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PROTECTING AND PRESERVING AN OPEN SOCIETY:

An Integrated Approach to Homeland Security

We the People of the United States, in Order to ... provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity ...

—PREAMBLE TO THE CONSTITUTION OF THE UNITED STATES

Above all else, the primary responsibility of the president is to protect the American people. Yet four years after September 11, the Bush administration has left us with a patchwork of homeland security remedies that has not done enough to reduce threats to our communities and our nation. The United States needs an integrated strategy for homeland security and national security—one that sets the right priorities, combines efforts in the public and private sectors, and ensures a more open, credible system of informing authorities and the public. Action is required now to make America safer.

The threat is clear. Terrorist attacks around the world against U.S. citizens, soldiers, allies, and interests are on the rise.¹ Al Qaeda and other terrorist networks retain the personnel, command structure, and resources to conduct major operations, as recent attacks in Jordan, Britain, Spain, Saudi Arabia, and Egypt demonstrate.² The war in Iraq has served as a recruiting call-to-arms and created a training ground for the next generation of global jihadists.³ The United States spent virtually all of 2004 in a high or elevated threat status. Transit systems were raised to “orange alert” after the London bombings in 2005. A number of government officials

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and security experts have repeatedly warned that another major attack in the United States is not only possible, but probable.⁴

Our homeland security and economic security are no longer assured by-products of our unsurpassed military power and political influence. In fact, America's global dominance will continue to create international friction and breed resentment that serves as oxygen for al Qaeda and similar terrorist organizations. Those groups, moreover, can deploy terror strategically and have an asymmetric advantage: they can strike where and when they sense

opportunity while we must defend everywhere. They can select vulnerable targets that exist predominantly in the private sector, using tactics that are extremely difficult to defend against and cause disproportionate damage to our society. It is estimated that the terrorist operations of September 11 cost less than \$500,000 to carry out, yet claimed 2,973 victims and produced \$31.7 billion in losses.⁵

Strong American leadership, international cooperation, and a comprehensive strategy that involves more than just military action can defeat al Qaeda and its affiliates. Yet even as we attempt to eliminate terrorists and their networks around the world, we need an effective homeland security capability here at home. Because the tools to inflict harm against American interests are simply too easy and inexpensive to acquire, our goal must be to make a terrorist attack less likely and less effective. This cannot be done by creating a fortress America, but rather through a layered and flexible approach to homeland security that raises the cost and complexity of planning an attack, lowers the odds of a successful attack, and mitigates the impact on the United States should an attack occur.⁶

Realizing these goals will not be easy in a society as broad, open, and diverse as ours. But we must not accept decade-long timetables to fix known problems. Homeland security—protecting our people, our economy and our way of life from threats both continents away and within our midst—has never been more urgent.

Our strategy encompasses five fundamental points:

First, we must set priorities and focus on preventing catastrophic terrorism against targets where the threat and consequences of attack are most significant. Terrorism is not an equal opportunity threat. While many areas of the country are potentially vulnerable, terrorist groups like al Qaeda are more likely to strike in urban centers against high-profile targets where large numbers of people gather. Addressing vulnerabilities without regard to the threat guarantees that finite resources will be stretched too thin.

Second, we must engage the private sector and institute strong security standards when incentives and voluntary efforts fall short. The private sector owns and operates 85 percent of our critical infrastructure.⁷ Stopping the next terrorist plot could just as easily involve a security guard patrolling the fence line at a commercial nuclear power plant in New York as an intelligence analyst connecting dots in Washington. The private sector must be prepared.

Third, we must take an integrated and comprehensive approach to homeland security. Terrorism is a global challenge, transcending international boundaries. This therefore requires that we have a unified strategy and structure as well as a comprehensive budget to properly integrate defense, homeland security, intelligence, counterterrorism, emergency response, and other programs directed against the terrorist threat.

Fourth, the federal government has and must accept primary responsibility for homeland security. The Constitution clearly charges the federal government “to provide for the common defense.”⁸ Communities, cities, states, and the private sector each have important roles to play, but Washington must provide the leadership, coordination, and resources to make the United States safer. This responsibility cannot be outsourced.

Finally, homeland security is sustainable only if the government is transparent and credible. Our actions cannot come at the cost of fundamental freedoms or the isolation of our nation from the rest of the world. The government needs to be forthcoming in providing more information on threats and risks to the American people. The presumption must be to share significant security information, not to withhold or classify it. We must also maintain an open society, a pillar of American strength, by finding the balance between protecting our borders and bringing in the visitors, students, immigrants, and trading partners who promote the very international understanding, cooperation, and opportunity that is crucial to reducing terrorism’s appeal.

Our goal must be to make a terrorist attack less likely and less effective—not by creating a fortress America, but by securing the critical economic and social links that bind us to the world and have made us powerful, prosperous, and open.

CURRENT STATE OF PLAY

As the ineffective response to Hurricane Katrina demonstrated, the United States today does not have an effective homeland security system in place. Four years after the attacks of September 11, the Bush administration has failed to do a number of things necessary to enhance our homeland security. It has failed to set priorities and integrate vital systems. It has failed to press the private sector to operate in ways that are inherently safer or institute the strict standards necessary to protect our communities. It has failed to produce a cohesive homeland security strategy, integrate responsible agencies, and eliminate overlapping bureaucratic responsibilities. And it has failed to devote the necessary resources for a credible approach to our security.

Nothing better illustrates the administration’s failure to set priorities and guard against catastrophic terrorism than its efforts to protect our nation’s airliners, ports, and railways. While cockpit doors, luggage screening, and passenger checkpoints have been strengthened, less than 5 percent of cargo placed on passenger aircraft is physically screened.⁹ Our ports remain extraordinarily vulnerable. Only 5 percent of all shipping containers are inspected, despite estimates by security experts that it is only a matter of time before terrorists use a container to smuggle in a dirty bomb.¹⁰ The Coast Guard estimates it will take \$7.3 billion over ten years to make our ports more secure, but the administration only requested \$46 million in port security grants to accomplish the task.¹¹ Congress recently tripled that amount, but more is required.¹²

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The administration has paid lip service to rail and mass transit security, but has resisted meaningful action and tougher mandatory standards despite the Madrid rail bombings.¹³ The federal government went to court to prevent the District of Columbia from enacting a strategy for rerouting hazardous rail cars away from the heart of the nation’s government. The secretary of homeland security even questions whether an attack like London or Madrid against a mass transit system qualifies as a “catastrophe.”¹⁴ He wants to eliminate tailored critical infrastructure security grants and pool money for ports, rail, transit and other priorities, which needlessly places them in competition and guarantees that scarce resources will be spread too thin.

As the 9/11 Commission rightly reported, “the private sector remains largely unprepared” for a future attack.¹⁵ Much of this can be traced to the Bush administration’s failure to create proper incentives for the private sector to improve security or to impose strict security standards when voluntary measures are inadequate. Even in areas where catastrophe risk is acute—such as attacks on private chemical facilities, where the industry estimates 100 plants have the potential to threaten more than one million people each—the administration has refused to require safety measures.¹⁶ Rather than build a genuine partnership with the private sector, the former secretary of homeland security characterized the security of facilities critical to the economy as a “private sector need,” even though one of al Qaeda’s principal goals is to attack and weaken the U.S. economy.¹⁷ In fact, the Department of Homeland Security (DHS) does not even know how much is being spent in the private sector to secure the nation’s critical infrastructure.¹⁸

The country also lacks a consolidated and coherent strategy. Since July 2002, the Bush administration has produced six different homeland security-related strategies, but has yet to coordinate these parts into a single comprehensive plan.¹⁹ Repeated deadlines for a national transportation security strategy have been missed.²⁰ The White House treats homeland security as a distinct security challenge rather than an inherent element of a cohesive national security strategy. After opposing formation of the Department of Homeland Security, the White House then undertook the most expansive possible option in forming the new department, yet failed to devote the resources necessary to effectively integrate 22 agencies and 170,000 employees.²¹ Even today, the White House continues to support a Homeland Security Council and a National Security Council, competing power centers within the White House that inhibit the proper coordination of policy.²²

The administration also has failed to integrate vital data systems that allow us to track potential terrorists while making sure that legitimate visitors can enter.²³ Four years after al Qaeda defeated existing immigration and border security systems, despite increased resources and stricter guidelines, an estimated ten million people remain in the United States who have evaded the immigration system.²⁴ Rather than concentrating on stopping terrorists from boarding airplanes, DHS overreached in its proposed updating of the Computer Assisted Passenger Prescreening System (CAPPS II). It recommended potentially broad screening criteria, including the use of commercial databases, raising serious privacy concerns.²⁵ Under congressional pressure, the CAPPS II program was discarded, delaying integration of the consolidated

terrorist watchlist with the airline no-fly list, a system flaw that was successfully exploited on September 11.²⁶

The Bush administration also is attempting to do homeland security “on the cheap.”²⁷ It is not dedicating sufficient resources at the federal level to do what is required. It is not putting those resources where they are needed to make America safer. And it is not addressing priorities in an integrated fashion. Consider these facts:

- Although homeland security funding has doubled since September 11, the DHS budget is only one-tenth that of the Department of Defense.²⁸ In fact, the federal government is spending more to secure Iraq than the American homeland.²⁹
- The White House is spending six times more on ballistic missile defense than on port security, even though it is far more likely that a nuclear weapon will enter the United States via a shipping container than launched on a long-range missile.³⁰
- In FY 2004, Wyoming received \$37.60 per capita in homeland security grants, the highest among the 50 states, while New York, where the threat is far more significant, received only \$9.55 per capita.³¹ DHS narrowed the margin measurably in its FY 2005 grant allocations, although 27 states, including rural states like Nebraska, Oklahoma, and Kentucky, received the limited Urban Area Security Initiative funds.³²

Public support is critical in times of crisis, but the administration has consistently undermined the credibility of existing efforts to protect the homeland.³³ The existing color-coded warning system has never served its purpose, and at times has even compromised intelligence operations.³⁴ The timing of some high-level, seemingly urgent, yet vague warnings has raised questions about politicization of the system. State and local officials have complained about receiving incomplete information,³⁵ delays in receiving threats,³⁶ and the lack of efficient two-way communication.

PROGRESSIVE POLICY RECOMMENDATIONS AND ACTION PLAN

Given the nature of the ongoing threat the U.S. homeland faces, the immediate security imperative is to deny al Qaeda and affiliated groups what they strive to achieve through their attacks: significant loss of civilian life, major economic losses, and political and social turmoil.

Prevent Catastrophic Terrorism and Minimize Its Impact

Our strategy is based on a simple idea: focus the nation’s time and resources on defending its most valuable and vulnerable targets, including the economy. This means that we must focus first where terrorists are most likely to strike and with the greatest effect: the nation’s chemical and nuclear facilities, ports, rail system, air cargo, and city centers. Aggressive action overseas must be accompanied by focused, sensible and rapid action to defend targets here at home. Where millions of lives are at stake and billions of dollars in economic damage at risk, voluntary approaches are insufficient. The threat is evolving and we have to deter the next plot,

not just guard against the last one. In particular, the Center for American Progress makes the following recommendations.

Identify top chemical facility threats, reduce hazards, and provide incentives for substitution with less toxic alternatives. The president should direct the Environmental Protection Agency (EPA), in cooperation with DHS, to develop hazard-reduction plans for facilities that use the most acutely toxic chemicals. The plans can be required under existing provisions of the Clean Air Act and should outline immediate steps to improve site security and harden storage containers for acutely toxic chemicals, as well as reduce the concentration and levels of chemical storage inventory through state-of-the-art manufacturing processes.³⁷ Over the long term, the government must encourage long-term non-toxic or non-explosive material substitution that will eliminate the risk entirely. For the deadliest chemicals, the EPA should create a “fast-track” permit process to encourage industry to transition to safer alternatives as quickly as possible.

Require redirection of hazardous rail shipments away from city centers. The president should direct the Department of Homeland Security to work with the rail industry to immediately reroute hazardous material away from major urban areas. Washington, D.C. is a prime example of hazardous material passing perilously close to critical government buildings, including the U.S. Capitol and the National Mall, where tens of thousands of visitors regularly gather, creating an unnecessary opportunity for terrorists.³⁸ Appropriate coordination must be undertaken with individual railroads and regional authorities to identify the safest feasible arrangement.

Improve security at vulnerable railway infrastructure. The Transportation Security Administration (TSA) should work in cooperation with the Federal Railroad Administration to develop national standards for rail security; require stronger regional security plans focused on improving security around rail yards, tunnels, and other critical rail infrastructure; and provide sufficient transparency for meaningful state and local cooperation.³⁹ Similar effort should be made between TSA and the Federal Transit Administration to: (1) assess the terrorism threat to major transit systems; (2) identify recommendations that can be implemented now—including design features to incorporate safety and security into physical and operational security over the long term; and (3) identify resources to sustain security and develop an appropriate cost-sharing formula among federal, state and local governments. These points need to be incorporated into a comprehensive National Transportation Security Strategy that DHS must complete as soon as possible, as called for in the Intelligence Reform and Terrorism Prevention Act of 2004.⁴⁰

Set strong national standards for security at nuclear facilities. The Congress should pass legislation that would require stronger national security standards at nuclear power reactors and other nuclear facilities where nuclear theft or sabotage could pose catastrophic threats. Along with government facilities not regulated by the Nuclear Regulatory Commission (NRC), these reactors and other facilities should be able to successfully detect and repel a team of suicide attackers. Critical components should be modified to reduce vulnerability to external attack or internal sabotage. Particular attention needs to be paid to the vulnerability of cooling pools for spent fuel rods. Congress should consider shifting security policy and enforcement responsibility from the NRC, which is primarily focused on safety, to the Department

of Energy, which may be better able to craft comprehensive and global security and threat reduction strategies through its Office of Security and Safety Performance Assurance and the National Nuclear Security Administration (NNSA).

Screen all air cargo. Congress should pass legislation requiring 100 percent screening of all cargo placed on board commercial passenger and cargo aircraft.⁴¹ Although screening will add friction and cost to a “just in time” business system, the additional expense is only a fraction of the potential economic and public impact that would follow another air disaster. Cargo shippers would be charged a security fee by the airlines to cover the cost of new systems.

Install new explosive detectors at all airports. The president should direct the Transportation Security Administration (TSA) to change its airport security regulations to require all commercial airports to install the next generation of explosive detection equipment (“puffer” machines) to prevent passengers from smuggling a bomb on board a commercial airliner.⁴²

Strengthen shoulder-fired missile defenses. The president should direct the Federal Aviation Administration to instruct airlines to add to flight crew training new emergency landing techniques involving an aircraft damaged by a shoulder-fired missile. Airports should increase resources devoted to perimeter security to deter missile threats during takeoff and landings, as was done in Los Angeles.⁴³ Research should continue regarding the suitability and cost of adapting missile detection and countermeasure technologies for commercial aircraft.⁴⁴

Integrate watchlists into airline passenger screening. The president should direct TSA to implement the Secure Flight passenger screening program within six months so that airline passenger lists can be integrated with the consolidated terrorist watchlist.⁴⁵ The consolidated watchlist must be coupled with improved privacy protections and an appeals process so that passengers who are victims of mistaken identification are not subject to repeated delays for unnecessary additional searches.

Introduce biometric technology at all ports of entry. Congress should accelerate funding for the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program so that biometric technology can be installed within three years at all land, port, and air terminals.⁴⁶ It is also important to strengthen exit procedures at ports and borders so that immigration officials can more effectively track visitors both coming into and leaving the country. Under the current US-VISIT program design, points of departure are not manned but employ self-serve kiosks. This gap in our entry-exit system will potentially add more “phantom overstays” who have in fact left the country but clog up the existing visa tracking system. As the new system is implemented, it is equally important that robust privacy safeguards are in place to protect against unwarranted use of the biometric data and any databases that are developed from the US-VISIT program. Recognizing that the challenge of illegal immigration cannot be solved at our borders alone, the Bush administration should propose, and Congress should enact, comprehensive immigration reform as soon as possible. No country can call itself secure

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if 700,000 people each year evade an immigration system that is broken, outdated, and inadequate to confront the challenges of global economic migration and terrorism.⁴⁷

Increase resources and set priorities for Maritime Transportation Security Act (MTSA) implementation. The Congress should pass proposed legislation to use customs duties to increase port security funding to at least \$500 million per year, which is up from the current annual appropriation of approximately \$150 million in port security grants.⁴⁸ The president should direct the Coast Guard to amend its port security regulations to place greater emphasis on threat and consequence analysis, concentrating on targets terrorists are most likely to strike and which carry the highest risk of mass casualties and economic loss. Such an approach could reduce the cost of MTSA implementation from the current estimate of \$7.3 billion over 10 years to less than \$5 billion.⁴⁹ The United States should also work with the International Maritime Organization (IMO) to adapt the International Ship and Port Facility Security (ISPS) Code to require all cargo vessels to have a global vessel identification capability similar to a commercial airliner beacon so that ships can be tracked and courses verified as they travel to the United States.

Accelerate research and development on non-intrusive container scanning technology. Congress should increase funding in the Homeland Security budget to \$100 million to more rapidly develop next generation technology for a rapid, reliable, and safe “CAT scan” of the roughly six million shipping containers that enter and exit the 361 U.S. sea and river ports each year.⁵⁰ No technology currently in existence or on the immediate horizon provides the necessary radiological imaging with sufficient speed and confidence to achieve 100 percent scanning of all shipping containers. No port security system will be sufficiently reliable until such technology exists. Current funding levels are inadequate to get us where we need to be fast enough.

Combine strengths of existing container security programs. The president should direct Customs and Border Protection (CBP) to take immediate steps to improve and better coordinate existing container security programs. Furthermore, Congress should provide an additional \$100 million in future years to accomplish the following:

- Accelerate Phase III of the Container Security Initiative (CSI) and allow DHS to station up to 400 agents on extended overseas tours with proper language training. The program is currently hampered by too few agents sent on short-term rotations, which limits international cooperation.
- Increase trusted shipper certification inspections under the Customs-Trade Partnership Against Terrorism (C-TPAT) program.⁵¹ Currently, CBP has a “trust but don’t verify” approach due to resource constraints.⁵² Better integration of data generated by Automated Targeting System (ATS) and CSI can make C-TPAT inspections more effective.
- Develop a next-generation ATS computer model that fuses more data from broader sources for more effective analysis of shipping risk factors and anomalies. Roughly half of all physical inspections of containers are currently done based on random selection, not risk profiling.⁵³ Not only is better shipping intelligence required, but independent assessments of ATS are needed.⁵⁴

- CBP should also strengthen its cyber-security capabilities to ensure that it can detect computer intrusions and attempts to forge shipping documents.

Make global shipping more secure. The president should direct the secretaries of commerce and homeland security to convene a global shipping summit to reach agreement with major importers, shippers, and terminal operators to invest in a more transparent, efficient, and secure intermodal trading system. The emphasis should be on setting standards that will promote the rapid deployment of new technologies. Within three years, all shipping containers should be equipped with tamper-proof secure seals, on-board Global Positioning System (GPS) tracking capability, a radiation detection device, and a detailed, computerized cargo manifest with prior imaging attached. All U.S. ports can then be configured with “green lanes” for rapid clearance of shipping containers conveyed by certified “safe shippers” utilizing smart technology. All shipping containers that fail to meet revised standards will be subject to “red lanes,” creating a market incentive for security investments.⁵⁵

Increase emphasis on secure computer technologies.

The secretary of homeland security should task DHS’s undersecretary for preparedness to work in cooperation with the National Science Foundation to present a plan within six months to eliminate all known computer software programming vulnerabilities within three years. Experts say that 90 percent of all software vulnerabilities can be traced to 19 programming flaws.⁵⁶ Global economic damage from denial-of-service attacks has been estimated to exceed \$34 billion,⁵⁷ yet DHS’s Science and Technology Division received only \$18 million for cyber research and development in FY 2005.⁵⁸ Computer attacks by Islamic groups have grown significantly since 9/11 and particularly since the invasion of Iraq.⁵⁹ The Congress should dramatically increase its investment in cyber research and development. The administration should direct relevant agencies to identify and certify secure software that eliminates the possibility of computer programming flaws and then push the private sector to urgently upgrade its systems.

Maintain government support for terrorism insurance. The administration should promptly engage the insurance industry to devise a permanent risk arrangement to replace the Terrorism Risk Insurance Act and ensure a viable private insurance market to minimize the potential economic impact of future terrorist attacks. One option is the creation of a government-sponsored enterprise terrorism risk reinsurance corporation, capitalized by the private sector and backed by the U.S. government, particularly if the private terrorism insurance market is inadequate to meet long-term demand. The administration should also appoint an advisory panel of legal, security, public and private sector, and legislative experts to make recommendations regarding commercial liability and terrorism. Establishing clear parameters regarding the private sector’s liability in the event of future attacks could help restore the private insurance market over the long-term and provide incentives for private sector adoption of mandatory and enforceable security and safety standards in return for commercial liability relief.

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Renew the Victims Compensation Fund. Congress should review the Victims Compensation Fund and pass legislation authorizing its renewal for a three-year period. The reauthorized Fund would assist the families of U.S. citizens who are victims of future acts of foreign-sponsored terrorism anywhere in the world as well as the families of anyone who is a victim of terrorist attacks *within* the United States. After September 11, the federal government processed more than 7,300 claims valued at more than \$2.6 billion and proved itself as an effective mechanism to speed compensation to victims, thereby enhancing Americans' ability to recover from this attack.⁶⁰ Given the threat of another attack, it is appropriate to maintain this special process on a temporary basis. After two years, the Departments of Justice and Homeland Security should submit a report that evaluates the ongoing nature of the terrorist threat, the degree to which society has strengthened its security and preparedness, and whether a continued exception to the normal victim compensation and tort systems is warranted.

An Integrated Approach Anchored By Strong Federal Leadership

To protect the homeland, we need an integrated, comprehensive approach that bridges three intersecting relationships: homeland and national security; federal, state and local responsibilities; and the public and private sectors. Homeland security and national security are indivisible. The federal government cannot protect the homeland alone, but it must lead. It must establish genuine and reciprocal partnerships with state governments and local communities, and with the private sector. States, local communities, and the private sector all must do their share to make us safer, but only federal leadership and resources can adequately address vulnerabilities that terrorists can and will exploit. A credible and effective approach requires more than water, duct tape, and plastic sheeting. Vague and confusing announcements that appear to be made for domestic political gain undercut support at home and vital partnerships around the world. Similarly, arbitrary and secretive rules that appear to add a veneer of security ultimately undercut what we represent as a nation and how we are perceived by friends and allies.

Introduce a consolidated national security budget. Beginning with the next presidential budget, the Office of Management and Budget should issue a national security top line budget figure to the Congress that combines the budgets of the Departments of Defense, State, and Homeland Security; all elements of the Intelligence Community, as defined in the National Security Act of 1947;⁶¹ and the relevant portions of the budgets of the Departments of Energy, Justice, Health and Human Services, Treasury, and other departments and agencies that have national security, homeland security, intelligence, counterterrorism, and foreign assistance functions.⁶² Barring action by the Congress to amend its rules to allow a consolidated national security appropriations bill, this would provide a useful guide to understanding the difficult tradeoffs involved in funding an integrated national security strategy.

Consolidate the National Security and Homeland Security Councils. The president should immediately issue a new National Security Presidential Directive that integrates the executive branch policy coordination responsibility of the Homeland Security Council with that of the National Security Council. The staff of the Office of Homeland Security within the Executive Office of the President should be incorporated within the staff of the National Security Council and report to the president through the national security advisor and a newly created deputy assistant to the president for homeland security.

Develop a new national security strategy. Within six months, the administration should update the nation's homeland security strategy within an integrated national security strategy that reflects all international and domestic policy elements that will be decisive in reducing the terrorist threat to the United States. It should incorporate national strategies related to homeland security, maritime security, cyber security, critical infrastructure protection, weapons of mass destruction, terrorism, and money laundering into a single overarching and coordinated approach.

Homeland security and national security are indivisible. The federal government cannot protect the homeland alone, but it must lead.

Establish an integrated network of Homeland Security

Operations Centers in all 50 states to improve the two-way flow of threat information. Working with Congress, the president should designate sufficient resources within the Department of Defense budget to create a network of state homeland defense operations (HDOC) centers. This HDOC network would be the primary conduit for homeland defense alerts and better enable rapid civil support in case of a crisis. The operations centers, which would be staffed and managed by National Guard personnel on Title 32 status,⁶³ would more effectively integrate federal government entities, including NORTHCOM, Joint Harbor Operations Centers (JHOC), Joint Terrorism Task Forces (JTTFs), and regional Federal Emergency Management Agency (FEMA) headquarters with state and local entities. Such a network would also enhance coordination between the DHS and state and local officials, including improved flow of local intelligence information to DHS's Directorate of Information Analysis and Infrastructure Protection.

Increase security clearances for state and local officials. After eliminating the current backlog of security clearances and establishing consistent clearance standards across intelligence agencies,⁶⁴ the administration should expand the number of state and local officials who have security clearances and access to intelligence.⁶⁵ This will enable more effective coordination across all levels of government and greater regional participation in joint planning and analysis.

Reimburse states and communities for unexpected security costs. The president should propose and the Congress should pass legislation that would create a specific fund for the federal government to reimburse state and local authorities for a percentage of unanticipated security costs incurred as a result of federal government taskings to states and communities to heighten security based on specific requirements or available intelligence.⁶⁶ The current levels of security are not sustainable without greater federal support, since cities and states are dealing with hundreds of millions of dollars in unfunded security costs while trying to balance their own budgets. Congress should establish a Homeland Security Trust Fund and dedicate revenue from port customs, aviation security, and other user fees to improve and sustain critical infrastructure security over the long term.

Consolidate homeland security grant programs under DHS. The Congress should pass legislation consolidating the administration of all homeland security grant programs under the newly proposed undersecretary of homeland security for preparedness. States and communities should have an opportunity for "one-stop shopping" in applying to DHS for grants, and they need to be more flexibly administered and better tailored to where the threat,

consequences and need are most acute, while ending false competition between prevention and response. All grant programs should be designated as either “first preventer” (law enforcement, intelligence, security, and technology programs) or “first responder” (fire, emergency response, and medical surge capabilities). These distinct missions are currently competing for homeland security funds, but both are worthy of support. The administration and Congress should designate specific allocation formulas that provide all communities with a baseline for response, but assign the majority of funds based on threat and attack consequence. Grants should also facilitate joint training among state, community, and private sector security personnel to promote better public-private coordination and the development of area security plans for critical infrastructure protection.

Revise the existing Homeland Security Advisory System (HSAS). Reissue Homeland Security Presidential Directive 3 as a National Security Presidential Directive, revising the existing five-color-coded public alert system to make it more targeted and localized. The current national approach does not work and generates public fears and system disruptions that partially fulfill terrorist objectives.⁶⁷ The HSAS would serve as the primary threat assessment tool for the federal government, state and local homeland security, law enforcement, fire, and emergency response officials, and representatives from critical private economic sectors. National warnings for the general public, however, should be issued only when the government expects the American people to take specific actions, including alerts for suspicious individuals or activity and travel restrictions. Amber Alerts, which warn motorists to be on the lookout for a specific individual or type of vehicle, are a good example of the kind of specific announcement that should be issued.⁶⁸

ENDNOTES

¹ U.S. Department of State, Patterns of Global Terrorism 2003, at 18 (2004), *available at* <http://www.state.gov/s/ct/rls/pgtrpt/2003/> (last viewed Jan. 7, 2005).

² International Institute for Strategic Studies, Strategic Survey 2002/2003, An Evaluation and Forecast of World Affairs, at 5 (2003).

³ *Ibid* at 6.

⁴ David J. Rothkopf, *Terrorist Logic: Disrupt the 2004 Election*, Washington Post, Nov. 23, 2003, at B1. Author refers to a poll taken at the CNBC Outlook 2004 Summit during which almost 75 percent of the government, security, and business experts in attendance predicted that there would be another attack before the end of 2004.

⁵ Insurance Information Institute, Catastrophes: Insurance Issues (2004), *available at* <http://www.iii.org/media/hottopics/insurance/xxx> (last viewed Jan. 7, 2005).

⁶ National Commission on Terrorist Attacks Upon the United States, Final Report, at 169 (2004). The attack on the USS *Cole* in 2000 and the 2004 Madrid bombings cost less than \$10,000 each; the 9/11 attacks were executed with an estimated \$500,000.

⁷ *Ibid* at 398.

⁸ The Preamble to the U.S. Constitution reads, “We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

- ⁹ Testimony of Norman J. Rabkin, General Accounting Office (which, since July 7, 2004, has been renamed the Government Accountability Office), before the U.S. Senate Subcommittee on Aviation, Committee on Commerce, Science and Transportation, Mar. 30, 2004, *available at* <http://www.gao.gov/new.items/d04592t.pdf> (last viewed Jan. 7, 2005).
- ¹⁰ Graham Allison, *Nuclear Terrorism: The Ultimate Preventable Catastrophe*, at 8 (2004).
- ¹¹ Government Accountability Office, *Maritime Security: Substantial Work Remains to Translate New Planning Requirements into Effective Port Security*, at 5 (2004).
- ¹² House Appropriations Committee, *FY05 Homeland Security Appropriations Bill*, P.L. 108-334 (2004).
- ¹³ Joe Fiorill, *Railroads, U.S. Said to Agree on Protecting, But Not Rerouting, Chlorine Trains Through Capital*, *Global Security Newswire*, Oct. 20, 2004, *available at* http://www.nti.org/d_newswire/issues/2004_10_20.html (last viewed Jan. 7, 2005).
- ¹⁴ See Bill Johnstone, *New Strategies to Protect America: Terrorism and Mass Transit after Madrid and London*, August 2005, at 6, *available at* <http://www.americanprogress.org/site/apps/nl/content3.asp?c=biJRJ8OVF&b=593305&ct=1263031> (last viewed Aug. 16, 2005).
- ¹⁵ National Commission on Terrorist Attacks Upon the United States, *Final Report*, at 398 (2004).
- ¹⁶ Robert Block, *Chemical Plants Still Have Few Terror Controls*, *Wall Street Journal*, Aug. 20, 2004, at B1.
- ¹⁷ William McCall, *Ridge: Private Cos. Must Help Fight Terror*, *Associated Press*, Apr. 5, 2004.
- ¹⁸ Government Analytical Perspectives, *FY2005 Budget of the United States: Homeland Security Funding Analysis*, at 36 (2004).
- ¹⁹ Since September 11, the administration has produced the National Strategy for Homeland Security (July 2002), the National Strategy to Combat Weapons of Mass Destruction (December 2002), the Maritime Strategy for Homeland Security (December 2002), the National Strategy for Combating Terrorism (February 2003), the National Strategy for The Physical Protection of Critical Infrastructures and Key Assets (February 2003), and the National Strategy to Secure Cyberspace (February 2003). It also produces annual updates of the National Security Strategy and National Money Laundering Strategy.
- ²⁰ See Bill Johnstone, *New Strategies to Protect America: Terrorism and Mass Transit after Madrid and London*, August 2005, at 10, *available at* <http://www.americanprogress.org/site/apps/nl/content3.asp?c=biJRJ8OVF&b=593305&ct=1263031> (last viewed Aug. 16, 2005).
- ²¹ Two former high-level members of the Office of Homeland Security confirmed in separate interviews that smaller restructuring options were considered, but the White House could not overcome cabinet-level bureaucratic opposition. James Lee Witt, former FEMA director, said in an interview that he recommended to the White House that the Department of Homeland Security start “small,” but that his advice was not followed.
- ²² The White House, *Homeland Security Presidential Directive 7*, Dec. 17, 2003, *available at* <http://www.whitehouse.gov/news/releases/2003/12/20031217-5.html> (last viewed Jan. 7, 2005).
- ²³ Robert Block & Gary Fields, *Effort to Create Terror Watch List Is Falling Behind, Report Finds*, *Wall Street Journal*, Oct. 1, 2004, at A1.
- ²⁴ Mary Beth Sheridan, *Tracking Down Immigrant Fugitives*, *Washington Post*, Jan. 2, 2005 at A1.
- ²⁵ Testimony of Norman J. Rabkin, General Accounting Office (which, since July 7, 2004, has been renamed the Government Accountability Office), before the U.S. Senate Subcommittee on Aviation, Committee on Commerce, Science and Transportation, Mar. 30, 2004, *available at* <http://www.gao.gov/new.items/d04592t.pdf> (last viewed Jan. 7, 2005).
- ²⁶ Jeremy Torobin & Tim Sparks, *New Airline Passenger Screening System Prepared for Takeoff*, *Congressional Quarterly*, Aug. 24, 2004.
- ²⁷ Richard A. Clarke, *Against All Enemies*, at 253 (2004).
- ²⁸ Steven Kosiak, *Funding on Defense, Homeland Security and Related Activities Since 9/11*, *Center for Strategic and Budgetary Assessments*, at 1-8, updated Oct. 18, 2004, *available at* <http://www.csbaonline.org/4Publications/Archive/U.20041020.FundingGWOT/U.20041020.FundingGWOT.pdf> (last viewed Jan. 7, 2005). Between FY 2001 and FY 2005, defense spending was \$1.885 trillion in annual appropriations as opposed to \$163 billion for homeland security. Adding in additional supplemental funding since 9/11 does not appreciably change this imbalance.

- ²⁹ Jonathan Weisman, *Funds Ready for Tsunami Aid, But Hill Seeks to Do More*, Washington Post, Jan. 6, 2005, at A15. Office of Management and Budget, 2003 Report to Congress on Combating Terrorism, at 10 (2003), available at http://www.whitehouse.gov/omb/inforeg/2003_combat_terr.pdf (last viewed Jan. 7, 2005). Government Analytical Perspectives, FY2005 Budget of the United States: Homeland Security Funding Analysis, at 26 (2004). The administration has committed \$144.4 billion through the end of 2004 in Iraq and is expected to add as much as \$100 billion in early 2005. This exceeds the roughly \$164 billion spent on homeland security since the September 11 attacks.
- ³⁰ Brian Bender, *Terror Risk Seen Highest at US Ports*, Boston Globe, June 21, 2003, at A1.
- ³¹ Congressional Research Service, FY2003 and FY2004 State Allocations for Selected Homeland Security Assistance Programs, at 7-8 (2004), available at <http://www.fas.org/sgp/crs/RL32463.pdf> (last viewed Jan. 7, 2005).
- ³² U.S. Department of Homeland Security, FY2005 Homeland Security Grant Program Allocations (2004), available at <http://www.dhs.gov/interweb/assetlibrary/states.htm#moreinfo> (last viewed Jan. 7, 2005).
- ³³ Judgment based on DHS Secretary Ridge press conference on August 1, 2004 and Attorney General Ashcroft press conference on May 26, 2004, available at <http://www.dhs.gov/dhspublic/display?content=3870> (last viewed Jan. 7, 2005) and <http://www.cnn.com/2004/US/05/26/terror.threat.transcript/> (last viewed Jan. 7, 2005).
- ³⁴ Maria Ressa, *U.S. Leak Harms al Qaeda Sting*, CNN.com, Aug. 9, 2004, available at <http://www.cnn.com/2004/WORLD/asiapcf/08/09/terror.wrap/> (last viewed Jan. 7, 2005).
- ³⁵ Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (The Gilmore Commission), Fifth Annual Report to the President and Congress of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, at 5, Dec. 15, 2003 available at http://www.rand.org/nsrd/terrpanel/volume_v/volume_v.pdf (last viewed Jan. 7, 2005). Seventy percent of state and local agencies say the federal government refuses to share information that they need to respond appropriately to changes in alert level.
- ³⁶ Government Accountability Office, Homeland Security Advisory System: Preliminary Observations Regarding Threat Level Increases from Yellow to Orange, at 2 (2004), available at <http://www.gao.gov/new.items/d04453r.pdf> (last viewed Jan. 7, 2005).
- ³⁷ The chemical industry has followed the broader trend within the business world and begun “just-in-time manufacture,” meaning that it undertakes the synthesis required for a chemical process immediately prior to use, rather than doing it elsewhere and transporting it to the final manufacturing site or storing it in reserve. See Linda E. Greer, New Strategies to Protect America: Securing our Nation’s Chemical Facilities, Apr. 6, 2005, available at <http://www.americanprogress.org/site/apps/nl/content3.asp?c=bjJRJ8OVF&b=681085&ct=625335> (last viewed Aug. 16, 2005).
- ³⁸ Marc Fisher, *Next Time, Terror Could Ride the Rails*, Washington Post, July 15, 2004, at B1. See also Fred Millar, New Strategies to Protect America: Putting Rail Security on the Right Track, available at <http://www.americanprogress.org/site/apps/nl/content3.asp?c=bjJRJ8OVF&b=681085&ct=645303> (last viewed Aug. 16, 2005).
- ³⁹ Testimony of Jack Riley before Senate Commerce, Science and Transportation Committee, “Terrorism and Rail Security,” at 10, Mar. 23, 2004, available at <http://www.rand.org/publications/CT/CT224/CT224.pdf> (last viewed Feb. 19, 2005).
- ⁴⁰ Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108-458 § 4001(a)(3)(B).
- ⁴¹ See Universal Screening of Air Cargo Act, introduced by Congressman Ed Markey, June 13, 2003, available at http://www.house.gov/markey/Issues/iss_airlinesecurity_bill030613.pdf (last viewed Jan. 7, 2005).
- ⁴² Ricardo Alonso-Zaldivar, *9/11 Panel Urges Firmer Security Grip*, L.A. Times, July 29, 2004, at A1. The government has not decided whether to install such detectors at 450 commercial airports. At \$132,000 apiece, it would cost about \$240 million to equip each of 1,800 security lanes at airports around the nation.
- ⁴³ Greg Krikorian, *LAX Guards Against Portable Missile Attacks*, L.A. Times, Dec. 14, 2004, at B1.
- ⁴⁴ Government Accountability Office, The Department of Homeland Security Needs to Fully Adopt a Knowledge-Based Approach to its Counter-MANPADS Development Program, at 2 (2004), available at <http://www.gao.gov/atext/d04341r.txt> (last viewed Jan. 7, 2005).
- ⁴⁵ Chris Strohm, *TSA to Debut Revised Pre-Screening Program Early Next Year*, Government Executive, Aug. 27, 2004, available at <http://www.govexec.com/dailyfed/0804/082704c1.htm> (last viewed Jan. 7, 2005).
- ⁴⁶ National Commission on Terrorist Attacks Upon the United States, Final Report, at 389 (2004).

- ⁴⁷ See Rajeev Goyle & David A. Jaeger, Deporting the Undocumented: A Cost Assessment, July 2005, at 3, *available at* <http://www.americanprogress.org/site/pp.asp?c=bjJRJ8OVF&cb=913099> (last viewed Aug. 16, 2005).
- ⁴⁸ House Appropriations Committee, FY05 Homeland Security Appropriations Bill, P.L. 108-334 (2004); *see also* Joseph F. Bouchard, New Strategies to Protect America: Safer Ports for a More Secure Economy, June 15, 2005, *available at* <http://www.americanprogress.org/site/apps/nl/content3.asp?c=bjJRJ8OVF&cb=681085&ct=1014739> (last viewed Aug. 16, 2005).
- ⁴⁹ Government Accountability Office, Maritime Security: Substantial Work Remains to Translate New Planning Requirements into Effective Port Security, at 27-28 (2004), *available at* www.gao.gov/cgi-bin/gettrpt?GAO-04-838.pdf (last viewed Jan. 7, 2005).
- ⁵⁰ Congressional Research Service, Maritime Security: Overview of Issues, at 2 (2003), *available at* <http://www.fas.org/sgp/crs/RS21079.pdf> (last viewed Jan. 7, 2005).
- ⁵¹ Written testimony of Dr. Stephen Flynn, before the Subcommittee on Coast Guard and Maritime Transportation of the House Committee on Transportation and Infrastructure, Aug. 25, 2004, *available at* http://www.cfr.org/pub7314/stephen_e_flynn/the_ongoing_neglect_of_maritime_transportation_security.php (last viewed Jan. 7, 2005).
- ⁵² *Ibid.*
- ⁵³ RAND Europe, “Seacurity”: Improving the Security of the Global Sea-Container Shipping System, at 8 (2003), *available at* <http://www.rand.org/publications/MR/MR1695/MR1695.pdf> (last viewed Jan. 7, 2005).
- ⁵⁴ Graham Allison, Nuclear Terrorism: The Ultimate Preventable Catastrophe, at 104 (2004).
- ⁵⁵ Stephen Flynn, America the Vulnerable, at 102-103 (2004).
- ⁵⁶ Ted Leventhal, Homeland Security Official Urges Prudent Cyber Approach, Government Executive, April 13, 2004, *available at* <http://www.govexec.com/dailyfed/0404/041304tdpm1.htm> (last viewed Jan. 7, 2005).
- ⁵⁷ News Alert, The Rise of Islamic Hacking and Criminal Syndicates, Oct. 20, 2004, *available at* www.mi2g.com (last viewed Jan. 7, 2005).
- ⁵⁸ U.S. House of Representatives, Report 108-774 on Homeland Security Appropriations, Oct. 9, 2004, *available at* http://thomas.loc.gov/cgi-bin/cpquery?&db_id=cp108&r_n=hr774.108&sel=TOC_0& (last viewed Jan. 7, 2005).
- ⁵⁹ News Alert, The Rise of Islamic Hacking and Criminal Syndicates, Oct. 20, 2004, *available at* www.mi2g.com (last viewed Jan. 7, 2005).
- ⁶⁰ U.S. Department of Justice News Release, 9/11 Victim Compensation Fund Pays Over \$2.6 Billion to Date, Apr. 1, 2004, *available at* http://www.usdoj.gov/opa/pr/2004/April/04_civ_207.htm (last viewed Jan. 7, 2005).
- ⁶¹ The National Security Act of 1947, 50 U.S.C. § 401a(4) defines the portions of the 14 agencies that constitute the “Intelligence Community.”
- ⁶² Foreign Policy In Focus, A Unified Security Budget for the United States, at 2 (March 2004), *available at* <http://www.fpiif.org/pdf/defensereport/fulltext.pdf> (last viewed Jan. 7, 2005).
- ⁶³ Title 32 allows the National Guard to perform a federal mission using federal resources even though personnel remain under the control of the state governor. This is an ideal situation for many homeland defense/homeland security situations, allowing for a more rapid locally directed response to an evolving situation, using National Guard resources who are familiar with the area and well-acquainted with state and local authorities. In contrast, where the National Guard is federalized for service overseas, such as missions in Iraq and Afghanistan, the National Guard comes under the authority of the president and the Department of Defense and operates under Title 10.
- ⁶⁴ For more detailed recommendations related to improving the security clearance process see *Better Spies, Better Intelligence* in this volume.
- ⁶⁵ National Commission on Terrorist Attacks Upon the United States, Final Report, at 417 (2004).
- ⁶⁶ Raising the alert system from yellow to orange is estimated to cost the government \$1 billion per week. *See* Sara Kehaulani Goo, Threat Level May Fall To Yellow, Washington Post, Jan. 9, 2004, A2. *See also* DHS Homeland Security Advisory Council, Report from the Task Force on State and Local Homeland Security Funding, at 17 (June 2004), *available at* <http://www.dhs.gov/interweb/assetlibrary/HSAC-FundingTaskForceRpt0604-FINAL.pdf> (last viewed Feb. 19, 2005).
- ⁶⁷ The White House, Homeland Security Presidential Directive 3, Mar. 12, 2003, *available at* <http://www.whitehouse.gov/news/releases/2002/03/20020312-5.html> (last viewed Jan. 7, 2005).

⁶⁸ The America's Missing: Broadcast Emergency Response (Amber) alert system was established in April 2003 to broadcast special alerts over airwaves to combat kidnapping of children. More information is *available at* <http://www.ptb.state.il.us/pdf/amber.pdf> (last viewed Jan. 7, 2005).