security and particularly mass transit. And, despite multiple requirements by both the executive and legislative branches, the Department of Homeland Security has yet to complete a comprehensive national transportation security strategy that sets clear federal standards; outlines the responsibilities of federal, state and local governments and the private sector; determines the resources necessary to make the nation’s transportation systems – aviation, maritime, rail, transit and surface transportation – more secure; and identifies how those resources will be generated and sustained.

Secretary of Homeland Security Michael Chertoff’s increased emphasis on a risk-based approach to homeland security is laudable. If actually implemented, it will almost certainly give greater weight to transit security systems, which exist in urban centers where the terrorism risk to the United States is highest and are important components of regional economies across the country. In light of the attacks in Madrid and London, the United States needs to do the following:

- Treat the homeland as a central front in the war on terror and view homeland security as a vital dimension of national security, with commensurate policy attention and priority;
- Complete a comprehensive National Transportation Security Strategy that addresses the requirements necessary to secure our aviation, maritime, rail, transit and surface transportation systems;
- Redress the current resource imbalance in transportation infrastructure security and, based on risk assessment, devote more resources to mass transit security, both through dedicated transit security grants and through a higher percentage of homeland security funding;
- Clarify the roles and responsibilities of the Transportation Security Administration (TSA), the Federal Transit Administration (FTA), and other federal entities involved in transit security; and
- Do what can be done to make transit systems more secure now; accelerate the development of more reliable explosive detection capabilities; and integrate improved security features into the design of future mass transportation systems.

As one analysis of transportation security accurately put it, “The least emphasis has been placed on [land transportation security, including mass transit] because it was perceived as least pressing, and also because it is hardest to protect.”¹ While experience shows that transit security is difficult, more can and should be done. The lack of priority attached to transit security stands in contrast to the actions of our terrorist adversaries, particularly since 9/11.

TRANSIT SYSTEMS THE TERRORIST TARGET OF CHOICE

During the morning rush hour of July 7, 2005, four small bombs (each estimated to contain less than 10 pounds of explosives) were detonated in London, England, three on subway trains underground and the fourth on a double-decker bus.² The suicide bombings killed at least 56 and injured over 700 people.³ While a group calling itself The Secret Organization of al-Qaeda in Europe posted a 200-word statement on the Internet claiming responsibility, British authorities do not yet know the extent to which this home-grown cell, which included three British citizens of Pakistani descent, received outside support from al Qaeda or its affiliates.⁴

At lunchtime on July 21, 2005, the London transit system was hit again, also by bomb blasts on three subway trains and one bus. However, these explosives only partially detonated, causing a single injury. Links with the earlier suicide bombers have yet to be established, so it is unclear whether this was a second wave or a copy cat attack. There was no intelligence warning prior to either attack.⁵

Sixteen months earlier, in Madrid, Spain on March 11, 2004, ten bombs exploded on four crowded commuter trains in Madrid, killing 191 and injuring over 1,800. Three unexploded bombs were also found nearby. Though the Spanish government initially indicated that the Basque separatist group ETA was the main suspect, evidence soon discovered pointed to Islamic terrorists as the responsible parties. On April 2, 2004,

another unexploded bomb, of the same type used in the March 11 attacks, was found on the high-speed rail link between Madrid and Seville. Forty-five people have been charged in connection with the bombings, from inside Spain and other locations, including Morocco.⁶

While there is a vigorous debate over the reasons for these attacks, including the U.S. occupation of Iraq and the evolution of the al Qaeda network into a more diverse and decentralized structure, there is little doubt that transit systems are a favored terrorist target. Terrorist interest in surface transportation, and the vulnerability of these systems to such attacks, is not new and well documented. Terrorists have frequently targeted land transportation systems around the world, with approximately one-third of all terrorist attacks directed against this mode.⁷ Between 1998 and 2003, there were an estimated 181 attacks on rail transportation (including transit), resulting in 431 deaths, and 293 such attacks on buses, which produced 467 fatalities.⁸ Bombings have been, by far, the most frequent means of these attacks, accounting for 55 percent of the total between 1977 and 2000.⁹

The Transportation Security Administration (TSA) acknowledges that land transportation systems are particularly vulnerable because: (1) highways, bridges, tunnels, trains, and railways are easily accessible; (2) their associated infrastructure is generally fixed, and unguarded; (3) they present attractive targets for terrorist attacks; and (4) such attacks require only a small, well-directed force and can cause serious injuries and other damage.¹⁰ Further characteristics of these systems, including transit, make them harder to defend than, for example, civil aviation, as noted by security experts Brian Jenkins and Larry Gersten just prior to the September 11 terrorist attacks:

Surface transportation systems cannot be protected as easily as airplanes, which are housed in fairly closed and reasonably controlled locations; additionally the airport terminal access to airplanes is controlled by relatively few entry points. Conversely, trains, buses, and light rail systems must remain readily accessible, convenient and inexpensive for the traveling public.¹¹

And yet, despite this recent history and increasing risk, based on its budgetary and other policy decisions, the federal government does not view transit security as a critical infrastructure protection priority. Apparently, it does not even view the prospect of a London or Madrid-style attack as a potential catastrophe.¹² And it has not committed significant resources to help its state and local “partners” make open and thus vulnerable transit systems as safe as they can be. Policies did not change much after Madrid. Looking at the words and actions of both the Bush administration and Congress over the past month, it appears there will be no significant shift in transportation security priorities because of London. The reasons relate to bureaucracy, resources and governing philosophy.

A LACK OF PRIORITY

Just over two months after the four suicide hijackings, Congress passed the *Aviation and Transportation Security Act* (ATSA). Signed into law on November 19, 2001, the ATSA established a new Transportation Security Administration (TSA) within the Department of Transportation (DOT) and gave it responsibility at least in theory for the security of all modes of transportation, each with its own set of challenges and vulnerabilities:

- *Civil Aviation*, encompassing 19,000 airports (commercial and general aviation) and supporting 25,000 daily commercial flights involving 1.8 million passengers;
- *Ports*, including the intermodal security elements of maritime security at the nation's 361 coastal and inland ports;
- *Transit*, involving approximately 6,000 local entities (public and private) serving 14 million Americans each weekday.¹³
- *Rail*, including over 300,000 miles of freight rail lines, and over 10,000 miles of commuter and urban rail system lines.
- *Surface Transportation*, consisting of four million miles of interconnected roadways, including 600,000 bridges and 45,000 miles of interstate highways.¹⁴
- *Pipelines*, covering over 2.2 million miles in the United States and transporting potentially dangerous materials, including oil and natural gas.¹⁵

From the beginning, aviation security has dominated TSA's attention and resources, driven primarily by a formidable array of legislated deadlines within the ATSA, not the least of which was federalizing the workforce of checkpoint screeners. Perhaps predictably, TSA has not adapted well to rapid shifts in its organizational status and mission, as it moved from a small component within the FAA to separate agency status within DOT to being a part of the new DHS – all within the space of 15 months.

The Bush administration describes TSA's mission as protecting "the nation's transportation systems to ensure freedom of movement for people and commerce," but "with a primary focus on aviation security." For the other transportation modes, TSA views its role as a "manager" of security risk,¹⁶ focused on "developing best practices, standards, and regulations to protect the transportation infrastructure; conducting inspections to monitor and enforce compliance with standards and regulations; designing and implementing vulnerability assessment models for all surface transportation modes; and strengthening industry stakeholder partnerships through sustained information sharing."¹⁷

In practice, DHS and TSA have lacked any real capacity to exercise significant responsibility and oversight for transportation security outside the aviation sector. Fewer than 100 transit and rail inspectors are currently charged with evaluating and enforcing the security plans submitted by state, local and privately operated systems, an average of less than two per state. Many are newly hired and still in training. By comparison, TSA manages a 45,000 member aviation screening force, with dozens per airport checkpoint.¹⁸

Thus, TSA and DHS continue to play a minimal part in surface transportation security, while various Department of Transportation agencies, including the Federal Transit Administration, have retained substantial regulatory and oversight authorities. However, the FTA's primary emphasis is safety, with some security components required within mandatory safety plans.¹⁹ There is no clear-cut lead agency for transit security within the federal government.

In the immediate aftermath of 9/11, some actions were taken to shore up transit security. Using federal transit funds and technical assistance, some state and local transit agencies completed vulnerability assessments and implemented various security measures, including perimeter barriers, increased security patrols, increased usage of canine bomb detection teams, use of alert announcements to passengers, better lighting and communications, increased video surveillance and employee security training. DHS also assisted in the deployment of biological and radiation detectors by certain local transit systems.²⁰ Some of these provisions were originally developed to address concerns about criminal, as opposed to terrorist, acts, and they illustrate the potential for multiple benefits from improved security.

But federal attention has not been sustained. After Madrid, in the midst of an election year, DHS again repeated the pattern often seen in pre-9/11 aviation security, with immediate, symbolic and sometimes ill-conceived responses to the latest attack followed by a gradual decline in activity as time passes. After Madrid, DHS promised to establish new base-line security measures; tested the feasibility of screening baggage for explosives at train stations and on trains; promoted greater public education and awareness programs; and pledged to pursue future technological solutions involving biological, chemical and explosive detection.²¹ In May 2004, TSA issued new rail security directives, absent meaningful stakeholder consultation, but tellingly did not include any additional federal funding for implementation.²²

A LACK OF PLANNING

Another key problem has been the absence of a clear policy and legislative mandate that outlines federal responsibilities for transit security. Besides aviation, the other major piece of legislation in the transportation security area is the *Maritime Transportation Security Act* (MTSA) of 2002, which mandated vulnerability assessments for port facilities and vessels that operate in U.S. waters, and authorized increases in maritime security personnel, technologies and infrastructure. In contrast to the ATSA, Congress assigned lead agency responsibility for maritime and port security to the Coast Guard, not TSA.²³

The needed evolution of the TSA into an effective intermodal federal security organization is further hampered by misplaced concerns about "big government." Because some ideologues want to limit, if not eliminate TSA, there has been no opportunity for a real debate about expansion of its capabilities in line with its security responsibilities. As one result, there is not a clear and comprehensive federal mandate for mass transit security. There should be.

This has been evident in the lack of effective planning for transportation infrastructure protection, including transit security. The Bush administration has yet to develop a comprehensive national transportation infrastructure security plan. A strategic plan was mandated by the *Homeland Security Act* (HSA) of 2002 that created the Department of Homeland Security out of 22 existing federal agencies.²⁴ Homeland Security Presidential Directive-7 (HSPD-7), issued in December 2003, required DHS to “produce a comprehensive integrated National Plan for Critical Infrastructure and Key Resources Protection to outline national goals, objectives, milestones, and key initiatives within 1 year from the issuance of this directive.” The strategy would include details on the identification and prioritization of critical infrastructure and key resources; how DHS is to coordinate with other federal, state, local, foreign and international agencies, as well as the private sector; how vulnerabilities of critical infrastructure and key resources are to be reduced; how threat and vulnerability information is to be shared with state and local governments, and the private sector; and how DHS is to coordinate and integrate its activities with other federal emergency management and preparedness activities.²⁵

DHS issued an Interim National Infrastructure Protection Plan in February 2005,²⁶ within which TSA was assigned as the lead agency for the Transportation Sector Specific Plan (SSP), in collaboration with the Department of Transportation. The TSA plan is to: “(1) identify participants in the sector, their roles and relationships, and their means of communication; (2) identify assets in the sector; (3) assess vulnerabilities and prioritize assets in the sector; (4) identify protective programs; (5) measure performance; and (6) prioritize research and development.” Under HSPD-7, the National Critical Infrastructure Protection Plan and its Transportation Sector Specific Plan component were scheduled for completion by December 17, 2004.²⁷ As of this writing, the plans have not been finished.

The need for a national transportation security strategy was reiterated in PL 108-458, the November 2004 legislation that implemented various recommendations of the 9/11 Commission, including intelligence reform. The plan was to “form the basis for allocating resources in a risk-based and cost-effective way, as recommended by the 9/11 Commission.”²⁸ It is already more than three months overdue. As the 9/11 Commission found, “Lacking such a plan, we are not convinced that our transportation security resources are being allocated to the greatest risks in a cost-effective way.”²⁹

A September 2002 GAO report highlighted a number of potential obstacles posed by uncertainties in the “evolving” federal transit security role, among them the limited authority of FTA, the failure of TSA to assume its presumed statutory responsibilities, and the accompanying coordination problems between the two agencies as well as with state and local transit authorities. At that time, it was hoped that a memorandum of understanding (MOU) between the two agencies would help to solve such difficulties by clearly defining the security roles and responsibilities of each agency.³⁰ While the MOU was completed on September 28, 2004, many members of Congress from both parties found the document lacking in clarity and detail.³¹ As the House Committee on Transportation and Infrastructure commented one month later:

The roles and responsibilities of TSA, other offices within DHS, and the Department of Transportation (DOT) regarding public transportation security implementation and oversight have not been clearly defined by the administration. As a result, there is a strong sense among the transit community and other stakeholder groups that there is not consistent, risk-based management of public transportation security issues, particularly in the allocation of security improvement grants funding.³²

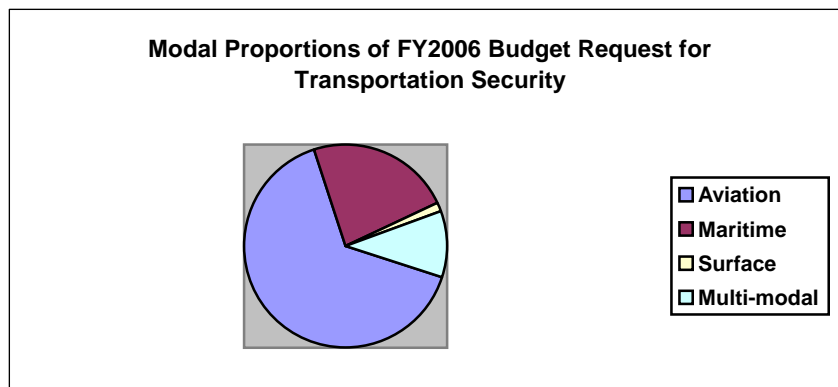
In the immediate aftermath of the Madrid bombings, the RAND Corporation outlined the importance of a coordinated federal rail and transit policy to the Congress and recommended that its focus should be to “define the federal role in preventing or mitigating such attacks” and to “prioritize investments needed to prevent attacks.”³³ The Bush administration has yet to detail how this will be accomplished.

A LACK OF RESOURCES

It is easy to say that something is important. But the budget is the most tangible reflection of the government’s commitment to a particular priority. By this measure, aviation security is a priority. Transit security is an afterthought.

Aviation security has remained virtually the sole focus of TSA spending with 90 percent of the President’s FY2006 budget request for TSA (\$4.98 billion out of \$5.56 billion) allocated for civil aviation programs – to the detriment of other transportation security priorities. And aviation security workers account for 97 percent of TSA’s total workforce.³⁴

As the chart below illustrates, looking broadly at all homeland security-related spending, the FY 2006 budget request provides almost 65 percent of total federal transportation security funds for aviation, just over 23 percent for maritime security, almost 11 percent for multi-modal applications, and a tiny 1.4 percent for surface transportation. Granted that state, local and private entities play a larger role in the latter, the lack of federal funding for the land modes (highways, rail and transit) is striking.³⁵



An April 2004 survey of mass transit systems by the American Public Transportation Association reported a shortfall of \$6 billion in security-related funding needs, including \$5.2 billion in capital investments and \$800 million per year for personnel and other security-related operating expenses. The same survey highlighted a number of areas for which federal funding was “very important,” including security personnel and training, communications and monitoring equipment, and weapons of mass destruction (WMD) detection devices.³⁶

Against this backdrop, current federal funding for transit security is insufficient. And despite the Madrid and London bombings, the situation is at risk of going from bad to worse. Such funding is actually being reduced for both DOT and DHS.

The President’s proposed budget for FY 2006 provides \$36.6 million for the Federal Transit Administration to assist local transit agencies with respect to security, emergency preparedness, employee security training, and public awareness.³⁷ This amount is similar to, but slightly smaller than the \$37.8 million that was provided for FTA security efforts in both FY2004 and FY2005 despite increasing needs.³⁸

Within TSA’s small budget for all surface transportation programs, the administration requested \$8 million in FY2006 to complete the hiring and deployment of the 100 rail and transit security inspectors, a \$4 million reduction in rail and transit inspection and enforcement from last year.³⁹

Grants have been the primary means by which the Department of Homeland Security has assisted transit security. Under the Urban Area Security Initiative (UASI), \$67.8 million was distributed to the largest transit systems in FY2003, and another \$50 million was provided in FY2004.⁴⁰ Congress appropriated \$150 million for this purpose in FY2005,⁴¹ but as of April 2005, only \$136.6 million had been allocated by DHS.⁴²

Despite Madrid, the Bush administration proposed in its FY2006 DHS budget submission that dedicated transit security grant funding be eliminated. Instead, a number of existing DHS grant programs for specific transportation sectors (including the UASI rail and transit security grants)⁴³ would be consolidated into a \$600 million Targeted Infrastructure Protection (TIPP) program, allowing for a more “integrated” approach, “based on relative risk, vulnerability and need.” The initial focus would be “for deployment of nuclear and chemical detection capabilities and security investments” despite terrorist use of conventional weapons in all recent incidents.⁴⁴

However, rather than assuring that key critical infrastructure sectors are provided resources for security improvements, the TIPP approach actually places various elements of the nation’s transportation infrastructure in competition for limited resources. Because of such concerns, both the House and Senate rejected the proposed consolidation, with the House earmarking \$150 million for rail and transit security grants and the Senate voting \$100 million.⁴⁵

In July 2005, in light of the London attacks, Sen. Richard Shelby (R-AL) offered an amendment to the FY2006 DHS Appropriations bill that would have increased transit security spending to \$1.1 billion. Though a majority of senators supported the Shelby Amendment, it was blocked by a procedural maneuver.⁴⁶ The Senate was not willing to adjust arbitrary homeland security spending caps in response to this evident transit risk.

The Senate also reduced the percentage of homeland security resources allocated based on risk from 70 percent as the administration proposed to 60 percent, placing regional political calculations ahead of sound security strategy. While there should be a baseline of homeland security funding that all states should receive, primarily for first responder support, a significant majority of homeland security funding to cities, states and the private sector must be allocated based on risk – those areas that terror organizations like al Qaeda have demonstrated a capacity to attack and where the consequences of an attack will be most significant. Based on al Qaeda’s existing strategy, such attacks are most likely to occur in urban and economic centers where there are high profile targets, large numbers of people and the potential for significant economic impact. Mass transit systems fit each of these criteria.

In contrast, the war in Iraq is almost entirely funded through emergency spending because its costs according to the Pentagon are “unknowable.” The contrast in our approach to two different fronts – one abroad and the other at home – is striking.

Given the efforts to date, a range of security experts are concerned with the continuing vulnerability and limited improvement in transit security. Juliette Kayyam of Harvard University stated that the transit sector is currently “about as vulnerable as it always has been,” with security measures “pretty piecemeal – not part of any comprehensive effort.”⁴⁷ The Dartmouth Institute for Security Technology Studies reported that “efforts to secure surface transportation systems have only minimally reduced the risk of terrorist attacks.”⁴⁸ The former DHS Inspector General, Clark Kent Ervin, was even more direct, writing shortly after he left the job that “too little attention has been paid and too few resources devoted to modes of transportation other than aviation.”⁴⁹

A RISK-ORIENTED STRATEGY: TRANSLATING WORDS TO DEEDS

On July 13, 2005, DHS Secretary Michael Chertoff outlined the results of the “Second Stage Review” he had ordered to evaluate “the Department’s operations, policies and structures” and to “recommend ways that DHS could better manage risk in terms of threat, vulnerability and consequence; prioritize policies and operational missions according to this risk-based approach; and establish a series of preventive and protective steps that would increase security at multiple levels.”⁵⁰

With specific respect to transit security, the Secretary prioritized the research and development of “next-generation” detection equipment for explosives and chemical, biological and nuclear weapons.⁵¹ In public remarks, and follow-on interviews with the *Washington Post*, he correctly suggested that security cannot be pursued “at any price” but must be made consistent with “Americans’ freedom, prosperity, mobility, and

individual privacy.”⁵² If so much security is added into a transit system that it becomes “dysfunctional” in its basic purpose of moving a large number of people rapidly and inexpensively “we have lost the war.”⁵³

However, disturbingly, Secretary Chertoff told the Associated Press that a transit attack “may kill 30 people” and does not “pose catastrophic consequences” to the United States.⁵⁴ This is wrong. Consistent with al Qaeda’s strategic objectives, an attack on a major metropolitan transit hub – such as Grand Central Station in New York or Union Station in Los Angeles – would easily threaten thousands of lives. And much like the sniper episode in Greater Washington in 2002, it would damage the sense of community that is integral to the daily lives of most Americans.

In too many respects, the United States is not as secure as it should be. Improvements in security are not advancing with the urgency that is necessary. Transit security is a compelling case in point. Almost four years after 9/11 and more than two years after the formation of the Department of Homeland Security, Americans have a right to expect actions, not merely words, to secure critical infrastructure that they depend on every day. The Center for American Progress outlines a five-point program that would significantly enhance and sustain the security of America’s public transit passengers and facilities. This strategy will:

- 1)** Treat the homeland as a central front in the war on terror and view homeland security as a vital dimension of national security, with commensurate policy attention and priority;
- 2)** Complete a comprehensive National Transportation Security Strategy that addresses the requirements necessary to secure our aviation, maritime, rail, transit and surface transportation systems;
- 3)** Redress the current resource imbalance in transportation infrastructure security and, based on risk assessment, devote more resources to mass transit security, both through dedicated transit security grants and through a higher percentage of homeland security funding;
- 4)** Clarify the roles and responsibilities of the Transportation Security Administration, the Federal Transit Administration, and other federal entities involved in transit security; and
- 5)** Do what can be done to make transit systems more secure now; accelerate the development of more reliable explosive detection capabilities; and integrate improved security features into the design of future mass transportation systems.

1. Transit Security and National Security

In the aftermath of September 11, the Bush administration and Congress established a Transportation Security Administration and ultimately a Department of Homeland Security. In its July 2002 *National Strategy for Homeland Security*, it identified transportation security as a “critical mission area.”⁵⁵ Everyday across the country, millions of Americans rely on bus, subway, commuter rail and light rail transit systems to travel to work and school; visit friends and relatives; and enjoy the sites and sounds of American communities.

Yet many of the same voices who claim we are in Iraq to protect this American way of life do not see a national security connection to transportation infrastructure that helps sustain this same way of life. Many who criticized the Clinton administration for treating terrorism as a law enforcement issue do not see critical infrastructure protection as a national security issue. It is. Apart from speechmaking, the federal government must act more aggressively on this obligation and improve security for all modes of transportation, including mass transit.

The 1996-97 Gore Commission, among others, pointed to the national security dimensions of civil aviation. Most of the factors underlying that judgment apply to other transportation modes as well, including transit. Terrorists have demonstrated an interest and capability in attacking maritime and land modes, and the potential economic and political consequences are certainly national in scope.

Homeland security is an integral dimension of national security. If transportation security is, in fact, a *national security* issue, it is imperative that action be taken to end the artificial budget and policy distinctions between “national defense” and “homeland security” in order to better integrate security and counter-terrorism efforts at home and abroad, and to allow for a more comprehensive assessment of the optimum allocation of roles and resources to secure the people of the United States.

2. A National Transportation Security Strategy

DHS must produce, as soon as possible, the National Transportation Security Strategy called for by the 9/11 Commission⁵⁶ and incorporated into the 2004 legislation that implemented the Commission recommendations. This latter plan, with an original due date of April 1, 2005, is to include “risk-based priorities across all transportation modes and realistic deadlines for addressing security needs associated with” critical transportation assets.⁵⁷

As a joint assessment of the Department of Homeland Security by the Heritage Foundation and Center for Strategic and International Studies concluded in December 2004, “we still have not completed a threat/vulnerability assessment that can help to develop strategy, set priorities, and guide spending... The latest DHS estimate is that such a study will be completed by 2008, but America cannot

wait that long.”⁵⁸ This is certainly true of transportation security, the infrastructure sector most critical to our national economy.

Such a strategy must accomplish the following with respect to mass transit security:

- Determine the nature of the terrorist threat to America’s major mass transit systems and how a two-way flow of threat and vulnerability information can be established and maintained among transit security stakeholders;
- Set standards on how mass transit systems can be protected in the immediate future and what steps, including design features, can help improve physical and operational security and overall system efficiency over the long-term;
- Assign clearly identified responsibilities to specific federal agencies, state and local governments, and transit authorities regarding transit security, including sustaining the police presence in and around transit systems; the research, development, deployment and maintenance of security technologies; and the conduct of covert “Red Team” testing to probe for flaws in the design and execution of security measures;
- Detail a multi-year projection of what resources are required to improve security now and sustain better security for the foreseeable future;
- Propose an appropriate cost-sharing formula that clearly identifies the sources of federal, state and local funding for the identified transit security measures, and set funding priorities for DHS and DOT transit security grants; and
- Indicate how transit security will be integrated and coordinated with other transportation and infrastructure security efforts.

3. Resources Commensurate with the Risk

On September 11, President Bush declared a “war against terrorism.”⁵⁹ On July 7 and 21, terrorists made clear that this war will not be confined to a particular country or region. What happened in London and Madrid can happen here. The question of if vs. when depends on our ability to prevent attacks if we can or mitigate the impact if we fail. This requires resources – people and money. Unfortunately, as is the case in too many aspects of homeland security, transit security is for all intents and purposes an unfunded federal mandate.

The 9/11 Commission envisioned that a national transportation security strategy would provide a means for adequately funding its security measures.⁶⁰ Unfortunately, this particular question has not so much been poorly answered as *ignored* by federal policy-makers. The 9/11 Commission’s recommendation was removed during last year’s Congressional debate on implementing legislation. But failure to address the problem does not make it go away. In the absence of clear cost-allocation decisions by the federal government, efforts to increase security investments in many transportation modes, including mass transit, will continue to be deferred and/or denied.

The Bush administration presumes that its partners – cities, states and the private sector – can and will provide the bulk of funding for transit security. However, as the Government Accountability Office testified to Congress in May 2005, “The current economic environment makes this a difficult time for private industry and state and local governments to make security investments and sustain increased security costs.”⁶¹

Homeland security is not being treated as a dimension of real national security. At the level of \$29 billion proposed by the Administration for FY2006, the budget for the Department of Homeland Security represents just 3.5 percent of the total federal budget for discretionary spending.⁶² Though this is certainly well above pre-9/11 funding levels for these programs, it stands in stark contrast to the more than \$400 billion allocated to the Department of Defense, and is in fact far more on a par with the amount provided for the Department of Housing and Urban Development (\$32 billion).⁶³ For a country allegedly at war, this is not enough.

The recent Shelby Amendment to the FY2006 DHS Appropriations bill, which had strong bipartisan support, is a good place to start in “right-sizing” the federal share of transit security costs. It called for:

- \$790 million for capital security improvements, such as communications and surveillance equipment, perimeter and tunnel protection, and explosives, chemical, biological and radiological detectors.
- \$333 million for operational security improvements, including security training, canine patrols, security drills, and public awareness campaigns.
- \$43 million for transit security research and development grants to help develop new technologies that reduce, deter, or mitigate damages from terrorist attacks.⁶⁴

Risk-based decision-making must be made explicit in the FY2007 budget, and the allocations adjusted accordingly. The non-aviation security share of TSA’s budget should be expanded significantly above its current 35 percent level to better reflect the changing nature of risk and national security importance of all transportation modes.⁶⁵ The recent Senate action that reduced the share of homeland security grants allocated based on risk should be reversed. At least 75 percent of federal homeland security resources should be assigned based on where we expect terrorists to strike and where the consequences of such an attack would be most consequential.

4. Clear Federal Roles and Responsibilities

One facet of the 9/11 aviation security failure was the lack of accountability afforded by a system of divided responsibilities. Unfortunately, with respect to mass transit, the same problem now exists. No one is in charge. No one is accountable. This guarantees that dangerous security gaps will persist that terrorists can easily exploit. Like 9/11, we should not have to wait for an attack to solve known problems.

Better security starts with accountability. As the name implies, overall responsibility for mass transit security should rest with the Transportation Security Administration. However, it must have the proper authority and the capability to perform its security mission. It will need more than the 100 rail and transit inspectors currently assigned or projected to meet the emerging demands of mass transit security.

Existing overlapping roles and responsibilities of the TSA and Federal Transit Administration must be clarified. While TSA should have lead authority for transit security, the FTA as the federal transit system regulator should be primarily responsible for matters of safety, which is a complementary but different area of expertise. The two agencies can and should work in close coordination regarding research and development and information/intelligence sharing since safety and security can be mutually reinforcing. The September 2004 DHS/DOT agreement is clearly deficient and must be augmented as soon as possible, and specify how such coordination is to be accomplished.

The Bush administration and Congress must overcome existing ambivalence if not outright hostility regarding TSA and provide the agency the political and budgetary support it needs to make our national intermodal transportation system more secure and resilient. Our national security and economic security are at stake.

5. Transit Security Improvements

Since transit systems are so open, perfect transit security is not possible, but better security most assuredly is. Based on years of experience and research, and even TSA's own under-funded rail security directives, there are a number of practical and useful security measures that with appropriate federal leadership and resources can significantly raise security for transit systems and their passengers. These steps include:

- Greater sustained police presence in transit stations and expanded use of canine explosive detection teams;
- Employment of more capable closed circuit television coverage of transit stations, tunnels and other fixed facilities, together with proper respect for civil liberties. These are complementary, not competing priorities; and
- Accelerated research and development of weapons detection technology specifically designed for use in the transit environment.

Over the long-term, given the nature of transit systems, layered security needs to be incorporated into future designs of transportation infrastructure and basic operations. As the National Research Council (NRC) of the National Academies of Science highlighted in 2002, “multi-use, multi-benefit systems have a greater chance of being adopted, maintained and improved.”⁶⁶

The 9/11 Commission aviation and transportation security staff made a series of proposals for building security into transportation systems, including the issuance of standards by DHS or TSA “to ensure that new and remodeled transportation facilities, equipment, and related infrastructure are designed, constructed, operated, and maintained to promote security and minimize the adverse consequences of terrorist attack,” and the empanelment of transportation security experts “to develop and prioritize appropriate design criteria to promote security of passengers, conveyances and facilities.”⁶⁷

This will not happen unless the federal government changes its current disorganized and haphazard approach and significantly increases its direct involvement in and commitment of resources to the challenge.

CONCLUSION

The challenges facing our nation’s transit security systems are well known and are far from unique. In the midst of war, and facing an expanding threat of terrorism, there are too many unanswered questions about the organization, funding, coordination and planning associated with mass transit security and other elements of our national transportation infrastructure. There is, as Secretary Chertoff himself admitted, a lack of urgency. Too many deadlines for federal decisions and action have been missed, ignored or only minimally met. Words must be accompanied by effective plans and adequate resources. If the Department of Homeland Security is committed to a risk-based strategy, mass transit security is a good place to evaluate its success or failure.

In the end, the federal government must shoulder its primary Constitutional duty “to provide for the common defense.” States, cities and the private sector have important roles to play in homeland security, but federal leadership is manifestly required to marshal the necessary resources to expeditiously, effectively and efficiently protect the American people and our way of life.

About the Author

Bill Johnstone is currently working on a book on the 9/11 hijackings and transportation security. Johnstone was recently a professional staff member of the 9/11 Commission, serving on the team on aviation and transportation security, where he co-authored the reports on its findings and recommendations. As a 9/11 Commission staff member, he also analyzed and evaluated the current status of transportation security in the United States and vetted recommendations for its improvement. Johnstone has over 20 years experience directing public policy operations in federal government offices. In addition to working with other members of Congress in various capacities, Johnstone served as Senior Policy Advisor to Senator Max Cleland (1997-2002) with a focus on the areas of foreign policy, homeland security, defense, intelligence and budget. Johnstone holds a B.A. and M.A. in political science from Emory University.

Acknowledgements

This paper was commissioned by the Center for American Progress as part of its Critical Infrastructure Security Series. Editorial direction and production assistance were provided by P.J. Crowley, senior fellow and director of national defense and homeland security; Matt Brown, production manager; and Ben Armbruster, research associate.

Endnotes

- ¹ Institute for Security Technology Studies at Dartmouth College, “On the Road to Transportation Security,” February 2003, p. 18.
- ² Glenn Frankel, “Bombers Strike London At Rush Hour,” *Washington Post*, July 8, 2005, p. A-1.
- ³ Glenn Frankel, “London Hit Again With Explosions,” *Washington Post*, July 22, 2005, p. A-1.
- ⁴ MSNBC, “London blasts timeline,” <http://www.msnbc.msn.com/id/8497343/>
- ⁵ Glenn Frankel, “London Hit Again With Explosions,” *Washington Post*, July 22, 2005, p. A-1.
- ⁶ BBC News, “Timeline: Madrid Investigation,” April 28, 2004, <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/3597885.stm> and Al Goodman, “Aznar to Testify at Madrid Probe,” CNN, September 15, 2004, <http://www.cnn.com/2004/WORLD/europe/09/15/madrid.aznar/index.html>.
- ⁷ Brian Jenkins, “Protecting Public Surface Transportation Against Terrorism and Serious Crimes: An Executive Overview,” The Mineta Transportation Institute, College of Business, San Jose State University, October 2001.
- ⁸ Statement of Jack Riley, Director of RAND Public Safety and Justice, before the U.S. Senate Committee on Commerce, Science and Transportation, March 23, 2004.
- ⁹ Brian Michael Jenkins and Larry N. Gersten, “Protecting Public Surface Transportation Against Terrorism and Serious Crime: Continuing Research on Best Security Practices,” September 2001, MTI Report 01-07, Mineta Transportation Institute, San Jose, CA, p. 72.
- ¹⁰ The Blue Ribbon Panel on Bridge and Tunnel Security, “Recommendations for Bridge and Tunnel Security,” September 2003, p. 1, note 2.
- ¹¹ Brian Michael Jenkins and Larry N. Gersten, “Protecting Public Surface Transportation Against Terrorism and Serious Crime: Continuing Research on Best Security Practices,” September 2001, MTI Report 01-07, Mineta Transportation Institute, San Jose, CA, p. 1.
- ¹² See for example Secretary Chertoff’s comments on the limited impact of attacks on trains in Spencer S. Hsu and Sara Kehaulani Goo, “30-Minute Airport Rule To Be Lifted,” *Washington Post*, July 14, 2005, p. A-1.
- ¹³ Testimony of Gerald L. Dillingham, GAO, to National Commission on Terrorist Attacks Upon the United States Hearing, April 1, 2003.
- ¹⁴ National Research Council, *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism*, (Washington, DC: The National Academies Press, 2002), p. 212.
- ¹⁵ Most of this amount, 1.7 million miles, is in the form of natural gas distribution pipelines, which transport natural gas from transmission pipelines to residential, commercial and industrial customers. (General Accounting Office, “Pipeline Safety: The Office of Pipeline Safety Is Changing How It Oversees the Pipeline Industry,” GAO/RCED-00-128, May 15, 2000, p. 6.)
- ¹⁶ Department of Homeland Security, “DHS Budget in Brief – Fiscal Year 2006,” p. 38.
- ¹⁷ Statement of David M. Stone, Assistant Secretary for Transportation Security, to U.S. Senate Committee on Commerce, Science and Transportation, February 15, 2005.
- ¹⁸ Statement of David M. Stone, Assistant Secretary for Transportation Security, to U.S. Senate Committee on Commerce, Science and Transportation, February 15, 2005, pp. 7, 12.
- ¹⁹ 49 USC 5329-5330
- ²⁰ Department of Homeland Security, “Fact Sheet: Rail and Transit Security Initiatives,” <http://dhs.gov/dhspublic/display?theme=43&content=3377&print=true>
- ²¹ Department of Homeland Security, “Fact Sheet: Rail and Transit Security Initiatives,” <http://dhs.gov/dhspublic/display?theme=43&content=3377&print=true>
- ²² Statement of David M. Stone, Assistant Secretary for Transportation Security, to U.S. Senate Committee on Commerce, Science and Transportation, February 15, 2005.
- ²³ PL 107-295
- ²⁴ PL 107-296
- ²⁵ White House, “December 17, 2003 Homeland Security Presidential Directive/HSPD-7.”
- ²⁶ This document is little more than a “plan to plan.” At its outset, it is described as “the starting point for developing the national cross-sector plan for critical infrastructure protection.” The chapter on “Roles and Responsibilities” begins by indicating that its “proposed roles and responsibilities...are intended to be a starting point for further discussion and engagement” with the various federal and non-federal stakeholders.

(Department of Homeland Security, "Interim National Infrastructure Protection Plan," February 2005, pp. 2, 29.)

²⁷ Testimony of Asa Hutchinson, to Senate Committee on Commerce, Science and Transportation, August 16, 2004.

²⁸ Testimony of Asa Hutchinson, to Senate Committee on Commerce, Science and Transportation, August 16, 2004.

²⁹ *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, Authorized Edition (New York: W.W. Norton & Company, 2004), p. 391.

³⁰ General Accounting Office, "Mass Transit: Challenges in Securing Transit Systems," GAO-02-1075T, September 18, 2002, pp. 15-19.

³¹ See for example the remarks of Sen. John McCain (R-AZ), *Congressional Record*, July 11, 2005, p. S7992.

³² Committee on Transportation and Infrastructure, U.S. House of Representatives, "Public Transportation Terrorism Prevention and Response Act of 2004," House Committee Report 108-746, October 6, 2004, p. 9.

³³ Statement of Jack Riley, Director of RAND Public Safety and Justice, before the U.S. Senate Committee on Commerce, Science and Transportation, March 23, 2004.

³⁴ 50,696 out of 52,504 FTEs. (Transportation Security Administration, "FY2006 TSA Budget Request," February 2005, p. 15.)

³⁵ The percentages were calculated by the author based on the following modal allocations. Aviation security programs, totaling \$6,091,500,000, were those operated by TSA and the FAA, plus the Federal Air Marshal and MANPADS research programs. Maritime security, with a total of \$2,167,000,000 includes security programs of the Coast Guard, the Customs and Border Protection bureau, and DOE's Megaports Initiative. Surface transportation security, with a total of \$134,600,000 includes relevant TSA and DHS programs, plus the security spending by the DOT modal authorities, including FTA. Multi-modal applications, amounting to \$998,400,000 in the Administration request, are composed mainly of the proposed TIPP and Screening Coordination Office programs.

³⁶ American Public Transportation Association, "Survey of United States Transit System Security Needs and Funding Priorities, Summary of Findings," April 2004, pp. 4-5.

³⁷ Department of Transportation, "FY2006 Budget In Brief," pp. 23, 40.

³⁸ Department of Transportation, "FY2005 Budget In Brief," p.

³⁹ Congressional Research Service, "Homeland Security Department: FY2006 Appropriations," RL32863, June 13, 2005, p. 32.

⁴⁰ Testimony of Chet Lunner, Assistant Administrator for the Office of Maritime and Land Security, Transportation Security Administration, Before the Committee on Transportation and Infrastructure Subcommittee on Highways, Transit & Pipelines, U.S. House of Representatives, June 22, 2004, p. 4.

⁴¹ Congressional Research Service, "Homeland Security Department: FY2006 Appropriations," RL32863, June 13, 2005, p. 43.

⁴² Department of Homeland Security, "FY2005 Transit Security Grant Program Allocations," April 12, 2005.

⁴³ FY05 funding for port, rail, truck, intercity bus and non-governmental organization security grants totaled \$340 million. (Margaret T. Wrightson, Government Accountability Office, "Maritime Security: Enhancements Made, But Implementation and Sustainability Remain Key Challenges," Testimony Before the Committee on Commerce, Science, and Transportation, U.S. Senate, GAO-05-448T, May 17, 2005, p. 22.)

⁴⁴ Office of Management and Budget, *Budget of the U.S. Government Fiscal Year 2006*, p. 156.

⁴⁵ Congressional Research Service, "Homeland Security Department: FY2006 Appropriations," RL32863, June 13, 2005, pp. 43-44; Committee on Appropriations, U.S. House of representatives, "Department of Homeland Security Appropriations Bill, 2006," House Report 109-79, p.; and Committee on Appropriations, U. S. Senate, "Department of Homeland Security Appropriations Bill, 2006," Senate Report 109-83, June 16, 2003, p. 67.

⁴⁶ Senate Amendment 1205 to HR 2360, FY2006 DHS Appropriations, July 14, 2005.

⁴⁷ Steve Johnson, "U.S. Rail Network Still Vulnerable To Terror," MSNBC, July 7, 2005.

⁴⁸ Institute for Security Technology Studies at Dartmouth College, "On the Road to Transportation Security," February 2003, pp. 1, 20.

-
- ⁴⁹ Clark Kent Ervin, "A To-Do List for Chertoff," *Washington Post*, February 7, 2005, p. A-21.
- ⁵⁰ Department of Homeland Security, "Homeland Security Secretary Michael Chertoff Announces Six-Point Agenda for Department of Homeland Security," press release, July 13, 2005.
- ⁵¹ Department of Homeland Security, "Secretary Michael Chertoff, U.S. Department of Homeland Security Second Stage Review Remarks," Washington, DC, July 13, 2005.
- ⁵² Department of Homeland Security, "Secretary Michael Chertoff, U.S. Department of Homeland Security Second Stage Review Remarks," Washington, DC, July 13, 2005.
- ⁵³ *Washington Post*, "Mr. Chertoff's Challenge," editorial, July 14, 2005, p. A-24.
- ⁵⁴ "One Person's Catastrophe," *New York Times* editorial, July 16, 2005, p. 14.
- ⁵⁵ *National Strategy for Homeland Security*, July 2002, p. viii, available at http://www.dhs.gov/interweb/assetlibrary/nat_strat_hls.pdf.
- ⁵⁶ *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, Authorized Edition (New York: W.W. Norton & Company, 2004), pp. 391-392.
- ⁵⁷ *Intelligence Reform and Terrorism Prevention Act of 2004*, PL 108-458, Sec. 4001(a)(3)(B)
- ⁵⁸ The Heritage Foundation and the Center for Strategic and International Studies, "DHS 2.0: Rethinking the Department of Homeland Security," December 13, 2004, p. 24.
- ⁵⁹ President Bush, Address to the Nation, September 11, 2001, available at <http://www.whitehouse.gov/news/releases/2001/09/20010911-16.html>.
- ⁶⁰ The strategic plan called for by the 9/11 Commission and contained in the Senate-passed version of the implementing legislation, provided that it include a "budget and funding to implement" the necessary security measures. (*The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, Authorized Edition (New York: W.W. Norton & Company, 2004), p. 391.)
- ⁶¹ Margaret T. Wrightson, Government Accountability Office, "Maritime Security: Enhancements Made, But Implementation and Sustainability Remain Key Challenges," Testimony Before the Committee on Commerce, Science, and Transportation, U.S. Senate, GAO-05-448T, May 17, 2005, pp. 23-24.
- ⁶² The DHS and other departmental requests in this paragraph exclude fee-funded activities, which in the case of DHS total \$4.8 billion in the FY2006 request. (Office of Management and Budget, *Budget of the United States Government Fiscal Year 2006*, p. 166.)
- ⁶³ These amounts are all based on the President's FY 2006 budget request. (Office of Management and Budget, *Budget of the United States Government Fiscal Year 2006*, "Table S-3. Growth in Discretionary Budget Authority by Major Agency," p. 345.)
- ⁶⁴ S. Amdt. 1205 to HR 2360, FY2006 DHS Appropriations, July 13, 2005.
- ⁶⁵ Department of Homeland Security, "DHS Budget in Brief – Fiscal Year 2006," p. 40; and Transportation Security Administration, Statement of David M. Stone, Assistant Secretary for Transportation Security, Before U.S. Senate Committee on Commerce, Science, & Transportation, February 15, 2006, pp. 5-6.
- ⁶⁶ National Research Council, *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism*, (Washington, DC: The National Academies Press, 2002), pp. 13-15.
- ⁶⁷ Security measures implemented in the London transit system have been credited with helping to cut crime on the Underground by 54 percent in the 1990s. (Brian Michael Jenkins and Larry N. Gersten, "Protecting Public Surface Transportation Against Terrorism and Serious Crime: Continuing Research on Best Security Practices," September 2001, MTI Report 01-07, Mineta Transportation Institute, San Jose, CA, p. 20.)

Center for American Progress



ABOUT THE CENTER FOR AMERICAN PROGRESS

The Center for American Progress is a nonpartisan research and educational institute dedicated to promoting a strong, just and free America that ensures opportunity for all. We believe that Americans are bound together by a common commitment to these values and we aspire to ensure that our national policies reflect these values. We work to find progressive and pragmatic solutions to significant domestic and international problems and develop policy proposals that foster a government that is “of the people, by the people, and for the people.”

Center for American Progress
1333 H Street, NW, 10th Floor
Washington, DC 20005
Tel: 202.682.1611 • Fax: 202.682.1867
www.americanprogress.org