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S. HRG. 108–819

NOMINATION OF ASA HUTCHINSON TO BE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY OF THE DEPARTMENT OF HOMELAND SECURITY

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

JANUARY 22, 2003

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

95–945 PDF WASHINGTON : 2005

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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NOMINATION OF ASA HUTCHINSON TO BE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY OF THE DEPARTMENT OF HOMELAND SECURITY

WEDNESDAY, JANUARY 22, 2003

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:40 p.m. in room SR–253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Good afternoon. We are pleased to have with us today, the Honorable Asa Hutchinson, who has been nominated to be Under Secretary of Border and Transportation Security at the Department of Homeland Security.

I would tell my colleagues, Senator Lincoln, who had planned to be here and I think is on her way, would like to make some introductory remarks for her fellow Arkansan. And so if she comes, we will interrupt in order to allow her—here she comes now.

Welcome. Thank you for coming to introduce the Honorable Asa Hutchinson. Please proceed and then we will proceed with the hearing and opening remarks from the Senators.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Good afternoon. The Committee meets today to consider the nomination of Asa Hutchinson to serve as the Under Secretary for Border and Transportation Security at the Department of Homeland Security. This is a very important position within the newly created Homeland Security Department, and one that encompasses far-reaching responsibilities.

I would like to welcome Asa Hutchinson and thank him for his willingness to appear before the Committee today on relatively short notice. I know your nomination is a great honor, and that your family is very proud. I would like to welcome your family members and any special guests who are in the audience. [introductions]

The Under Secretary for Border and Transportation Security is charged with critical duties, including: preventing the entry of terrorists and the instruments of terrorism into the United States; securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States; administering U.S. customs laws, establishing national immigration enforcement policies and priorities; and carrying out INS immigration enforcement functions; and establishing and administering rules governing the granting of visas or other forms of permission, including parole, to enter the United States.

With these duties will go jurisdiction over many existing governmental entities, including:

- The United States Customs Service of the Department of the Treasury;
- The Transportation Security Administration (TSA) of the Department of Transportation;
- The Federal Protective Service of the General Services Administration;
- The Federal Law Enforcement Training Center of the Department of the Treasury; and
- The Office for Domestic Preparedness of the Office of Justice Programs of the Department of Justice.

Security policies are largely intertwined with safety policies, and many of the Under Secretary's functions are closely linked to other federal governmental agencies, such as the modal administrations under the Department of Transportation, which are responsible for transportation safety. Further, many duties overseen by the Under Secretary have been and will continue to be performed by the Coast Guard. All of these functions will have to be carefully coordinated and we will be very interested in learning how you plan to establish working relationships with these agencies.

We will have a number of questions for you, but one area in particular that I will want to discuss is the serious situation at our Southern border, especially in Arizona. Our state has been a leading gateway for illegal immigrants into the U.S. since the mid–1990s. Illegal immigrants are dying on our borders. The attrition rate for Border Patrol Agents and INS inspectors has reached alarming levels. We have reached the point where we now have private citizens taking up arms and forming militia groups to patrol the border because they feel the Federal Government has failed to protect them. Just today, the *Wall Street Journal* reported about the death of a U.S. Park Ranger in Arizona who had been killed last August along the border, the fourth ranger killed in the line of duty since 1990. Further, uncompensated emergency and medical care provided to undocumented immigrants has left many border hospitals on the verge of financial ruin. I will be very interested to hear your views on how best to address the wide range of border security issues, including how to ensure adequate resources are deployed for enforcement purposes.

This Committee takes its advice and consent role very seriously, and I will note that the nominee has responded in detail to the Committee's requests for biographical and financial data. I have had the opportunity to review your responses to the Committee questionnaire as well as pre-hearing questions, and I look forward to moving your nomination quickly.

STATEMENT OF HON. BLANCHE L. LINCOLN, U.S. SENATOR FROM ARKANSAS

Senator LINCOLN. Well, thank you, Mr. Chairman. I will be brief and quick. I know the efficiency of this Committee, and I want to add to it.

But I do want to thank you, Mr. Chairman. It is certainly my great pleasure to be here this morning to introduce a fellow Arkansan and a former colleague of mine in our State's congressional delegation, Congressman Asa Hutchinson.

President Bush has nominated Asa Hutchinson as Under Secretary for Border and Transportation Security in the new Department of Homeland Security. I have had numerous opportunities to work with Mr. Hutchinson on a variety of topics over the last several years, so I have seen firsthand the commitment, the energy, and the foresight that he brings to his career in public service, and I am delighted that he has been selected for this critical position.

I trust that the Committee is familiar with Mr. Hutchinson's impressive resume, so I will not take the time here to recount his many accomplishments. I would, however, like to emphasize the fact that, based upon his past experience as a Federal prosecutor; as also an elected member of the U.S. House of Representatives

representing Northwest Arkansas; and as an administrator of a Federal law enforcement agency comprising over 10,000 employees, Asa Hutchinson has developed and honed the leadership and executive skills that will make him a valuable asset to this new department. I am very confident that he will bring to this position at the Department of Homeland Security the same commitment, integrity, and vision that he has brought to his service in Congress and the Drug Enforcement Administration.

In the aftermath of September 11th, 2001, it has become clear that our Nation's security cannot be taken for granted. Among the newly created Department of Homeland Security's chief objectives will be to reduce our Nation's vulnerability to terrorist attacks and to prevent terrorist attacks against the United States. These objectives will be met, in part, at our Nation's borders and in our Nation's transportation system, both of which present potential vulnerabilities. I am very pleased that the Department of Homeland Security will draw on Asa Hutchinson's expertise in addressing these vulnerabilities and make the United States a safer place for all Americans.

As a fellow Arkansan, I am proud of him, and I am happy to support his nomination to this distinguished position. Thank you, Mr. Chairman, for allowing me to come and introduce my fellow colleague from Arkansas.

The CHAIRMAN. Thank you, Senator Lincoln, and thank you for being here before the Committee. We all appreciate your generous remarks about this very decent and fine American.

Senator LINCOLN. He is a good man. Thank you.

The CHAIRMAN. Thank you.

As I mentioned, we are here to welcome a friend, a former colleague in the House, and a man who has served his State and his Nation with distinction. We are very proud that he is willing to serve and that the President of the United States has chosen him for this most important set of responsibilities.

I would like to point out that his duties will have jurisdiction over many existing Governmental entities, including the Customs Service, Transportation Security Administration, Federal Protective Service of the General Services Administration, Federal Law Enforcement Training Center of the Department of the Treasury, and the Office for Domestic Preparedness of the Office of Justice Programs of the Department of Justice. All very significant and heavy responsibilities.

Before we proceed further, perhaps, Mr. Hutchinson, you would like to introduce your family members, who are with us today, who we welcome here.

Mr. HUTCHINSON. Thank you, Mr. Chairman.

I am very pleased to introduce my wife, Susan, who has stood with me through all of my public career, and I am grateful for her support. And then I have my son, Asa, and then his wife, Polly, and——

The CHAIRMAN. Would you raise your hand? You look like your mother, fortunately.

[Laughter.]

Mr. HUTCHINSON.—his wife, Holly, and then my grandson, Asa, IV. I am pleased to have them here. And I also wanted to acknowledge my daughter, Sarah, and her husband, Dave——

The CHAIRMAN. Who are where?

Mr. HUTCHINSON.—and my two sons still in Arkansas—they are not here——

The CHAIRMAN. Oh.

Mr. HUTCHINSON.—but I just wanted to mention John and Seth, who have been also very supportive.

The CHAIRMAN. Great. We welcome them, and we recognize that your responsibilities entail time away from your family, and we appreciate the sacrifices that they make as you serve the country.

I do not want to take a lot of time with opening remarks, and I hope that my colleagues do not want to either, because we want to get to questions. It is our intention to try to get Mr. Hutchinson's nomination either to the floor this afternoon or, if there are additional questions, at the latest, tomorrow morning. We would like to get his nomination to the floor of the Senate so we can get it done tomorrow before we go out of session. It will be very important that we have this confirmation process completed by tomorrow afternoon, at the very latest—hopefully either this afternoon or tomorrow morning.

I want to talk to you about an issue that you and I have talked about in private, so I will not belabor it too much. I think I am known for not indulging in particularly parochial issues that directly affect my home state of Arizona, but I do not think there is any doubt in anybody's mind that the entire border issue is in a situation that could be described as a crisis today. From San Diego to Texas, we have penetrations of our border, which are very severe and could be viewed by many as a threat to the United States of America, as far as the ability for terrorists to cross our border. I know that you know these things, but I would like to repeat them very quickly.

According to a Gannett story on December 28th, 2002, four in ten illegal immigrants arrested in October along the U.S./Mexican border were captured in Arizona, evidence the State remains the top choice of those attempting to enter the country illegally. The latest U.S. Border Patrol figures show that agents in Tucson apprehended 21,352 people; reported at Yuma, 3,608. The overall number of people apprehended in Arizona is reported to be more than 25,000 in 1 month. One month, over 25,000 people. Numbers in Arizona are up sharply over the same month last year, when heightened security following September 11th slowed the flow of illegal immigrants along the entire 2,000-mile border that stretches from San Diego to McAllen, Texas.

Latest figures indicate the number of illegal immigrants is showing signs of climbing back to pre-September 11th, 2001, levels. Last year, 320 illegal immigrants died trying to cross the border into Arizona, according to Border Patrol officials—320 people, who were coming to find a job so they could feed themselves and their families, died in the desert of Arizona.

So what has been the reaction along the border? According to an article in the *Arizona Daily Star* on January 3rd, 2003, "Bisbee militia leader, Chris Simcox, says he is set today to launch the first

patrols along the border with members of his homeland defense group. Simcox has said he plans to have groups of armed citizens patrolling three areas of the Arizona/Mexico line, although he would not specify the sites. A second patrol to be put on for the news media is scheduled for Sunday."

So we have got a situation where roughly 25,000 illegal immigrants are crossing the border in my State every month. 320 of them died in the desert last year. They are not just people who are illegal immigrants, who are looking for jobs—although I would imagine the 320 were, because the drug smugglers are smarter than that. Drug-smuggling is at an all-time high.

And then in today's front page of the Wall Street Journal, "A ranger's death shows new hazards of a venerable job. Organ Pipe Cactus National Monument, Chris—in the oven-like afternoon heat last October 9th, Chris Egel got a call for help. Mexican police were chasing a truck that was about to cross a poorly marked national border into the desert park. Mr. Egel, a 28-year-old park ranger, raced to the scene and found the truck stuck in a dust-filled pothole on the U.S. side. Several men spilled out and ran. Mr. Egel spotted one of them trying to hide behind a bush. He approached the suspect and prepared to arrest him when the man whipped out an AK–47 automatic rifle and fired"—killed him. So the other mounting evidence is that these illegal immigrants are coming across—many of them associated with the drug trade are coming across heavily armed.

So I know you are aware of these issues, Mr. Hutchinson, but I think that we have got to act, and we have got to act very seriously, and it is going to require an effort on your part. It is going to require technology. It is going to require money, and it is going to require a commitment that perhaps we have sort of turned a blind eye to.

And let me just, finally, make the other point that complicates this issue so much. As soon as those people, the 25,000 who are crossing our border, get someplace north, guess what? They get a job, because there are people who are hiring them. So there is a contradiction and almost an hypocrisy here, because we want people to stop crossing our border; yet as soon as they get here, we will hire them and pay them at a level that they cannot achieve back in Mexico or Honduras or El Salvador or China, wherever it is—because they are coming now from all over the world across our border.

Now, that issue may be a little bit beyond your area of responsibility, but I really believe that, as a Nation, we have got to grapple with this issue. And I think the first decision we need to make is whether we are going to control our border or not. But not act like we are, when we really are not. And we owe it to these good men and women who are serving on the Border Patrol, Customs, INS—to give them a lot better deal than the one they have got today to prevent these needless deaths of both people who come here illegally, as well as those who are tasked to enforce the law.

I thank you for being here. I thank you for listening.

And, Senator Rockefeller?

STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. Thanks, Mr. Chairman. I will put my statement in the record.

[The prepared statement of Senator Rockefeller follows:]

PREPARED STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA

Thank you, Mr. Chairman. I would like to welcome our distinguished nominee and thank him for appearing before us this morning.

Administrator Hutchinson, you have served with distinction in the Drug Enforcement Administration and I am confident that you will continue to excel in your new role.

Nevertheless, difficult challenges lie ahead.

While the Transportation Security Administration has made an impressive start in its first year of existence, much more work is required to further bolster the security of our transportation infrastructure.

Moreover, you will be tasked with integrating Customs and INS into the broader transportation security architecture.

The job you are about to undertake is of the utmost importance to America, and it is essential that you succeed.

The ongoing health of our economy, and indeed our very way of life, is predicated on the ability to move people and goods efficiently and securely.

In the months ahead, I encourage you to coordinate closely with us in the Congress. Working together will be critical to ensuring success.

I know that today's open hearing will restrict your ability to discuss sensitive matters in any kind of detail.

I hope, Mr. Chairman, that we will have an opportunity to invite Mr. Hutchinson to come before us again soon—in a closed session—so that we will be able to discuss topics that are not appropriate for this morning's hearing.

Thank you again, Mr. Chairman. And I look forward to hearing from Mr. Hutchinson.

Senator ROCKEFELLER. I do want to strongly associate myself with your comments and with the firmness and emotion that accompanied them.

I also want to welcome Administrator Hutchinson and say that—I will save my questions for when that comes—but that I had not had a chance, Mr. Chairman, to know Asa Hutchinson particularly well until we took a trip together to South America and had a chance then to really discover that maybe we were OK, each of us, as people, and we have been good friends since then.

So I look forward to questioning him and then voting for him as soon as possible.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cantwell? We have the early bird rule——

Senator CANTWELL. It is nice to know, Mr. Chairman, that this Committee——

The CHAIRMAN.—here where even our newest members, who we welcome with enthusiasm, and, may I say, far more enthusiasm than the member to your left——

[Laughter.]

The CHAIRMAN. So I want to thank you——

Senator LAUTENBERG. You could see that coming.

[Laughter.]

The CHAIRMAN. In the Committee, we welcome you, and we look forward to working with Senator Cantwell.

STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Well, thank you, Mr. Chairman, and thank you for that early bird recognition of being here. It is an honor to serve on this Committee and it is an honor to serve in the historical context of one of the great figures in our State, Warren Magnuson, having been on this Committee for 37 years and chairing it for some time.

I do also want to thank Director Hutchinson for his time today and his efforts in Washington State on methamphetamine and a variety of other issues.

Obviously, the issue of borders is very important to the northern tier of the country, as well, and I look forward to your comments today about how we continue to upgrade the amount of manpower that we have put on the border. While we have made some progress in the last Congress of actually, I think, tripling the authorization and actually doubling the number of people, the bottom line is it still remains about 9,000 people on the southern border and about 600 on the northern border. So we have had a variety of challenges given that we are a border State next to such a large population center, and the complexity of also obviously having a lot of container traffic going in and out of those ports.

So it is no surprise that after the Rasaam case in Washington State, where someone came through and the Customs agents actually caught a terrorist on their way to either blow up LAX or the Space Needle or whatever it was, that we have heightened our interest in making sure that we do not have a porous border there.

So I am very interested in your new responsibilities as it relates to implementing a section of the Patriot Act dealing with a biometric standard. We are very interested in seeing a process by which either facial or fingerprint recognition can be a more stable source, working with countries abroad to determine who should get a visa prior to being let into the country, as opposed to the process that we are pursuing today, trying to track people once they are already here, or the large number of deportations that are about to happen. You will be responsible for implementing that part of the Patriot Act, so I look forward to your comments on that.

And then, last, just the process that we can work with together on, port security, and the fact that container cargo could be as close as a mile away, to 30,000 fans watching a Mariner or a Seahawk game, and how we implement good border security—container security at our ports, as well.

I look forward to your rapid confirmation, hopefully this afternoon, and working with you on those issues in Washington State.

The CHAIRMAN. Senator Hutchison?

STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Thank you, Mr. Chairman.

Mr. Chairman, I especially thank you for your opening comments regarding the southern border. We do have border issues at the north. We certainly have them from the south. And we are reading more in Texas about the vigilantes who are going out to protect

their own ranches because they cannot get Border Patrol to help them.

What the Chairman said is so true. We have got to decide if we are going to have enforcement of our borders or not. And what we really must decide is, Are we going to create safe and legal means for people to come into our country and then enforce the laws when they are broken? And I think that has to be the right order. But we have done neither.

So I think, Mr. Hutchison—Hutchinson—to pronounce it incorrectly——

[Laughter.]

Senator HUTCHISON.—you are going to have a huge job in the enforcement area. I hope that you will immediately start looking at tamper-proof passports, tamper-proof visas, a tracking system so that we know who is in our country and when they either disappear or leave.

In addition to the borders, of course, you have transportation. Certainly, aviation has come a long way since 9/11, but air cargo is still an area that we must address to make sure that everything that goes on an airplane is looked at and we know that it is safe.

Ports are a huge area, certainly in my home State. Our ports have hired extra personnel. They have put up fences. They are doing a lot on their own, but they cannot do the whole job on their own without Federal help and Federal guidelines. The people coming into the international waters must be patrolled.

So you have a huge job, and we look forward to working with you. I will ask you some questions, as well, but I know that you have had a huge learning curve. To take over the INS and all of the transportation security in our country is an awesome responsibility.

I will say that I think Admiral Loy has done a remarkable job in a very short time with the aviation side, and now he has said he is turning to ports and other modes of transportation, which I think is correct.

So I look forward to working with you as the chairman of the Service Transportation Subcommittee, and with the chairman, to make sure that all of our borders and our transportation modes are secure.

Thank you.

The CHAIRMAN. Thank you.

Senator Lott?

STATEMENT OF HON. TRENT LOTT,
U.S. SENATOR FROM MISSISSIPPI

Senator LOTT. Thank you, Mr. Chairman, for having this early hearing. And thank you, Congressman—and I still refer to you as Congressman—Hutchinson, for agreeing to take this very important and difficult task on. Our appreciation goes out to your family for being willing to tolerate the demands that are going to be placed on your time in the weeks and months ahead.

Certainly you are very qualified for this difficult assignment. Your two terms in the House, your experience as U.S. Attorney, and, of course, your experience as the Administrator of DEA, provides you with an insight in to the nature of the threat and the

need for Federal agencies to work with each other and State and local governments to protect the United States from external and internal threats. I believe you are going to need every bit of that experience, knowledge and leadership, because you are taking on one of the most difficult tasks that I have seen an individual or a new Under Secretary to have to deal with. You have got a huge jurisdiction that you are going to have to bring together. Of the five new under-secretaries, I think yours is the one that is going to be the most important and difficult because of all the different functions and facilities and organizations that you are going to have to try to bring into one that makes sense and works together.

I have been, like most senators, trying to keep an eye on how well the Transportation Security Administration has been working. I think they have done, really, an incredible job. Just yesterday, I took the time to go through the facility at Lexington, Kentucky, to look at what they were doing, and look at the people. I was very impressed with the quality, diversity and attitude of TSA's workers. But I think we still have a lot more that we need to do.

Now, I understand you also will have INS under your jurisdiction. Good luck working with that. I think we have given you a challenge in getting all these different entities to work together. In one instance, at least, the Coast Guard will not be located in your directorate, and I think it is going to be very important that the Coast Guard and the Border Patrol and INS, all of them, are working together in a cooperative way.

So we have a job to do here. It is not one in which we have a choice. It is very, very important for the security of our people here in America. I wish you the very best. I am delighted the President selected you for this position. I think that you are going to have a good team there. And we are expecting a lot out of you soon.

So I will have a couple of questions, some even a little parochial, although John McCain would certainly not expect that from me——

[Laughter.]

Senator LOTT.—but I will have at least one in that area when our time comes. Thank you very much for being here.

The CHAIRMAN. Thank you, Senator Lott.

Senator Wyden?

STATEMENT OF HON. RON WYDEN,
U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you, Mr. Chairman.

And I, too, think that Asa Hutchinson's going to be an excellent choice for this position. I just want to outline a few concerns.

First, with respect to the border, I think Mr. Hutchinson knows that there is a long history of Government officials announcing, with tremendous fanfare, various programs to better enforce the borders, and they always seem to peter out, and I think what I would especially like to hear is how your office, pushing the U.S. Congress, will break that cycle and ensure that this time, the job really does get the followup that is warranted. And that means the U.S. Congress is going to have to support you. It is not something where you just go out and tackle it on your own. That follow-through is something that I would really like to hear addressed this morning.

Two other points, just very quickly. As someone who has really specialized in technology issues, and has had the chance to serve under Senator Rockefeller on the Intelligence Committee, I think we have got to beef up information sharing, and there is the technology today to do this job right. With the agencies you have got, INS, Border Patrol, and Customs, if one of them sits on information and does not get it out throughout the network, everything is going to fall apart, and clearly, that is something post-9/11 that we are aware of, and you will have a chance to do something about it.

Finally, the third area I am going to ask you about is protecting whistleblowers. I think if there is one thing that we have seen, in terms of trying to hold the key agencies accountable, we have got to have protections for whistleblowers. I think James Loy is off to a very good start, but he has signed some orders recently that do, in my view, affect our ability to get information with respect to mismanagement. I will be asking about those issues, as well, and look forward to your service and supporting you in the confirmation process.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Sununu?

STATEMENT OF HON. JOHN E. SUNUNU,
U.S. SENATOR FROM NEW HAMPSHIRE

Senator SUNUNU. Thank you, Mr. Chairman. And welcome, Asa.

Mr. Chairman, having been elected with Asa to the House in 1996, and having served with him for 4 years, being someone that considers himself a good friend to Asa, I would like to think that I was, in some small way, responsible for his enormous success since coming to the House. Unfortunately, that is not the case.

His success is really driven by the wealth of experience he has brought to the job as U.S. Attorney, at the DEA, and, of course, his service in Congress. And I will say, as one of his classmates from that year, 1996, we are all very proud of the work he has done, the success he has had, and the professionalism with which he has handled himself during a very tough time in these past few years dealing with the immigration issues, the national security issues, the drug-enforcement/law-enforcement issues. He has done a tremendous job, and that is why I think there is so much agreement that he is the right person at the right time for the tough challenge ahead.

There are two areas where Asa has worked in the House, where I have seen him work, that I would want to highlight. I am sure he is not going to give a litany of all the wonderful things he has done and the reasons he will do a good job at Homeland Security, but two areas I would like to highlight that I think will make a difference.

One is in areas of rural law enforcement. Asa was a leader in the House in trying to understand the unique needs of rural law enforcement—important, of course, to a State like New Hampshire, which is a pretty rural area. But his work there underscores the fact that he understands there is not going to be a single approach in Homeland Security, or Immigration, or Border Patrol that will

meet the needs of every different State, every different part of the country. There are different needs at the State level.

Ultimately, understanding how Homeland Security can assist those local agencies, local law enforcement, or local first-responders is going to be extremely important to making the department work. Asa certainly brings that perspective and a proven record there.

Second, I would emphasize his great record in working to strike a balance between the needs of law enforcement and the basic obligation that we all have, as Members of Congress, to protect the rights of individuals and individual civil liberties. This is an area where there has been and will continue to be an enormous amount of discussion and debate. We all understand those fundamental rights, the individual rights, that are protected in the U.S. Constitution. There may be some disagreements as to the exact right way to pursue efforts to strengthen law enforcement or strengthen national security and still protect those rights, but Asa has shown a very thoughtful approach towards these issues. He has shown an ability to understand some of the more complex areas of constitutional law relating to civil liberties. I think that, in this new role, this kind of perspective will be extremely, extremely important.

Again, I am excited for Asa and for his family. I am very proud to be able to call him a friend, and I look forward to his great work for Secretary Ridge.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Smith?

STATEMENT OF HON. GORDON SMITH,
U.S. SENATOR FROM OREGON

Senator SMITH. Thank you, Mr. Chairman.

Asa, I join my colleagues in welcoming you here. I truly enjoyed our visit the other day, and thank you for the courtesy you showed me, and many of my colleagues, I am sure, to come by our offices.

I am perhaps repeating much of what has been said, but I think Chairman McCain really hit on one of the issues that the American people feel very keenly, and that is the integrity of our borders. If you listen to talk radio at all, you will know that there is an incessant demand for militarization of our borders, and I am not advocating that, but I notice that, in your record, you actually did vote for that. I would be interested to know if you still think that the United States military has a role to play on our borders.

Having said that, as someone who worked with Ron Wyden and others to try to make sense out of our immigration policy with respect to migrant workers, it is a fact that there are a few crops in agriculture, those that are labor intensive, that would simply shut down in the United States if there were not some ability to employ migrant workers. Some of us have worked very hard to find the right compromise to bring some rationality into a visa program that would allow them to work and give them the safety to return, and the integrity of law under which they could live while they are here, and we have been frustrated at every turn. And so any thoughts that you might have on that I think are very, very needful.

And we, as a country, have a special reason and relationship to keep a special relationship with Mexico and Canada, and I think

these are very difficult times, because of terrorism's overlay on everything we are talking about here.

But, again, welcome. Please be mindful that—when it comes to the INS, there are some local sensibilities, too, particularly, in the State of Oregon, where we have had a very unfortunate recent experience with a local director there that, fortunately, has been removed, but—as it relates to racial profiling in a very flagrant and invasive way.

So, welcome. We look forward to your service. And thank you for being here.

The CHAIRMAN. Senator Lautenberg? And, again, welcome to the Committee from an old friend and colleague. Welcome, Senator Lautenberg.

STATEMENT OF HON. FRANK LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Thank you for your warm welcome, Mr. Chairman.

I am pleased, Mr. Chairman, to join with you and the other Members of the Commerce Committee in welcoming this very capable individual to take this post.

Congratulations to you, Mr. Hutchinson, and to your family. They are all proud, and proud, they should be. It is an important post that you are taking, and the country is putting a huge reliance upon you.

This Committee, as you know, is going to oversee key functions of the DHS, including transportation security. These responsibilities are a vital part of the new department and will present an enormous challenge. As Under Secretary for Border and Transportation Security, you will have to strike the balance between keeping our borders, roads, rails, and airways safe without unduly hindering the commerce and travel of Americans.

And in response to the Chairman's plea, or the Chairman's interest in avoiding the border intrusions that we see, there is no section of our great country that is not subject to intrusions, one way or the other, whether it is desert borders or mountain borders or sea borders, as we have it in my area of the country.

And I want to welcome you, Mr. Hutchinson, to this hearing. I look forward to hearing how, if you are confirmed as Under Secretary for Border and Transportation Security, you plan to execute the enormous responsibilities of this office, to oversee the protection of the Nation's 300 ports, 7500 miles of border, 95,000 miles of shoreline.

And after September 11, we understandably focused on aviation security first and foremost. All Americans who fly now see real changes in the security procedures that beguile us as we go to the airport. But transportation security is not just relevant to airplanes. In my State, crisscrossed with a network of commuter rail lines and, of course, Amtrak, we must make sure that rail security is a real priority.

The Port of New Jersey and New York is the largest port complex on the East Coast of North America, and our port is critical to our region's infrastructure and the economy. We need to make sure the port facilities are safe from attack. And this directorate

also has the responsibility, as you well know, for a very important agency, the Federal Emergency Management Agency, for immigration practices and cross-border animal and plant inspections, all the vital components of our homeland security and vital to my home State of New Jersey.

But I have observed our candidate's ability, Mr. Chairman, and skill, and I was impressed, I must tell you, and I told this to you personally, even though we were on different sides of the issue, I had the utmost respect for your professionalism and your capacity to take on assignments.

And I just wish you the strength and energy to handle this important task for your country. And I look forward to hearing from you about your strategies to undertake this enormous task. And I hope that we will have the chance to communicate as you get further into the job. I wish you well. Thank you very much.

The CHAIRMAN. Senator Snowe?

STATEMENT OF HON. OLYMPIA J. SNOWE,
U.S. SENATOR FROM MAINE

Senator SNOWE. Thank you, Mr. Chairman.

I am delighted to be here today to consider the nomination of Asa Hutchinson to this position, one that obviously does represent significant responsibilities. And obviously there is going to be a sense of urgency with all the compelling obligations that you will be assuming in becoming Under Secretary for Border and Transportation Security. And I have no doubt that you will provide the kind of leadership that is essential to ensuring our Nation's homeland security.

You will face a lot of challenges, as you undoubtedly know. I was reading someplace that your agency will have the most employees within the Homeland Security Department. And some experts were saying that your job is not impossible; it just appears that way.

So with that, you know what you are undertaking in terms of beginning to grapple with the myriad challenges in coordinating and really reconciling a number of agencies that you will have to transcend the historic cultures that have characterized these agencies in the past.

As one who has been involved in information sharing since the aftermath of the 1993 World Trade Center bombing, I can assure you that information sharing still will become one of the most profound challenges that you will face in your position. In addition, obviously, consultation, coordination, and communication will also be vital ingredients to making your agency work.

There are many gaps in the system currently. If you read the report that was issued by the Hart–Rudman Commission last fall, that America is still dangerously unprepared for a terrorist attack on our soil, obviously we have to accelerate timetables that exist in a number of areas. When I look at the gap in—for example, port security, which is still one of the most, I think, significant gaps in our security system in America. When you think about the fact that only 1 to 2 percent of the 6 million containers that come from overseas are inspected, and 95 percent of our trade from outside North America moves to the United States by sea, it is absolutely

vital that we focus on this front line of defense. And the Hart–Rudman report underscored that in a very compelling way.

So obviously, we have much more to do, and I would hope that you will be able to work with us, here in this Committee as well as in Congress, to begin to create a comprehensive plan, particularly for high-risk container shipments, so that we can begin to profile those, to alert authorities, to focus their limited inspection and enforcement resources on those that represent the most high-risk containers. In addition, we ought to make sure that radiation detection devices are given to each inspector, as well.

So I hope that these security measures can move in a most urgent fashion to begin to really address and fill some of the gaps when it comes to port security. As one who chairs the subcommittee that oversees the Coast Guard's responsibilities, I will be holding a hearing to examine their role in fulfilling the mandates under law with respect to homeland security. But, again, I would urge you to work hand-in-glove with the Coast Guard to ensure that everything, in terms of procedures and process, is operational. It is absolutely vital that you work in concert.

It is important that we do not wait until dangerous cargo is intercepted when it is in our ports. We obviously have to make sure and prevent that from happening before they get into our ports, and that is where the Coast Guard is going to be playing a primary function.

Also, air cargo. And Senator Hutchison has been working on that and has introduced legislation last week, and I have introduced legislation, as well, in working with her, because we really do have to examine the gaps that currently exist when it comes to air cargo. You know, half of a passenger planes hull consists of air cargo, and yet it remains uninspected. So I think we have to begin to fill the gap.

Now, I have recommended doing a random inspection of 5 percent of the cargo. I think we have to begin to take steps in that direction, authenticating those who are shipping this cargo so that we know who the shippers are, so that we have some identity of the air carriers and other entities involved in aviation shipping. But I think it has to be addressed with a compelling sense of urgency.

So, again, Asa, I welcome you. I applaud the remarkable willingness that you have shown in addressing these issues that are facing our country today, and I wish you well.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Please proceed with your opening statement, following which we will ask some questions.

I would like to tell my colleagues, I was told that we will have a vote at 4:05.

STATEMENT OF HON. ASA HUTCHINSON, UNDER SECRETARY–DESIGNATE, DEPARTMENT OF HOMELAND SECURITY

Mr. HUTCHINSON. Chairman McCain, Senator Rockefeller, distinguished Members of the Committee, thank you for your very kind remarks that you made, but also very thoughtful observations as to the challenges that are ahead.

I do want to express my appreciation also to President Bush, who has expressed confidence in me by nominating me for the Nation's first Under Secretary for Border and Transportation Security.

Mr. Chairman, you and your Committee should be applauded for the outstanding work that you have done over the last 16 months to improve the security of our homeland. Your swift action in passing the Patriot Act, the Aviation Transportation Security Act, the Maritime and Rail Security Acts, and the Homeland Security Act, has been very critical to protecting us against threats from those who would do us harm.

Sixteen months ago, I took leave of Congress and took the reins of an agency with a singular focus on fighting what many perceived to be an unbeatable foe, the problem of illegal drugs. At the time, I viewed the responsibility entrusted to me as a very noble endeavor that was critical to our Nation's future, and I continue in that belief today. At the DEA, it has been my great privilege to serve alongside some of the finest men and women in law enforcement, and I have been humbled by their dedicated service, their extraordinary courage and excellent work, and would like to thank them publicly for their efforts, their support, and their achievements.

But now a new threat is on the horizon. The character of our Nation has been tested over the last year-and-a-half. We have experienced the most devastating attack on American soil since Pearl Harbor, and we, as a Nation, have been changed. And as a result, vulnerabilities from which we had been insulated for decades came into focus. But the September 11 attacks also gave us a new sense of patriotism, a sense of responsibility for our neighbors. It has united us in our resolve to find and punish those responsible, but also our resolve to protect our freedoms, our communities, and our future. It is this task to which you have devoted much of your last 16 months of service, and it is this task to which I have now been called by the President. And this, too, is essential for our Nation's future.

As Governor Ridge stated just last week, we are at the beginning of what will be a very long struggle to protect our Nation from terrorism. While much has been accomplished, there is much more work to do. Men and women who responded after September 11 following the attack, coming to the aid of those who were affected, they have worked to secure our borders and our critical infrastructure, and they have pursued those responsible. They have taken the very first steps toward protecting our homeland, but we, additionally, have to followup.

The President and Congress quickly followed by enacting strong legislative measures to assist in that mission, and one of which brings me here today—that is, the Homeland Security Act, which consolidates 22 of the Federal agencies for the responsibility of protecting the homeland into a single agency with a very narrow focus. Governor Ridge and Secretary England have been selected by the President to lead this component of homeland protection. And if confirmed, I will be delighted to work with them along with the 100,000-plus employees who currently serve in agencies that will be transferred to the Borders and Transportation directorate.

The President has set forth a comprehensive plan with very tangible benchmarks to measure success through the national strategy

for homeland security. As part of that strategy, the Under Secretary for BTS has been given jurisdiction over the functions currently performed by the Customs Service, INS, enforcement side, including the Border Patrol, Federal Protective Service, the Federal Law Enforcement Training Center, TSA, and a new Office of Domestic Preparedness. The specific mission to prevent the entry of terrorists and instruments of terrorism is combined with ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce. And should I be confirmed, I will commit wholeheartedly to fulfill both of those dual missions.

To accomplish the mission, we must do a number of things. We have to bring the incorporated agencies onboard into the department by the goal of March 1, and we do it in a fashion that continues their operational capacity. We have to accomplish significant reorganization of those agencies coming into Border and Transportation directorate with the appropriate approval and oversight of the U.S. Congress. We must enhance the human intelligence gathering and sharing within the agencies comprising the BTS directorate. We have to bring the inspection functions at the ports of entry within a unified chain of command structure, the result of being a more secure border. We must improve the technology used on the border and in the transportation systems to enhance the flow of commerce while detecting and detaining unlawful cargo. We have a responsibility for developing visa issuance regulations, which includes training and staffing to reduce the abuse of our visa program by those who wish to harm America. We have to effectively communicate with the Congress and the American public on the operations of these agencies and our ongoing efforts to fulfill the mandates of Congress.

On the enforcement side, we have much to do, as well. We must make the necessary adjustments of the enforcement priorities, and at the same time improve the management oversight and the information technology that exists within each of these agencies.

I should add that as I oversee the INS enforcement efforts, I will continue to emphasize the essential nature of immigration services. Homeland Security must be about protecting America, but it is an America that includes those who lawfully come to America to share our freedom, our future, and the responsibility to defend this land. We must continue to welcome lawful immigrants, even as we take steps to protect our borders from unlawful entries.

Serving as the Administrator of the DEA has provided me with an extraordinary experience in managing a Federal agency with a substantial budget, significant national and international presence, and thousands of employees. Experience that I gained will contribute to my ability to achieve the goal of effectively integrating the agencies that fall under the BTS directorate.

And during my time at the DEA, we have contributed, in our own way, to protecting the homeland by disrupting and dismantling some of the sources of terrorist funding by enforcing our drug laws.

My service at the DEA, as a Member of Congress, and as United States Attorney, has given me experience in communicating and working closely with a variety of stakeholders on a regular basis. And should I be confirmed for this position, I commit to continue

that practice of communicating regularly with the Federal, State, and local government officials, community groups, transportation industry leaders, shippers, and others who will be directly impacted by the operations of these BTS agencies.

But of greatest importance, we must communicate frequently with the nearly 100,000 employees who will transfer into BTS, giving them information, support, and motivation to continue their dedicated efforts in shielding this Nation from terrorists. The employees who transfer are hard-working men and women who perform critical tasks on a daily basis, and overall, they do their jobs exceptionally well. By merging those agencies into BTS, these public servants will not be asked to change what they do from day to day; rather, the organizational structures will be refocused, consolidated, and reorganized so they can better perform the function of protecting the homeland.

Although these employees carry out a variety of responsibilities, they will now go to work each morning with the constant thought of, "Today, what can I do to protect America from those who hate us and wish us harm?"

Mr. Chairman, I have always believed that the first duty of Government is to protect and defend its citizens. A great portion of that responsibility falls on the new Department of Homeland Security. It is a duty I acknowledge. It is a duty I accept. And it is a duty I fully dedicate myself to fulfilling.

Thank you for providing me this opportunity to appear before you today, for the support that you have expressed, and for the continued working relationship that we will have.

Thank you, Mr. Chairman.

[The prepared statement and biographical information of Mr. Hutchinson follows:]

PREPARED STATEMENT OF HON. ASA HUTCHINSON, UNDER SECRETARY-DESIGNATE, DEPARTMENT OF HOMELAND SECURITY

Chairman McCain, Senator Hollings, distinguished Members of the Committee, I am delighted and honored to appear before you today. I am grateful for the confidence President Bush has expressed by nominating me to serve as our nation's first Under Secretary for Border and Transportation Security.

Thank you also for the hard work and leadership you have provided over the last 16 months to the enormous task of securing our homeland. Your swift action in passing the Patriot Act, the Aviation and Transportation Security Act, the Maritime and Rail Security Acts, and now the Homeland Security Act, has been crucial in our effort to protect against threats from those both here and abroad who would do us harm.

Mr. Chairman, sixteen months ago I took the reins of an agency with a singular focus on fighting what many perceived as an unbeatable foe—the problem of illegal drugs. At the time, I viewed the responsibility that President Bush and the Senate entrusted to me as a noble endeavor critical to our nation's future, and I continue in that belief today. It has been my great privilege to serve alongside some of the finest women and men in law enforcement. I have been humbled by their dedicated service, extraordinary courage, and excellent work and would like to thank them publicly for their efforts, their support and their achievements. Great strides have been made in the fight against drugs in the last year and a half, and I know that the men and women of the DEA will achieve even greater success in the months and years to come.

Chairman McCain and Members of the Committee, the character of our nation has been tested over the last year and a half. We experienced the most devastating attack on American soil since Pearl Harbor, and we have been changed. Unfortunately, vulnerabilities from which we had been insulated for decades became entirely too real to many of us. But the September 11 attacks also gave us a new sense

of patriotism and responsibility for our neighbors. It united us in our resolve to find and punish those responsible but it also united us in our resolve to protect our freedoms, our communities and our future. It is this task to which you have devoted much of your last 16 months of service in the Senate, and it is this task to which I have now been called by the President. This, too, is essential for our nation's future.

As Governor Ridge stated just last week, we are at the beginning of what will be a long struggle to protect our Nation from terrorism. While much has been accomplished, there is much more work to do. The men and women who responded on September 11 and the days following by coming to the aid of those affected by the attacks, secure our borders and critical infrastructure, and by pursuing those responsible, have taken the important first steps toward protecting the homeland in this new era.

The President and Congress quickly followed by enacting various legislative measures to assist those men and women in that mission, the most significant of which, the Homeland Security Act, consolidates 22 of the federal agencies with responsibility for protecting the homeland into a single agency whose primary focus is protecting the Homeland. Governor Ridge and Secretary England have been selected by the President to lead this important component of homeland protection. If confirmed to serve as the Under Secretary for Border and Transportation Security (BTS), I, too, will join them and the nearly 100,000 employees who currently serve in agencies that will transfer into BTS, in this effort.

The President has set forth a comprehensive plan with tangible benchmarks to measure success through the *National Strategy for Homeland Security.* As part of that strategy, the Under Secretary for Border and Transportation Security has been given jurisdiction in the Homeland Security Act over the functions currently performed by Customs Service, INS, including Border Patrol, Federal Protective Service, the Federal Law Enforcement Training Center (FLETC), TSA and a new Office of Domestic Preparedness. The specific mission is to prevent the entry of terrorists and the instruments of terrorism while ensuring the speedy, orderly and efficient flow of lawful traffic and commerce. Should I be confirmed to serve as Under Secretary for Border and Transportation Security, I would commit wholeheartedly to fulfill that mission by striving to meet these more specific goals:

1) Bringing the incorporated agencies on board at the Department of Homeland Security in an orderly and well-managed fashion.
Our efforts to meet this significant challenge are well under way. I have been meeting with the principals of the agencies whose functions will be assimilated into BTS. We have established several high-level working groups to address functional alignment and organizational issues. There is still much to be done, and I am working closely with the other Under Secretaries to ensure smooth coordination of cross-directorate issues.

2) Accomplishing significant reorganization of the Border and Transportation Security agencies with appropriate approval and oversight by the United States Congress.
Congress recognized that in this consolidation there would be areas of significant overlap in responsibilities and capabilities. I have been working diligently with the agency heads to prepare a plan for the consolidation of responsibilities and capabilities into a logical organization that makes sense. The guiding principal is to align like functionalities and complimentary capabilities while ensuring the continuity of operations, leading to increased national security readiness.

3) Enhancing the human intelligence gathering and sharing within the Border and Transportation Security agencies.
As I have learned at DEA, human intelligence is often the most valuable. We use the expression "ground truth" in everyday conversation to mean something that we know is unequivocally true. That expression comes from the intelligence community, where "ground truth" truly validates other sources of information. Obtaining this requires having agents in place with experience, connectivity and support that ensures their ability to obtain needed information and pass it securely to operational commanders. We must also improve interagency information-exchange connectivity to provide critical information to the officers in the field when they needed. I am engaged with the Directorate for IA/IP and all assimilating agencies to ensure that BTS intelligence requirements are understood and addressed appropriately.

4) Bringing together the inspection functions at the port of entries within a unified chain of command structure, the result being a more secure border.

This is the key element under my guiding principal for BTS reorganization. We must field a single unified presence at the border, especially at the ports of entry. It must include unity of command that can effectively plan unified, mutually supporting operations and quickly respond to emergent situations, redirecting resources as necessary.

5) Improving the technology used on the border and in the transportation systems to enhance the flow of commerce while detecting and detaining unlawful cargo.

Improved technology and increased early knowledge of incoming travelers and goods passing through our ports of entry is the key to enhancing our capability to "sort the wheat from the chaff." We must improve our ability to identify terrorists and their supporters and the chemicals, equipment and materials intended to harm our nation and its people, while at that same time we must minimize impacts to legitimate travelers and goods that are the economic engine of our nation.

6) Developing visa issuance regulations, training and staffing to reduce the abuse of our visa program by those wishing to harm America.

Congress has mandated a new and critical element for our nation's security by requiring the development of improved security procedures for visa issuance and implementation of third party oversight of visa issuance in our nation's embassies. We intend to develop a strong and effective program to assure that only those with legitimate intent are issued visas to enter our great nation. We will be working closely with the Department of State to develop the policies, process and procedures to effectively implement this mandate.

7) Communicating effectively with Congress and the American public on the operations of the Border and Transportation Security agencies and our ongoing efforts to fulfill the mandates of Congress.

Building on my close relationship with Congress, I fully expect to establish frequent and open communications with appropriate committees and staff to ensure their full understanding of BTS-related issues and initiatives. It is my belief that a well informed Congress makes the best decisions. Likewise, frequent open communication with the American people regarding BTS operations and how we are fulfilling our mandates is the only way to build the public's trust in our ability to secure the nation.

8) Reducing the problem areas of INS enforcement, including making necessary adjustments to enforcement priorities and improving management oversight and information technology.

INS has been the focus of considerable criticism over the past several years, and there is a vast library of reports documenting the immigration enforcement problem areas. I have been studying the INS enforcement programs and meeting with INS senior leadership. Options will be considered on a better alignment of responsibilities and missions. With the proper alignment of resources and missions we can leverage the assets we currently have to increase our operational effectiveness and better meet our mandates. Information technology will play a key role in improving our effectiveness requiring close coordination with the Chief Information Officer and the information analysis staff. I have already begun to communicate my requirements to them and to work with them to develop appropriate solutions. Another key player in this effort is the Director of Shared Services, with whom I will work to ensure proper coordination and exchange of information between BTS and the Bureau of Citizenship and Immigration Services.

I should add that as I oversee INS enforcement efforts, I will continue to emphasize the essential nature of immigration services. Homeland Security must be about protecting America—but it is an America that includes those who lawfully come to America to share our freedom, our future and the responsibility to defend this land. We must continue to welcome lawful immigrants even as we take steps to protect our borders from unlawful entries.

Serving as Administrator of the DEA has provided me with valuable experience in managing a federal agency with a substantial budget, significant national and international presence and thousands of employees—experience which will contribute to my ability to achieve the goal of effectively integrating the agencies that fall under the BTS directorate. I have also gained experience by leading DEA in its new areas of responsibility as other federal law enforcement agencies have appropriately reduced their efforts in the counter-drug arena to focus more on counterterrorism.

During my tenure as Administrator of the DEA, we have contributed to protecting the homeland—namely, disrupting and dismantling some of the sources of terrorist funding by enforcing our drug laws against both foreign and domestic drug traffickers. My service at DEA, in Congress and as a U.S. Attorney has also provided tremendous experience in communicating and working closely with a variety of stakeholders on a regular basis. Should I become the new Under Secretary for Border and Transportation Security, I would certainly continue that practice, communicating regularly with federal, state and local government officials, community groups, transportation industry leaders, shippers and others who will be directly impacted by the operations of the BTS agencies. Certainly, of greatest importance, we must communicate frequently with the nearly 100,000 employees who will transfer into BTS, giving them information, support and motivation to continue their dedicated efforts in shielding this nation from terrorists.

The employees who will transfer into BTS are hardworking men and women who perform critical tasks on a daily basis, and overall, do their jobs exceptionally well. By merging into the new Directorate of Border and Transportation Security, these public servants will not be asked to change what they do from day to day. Rather, their organizational structures will be refocused, consolidated and reorganized so that they can better perform the function of protecting the homeland.

Employees of the Transportation Security Administration will continue to protect our nation's aviation system. U.S. Customs officials will continue to inspect cargo, both for revenue and security purposes. Immigration investigators and deportation officers will continue to target work-place violations and detain and remove illegal aliens. Animal and Plant Health Inspectors will continue to inspect incoming shipments for disease-carrying agricultural products. The Federal Law Enforcement Training Center will continue to train our federal law enforcement officers. Border Patrol agents will continue to prevent the unlawful entry of our country by illegal aliens, and the Federal Protective Service will continue to protect our federal buildings and courthouses. Although these employees carry out many varied responsibilities, they will now go to work each morning with the constant thought of "what can I do today to protect America from those who hate us and wish us harm?"

Mr. Chairman, I have always believed that the first duty of government is to protect and defend its citizens. A great portion of that responsibility falls on the new Department of Homeland Security. It is a duty I acknowledge, it is a duty I embrace, and it is a duty I fully dedicate myself to fulfilling. Should the Senate confirm my nomination, I am confident that, with the able leadership of the President, Governor Ridge and Secretary England, continued cooperation and guidance from Congress and the support of the fine men and women who will comprise this directorate, we will be able to provide greater security and peace of mind to the American people.

Again, thank you for providing me the opportunity to appear before you today. I would be delighted to answer your questions at this time.

A. BIOGRAPHICAL INFORMATION

1. Name: William Asa Hutchinson.

2. Position to which nominated: Under Secretary for Border and Transportation Security, Department of Homeland Security.

3. Date of nomination: January 10, 2003.

4. Address: (Information not released to the public).

5. Date and place of birth: December 3, 1950 in Gravette, AR.

6. Marital status: married to the former Susan Burrell.

7. Names and ages of children: William Asa Hutchinson, III—born August 30, 1975; Sarah Hutchinson Wengel—born April 11, 1977; John Paul Hutchinson—born October 12, 1979; Young Seth Hutchinson—born April 11, 1983.

8. Education: Springdale High School—diploma, awarded 1968; Bob Jones University, B.S. Accounting, awarded 1972; University of Arkansas—Fayetteville, J.D., awarded 1974.

9. Employment record: March 1975–June 1976—Attorney, Law Firm of Jimm Hendren, Bentonville, AR; June 1976–February 1982—Principal, Asa Hutchinson Law Firm, Bentonville, AR; February 1982–November 1985, U.S. Attorney for the Western District of Arkansas, Rogers, AR; November 1985–December 1986, Candidate for U.S. Senate; December 1986–December 1996, Partner, Karr and Hutchinson, Ft. Smith, AR; January 1997–August 2001, Member of Congress, U.S. House of Representatives, Washington, DC; August 2001–Present, Administrator, Drug Enforcement Administration, Washington, DC.

10. Government experience: December 1982–November 1985, U.S. Attorney for the Western District of Arkansas, Rogers, AR; January 1997–August 2001, Member of Congress, U.S. House of Representatives, Washington, DC; August 2001–Present, Administrator, Drug Enforcement Administration, Washington, DC.

11. Business relationships: None.

12. Memberships: Forth Smith Rotary Club, member, 1991–1996; Arkansas Bar Association, member, 1990–Present; Sebastian County Bar Association, member, 1990–1996; American Bar Association, member, 1990–1996; Republican Party of Arkansas, Co-Chairman, Chairman, 1991–1995; Pre-Natal Clinic of Eastside Baptist Church, board member, 1989–1991; Int'l Association of Chiefs of Police, member, committee chair, executive board member, 2001–Present; Association of Former Members of Congress, member, 2002–Present.

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

January 1996–August 2001—Member of Congress, U.S. House of Representatives;
1991–1995—Co-Chairman/Chairman, Republican Party of Arkansas;
1990—Republican Candidate for Attorney General of Arkansas;
1988—Chairman, Sebastian County, AR GOP;
November 1985–December 1986—Republican Candidate for Senate;
1979–1980—City Attorney, Bentonville, AR;
1979–1980—Chairman, Benton County, AR GOP;
1978—Republican Candidate for Prosecuting Attorney, Benton and Carroll Counties, AR;
1976—Republican Candidate for Justice of the Peace.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

1993–1995—Member, Republican National Committee
1992—Delegate, Republican National Convention
1991–1995—Co-Chairman/Chairman, Republican Party of Arkansas
1988—Delegate, Republican National Convention
1979–1980—City Attorney, Bentonville, AR.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $500 or more for the past 10 years. None.

14. Honors and awards:

2002—Civic Star, presented by the Director General of the Colombian National Police;

2002—Orden Al Merito Civil Libertador Simon Bolivar, presented by Bolivian President;

1999—Honorary Degree, awarded by Bob Jones University, Greenville, SC

1997—Paul Hams Fellow, designated by Rotary International.

15. Published writings: Attached is a list of articles, columns and publications I have authored. In addition to these writings, I also distributed a weekly electronic newsletter to over 7,000 constituents while I was serving in Congress, and, as Administrator, I distributed a bi-monthly internal newsletter to the employees of the Drug Enforcement Administration.

Articles and Publications by Asa Hutchinson

"Congress Can Reform—Honest" (with Rep. Tom Allen), *Washington Post*, 4 August 1997.

"A Trial Without Evidence," *New York Times*, 31 December 1998.

"The Campaign Integrity Act—A Product of Bipartisanship," *Northwest Arkansas Times*, 21 May 1999.

"A Realistic Approach to Passing Campaign Finance Reform," *Roll Call*, 31 May 1999.

"Let's Be Realistic," *USA Today*, 1 June 1999.

"Youth Violence Must Be Curbed," *Roll Call*, 21 June 1999.

"Did the Senate Trial Satisfy the Constitution and the Demands of Justice?," *Hofstra Law Review*, Winter 1999.

"Racial Profiling Endangers Justice," *Roll Call*, 7 February 2000.

"Commission Would Encourage E-Commerce While Protecting Privacy," *KPMG E-Commerce Update*, May 2000.

"Eyewitnesses Under Attack," *New York Times*, 22 June 2000.

"Commission is First Step to Privacy" (with Rep. Jim Moran), *The Hill*, July 2000.

"Prescription Drug Coverage—Affordable, Flexible, Voluntary," *Northwest Arkansas Times*, 24 September 2000.
"Let's Establish a National Commission on Privacy," *Oncology Times*, January 2001.
"Drug Treatment Needs Accountability," *The Columbus Post-Dispatch*, 14 May 2002
"Punting on the Third Down" (excerpts), *The Executive Speaker*, July 2002
"Santa Cruz Drug Raid," *New York Times*, 28 September 2002
"Drug Legalization Doesn't Work," *Washington Post*, 9 October 2002
"Drugs Are To Help, Not Harm," *USA Today*, 14 November 2002
Domestic Monitor Program, 1999–2000 (with Steve Casteel), November 2002

Publications at DEA that went out under Mr. Hutchinson's name:

Ecstasy and Predatory Drugs, December 2002
Speaking Out Against Drug Legalization, November 2002
Public Affairs: A Strategic Communications Plan for the Field, November 2002
Student Drug Testing: What You Should Know, October 2002
DEA World (hardcover edition), September 2001
DEA Update (external c-newsletter), September 18 and November 13, 2002

16. Speeches: In my various official capacities, I have delivered over 1,000 speeches to various groups from virtually every civic club in Arkansas to Republican groups to League of Women Voters to community picnics to international conferences. Previous to my tenure as DEA Administrator, I did not maintain a list of such speeches. I have compiled and attached a partial list of speeches given in recent years as well as a detailed list from my seventeen months at the DEA.

Speeches Delivered by Asa Hutchinson

January 1997–August 2001
136th Anniversary of the Battle of Pea Ridge
1999 Summer Congressional Intern Lecture Series
1st Baptist Church
7th Annual Spring Trade Expo-Hosted by AR Hospitality Assn.
AARP
AARP/VOTE Social Security Forum
Acxiom Luncheon/Roundtable Discussion
AG Edwards
Alltel "Call to Protect"
Alma Chamber of Commerce
Alma Middle School
American Advertising Federation
American College of Trial Lawyers
American Consulting Engineers
American Criminal Law Review Debate
American Family Assn.
American Federation of Government Employees, AFL–CIO
American Heart Assn.
American Jewish Committee
American Legion and American Legion Auxiliary
American Legion Mid-Winter Conference
American Rental Assn.
American Society of Assn. Executives
American Studies Institute
American Teleservices Assn.
American Wood Preservers Institute
Andrews Air Force Base Retirement Ceremony
Anti-Defamation League
AR Area Agency on Aging
AR Assn. of Student Financial Aid Conference3
AR Associated Press Managing Editors
AR Electric Cooperatives, Inc.
AR History Day
AR Humanities Council
AR HVACR
AR Policy Council
AR Rural Electric Coops
AR State Dental Assn.
AR Women Prison Inmates
Arizona Caucus B'fast, RNC Nat'l Convention

Arkansans for a Drug Free Youth
AR Airport Operators Assn.
AR Assn, of United Way
AR Builders and Contractors State Convention
AR Cattlemen's Assn.
AR Chamber of Commerce
AR Chapter of American Institute of Architects
AR Credit Union League
AR Environmental Federation Annual Water Seminar
AR Head Start Assn Annual Training Conference
AR Hospital Assn.
AR Law Enforcement Training Academy
AR Municipal League
AR Osteopathic Assn.
AR Procurement Assistance Center
AR Professional Bailbond Licensing
AR Round table of Family Council
AR Rural Development Conference
AR School for Math and Sciences Commencement
AR State GOP Convention
Arkansas State University-Mountain Home
Army War College
Associated Equipment Distributors
Assn. of American Railroads
Barling Jr. Police Academy Graduation
Baxter County, AR Lincoln Day Dinner
Baxter Healthcare Arkansas Plan Managers
Della Vista Community Church Men's Group
Bella Vista Memorial Day Program
Bella Vista-Bentonville Assn, Homebuilders Assn.
Bellview Elementary School
Benton County Republican Women
Benton County Young Republicans
Bentonville Chamber of Commerce
Bentonville/Bella Vista Chamber of Commerce
Bevery Enterprises Open House
BIPAC Barometer B'fast
Blacks in Gov't Legislative Policy Conference
Bob Jones University Convocation
Boone County Lincoln Day Dinner
Boone County Veterans Day Program
Booneville Downtown Revitalization Committee
Boys & Girls Club of Paris, AR
Boys State
Brookings Institute
Bull Shoals Rotary
Bush Caucus Event
Butterfield Train Grounubreaking Ceremony
Candidate Introduction for Polk, Scott, Sevier and Montgomery Co
Capitol Hill e-Gov't Seminar
Carlton Club
Casualty and Property Group of DC
Carroll County Lincoln Day Dinner
Catholic High School Foundation
Center for the Study of Taxation
Central AR Homeschool Debate Team
Chapel River Valley Christian School
Charles AR Chamber of Commerce
AR Farm Bureau Federation
AR Federation of Republican Women
Citizens Against Drugs Membership Drive Kick-Off
City Vision's Missions and Ministry Exposition
Civil Air Patrol
Coal Miners Memorial Dedication
Coalition Against Insurance Fraud
Code Adam Event
Colorado Bar Assn.
Concerned Women for America

Congressional Institute
Congressional Operations Seminar
Congressional Prayer B'fast
Conservative PAC Conference
County Judges Assn. of AR
Crawford County Lincoln Day Dinner
Dairy Compacts Seminar
Debate Students Forum
Dedication of FSM VA Outpatient Clinic
Deposit Guarantee of Ft. Smith
Digital Dialogue Forum
Disable American Veterans State Convention
Domestic Violence Forum
Du Page County, IL Lincoln Day Dinner
Elmdale Baptist Church
Empowerment Through Political Action Program
Energy Council and Interstate Oil and Gas Compact
Environmental Law Seminar of AR/OK Barr Assn.
Evangel Temple
FAITH Home Education Assn. Commencement
Faith-Based Initiatives Panel
Family Research Council
Farmington Christmas Tree Lighting Ceremony
Fayetteville Chamber of Commerce
Fayetteville Lyons Club
Fayetteville Rotary Club
Federal Executive Assn. of Northwest AR
First Southern Baptist Church
Former U.S. Attorneys
Fort Smith Adult Education
Fort Smith Chamber of Commerce
Fort Smith Downtown Kiwanis
Fort Smith Rotary Club
Fort Smith Volunteer of the Year Banquet
Franklin County Lincoln Day Dinner
French War Veterans Medal Awards Ceremony
Fulbright School of Public Affairs
Gardner Jr. High School
Gentry Community Drug Forum
Georgetown Law School
Christian Science Monitor
Cinco de May Events
Gravette High School Commencement
GWU College Republicans
Harding University Distinguished Lecture Series
Harris County Republican Party Fundraiser
Harrison Kiwanis
Harrison Lyons Club
Harrison Rotary Club
Harvard Law School
Harvard Law School Republicans
Heritage Baptist Church
Heritage Foundation
High School Students from Bill McCollum's District
Hugh OBrian Youth Leadership Seminar
Hutchinson Realty
Independent Bankers Assn.
INS Forum
INS Naturalization Ceremony
INS Office Opening
Int'l Mass Retail Assn.
Johnson County Lincoln Day Dinner
Junior Statesmen Foundation
Ladies Auxiliary Military Order of the Purple Heart
Lao Veterans Awards Ceremony
Lexington. KY Lincoln Day Dinner
Madison County Lincoln Day Dinner
Manufacturing Exec. Assn. of Western AR and Eastern OK

Martin Luther King Observance Breakfast
Masonic Lodge Spaghetti Supper
Memory Walk 1997
Millennium Days Concert (Trout Fishing in America)
MO Federation of Republican Woman Lincoln Day Dinner
Montgomery County Lincoln Day Dinner
Mountain Home Lincoln Day Dinner
Mountain Home Junior High School
Multicultural Center Recognition Luncheon
Nat'l Assn. of Retired Federal Employees
Nat'l Assn. of State Treasurers
Nat'l Chamber Foundation
Nat'l League of Postmasters
Nat'l Assn. of Asst. U.S. Attorneys
Nat'l Assn of Broadcasters Dinner
Nat'l Assn. of Professional Insurance Agents
Nat'l Commission on Federal Election Reform Panel
Nat'l Community Prosecution Conference
Nat'l Historic Site Dedication/Opening
Natl League of Cities
Nat'l Narcotic Officers' Assn. Coalition
Nat'l Press Club Forum
Global Privacy Summit
Grace Community Church Grand Opening
Graduate Student Assn. of UALR Panel
Grand Opening of Unity Adult Care Center
Noon Exchange Club of Fort Smith
North Arkansas Community Technical College
Northwest Academy Graduation
Northwest Arkansas Christian Home Educators Assn.
Northwest Arkansas Early Childhood Assn. Forum
Northwest Arkansas Human Resources Council
Northwest Arkansas Life Underwriters
Northwest Arkansas Regional Airport Dedication
NRCC Dine Around
NRCC Tax Reform Workshop
Oklahoma Republicans Convention
Opal Financial Group
Opening of Gravette Upper Elementary
Ouachita Baptist University
Owens, Illinois PAC
Ozark Rotary Club
Phi Theta Kappa
Pinehurst NC Lincoln Day Dinner
Pleasant Street Church of Christ
Political Animals of Little Rock
Polk County Republicans
Pope County Lincoln Day Dinner
Port City Optimists Club
Princeton Model Congress
Professional Insurance Agents
Promise Keepers
Prosecuting Attorney Conference
Quinnipeac Law School
Ramsey Jr. High
Regent University
Republican Men of Della Vista
Republican Women's Federal Forum
River Valley Christian School
RNC Youth Convention
Rogers Early Risers Rotary
Rogers Rotary Club
Rogers-Lowell Chamber of Commerce Banquet
Rolar President-Elect Training Conference
Russellville Lyons Club
Russellville Rotary Club
Sebastian County Bar Assn.
Sebastian County Lincoln Day Dinner

Seminar for Execs on Legislation
SERTOMA Club
Sevier County, TN Lincoln Day Dinner
Siloam Springs Chamber Banquet
Nat'l Stone Assn. Annual Conference
Nat'l Student Govt
Nat'l Student Leadership Forum
New Jersey Governor's Council Conference
Subiaco Academy Graduation
Sutton Elementary School
Teen Age Republicans
Society of Professional Journalists
Southern Baptist Convention Student Leadership
Southern Republican Leadership Conference
Springdale High School
Springdale Noon Lyons
Springdale Rotary

Date	Site	Event
	2001 Speech Schedule	
Aug 1	Los Angeles, CA	DARE Conference
Aug 6	Bellevue, WA	Methamphetamine Summit
Aug 22	Chicago, IL	DEA Regional Club Drug Conference
Aug 23	Sacramento, CA	HAPCOA
Aug 30	Denver, CO	Operation Green Clover Press Conference
Sep 5	Coeur d'Alene, ID	Pacific OCDETF
Sep 10	Albuquerque, NM	Intro & Debate w/Gov. Gary Johnson
Sep 24	Sturbridge, MA	New England HIDTA Heroin Conference
Sep 26	St. Louis, MO	Operation Serrano Press Conference
Sep 28	Washington, DC	National Foundation for Women Legislators
Oct 5	Arlington, VA	Intelligence Graduation #51
Oct 9	Washington, DC	National Crime Prevention Council
Oct 11	Arlington, VA	Red Ribbon Rally
Oct 12	Youngstown, OH	Drug Court Graduation Ceremony
Oct 13	Washington, DC	National Law Enforcement Officers Memorial Fund
Oct 16	Arlington, VA	Length-of-Service Ceremony
Oct 20	Ft. Lauderdale, FL	AFFNA keynote
Oct 22	West Palm Beach, FL	INEOA keynote
Oct 23	Washington, DC	Shaw Jr. High Red Ribbon Ceremony
Oct 27	Toronto, CAN	IACP Major Cities Chiefs
Oct 29	Toronto, CAN	IACP 1st General Assembly
Nov 7	Quantico, VA	Harvard Leadership Strategy
Nov 14	Arlington, VA	PIO Meeting
Nov 15	New Haven, CT	Gov. Johnson Debate at Yale Law School
Nov 19	Quantico, VA	STAR Conference
Dec 1	Ft. Lauderdale, FL	National District Attorneys Assn.
Dec 3	Arlington, VA	American University students
Dec 4	Arlington, VA	Museum symposium on narco-terrorism
Dec 6	Orlando, FL	Florida Drug Czar Drug Prevention Conference
Dec 6	Washington, DC	National HIDTA Conference
Dec 7	Washington, DC	Youth Leadership Council-Young Leaders
Dec 17	Washington, DC	Wright Brothers' 98th Anniversary Celebration
	2002 Speech Schedule	
Jan 9	Fayetteville, AR	Washington County Bar Assn
Jan 10	Arlington, VA	Operation Mountain Express III
Jan 17	Quantico, VA	Graduation: BA–144
Jan 24	Reno, NV	Juvenile and Family Drug Court Training
Jan 29	Dallas, TX	Tn-Regional OCDETF $ Laundering
Jan 31	Washington, DC	Kingpin Press Conference
Feb 1	Arlington, VA	Conservative PAC
Feb 12	San Francisco, CA	Commonwealth Club of California
Feb 25	Dover, DE	Dedication of new office

Date	Site	Event
Feb 26	Arlington, VA	Black History Month
Feb 26	Washington, DC	Working Group on Prosecutorial Relations
Feb 27	New Orleans, LA	Admin Officers Conference
Mar 2	Hollywood, FL	National Comprehensive Cancer Network
Mar 5	Santa Cruz, BO	IDEC
Mar 13	Arlington, VA	Videotape U of Arkansas
Mar 14	Baltimore, MD	American Pain Society
Mar 14	Washington, DC	Counterdrug Intelligence Coordinating Gr.
Mar 15	Alexandria, VA	IACP State &Provincial Police
Mar 18	Washington, DC	National Foundation for Women Legislators
Mar 18	Washington, DC	FARC indictments press conference
Mar 18	Rockville, MD	Barnes & Noble Prescrip Drug Event
Mar 19	Arlington, VA	AG's Drug Strategy Press Conference
Mar 20	Washington, DC	Regent University grad students
Mar 20	Washington, DC	Meth legislation statement
Mar 22	Washington, DC	State Attorneys General meeting
Mar 22	Washington, DC	Foreign Press briefing
Apr 2	Washington, DC	Heritage Foundation
Apr 3	Orlando, FL	Florida State-wide Drug Court Training
Apr 5	Washington, DC	Nat'l Narcotics Officers Assoc Coalition
Apr 7	Nashville, TN	SAC Conference
Apr 10	Houston, TX	Rice University keynote
Apr 12	Arlington, VA	Chemist Graduation
Apr 16	San Antonio, TX	Texas Police Chiefs Association
Apr 17	Arlington, VA	EEO Mediation Training Conference
Apr 19	Pittsburgh, PA	Operation Family Store w/AG
Apr 20	Little Rock, AR	Right to Life Dinner
Apr 22	Charleston, SC	IDEA Drug Summit
Apr 23	New York, NY	Fordham University Law School Debate
Apr 25	Indianapolis, IN	Indiana Meth Summit
Apr 26	Portland, OR	Anti-drug rally at school
Apr 30	Washington, DC	University of Cal students
Apr 30	Quantico, VA	Drug Unit Commanders Academy
May 2	New York, NY	AFFNA luncheon
May 2	Brooklyn, NY	Graduation: Drug Treatment Alt. To Prison
May 7	Alexandria, VA	IACP NDDC Meeting
May 10	Columbus, OH	Ohio Drug Court Professionals
May 13	Arlington, VA	Southern Miss students meeting
May 14	Queens, NY	School-Based Drug & Alcohol Conference
May 15	Washington, DC	American Furniture Manufacturers Assoc
May 15	Denver, CO	ASAC Conference
May 16	Gatlinburg, TN	Gatlinburg Law Enforcement Conf
May 17	Arlington, VA	DEA Memorial Day Service
May 17	Quantico, VA	BA 145 Graduation
May 21	Savannah, GA	MET Conference
May 22	Arlington, VA	Hunter College High School students
May 22	Arlington, VA	Asian Pacific American Month
May 23	Arlington, VA	NFWL National Press Conference
May 24	Arlington, VA	Deputy Swearing-In Ceremony
May 30	Little Rock, AR	Arkansas Meth Summit
May 31	Blue Springs, MO	Missouri students and teachers
June 5	Louisville, KY	Meth and OxyContin Summit
June 5	Lexington, KY	Fayette Drug Court
June 7	Quantico, VA	DUCA school
June 11	Sun Valley, ID	Major Cities Chiefs Annual Conference
June 11	Washington, DC	Bolivian Law Enforcement Honors AH
June 13	Washington, DC	Nat'l Assoc of Drug Court Professionals
June 16	London, GB	John Jay College keynote speaker
June 25	Tulsa, OK	National Sheriffs Association
June 26	Washington, DC	AG's Summer Intern Lecture Series
June 26	Washington, DC	CYLC
June 26	Alexandria, VA	DEA Security Programs Conference
June 27	New Orleans, LA	Demand Reduction Conference
July 4	Alexandria, VA	Leadership Institute

Date	Site	Event
July 8	Flagstaff, AZ	LE Exploring Conference
July 10	Hollywood, CA	Entertainment Industries
July 11	Reno, NV	National Elks 2002 Convention
July 12	Arlington, VA	National Teenage Republicans
July 15	Detroit, MI	NABNA
July 16	Washington, DC	Junior Statesmen Foundation
July 16	Washington, DC	PRISM awards
July 17	Allentown, PA	IDEA Drug Summit
July 18	Little Rock, AR	American Academy of Family Physicians
July 18	Ft. Worth, TX	Nati. Meth Chemicals Initiative
July 19	Bentonville, AR	Wal-Mart Opening Schedule II Pharms
July 22	Tampa, FL	NOBLE Conference
July 24	Naperville, IL	NDEOA Conference
July 25	Oklahoma City, OK	Oklahoma Meth Summit
July 29	Portsmouth, VA	IDEA Summit
July 30	Washington, DC	OCDETF National Conference
July 30	Arlington, VA	CFC Awards Ceremony
July 30	Los Angeles, CA	Orange County Meth Conference
Aug 7	Arlington, VA	U of Ark Social Work Videotaping
Aug 11	Pentagon City, VA	VA Assoc of Chiefs of Police
Aug 14	Washington, DC	Faith and Community-Based Orgs
Aug 14	Washington, DC	Washington Rotary Club
Aug 15	Arlington, VA	Young Entrepreneurs' Organization
Aug 15	Washington, DC	Women in Fed Law Enforcement
Aug 27	Honolulu, HI	Hawaii Meth Summit
Aug 28	Los Angeles, CA	Compton Drug Court Grad
Sep 3	Arlington, VA	Narco-Terror Exhibit
Sep 5	Chicago, IL	PDFA speak at luncheon
Sep 6	Arlington, VA	Taped message for Tallahassee event
Sep 6	Arlington, VA	Assoc. of Former US Attorneys
Sep 12	Washington, DC	Cong'l Black Caucus Drug Forum
Sep 13	Madison, WI	Dane County Drug Court
Sep 13	Madison, WI	Wisconsin Committee Meeting
Sep 16	Waco, TX	Baylor University Lecture
Sep 18	Sioux City, IA	Multi-State Meth Summit
Sep 19	Arlington, VA	Operation Webslinger Press Conference
Sep 20	Quantico, VA	BIRS Graduation
Sep 20	Arlington, VA	DEA Awards Ceremony
Sep 21	Washington, DC	Pain Physicians
Sep 23	Gainesville, VA	Open Meredith Thompson golf tourn
Sep 24	Washington, DC	Carlos Castano Indictment
Sept 25	Ft. Collins, CO	Rocky Mountain Club Drugs conf
Sep 26	Syracuse. NY	Syracuse University College of Law
Sep 30	New York, NY	US Attorneys National Conference
Oct 1	Milwaukee, WI	Wisconsin Meth/club drugs Summit
Oct 2	Columbus, OH	AG's law enforcement conference
Oct 2	Columbus, OH	Dublin High School students
Oct 3	Arlington, VA	INEOA taping
Oct 7	Minneapolis, MN	IACP Annual Conference
Oct 14	Greenbrier, WV	Sthn Newspaper Annual Convention
Oct 15	Little Rock, AR	Rotary Club of Little Rock
Oct 15	Fayetteville, AR	Fayetteville Drug Court
Oct 16	Arlington, VA	Red Ribbon
Oct 17	Wichita, KS	Wichita Crime Commission
Oct 21	Pensacola, FL	Red Ribbon w/Gov Bush
Oct 22	Tallahassee, FL	Tallahassee Town Hall
Oct 28	Morristown, NJ	Drug Summit
Oct 28	Rockaway, NJ	Morris Knolls High School
Oct 30	New York, NY	NYU Law School
Oct 30	New York, NY	NY Special Prosecutors Office
Oct 30	New York, NY	Hispanic Heritage, NY Division
Nov 1	Arlington, VA	CFC Kick-off
Nov 4	Marietta, GA	Cobb County Chamber of Commerce
Nov 5	Arlington, VA	DRC Training

Date	Site	Event
Nov 6	Washington, DC	AUC arrests news conference
Nov 7	Cambridge, MA	Harvard University
Nov 7	Boston, MA	High School students
Nov 12	Chicago, IL	Federalist Society U of Chicago
Nov 13	Washington, DC	FARC indictments
Nov 14	Washington, DC	Bensinger Dupont Associates
Nov 15	Quantico, VA	BA 147 Graduation
Nov 18	Springfield, MO	SW Missouri State University
Nov 18	Springfield, MO	Springfield IDEA Summit
Nov 20	Arlington, VA	Length of Service Ceremony
Nov 22	San Diego, CA	NFWL Annual Meeting
Nov 22	San Diego, CA	Operation X-Out Press Conference
Nov 22	San Diego, CA	Town Hall Ecstasy/Predatory Drugs
Dec 2	Washington, DC	Advisory Cmte of US Attorneys
Dec 3	Charlotte, NC	Natl Assoc Drug Diversion mv. Conference
Dec 10	Washington, DC	Buprenorphine Press Conference
Dec 11	Mobile, AL	IDEA Summit
Dec 12	Washington, DC	HIDTA
Dec 12	Washington, DC	Nat'l Air Transport Association
Dec 19	Quantico, VA	BA 148 Graduation
	2003 Speeches	
Jan 9	Washington, DC	Republican Women's Forum
Jan 14	Baltimore, MD	Heritage Foundation New Members Retreat
Jan 17	Quantico, VA	BA 149 Graduation

17. Selection:

(a) Do you know why you were chosen for this nomination by the President? While I could not specifically outline the President's reasoning for this appointment, I do believe my broad experience in law enforcement and interagency cooperation and my service in Congress are important factors that he likely considered.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? While serving as U.S. Attorney, I worked on immigration, border and enforcement policy by virtue of my work on the Attorney General's Subcommittee on Immigration. I also worked with U.S. Customs, Border Patrol, INS enforcement and other federal law enforcement agencies. When elected to Congress, I served on the Select Committee on Intelligence, the Crime Subcommittee of the House Committee on the Judiciary and the House Transportation and Infrastructure Committee. In these committees, I exercised oversight responsibility on many federal law enforcement agencies, intelligence communities and the transportation sector. Finally, as Administrator of the Drug Enforcement Administration (DEA), I oversaw drug enforcement operations along the U.S. borders. The DEA works extensively with other federal agencies along with state and local law enforcement. This interagency experience is critical as Homeland Security is created and the participating agencies are adopted.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? Yes.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. None, except I have a joint promissory note to First National Bank of Ft. Smith, Arkansas with my former law partner. The note was a business loan, and the current balance for my share is $12,750.

2. Indicate any investments, obligations, liabilities, or other relationships, which could involve potential conflicts of interest in the position to which you have been nominated. None.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public. I have served as a Member of Congress, Administrator of the DEA and previously as Chairman of the Republican Party of Arkansas, and in each of these positions I commented and worked on legislation.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. I will obtain opinions and direction from the Office of Government Ethics. In addition, I will evaluate the potential from my own base of experience and ethics.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a compliant to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? Yes. KBCV Radio, owned by Rocky Haven Investments, was the subject of administrative proceedings before the Federal Communication Commission. This was in 1982, and I was principal owner.

In addition, there was civil litigation involving the bankruptcy of the ultimate purchase of the station in the 1990 time frame.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by congressional committees for information? Yes, to the best of my ability.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes, to the best of my ability.

3. Will you cooperate in providing the committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the committee? Yes.

4. Please explain how you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress. I will endeavor to learn from Senate and House Members and staff the intent of Congress as well as review the legislative record. Any proposed regulations arising from Border and Transportation Security (BTS) agencies would be reviewed by the policy office of BTS to assure compliance with the intent of relevant legislation.

5. Describe your department/agency's current mission, major programs, and major operational objectives. As a new agency, the Directorate of Border and Transpor-

tation Security will carry out its mission based upon the mandate of its authorizing legislation and that of the agencies of which it is comprised. The mission is to protect our borders and transportation systems without unnecessarily impeding the flow of lawful commerce.

6. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How have your previous professional experience and education qualifies you for the position for which you have been nominated? My experience in the following areas will be helpful in my responsibilities at Homeland Security.

(a) U.S. Attorney—I worked closely with all of the federal law enforcement agencies that will be a part of the Border and Transportation Directorate. From U.S. Customs to INS to Federal Protective Service, I became knowledgeable about each agency's priorities, administrative structure and areas of overlapping jurisdiction.

(b) Member of Congress—I served on the Judiciary Committee and was active on the Crime Subcommittee. I gained an understanding of border security, immigration issues and federal law enforcement. As a member of the Select Committee on Intelligence, I saw first-hand the work of our intelligence agencies. As a member of the Transportation and Infrastructure Committee, I exercised oversight of all our transportation systems and the important work of the U.S. Coast Guard.

In addition, I traveled periodically, which allowed me to engage our foreign counterparts on trade, immigration and security issues.

(c) Administrator of the DEA—In this capacity I have worked with law enforcement agencies from the state and local level to the principal federal and international enforcement organizations. I have traveled to Mexico, examined the borders, transportation systems and ports. I have worked on international partnerships to further drug enforcement and security objectives.

The interagency task forces such JIATF East and West have DEA participation, and the model of cooperation from the task forces is an example of what can be accomplished at Homeland Security through that type of cooperation and integration of various agencies.

All of these professional experiences will be important to my new responsibilities at the Department of Homeland Security.

2. Why do you wish to serve in the position for which you have been nominated? I wish to serve in this new department because it will help ensure that America is more secure. Public service is about challenge and responsibility. Whoever holds this position at the Department of Homeland Security will confront enormous obstacles, but the opportunity to protect the United States is sufficient reason to accept the assignment.

3. What goals have you established for your first two years in this position, if confirmed. My goals are really set forth in the legislation, which are to protect the borders and transportation systems from terrorist attack while, at the same time, ensuring the orderly flow of legitimate commerce. In addition, I will work with Governor Ridge and my colleagues to develop specific and measurable goals for the BTS Directorate. From a personal standpoint, I would hope:

a.) To bring the incorporated agencies on board at the Department of Homeland Security in an orderly and well-managed fashion.

b.) To accomplish significant reorganization of the Border and Transportation Security agencies with appropriate approval and oversight by the United States Congress.

c.) To work with the Homeland Security Intelligence Analysis and Infrastructure Protection directorate to enhance the human intelligence gathering and sharing within the Border and Transportation Security agencies.

d.) To bring together the inspection functions at the port of entries within a unified chain of command structure. The result being a more secure border.

e.) To improve the technology used on the border and in the transportation systems to enhance the flow of commerce while detecting and detaining unlawful cargo.

f.) To develop visa issuance regulations, training and staffing to reduce the abuse of our visa program by those wishing to harm America.

g.) To communicate effectively with Congress and the American public on the operations of the Border and Transportation Security agencies and our ongoing efforts to fulfill the mandates of Congress.

h.) To reduce the problem areas of INS enforcement. This would include making necessary adjustments to enforcement priorities, and improving management oversight and information technology.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? I don't know that I lack any skills that are necessary, but I do need to enhance my expertise in specific areas, including the revenue and trade aspects of U.S. Customs, immigration policies and specific threats from chemical, biological weapons. I am taking steps to increase the knowledge base in these areas by briefings and meetings with experts. In addition, I intend to be in the field as often as possible to personally observe operations.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. My view on the role of government is that it should be a limited one. The role of government should be limited to circumstances in which the citizens collectively agree that a service is first, necessary; and second, can be best performed by the state rather than the private sector. The clearest examples are defense, national security, policy functions and homeland security. Other examples include health and safety inspections, transportation systems and social safety net programs such as unemployment assistance, social security and Medicaid.

The private sector should be the first responders for most of society's problems. For example, voluntary and charitable organizations can effectively meet many needs of society. The government should be a remedy that is utilized when the private sector is unable or unwilling to take on a particular problem of society.

Determining when a government program is no longer necessary should be a matter of periodic and regular review. It may be that the circumstances have changed, and the private sector is able or willing to meet a need, or it could be that a need no longer exists. The government may also be incapable of meeting an existing need because of its inherent insufficiencies. An example could be concern that adolescents do not get sufficient exercise—the government is not likely the correct institution to address that problem.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives. Since this is a new department, the current mission is defined by the authorizing legislation. It is to coordinate the functions of the participating agencies. The major programs and operational objectives are reflected in the operations of the BTS agencies.

The major mission of the Transportation Security Administration is to protect the transportation systems of our nation. U.S. Customs is to inspect cargo coming in the United States, both for revenue and security purposes. As part of the mission, Customs is currently engaged in counter-drug enforcement, money laundering investigations and other contraband-type cases. Immigration and Naturalization Service enforcement efforts range from immigration fraud investigations to work-place violations to removal enforcement efforts. The inspection services of INS are focused on people entering the United States in contrast to cargo. Animal and Plant Health Inspection Service inspects for disease-carrying agricultural products. The Federal Law Enforcement Training Center is responsible for coordinating the training of our federal law enforcement officers, ranging from Customs to Border Patrol agents. The Federal Protective Service is responsible for the security of our federal buildings and courthouses.

The objective of the Border and Transportation Security directorate is to coordinate these functions to more effectively protect America.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. The primary mission of BTS is unlikely to change. However, BTS must adjust its strategy and allocation of resources to counter emerging security threats. BTS will have to be flexible and adopt new strategies and approaches as those who would threaten American security change their tactics and adopt new approaches.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the department/agency and why? The primary outside force would probably be the speed with which our enemies can adopt new tactics. The top three challenges BTS faces are integrating and streamlining its components, maintaining the quality of the existing work of its components during the transition, and putting systems and procedures in place flexible enough to meet new threats.

9. In further reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years? BTS has not existed in its current form prior to enactment of the Homeland Security Act. However, some of the factors affecting the performance of its individual components in the Homeland Security arena, including TSA, INS, Border Patrol, US Customs, APHIS and Federal Protective Service, include the absence of a homeland-focused mission, inadequate information sharing, and redundant duties.

10. Who are the stakeholders in the work of this agency? Congress; employees of the BTS agencies and labor organizations representing those employees; federal, state, county, and local government entities; state and local community groups and law enforcement agencies; immigrant advocacy groups; cargo container shippers; air freight integrators and forwarders; commercial and general aviation air carriers; airports; port and transit operators; rail and bus companies; the federal judiciary and tenants of federal buildings; distributors and retailers of goods; travelers.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten? Communicating and consulting on a regular basis with these stakeholders for their ideas as BTS components implement existing policies and develop new policies.

12. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices similar to those practiced in the private sector.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your agency has proper management and accounting controls? Although the legislation creating DHS specifically vests the Undersecretary for Management with specific responsibility for the budget, appropriations, expenditures of funds, accounting and finance for the Department, I would work very closely with the Under Secretary to develop the budget submission, performance measures and accountability structures for BTS. My goal would be to ensure that program offices within BTS agencies are managing their funds appropriately and making wise use of taxpayer dollars, and I would engage in regular review of agency expenditures in order to ensure that that goal is being met.

(b) What experience do you have in managing a large organization? I have been Administrator of the Drug Enforcement Administration for the last 18 months, an organization with nearly 10,000 employees, a budget of nearly $1.7 Billion, and offices throughout the entire United States and in 57 countries.

13. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) Please discuss what you believe to be the benefits of identifying performance goals and reporting on your progress in achieving those goals. Identifying and reporting on BTS agency progress will serve a few very worthwhile functions. First, it would require that I take regular "temperature checks" to make sure that agencies within BTS jurisdiction are, in fact, doing the work they are charged with, and doing so in an efficient and effective fashion. Should any deficiencies be identified in this process, the reporting requirement would afford the affected agency the opportunity to take corrective action before a small problem becomes a large one. Second, regular reporting would assist Congressional committees of jurisdiction in performing their oversight functions, enabling those committees to better understand the operations of each agency within BTS, and take appropriate action—be it through oversight hearings, meetings, or legislation—to assist BTS in correcting any deficiencies found.

(b) What steps should Congress consider taking when an agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing or consolidation of departments and/or programs? Congress should seek to determine why the agency failed to meet any of its goals, particularly whether or not any factors outside the agency's control contributed to the failure, taking appropriate corrective action in response. That action could include working with agency officials in a cooperative fashion to identify internal solutions to more minor failures, or legislatively shifting priorities or resource allocations. Steps could also include eliminating, streamlining activities, privatizing or consolidating problem departments or programs.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed? I believe that effective integration of BTS agencies, improved security at our borders and in our nation's transportation systems, and improved information sharing and operational response to threats should be the goals applicable to my personal performance.

14. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been

brought against you? My philosophy centers on setting goals, providing encouragement and guidance as employees strive to meet those goals, measuring achievement and rewarding good performance.

In my official capacity at DEA, three employee complaints have been filed. These involve transfers of supervisory personnel in two instances. The third was the transfer of a clerical position, and it has been resolved without formal action.

15. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please describe. I am a former Member of Congress, and I served on the House Judiciary, Transportation & Infrastructure, Select Intelligence, Veterans Affairs and Government Reform Committees. As Administrator of the Drug Enforcement Administration, I have worked closely with Members and Senators on Committees of jurisdiction over the agency to develop both authorizing and appropriations legislation. Furthermore, I have met frequently with individual Members, Senators, Committees and professional staff to provide briefings on issues of interest to them, provided hearing testimony, and participated in various activities and events around the country with individual Members and Senators. My working relationship with Congress is excellent.

16. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.The Inspector General (IG) is independently appointed and confirmed to provide independent oversight of the various entities within the Department. Should I be confirmed, I would consult regularly and work cooperatively with the IG to ensure that open lines of communication exist between our offices, and that he or she has access to any and all information necessary and appropriate to carry out the his or her oversight functions.

17. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your department/agency comply with the spirit of the laws passed by Congress. Should I be confirmed, I would maintain open lines of communication with Committee members and staff and consult regularly with them to learn what the intent of Congress was in drafting pertinent sections of law. From there, I would seek to ensure that all regulations being developed or implemented by BTS are consistent with that intent. I would consult regularly with stakeholders to gather their ideas and input on how any proposed regulations would affect them, and submit all appropriate regulations developed by BTS to the standard notice and public comment procedures.

18. In the areas under the department/agency's jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. Congress crafted rather comprehensive legislation creating the Department of Homeland Security only three months ago. For that reason, I believe it would be prudent to allow the agency and its components to get operations up and running long enough to see how well things work before any additional legislation is contemplated. At the same time, it may become clear in the near future that technical or even more significant changes to the law are necessary to improve the agency. Should I be confirmed, I will be glad to work with Congress, the Secretary and the White House to develop and enact those changes.

19. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending based on national priorities determined in an open fashion on a set of established criteria? If not, please state why. If yes, please state what steps you intend to take and a time frame for their implementation. The National Strategy for Homeland Security aligns the resources of the Federal Government to directly support the new clarified lines of responsibility and accountability. Should I be confirmed by the Senate, I will look to the President's Strategy to ensure that we are following the goals set forth in that document. Additionally, I believe that a review of all discretionary programs within BTS is necessary to see if they fall in line with this standard. In instances where they do not, or there are mandated programs not yet in place, I would direct the appropriate BTS agency to take necessary steps to change its procedures or develop and implement new programs (including set criteria and an open participation process) by any Congressionally-mandated deadlines. In order to ensure accountability, I would insist upon regular status updates from the affected agency and would provide guidance and direction to the agency as necessary.

The CHAIRMAN. Thank you very much.

Since we do have a vote fairly soon, I will try to make my questions very brief so that—to try to make sure that all of my colleagues have a chance to ask questions before the vote; although,

certainly if they spill over, we can come back after the vote, but sometimes at that hour, returnees are not as frequent as earlier in the day.

Let us talk about the border just for a second. We have this horrific problem, which—as Senator Lautenberg, said, it's on all of our borders. It happens to be worse, at the moment, in Arizona, because California squeezed and, as Senator Hutchinson and I and you were discussing, Texas squeezed, and so they funneled up—the flow of illegal immigrants and drugs funneled up through the State of Arizona. I am sure that if we clamped down in Arizona, then they would probably try to find some other method.

Just give me some general overall views as to what you think needs to be done. And in that answer, if you would discuss this issue of the use of military, which, as some people believe, is the answer to the problem. I have serious doubts about whether that is, because military personnel are not trained for that kind of work. But I do believe, and I am interested in your views, that some of the equipment that is available to the military—whether it be satellite, or whether it be drones, or other equipment that perhaps we could make use of in order to better surveil and secure our borders.

Mr. HUTCHINSON. Thank you, Mr. Chairman.

And first, in reference to the military, I share your concerns. I do not believe that we need to militarize the border. It is a law-enforcement function. And you are absolutely correct that the role that they play is a support function to those engaged in law enforcement, and they are, day by day, doing the civilian work of protecting the border. At any point that we have a more serious attack, the military is there to support and protect America.

I hope that my votes in Congress have reflected the view that military has a support responsibility. The National Guard has played an important role from time to time.

The CHAIRMAN. They are on the border as we speak, the Guard is.

Mr. HUTCHINSON. They plan an essential role. But, generally speaking, I would be—I think it is a law-enforcement function that needs to be carried out at the border.

Now, first of all, Senator McCain, I agree with the comments that you made in your opening statement. I recall my first visit to the border in 1982 when I was United States Attorney. It was in San Diego, and it was a very open border then. They have built fences, they have built protective barriers and surveillance equipment. It has squeezed it more to Arizona, as you have indicated. As—in the DEA, I have been down to Nogales. I have seen the border there, the tunnels there, the openness of that arena. I look forward to going back with you.

I believe that we have to rely very importantly on intelligence. That is an important part of the equation, in terms of the people that would come across in a harmful fashion. So we need to gather intelligence, share intelligence, in a better way for specific threats.

Second, technology is essential. I am delighted that in Homeland Security, we have a directorate of science and technology, which, in the private sector, would be comparable to a research and development shop. And so that as we see needs on the border, we can assign them the task, working with private enterprise, private re-

search facilities, to look at technology responses to our problems on the border.

And then it is a matter of allocation of resources. Obviously, Congress has a lot to say about the resources that we have. But with the resources I have, we want to allocate them very appropriately—going toward the threat, making sure there is a balance—that the northern border, as has been indicated, and with the southern border, both are a threat, and both have to be reinforced with adequate resources.

Finally, you mentioned the homeland defense groups, and I will just say that the information from citizens is very important, but I hope that they will always allow the law enforcement to do their role and to take the risk upon the law enforcement side, because it is very dangerous work on the border.

The CHAIRMAN. I have a number of other questions, but I will not pose them at this time.

Senator Rockefeller?

Senator ROCKEFELLER. I am going to try and do three real quick ones to satisfy my Chairman.

It is extraordinary, in the world of intelligence, how good we are at collecting, and how poor we are at analyzing and then disseminating, otherwise called "sharing." And all kinds of speeches are given, and yet turf always needs to be protected. And we have come to a point in our Nation's life where that is no longer acceptable, and you understand that very well.

We created, in the TSA, the Transportation Security Oversight Board, and so the whole question of monitoring of intelligence becomes very much a part of our job and of your job. And incidentally, in terms of our job, as well as the Administration's job, to fund what it is that you have to do. It is good for all of us to talk about what you need to do, but if the Administration does not fund it or we do not fund it, then we become hypocritical in what it is that we say.

We have already confirmed Governor Ridge, so I need to assume that you have sat down with him since that point and have discussed a bit the question of intelligence and the question of collecting and, most importantly, of sharing intelligence within these various agencies and within the various agencies which you will oversee. Otherwise, it means nothing.

You do not need to answer that, but will you be willing to come to the Intelligence Committee or to this Committee, on an unclassified basis, to discuss these matters?

Mr. HUTCHINSON. Certainly, Senator Rockefeller, I would be delighted to do so. Within the Department of Homeland Security, there will be a directorate for information analysis, the intelligence side of things. And it will be very important, as you pointed out, for the agencies within my directorate to have a close relationship with them, to make sure we have the information that they receive, that they analyze.

But, in addition, it is important that that information is provided to those who have a need to receive the information on a State and local basis. The dissemination of it is very important. And Congress wisely provided a director of State and Local Coordination that re-

ports to the Secretary directly that will make sure that there is a good flow of communication to our State and local counterparts.

I think human intelligence is very important. And so I hope that, while the intelligence goes into the directorate of intelligence analysts from the CIA and the FBI, that the agencies within my directorate will be able to be a good collector of human intelligence, particularly on the border, and I hope that that will be helpful to carrying out our mission.

Senator ROCKEFELLER. Well, we have five centers now for the collection and analysis, distribution of intelligence, if you include the Under Secretary of Defense. And it is going to be quite a challenge. We have not done it well in the past. It is going to be more difficult in the future. I am delighted to hear you will do it or you will send somebody who will do it.

Second, small-airport security is tremendously important. 9/11 started through small airports, and those of us who live, as do you, in rural States need to know that there will be a commitment, not just to seeing the magnificent results that we do with the Pittsburghs and other larger arenas, that you are on track and conscious of security for our smaller airports around the country.

Mr. HUTCHINSON. We shared many stories of the commonality between West Virginia and Arkansas, both small, rural States, and I share that concern. TSA, under Admiral Loy, has concentrated on commercial airports, both small and large, but whenever you are looking at a potential weapon, that could come from a small airport as well as it could from a metropolitan airport, so there has to be an emphasis across the board.

Clearly, this is a burden on many of the small airports, from a financial standpoint, and that is a burden that has to be shared, but we are mindful of the threats that can come and the risks and the vulnerabilities that are shared by airports of all sizes. And I know that TSA has concentrated on that, and I will, as well.

Senator ROCKEFELLER. I think the TSA has done a superb job, and I need to say that.

Senator Cantwell brought up the extremely important matter of biometrics. Our country is not yet familiar with biometrics and what its implications are, both for the security and the identification, and, from that security, leading to greater security through knowledge of who is and is not in this country, and who is and who might not be dangerous. That has to be done instantaneously when we develop a full real-time system of checking people in at airports. And it has got to happen a lot of other places. It also, of course, is something that would appear, on the surface, to violate people's personal rights, even as they are doing the same thing at ATMs, but they do not make the connection. So it can scare people a bit.

I am a strong believer in biometrics, and I would hope that you would not only encourage that technology and that use which is still to be even further developed, but that you will then be able to share that with all agencies within your jurisdiction and outside of your jurisdiction. Because that, again, sharing biometrics is sharing intelligence.

Mr. HUTCHINSON. You are absolutely correct, Senator. Congress has given us some very significant deadlines, in terms of developing the biometric standards as a part of the entry-exit system so

that we know not only people who are coming into the country under visas, but who are leaving—when they are leaving. And that we have a standard of biometrics that we can identify those people, and we can check their records more closely to make sure that people with inappropriate backgrounds do not come in this country who wish to harm us.

Privacy is a concern. I think there are two things that are important. One of them is that we bring along our international partners, because the United States does not want to stand isolated in having one standard. And I think our international counterparts understand the importance of a biometric standard for entering people and exiting people from a country. So we look to work on an international basis to accomplish this goal.

And then second, it is about educating the American public and assuring them that their privacy concerns will be met. I am pleased that in the department, there will be a chief privacy officer. And I think we will readily and regularly be asking for opinions and evaluations from that arena to make sure that America's privacy concerns are met.

Senator ROCKEFELLER. Thank you, sir. I look forward to voting for you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

I will come back to that, actually, because it is an important topic, and my office has been involved with that as it relates to the Patriot Act, and I think you are right on target as it relates to getting international cooperation.

The point that you were bringing up largely on technology and implementing technology, we have run into a particular problem as it relates to the northern border, in that we have so much territory that the unstaffed areas have been a challenge. And obviously, technology has been used with cameras to track that. Unfortunately, the technology that has been deployed was really much more scaled toward desert terrain. And I think as people have deployed them in the rainy Northwest, in the forest areas, they have found out that they do not work as well. In fact, we have had an investigation reveal that much of the time they are water-logged, that there is not an adequate power supply, that the software does not work, that the cameras are not really tracking the information.

So how will you go about evaluating those technology tools and making sure that the demonstration projects really are on track and, if they are not on track, that we look at different ways to supply the resources?

Mr. HUTCHINSON. Well, first of all, I think it is very important to be out in the field. And people who have followed me at the DEA know that I like to be out, I like to see it firsthand. I have already had the occasion to go—a limited visit on a northern border in the Detroit area. But it was enough to recognize that the northern border is a little bit different from the southern border, or the southwestern border, as you pointed out. And we—so we need to be in the field.

Second, we need to make sure the technology recognizes the distinctions and the differences. Again, the science and technology di-

rectorate of Homeland Security was very instrumental in evaluating the new technology and its application, working out the bugs that you mentioned.

The northern border has always been an open border, and we are moving into an area now that we recognize that there are threats. It is very important to work with our Canadian partners so that, as we move technologically, it is not—it can be harmonized with what our Canadian partners are doing, as well.

So I look forward to working with you on those issues and the unique concerns that you have from Washington State.

Senator CANTWELL. We will get you that specific case that has gotten a lot of attention in the Northwest and, obviously, generates a lot of concern of citizens. So thank you for that.

The second issue is staffing. Can we see a continued advocacy on an increase in northern border staffing, and not a reduction?

Mr. HUTCHINSON. Yes. I do not see any change in that. The information I have is that the threats and concerns along the northern border are significant and that we need to maintain our staffing commitment there. There has been an increase in resources that has been provided by Congress for our Border Patrol, Customs agents along the northern border. And I do not expect that to be diminished.

Senator CANTWELL. And how about an increase? Because the authorization will allow for that.

Mr. HUTCHINSON. I certainly believe that there is justification for additional resources. It is—so it would be a matter of working with Commissioner Bonner, working with the different agencies to see where the greatest needs are.

I think it is important, when we look at this new department, that we first effectively organize and recognize that that is a very important part of our protection, and accomplish the efficiencies there, and then we make decisions on where and what resources are needed to be applied.

Senator CANTWELL. Well, I think the technology and staffing issues go hand-in-hand. If the technology we deploy is not as effective or we cannot get effective technology for those porous areas of huge, vast amounts of land, then we need to look at other solutions. So the staffing thing becomes very critical. I would appreciate your looking into that.

And then back to this issue that my colleague, Senator Rockefeller, raised or expounded on. We have had a lot of debate in Washington State, obviously a variety of people of interest to the FBI, but also a lot of concern about the deportation, and I just am interested in this entry-exit system and the special registration of Arab males. Do you support that? Do you think that is the most logical way for us to proceed?

Mr. HUTCHINSON. Well, as part of the entry-exit system, I think that it is—the first step is reasonably to ask for the identification of those individuals that would come from countries of concern, a particular risk where we know that Al Qaeda operates. And so I think it is an appropriate step. Obviously, as we go through this process, it is very important to make sure that we educate and inform so that there is not a sense in the Arab–American community that they are being targeted.

I was speaking on a television station that is directed toward the Arab–American market, and tried to assure them that this is simply a method of identifying those people that might be of concern and that we want to continue to give the assurance that it is not targeting a particular population or racial background. It is just simply those who will come into this country, our foreign visitors, of countries of concern.

Senator CANTWELL. I see my time has expired, but I am concerned about the discriminatory nature of that. But I think if you can work on that oversight you have of a visas—a biometric standard, working with foreign countries, so that you know who people are—because we are going to continue to have millions of people who enter and then overstay. But if we really know who people are and we have cooperation from foreign governments, it is going to make our job easier.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hutchison?

Senator HUTCHISON. Thank you, Mr. Chairman.

Air cargo security. Senator Feinstein and I asked for a GAO report to give us the status of air cargo security, and we found that there were a number of holes. As people stand in long lines to get in an airplane and they take off their shoes and everything they can think of that might make the machine go off, we have not looked at the belly of the airplane nearly as carefully. We are now checking most of the checked bags that go in the belly, but cargo is another area.

Airlines want to start carrying mail again, and I think it would be important for them to do so, but only when we have a security system in place for mail and air cargo.

My question is, Are you tuned into this problem? Will it be a priority for you? And do you support legislation that would give the Transportation Security Agency all the tools it needs to decertify an air cargo carrier or handler that does not comply with strict rules of security?

Mr. HUTCHINSON. Thank you, Senator, and I am very grateful for your leadership on this particular issue and your concerns expressed in this area.

And I am aware of the work that needs to be done in dealing with air cargo. Whenever you look at the emphasis that has been placed on the passenger screening and now the baggage that goes forth into the belly of the aircraft, we have to also look at the air cargo. And TSA has taken some very important steps in that arena. They are first steps. More needs to be done.

I commit to you that I will work on this and be glad to work with you, as well. I am grateful, again, for your pushing this issue forward.

Senator HUTCHISON. Thank you. We will work together on it. And Senator Lott and I have talked about it, and Senator Rockefeller and I worked on it last year. We passed it in the Senate last year, but it died in the House. So I do think it is the last loop to close, and I hope you will work with us to do it.

No. 2, port security. I have one of the largest ports in America. Our area handles probably half the petro-chemical complexes in the entire United States. So while our ports have done a great deal

on their own, there is no way they could do everything possible or have access to everything they would need to fully secure these very important ports. Is this a priority for you and for your Administration?

Mr. HUTCHINSON. It has to be. And whenever you look at the legislation that this Committee and the Congress has passed that directs both the Coast Guard, the TSA, and Customs to look at the issues of port security, it is certainly a mandate that we will pay close attention to.

I think part of the—what we need to address will be the assessments of our ports, to look at the vulnerabilities, the infrastructure that is in place, and the threats that exist that could take them out, and then, based upon those assessments, to be able to develop a plan for protection and for response. And these ports need to have the assistance of the Government agencies, from TSA to Coast Guard to Customs, to accomplish this. So it is something that demands a great deal of attention.

One of the things that is important is to get more information in advance of what is coming into those ports, and from a container standpoint. I think the 24-hour rule that Customs has adopted, the Container Security Initiative, is a very important part of that.

Senator HUTCHISON. You mentioned the Coast Guard, and I want to say I do support the Coast Guard being in the Department of Homeland Security, because I think the Coast Guard is now more important than ever before. What are your plans regarding the beefing up of the Coast Guard for its added responsibilities of security?

Mr. HUTCHINSON. The Coast Guard plays an essential role, and I think that their importance to what we are trying to achieve is reflected by the fact that they are directly reporting to the Secretary. But, at the same time, they will be coordinating closely with the agencies in our arenas. It is important that we do not overlap what we are trying do with TSA and Customs.

In terms of resources, I will let the commander of the Coast Guard address that issue, since that is not a direct report. But they play an essential role, and I look forward to coordinating closely with them.

Senator HUTCHISON. Well, I would hope that you would increase their capabilities, because I think they are going to have a lot more responsibility.

Last question. The machine-readable visas that have been used for pedestrian traffic on the southern border have been very successful. However, the pedestrian traffic delays have increased because of just the sheer volume of people who are coming over now. Are you going use some of the 150 million INS technological improvements in infrastructure money to look at expediting, not only the pedestrians, but the cars and trucks with these kinds of machine-readable visas where people have proven and have their clearances?

Mr. HUTCHINSON. That would be a very important investment to make. Last night, I had the occasion of meeting with Secretary Creel of Mexico, who is the Secretary of Government who has responsibility in these issues. One of the issues that they are concerned about and we are concerned about is to keep that commerce

flowing, and reduce the delays. And technology will be one of the answers, and that is one of the uses of this money that should be examined and considered for.

Senator HUTCHISON. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Lott?

Senator LOTT. Thank you, again, Mr. Chairman.

Congressman as I understand it—how many people are coming in this department, all told? Is it something like 170,000?

Mr. HUTCHINSON. Yes, sir, 170,000.

Senator LOTT. And I guess they are all the parts of a couple of dozen agencies, bureaus, parts of departments, and probably a dozen pieces from all over the place.

I remember asking several months ago, I guess—maybe 16 months ago or so—our friend, Tom Ridge, "As we consolidate and develop efficiencies and learn to do a better job spending money more wisely, is it possible we could do this job with fewer people?" I never quite got an answer to that, because I know everybody has been committed to doing the job, which is so important, and we have so far to go that you do not want to get too tripped up in, you know, trying to do it with fewer people or doing it efficiently.

But, you know, you are from Arkansas, and I am familiar with your voting record, and I hope that you will see, you know, along the way, if you can do these things with the people you have more efficiently, more effectively, and maybe with less money or fewer people.

And also I think one of the things we are going to experience here—in some areas, we are going to go too far too fast, and we are going to have to back away from it a little bit and say, "Well, maybe we overdid that, or we went too far," and we are going to have to reevaluate it.

Just one example, you were talking about what Customs has been doing with regard to air cargo imports. I understand that they have now come up with a proposal that would require that detailed manifest information be submitted to Customs at least 8 hours before loading the aircraft for air express packages, and 12 hours for loading—for other air cargo. The proposal would require information 24 hours before loading an aircraft for export. Clearly, the cargo area is one that we have got to be concerned about, and we have got to ask ourselves, "How do we deal with it in the commercial passenger aircraft, and in—on a regular cargo?" But in this case, what you would do would be to effectively eliminate overnight express shipments.

So the question is, did—is that maybe going too far? And we are—we are going to definitely be losing something if we do it this way. And so I guess what I am asking you is that—is a commitment that you are going to continue to look at ways to do these things better, more effectively, more efficiently, maybe with, sometimes, different people or better people, fewer people, and also to make sure that we do not go too far sometime without having a hearing.

We are faced with that right now in this Committee, on the Aviation Subcommittee. A lot of things we have done, we now need to come back and ask ourselves, "Are the right people paying for these costs? And are we doing it in the right way?"

Would you respond to that—package of comments, really?

Mr. HUTCHINSON. I think that is a very important reminder, as Homeland Security is set up, that one of the most important responsibilities is, as we bring 22 agencies onboard, where are the efficiencies in the combining of these agencies? And obviously, with the needs that have been expressed in the border areas, personnelwise, I do not know that you will ultimately reduce the number. When we can—and, at the same time, protect America—but if you are looking at middle management over time, I expect there to be a substantial amount of efficiencies there. As we look at the inspection services along the border, as you look at our enforcement agencies, there is a lot that we can do. I think it is a great opportunity for us.

And so I hope that we will be measured, in terms of productivity of homeland security, not just by how much we spend, but by how effective our reorganization is and whether it adds to the security of America.

In reference to the impact on our commercial carriers, because of the notice requirements, it is important to maintain the balance of security with not impeding the legitimate flow of commerce. I will have to look into that specifically, the point that you raised. The notice is important. Sometimes you have to look at the specific applications, whether we are defeating a very legitimate purpose.

Senator LOTT. One area where Members of Congress took an action was the Arming Pilots Against Terrorism Act, and yet we are not quite sure exactly how that is going to work, or when it is going to work, or who is going to train these pilots. And I understand perhaps it will be voluntary. How do you envision that working?

For instance, I have been told that you are thinking that maybe this training would be done internally. That makes me nervous. Who in this department would have that capability? And so I hope you will look very carefully at how this program is going to be carried out, implemented, who would train the—I would think you would be much better off contracting with some private sector that has experience in training people for this specific purpose. What is your reaction to that?

Mr. HUTCHINSON. Well, I think we should always look at the private sector as an option. I know that in reference to the training of the pilots, that there is a pilot program being implemented that we will see how this works and any adjustments that need to be made initially. I believe the training is going to be conducted through the Federal Law Enforcement Training Center, Glencoe, Georgia, which will be one of the BTS agencies. And so I think that is a good start. We always ought to be looking at options, ways to do it better, and see how these—pilot training program will work.

Senator LOTT. I hope you will pay close attention to how that is implemented, because I think it could be important. It could be dangerous, too.

One last comment. The border is very important, obviously, all over the country, because we do have a flood of illegal immigrants that are risking their lives, and also it can be a place where terrorists can come in. But the one area that still worries me is—I guess, it is maybe because I am more familiar with it, as opposed to the

Senators from Texas and Arizona—are the ports. I still know we have got a lot more capability than I thought we would have at this point, and they are doing a pretty good job, but I still think there is a huge risk at ports all around this country. And while we did provide $93 million for port security grants to airports, I believe, in the fiscal year 2002 budgeting—none of that went to ports between New Orleans and Tampa, for instance there were 22 applicants for grants; none of those, including the No. 1 of the 22, were approved.

I do hope that you will look at this port security area in general. I know the bigger ports, obviously, have the greater risk—New York, Baltimore, and ports in Texas and California and so forth—but we also have huge risk at some of these smaller ports, and I hope that you will look at making sure the ones that are particularly potentially dangerous do get some assistance, and some attention is paid to allocation of those funds in terms of need and geographical distribution.

Mr. HUTCHINSON. Thank you, Senator. Much work remains to be done, as you pointed out.

The CHAIRMAN. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Several of my colleagues talked about the question of sharing information among the various agencies that are in your jurisdiction. And my question to you at this point is, How would you see breaking the mindset among these various agencies that tend to keep information to themselves.

I think it is clear you are right with respect to computers and making sure that they are in place to share information, but I am concerned that unless you break this mindset, it will eventually lapse into something resembling business as usual.

And here would be an example that I would offer the nominee. I mean, let us say the Coast Guard spots some suspicious material, something that could be an ingredient for a chemical or a biological attack. Related ingredients show up at a Customs department office, say, on the northern border, which we have been concerned about. And then, at the same time, immigration authorities or the FBI have their eye on a suspicious set of individuals. Here you have got three agencies, where, historically, they would be inclined to work in isolation. They mean well, but they work in isolation. How in an instance like that, would it be handled differently now?

Mr. HUTCHINSON. Well, it is very important to change the mindset of the agencies in sharing information. I think a tremendous amount of progress has been made since September 11, the attack on America. People understand the importance of that, and they are trying to accomplish that overriding goal.

As you pointed out, sometimes it is not a matter of the will, but it is a matter of the processes and the structural stove pipes that we have set up these different agencies. That is what Homeland Security is about, is to break down those barriers so the information can flow unimpeded. That is going to be the first thing that we are really going to work on, to make sure that there is a clear chain of command, and a clear flow of information.

We have had some working groups already established, just in terms that I can listen and see what these agencies are talking

about where the problems are. So that is one of the earliest things that we will focus on.

Senator WYDEN. What are the problems that you are hearing when you go to these focus groups?

Mr. HUTCHINSON. Well, for example—well, just what you pointed out, actually, that—where there is information coming into one agency, and by the time it goes up the chain to the top and then gets to—down to another agency, there could be a time gap there.

I think that what we are looking at is that there is a clear chain of command. With the opportunity of the inspection side being all in one arena now, there is not going to be three different agencies doing inspection on the border. So if we have it in—all within the Department of Homeland Security, there is naturally going to be a breakdown of those barriers.

Second, on the enforcement side—and that is another area of concern—that you have got Customs agents, you have got INS agents out there, and how the information flows there. We have opportunities to improve that.

And I would also point out one of the concerns is outside of Homeland Security. We still have to relate to the Department of Justice. And I assure you there is a strong commitment from Director Mueller, from the Attorney General, and with Governor Ridge to make sure those barriers are not there. But it is a matter of working on that every day.

Senator WYDEN. On the whistleblower issue that I mentioned earlier, I would like to hear your thoughts and have you use this opportunity to send a signal to the workers that it is safe to come forward. I think there is great concern with respect to the workers right now, and certainly the TSA order recently, the Transportation Security order, has raised additional questions with respect to employees' rights.

And again, just, let us take a hypothetical, and let us say the recordkeeping and data-entry systems are so poor that key information that is important to fighting terrorists gets lost, and somebody wants to come forward. I am convinced that a lot of people are very fearful about coming forward in this climate, and I would like to have you use this opportunity to state how you feel and send a message that you want that information.

Mr. HUTCHINSON. Thank you for that opportunity, Senator. And the—all the employees that come onboard should know that they will be protected from improper political influence, they will be protected from reprisals against whistleblowers, and they will be assured to retain their current benefits and the protections they currently have under law.

Whenever you mention the circumstance of information that is important for the policymakers to know, I certainly hope that they will share that with leadership of the new department so we have an opportunity to fix it, but clearly that is information that Members of Congress need to know.

We are all together in trying to fix this. The employees should know that their rights will be protected.

Senator WYDEN. My time is just up.

On this whistleblower issue, having worked with a lot of them in various areas, including intelligence and healthcare and the like,

I would just tell you, the first couple of cases are going to be absolutely key, because yours is a brand-new department with a huge number of employees. If you handle the first couple of whistleblower cases in a way that shows that you have confidence in the employees, that is going to be everything. If they look at those first couple of cases and say, "We are going to get bounced if we come forward," I think it is going to be very, very damaging.

I look forward to working with you when you are confirmed.

Mr. HUTCHINSON. Thank you, Senator.

Senator WYDEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Sununu?

Senator SUNUNU. Thank you.

There has been a lot of discussion of technology throughout the different lines of questioning today. It came up, of course, with biometrics, with some of the questions about visas that Senator Hutchison was asking, border patrols, and some of the checked-baggage screening, as well.

I have a broad question about technology. It has obviously important. It seems that it is going to be critical to the success of the new agency, and in your work in particular. Are there any other areas of technology that you think are particularly important, or will be going forward, or are technologies that you would want to highlight to this Committee in our efforts, moving forward, to try to help you do your job more effectively?

Mr. HUTCHINSON. Well, there are two areas of technology that come to mind. One is the border technology. We have a lot of sophisticated equipment out there. Can that equipment, for surveillance, for protection, be deployed in a way that is consistent with the border and that can save on human resources? So that is obviously an area of technology that we have to explore very quickly.

The other one that you are very interested in is information technology. And we are going to have a chief information officer. And I look at the needs along the border, for example, whenever I see, you know, an INS inspector at the border have a name come in, and they check five different data bases, that takes time. There is more room for error there.

Are there ways that we can combine these data bases, modernize the equipment? Customs has made great strides in that area, but it needs to be shared with the other agencies. So both in those areas, border technology and IT.

Senator SUNUNU. Is the same individual who is going to have responsibility for data base management and information systems going to also have responsibility for ensuring that new equipment to screen all checked baggage is put in place at the airports? How do you separate those different types of technology, and is there someone in the new agency that will have overall responsibility?

Mr. HUTCHINSON. The structure of Homeland Security is to have, to the extent possible, one IT system. It takes time to accomplish that. But we have, under the directorate of management, a chief information officer, and they will look at the infrastructure technology, the information technology for all of the agencies, and move toward systems that are compatible with each other.

Then you asked about the technology for the screening and the baggage handling in the airports. That is something that is shared with the agency that has immediate supervision over that, with what we can do better. And so we can look and utilize our science and technology directorate and say, "This is a deficiency. This is a need. Take a look at this. Put your people to work on this. How can we do that better?" And then, as part of that, will be the procurement.

So we hope to be operating in a businesslike fashion and utilize the research capabilities as well as the procurement capabilities for a good technology department.

Senator SUNUNU. And you mentioned that position before, the research directorate, and I think that is important. That individual will be looking forward to breaking-edge—leading-edge technologies, how they might help us to improve homeland security. But I think, in some ways, the bigger challenge and the more immediate challenge is going to be to take existing technologies that really have never been used in this kind of a domestic capacity before—the Chairman mentioned the use of drones on the border, for example—and there will really need to be someone that has an expertise in the area of applying technology to solve real-world problems that is assisting the agency, I think. And I do not know if that role has been defined as part of the organization. I do not know that it is the same position as someone running a research lab, and it is—I do not believe it is the same position as someone who typically manages an information technology system or a data base system.

Those are very important roles, but I think that is going to be one of the challenges, is not looking out 20 years to new technologies, but let us just take some available technologies and use them better today. And I would just offer that as food for thought as you take on this challenge.

Mr. HUTCHINSON. Your points are absolutely on target. That should be a high priority with us, and it will be. The existing technologies out there, how can they be applied to the problems that we have? Thank you for sharing that.

Senator SUNUNU. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Snowe.

Senator SNOWE. Thank you, Mr. Chairman. Just several questions to followup on some of the comments that I made earlier.

Obviously, port security is one of the major concerns expressed by many Members of this Committee. And referring back to the Hart–Rudman report, it indicated that the port vulnerability studies for the Nation's 50 largest ports are not expected or scheduled to be completed for five more years. And I know there are vulnerability assessments being done on all ports in this country.

It would seem to me, given the imperative of this issue and the impact that it could have, not only, you know, economically here in the United States, but worldwide—I mean, as the report indicated, if there was just one explosive device detected in any one container that came into our ports, it basically would bring the whole shipping industry to its knees, not to mention the effects it

would have worldwide with 21,000 containers coming into our ports each and every day.

It would seem to me that we would want to accelerate the timetable for these vulnerability assessments. Do you have any thoughts on that? Are you familiar with what the status is of these assessments at this point? And at least with the largest ports, it would seem to me that we would want to do that. With—43 percent goes into Long Beach and Los Angeles alone, in terms of our cargo shipments—it would seem to me that we would make this the highest priority, to evaluate these assessments and to move quickly to address the gaps in the system.

Mr. HUTCHINSON. You are absolutely correct, Senator. This is a high priority, to make these vulnerability assessments of our ports. But also we have to be concerned with the large ports that are overseas, as well. And I think that, you know, we can push the funding of the assessments here. I believe that it can be accomplished in a number of different ways. We have to coordinate that from the Coast Guard and the TSA and the Customs to make sure we have a good division of labor between those.

Also, we are going to have the critical infrastructure arena, part of the information analysis, that will have responsibility for assessing critical infrastructure. Clearly, our ports are a part of that. As soon as we identify them, we make sure we know the threats and the vulnerabilities. But we need to expand that even beyond our borders, because if there is a non-secure port in Rotterdam with a container ship coming this direction, that impacts us. And Customs is working very aggressively to carry that out.

Senator SNOWE. Are other countries being cooperative in this regard, in working to make this a priority?

Mr. HUTCHINSON. I think, of the 20 largest international ports, 16 of them have signed agreements to follow the Container Security Initiative. And so this is a—very, very good news. And I know that Commissioner Bonner is pursuing those very aggressively. So there is a high level of cooperation, because it is—you know, once you start signing two or three of them up, which they have done, then if you want to have the same level of competitive advantage, the others will sign up, and that allows them to pre-screen the cargo coming in, to have advanced information on the containers, and for them to assess their own ports to see what kind of infrastructure protection they need to have.

Senator SNOWE. Well, this report went on to say that very small amounts have been given so far, with respect to this issue, in grants. And that goes back to what Senator Lott referred to earlier. I mean, even for—Los Angeles and Long Beach, which receives 43 percent of the shipments, in the year 2001 received a grant of $6.1 million. And I do not know, maybe this has been updated since then, and—much has happened. But I think we would want to be apprised if we are not giving sufficient amount of money to make sure that port security is being pursued aggressively in what we need to do in order to close these vulnerability gaps.

Mr. HUTCHINSON. I know that there are additional funds that are provided in the 2003 budget that will free up some money to pursue these initiatives, as well. But the report is very well-taken in its directions on that.

Senator SNOWE. Another recommendation in this report is on—in talking about—and certainly my border, in Maine, with Canada, and one of the longest, if not the longest, with Canada—we have many remote locations. Do you have any recommendations, in terms of how to address that? Because obviously, that is important to the local residents, to be able to have use of those areas, but at the same time, we want to make sure that they are secure.

Mr. HUTCHINSON. In terms of the ports of entry, all of the ports of entry now are manned, have personnel there 24 hours a day. And so this has been an adjustment because of the attention that you and other senators have given to this concern on our northern border. So that needs to continue, because we want to make sure that the citizens have access, but they are also able to control and to record those who are coming in and going out.

Senator SNOWE. I know that the U.S. and Canada signed last month the U.S./Canada Smart Border Declaration, and I think that is moving, certainly, in the right direction. I hope we can accelerate that timetable, as well—but also to be used as a standard, international standard, for other international organizations. We have to encourage other countries to assume—and organizations—to adopt these standards so that we do have symmetry around the world.

Mr. HUTCHINSON. Our relationship with Canada has been superb in trying to improve the security on the border. The initiative that was signed has been very instrumental in that. I know that the goals of both are to make sure that commerce flows, but to add protection on both sides. And the background checks on the transportation systems, the frequent travelers going back and forth, is moving forward. The fast lane has been helpful. And so we hope to be able to continue and push those initiatives forward.

Senator SNOWE. Overall, in terms of the magnitude of your responsibilities—they certainly could not be greater when you are thinking of what you are enjoining, in terms of the agencies and their jurisdictions—are certainly varied. I would hope that you would make sure to conduct an audit of all the things that really need to be done sooner rather than later and share that with the Committee so that we can help you to meet your responsibilities under the law, and to help you organizationally, as well. You know, I know that there is no question that your paramount challenge is the organization issue, and making sure that the bureaucracy functions in a way that does not allow lapses that obviously violate our security in this country. So I hope that you will share that with us.

And as far as the Coast Guard is concerned, again I certainly—I know that you will have a good working relationship with the Coast Guard, working hand-in-glove, as I said earlier, but also to ensure that there are not any operational or jurisdictional disputes that they can—because obviously the Coast Guard is going to play a premier role in ensuring our homeland security.

Mr. HUTCHINSON. I look forward to working with you, and that is an excellent idea. One of our important responsibilities is to keep you informed as to the needs that are out there and the problem areas. So I look forward to working with you, Senator.

Senator SNOWE. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Dorgan?

STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA

Senator DORGAN. Mr. Chairman, thank you.

Mr. Hutchinson, I was over on the floor for a debate on the Agriculture Disaster bill. And, at least for my State, that is where I had better be when that is being debated. So I missed your opening statement.

But I wanted to come over to say that I support your nomination, will vote for it, and think that you are a good choice by President Bush. And so I am pleased by your selection.

I did want to ask a question about something I have spoken about on the floor of the Senate a number of times and on which there has been virtually no action. That is, we have what is called a "watch list" at the State Department that is made available to INS. It is also made available to the consular officials in our consulates around the world. That watch list contains the names of people who we know are terrorists or suspected terrorists.

We also know that that watch list is unavailable to the 650,000 people across this country who perform their law enforcement duties, city police officers, county sheriffs, highway patrol, and others. And if they, this afternoon, stop a 5-year-old Ford car on a highway just south of Pembina, North Dakota, and it has four people in it, they have just crossed the border, probably not at a checkpoint; they have crossed at a remote point and they are known terrorists on our watch list at the State Department, the highway patrolman who stops that car will access the NCIC to see whether these people have outstanding arrest warrants, or whether they are guilty of a felony, or one thing or another, but the highway patrolman will not, under any circumstance, ever be able to access the watch list. So that highway patrolman can have four known terrorists, known to the State Department, known to the Immigration Service and the consular officers, in the car, stopped, and not know it.

It is interesting, the fellow that piloted Flight 93 that crashed in Pennsylvania was stopped by a highway patrolman in Maryland for going 90 miles an hour. It turns out that person's name was not on the watch list at that moment; but had it been, that patrolman had one of the pilots, one of the terrorists, stopped at the side of the road, but would not have any way of knowing that this person was a terrorist.

Let me just say that the Rudman-Hart Commission said that the top priority in all their recommendations, is to provide the eyes and ears and opportunities for 650,000 law enforcement folks across this country to have access to this watch list.

First of all, are you familiar with this problem and this issue? And, second, can you give me a description of how you think you and the Administration will work and move to resolve it?

Mr. HUTCHINSON. Thank you, Senator. And I am somewhat familiar with the broad parameters of this problem. And I do know that we have improved the information going into the NCI system that all the State troopers and those in local law enforcement have access to. So those who have—are alien absconders, those people who have deportation orders, they are being entered into NCIC. Much more work needs to be done to make sure that the people

on the street have the information that will help get the job done and protect America.

In reference to the watch list, I—you know, that is designed for, you know, international efforts in knowing who, in every country, ought to be denied visas. I think we need to look at how that information that is appropriate can be put into a system that is more available to local law enforcement. So thank you for raising that. We need to make sure the watch list is comprehensive, it is—has the information on—in itself, that is necessary, and then it is available to the right people.

Senator DORGAN. If I might just say, Mr. Hutchinson, the watch list is available to the Immigration Service. So presumably, someone trying to cross the border from Canada into the U.S. would be able to get through the Immigration Service by avoiding them, going ten miles west or east on some country road. And then ten miles south of that border at Pembina, North Dakota, although the immigration service had the information ten miles north of the border, ten miles south, the highway patrol or the county sheriff will not have access to that information.

You are quite correct, the NCIC has been improved, but it does not, at this point, consist of the names of terrorists or known terrorists who are on the watch list. That watch list is not perfect, you are correct about that, as well, but it is the only comprehensive list that we have made that describes terrorists who we know are terrorists, those who we suspect are terrorists.

And again, the top recommendation, the top priority, of the Rudman–Hart report was to correct this and to correct it quickly. And I have been raising this issue for some months, and regrettably, I see very little progress. And I am heartened by your selection, because I think you are someone who can get something done, and that is why I wanted to come and make this point.

Every law-enforcement official across this country deserves to know if they have got someone in the car in front of them that they have just stopped who is a known terrorist and on a list that this country has. They deserve to have that. It desperately shortchanges them and risks their lives, and promotes great risk for this country by not putting in the hands of 650,000 law-enforcement people that information.

So I wish you well, Congressman Hutchinson. I think, as I said, you are a good selection.

I am sorry I was delayed today, and I hope the Chairman recognizes that I had to be on the floor of the Senate. Thank you very much.

Mr. HUTCHINSON. I am grateful for you taking time to make this very important point, and I look forward to working with you on it.

The CHAIRMAN. I thank you, Senator Dorgan.

Asa, the cheapest commodity around this town is advice, so I will be brief in mine.

One, on the issue of border security. I am not an expert on all borders. I do have some expertise about our southern border in my State. You are never going to hire enough people, you are never going to have enough people on the ground, to surveil or control our southern border. So I think technology is the answer. And

whenever you embark on new technologies, there are failures. And when there is a failure, there is a scandal, and then people draw back and do not "think outside the box," if I might use that trite phrase.

Use technology. We are never going to be able to achieve the border security that we need unless you try new technologies and different ways of addressing this, I think, very serious problem. It is going to get worse.

I would like to see the Mexican economy get better. From what I have seen, it may get—people predict that it is going to get worse. That is going to drive more people over our border, and the same thing with other countries in Latin America, as well as from all over the world. We now see Chinese citizens coming across our southern border and in other areas.

The other advice and recommendation I have for you is something that you know. The one thing we hate here in the Congress, as you remember very well, is to be surprised. If there is something bad going to happen, come and talk to us about it. Do not wait until we read about it and then react, sometimes in anger, either justified or unjustified. We need to see you, we need to talk to you.

These are incredibly heavy responsibilities. We will be your partner, and you have established relationships over the years with many of us which, I think, will—it has established the basis of trust and confidence in you. Do not betray that by keeping things from us. I think that every Administration has a tendency, understandably, not to share. But please do that with us. And I can assure you that Members of this Committee will work as hard as we can to assist and help you.

There is bound to be some mistakes made. Your charter is too large. Your responsibilities are too great. Let us work with you, rather than have an environment where we feel that we are not kept informed. And you are as aware of our responsibilities, as we are.

So we are very pleased at your selection. We are very proud to have an American of your calibre willing to serve our Nation. And we—I will do—we will work as quickly as possible to get you confirmed so you can get about your job. Thank you.

Mr. HUTCHINSON. I am grateful for the counsel, and for the hearing today. Thank you.

The CHAIRMAN. Thank you.

This hearing is adjourned.

[Whereupon, at 4:25 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA

Welcome Administrator Hutchinson. This Committee has worked very hard on the issue of transportation security. We have passed legislation to work towards securing our seaports and airports and last year this Committee passed the Aviation Security Act of 2002, and for the most part, we are well on the way to implementing that Act. The Committee also approved and saw pass into the law the first major enactment to protect our seaports, the Maritime Security Act of 2002, and I am happy to report, that with the able assistance of the Coast Guard we were able to negotiate an international agreement that would set up the same security structure on an international basis. However, despite the position taken by the Senate to provide a guaranteed source of funding to assist with the implementation of security measures through user fees, we were not able to agree with the House on a means of providing dedicated funds. The Coast Guard recently announced preliminary estimates for compliance with the Act that calculate the costs to be in the in the billions of dollars, not millions of dollars, but billions. This is going to be an immense challenge, but I do not expect that you will back down from industry complaints in the face of the legitimate and real security needs and threats posed at our seaports, and our maritime borders. You are going to have to help to ensure that we get the funds necessary, through federal sources, or user fees, from the industry itself, but security must be paramount.

This Committee also approved legislation that would enhance our ability to conduct background checks on truck drivers that will help set the structure for the disqualification of truckers that pose security risks in hauling hazardous cargoes. The Committee also passed legislation securing our passenger rail network, our freight rail network, and to help assist the bus industry with new security programs. Incredibly, because of objections from a few Senators we were not able to pass these bills. We are going to need your leadership to help pass these bill this year. The job that the President has nominated you for is one of critical importance and will be a tremendous challenge.

The Border and Transportation Security Directorate is the largest part of the Homeland Security Department, employing well over half of its 170,000 personnel. The leadership of this Directorate is expected to create a results-oriented organization that will be judged on its performance before there is an opportunity to get off the ground. The state of security at our seaports and airports is being watched by the American people and the Border and Transportation Security Directorate will be held to the highest standard.

The Transportation Security Administration (TSA) will be faced with coordinating the challenges of transportation security. TSA has generally met the baggage and passenger screening deadlines but a lot more remains to be done. We did extend for a limited period the explosive screening deadline, yet this Committee expects to see the deadline met. The success that has been realized with the deployment of federal screeners at the airports needs to be repeated with everything that TSA and the Border and Transportation Security Directorate undertakes. I know from reports that the TSA staff is working as hard as possible and a GAO report notes that things are moving well.

These successes are important, however, I am extremely concerned about security in the maritime and land security arena. The sole focus on aviation security has left a significant manpower shortage in surface transportation security. An example of this security shortfall is the lack of personnel that have been hired at the TSA's Division of Maritime and Land Security. This division was authorized 250 full time employees for FY03 and 80 full time employees for FY02, however it is currently staffed with only 67 employees. Maritime, and all other surface transportation, account for five of the six transportation modes, and should be addressed accordingly. While we enacted legislation during the last Congress in the areas of port security and aviation security, we still have to pass legislation on rail security, and to assist

the other surface modes. This needs to be a much higher priority for the Department of Homeland Security.

Recently, West Coast ports were closed down as a result of a labor strike, while the strike was settled amicably, the cost of the stoppage of trade was reputed to be more than two billion dollars a day. The stoppage of trade not only affected our trucking companies and railroads because of lost business, but it also caused the closure of U.S. manufacturing and industrial companies that rely on trade. Closure of ports, or of our northern or southern borders for that matter, could be catastrophic to the well-being of our nation and it needs to be treated with the highest priority. I am concerned right now that we are not getting the proper response from the agencies that you will be responsible for, and that business is not getting done: meetings are delayed and cancelled. While I understand the need for some delay as a result of restructuring, it will be crucial that you get on the stick as rapidly as possible.

Communication and collaboration between the agencies that have been brought together under the Department of Homeland Security are the reasons that the new Department was created. Agencies within Border and Transportation Security, such as Customs, Immigration and The Border Patrol, APHIS, TSA, and the Federal Protective Service must work with the rest of Homeland Security, in particular the Coast Guard, which remains as an independent entity within the Department of Homeland Security and is crucial to our port and maritime security. In addition to coordinating with other agencies in the Department of Homeland Security, it will be crucial to coordinate with other agencies, such as the Department of Transportation (DOT). The line between DOT's jurisdiction over safety and your jurisdiction over security may seem blurred, prudence and the security of our nation depend on your ability to work in a cooperative fashion. Infighting and territorial disputes over jurisdiction and responsibilities will only lead to a weak security system.

It will take a strong leader, like you have proven yourself to be at the Drug Enforcement Agency, to create an effective Border and Transportation Security Directorate. The communication, collaboration and cooperation that the DEA and Coast Guard have shown in the war on drugs presents a good model to emulate for the security of our transportation system. Thank you for being here today. I am eager to hear your input and responses to our questions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY ERNEST F. HOLLINGS TO ASA HUTCHINSON

Management and Start-up

Question 1. What do you see as the first priorities in setting up the Border and Transportation Security Directorate?

Answer. My first priorities in setting up the BTS Directorate include bringing the incorporated agencies on board in an orderly and well managed fashion, communicating frequently and effectively with agency employees and Congress during the process; establishing strong working relationships with the Coast Guard and intelligence directorate to improve intelligence sharing and operational coordination; developing visa issuance regulations; and reducing problem areas in INS enforcement.

Question 2. As the most recent head of the Drug Enforcement Agency (DEA) you have had an up-close look at the difficulties in securing a border as vast as ours. It is no secret that despite the continued efforts of our government to control illegal narcotics and immigration, staggering numbers of undocumented aliens and illicit drugs seem to enter and leave our country at will.

a.) Do we currently have the resources to make our Homeland truly secure?

Answer. No amount of resources can make the United States 100 percent secure, but the creation of the Department of Homeland Security will leverage the resources that we do have. We must use a risk assessment and threat assessment approach to best use our resources. We must use current technology in innovative ways, and we must develop new technologies that can help us achieve homeland security.

b.) What steps do you plan to implement to make a difference immediately?

Answer. Integrating all of our federal inspectors under a common port director at each port of entry is an important first step. Another important first step will be to ensure BTS agencies are focused on Homeland Security missions. In order to do this I am establishing a Policy Council comprised of BTS Agency heads, the Coast Guard, and key members of other DHS directorates. This Policy Council will also help us achieve what the military calls "unity of effort."

c.) What are your long term plans?

Answer. Longer term, I will continue to consolidate like functions within the agencies. I will also ensure that similar initiatives in various agencies will complement each other rather than compete for resources. I will ensure that enforcement priorities are appropriately aligned to reflect DHS priorities. As risk and threat assessments of our ports and other critical infrastructure are complete, I will distribute resources appropriately.

d.) Do you believe the military has a role in this effort?

Answer. Yes, the military does have a role, but in a support capacity. Border enforcement is not a military responsibility but a law enforcement one. The military, such as the National Guard, can help in terms of support to the front line law enforcement agencies.

e.) Can we be successful without creating a police state?

Answer. Absolutely.

Cooperation

Question 3. The roles of the different organizations responsible for securing our transportation system have not yet been finalized. There is some overlap and apparent duplication between the actions of TSA, Customs, INS, and DoT agencies.

a.) What steps will you take as Undersecretary to ensure that the roles of each agency are clearly understood and coordinated?

Answer. We are already engaged in examining the legislated responsibilities and functional capabilities of each agency to understand where potential overlaps exist and to determine how to eliminate unnecessary overlap. Right now, we're focusing on the border inspections functions, the investigations functions, and the international functions of the agencies that are coming into BTS. The Coast Guard has been an active participant in these workgroups.

b.) How do you envision the role of the Coast Guard in relation to the role and mission of the Border and Transportation Directorate?

Answer. We recognize that although the Coast Guard has unique responsibilities that fall outside of BTS responsibilities, it is an agency with significant maritime border and transportation security responsibilities. It brings substantial expertise, broad authorities, substantial capabilities and importantly, robust connections to the local national and international maritime community—all of which are critical to creating a secure border and transportation system. I am committed to working closely with the Coast Guard in a departmental approach to meeting the Nation's security needs.

c.) What steps do you envision to strengthen coordination between Coast Guard and the Border and Transportation Security Directorate?

Answer. To the end of strengthening BTS-Coast Guard coordination, we've already taken steps down that path. The Coast Guard senior leadership has been an active participant in BTS study groups; The Coast Guard Chief of Staff is a member of my BTS policy council; and I have several senior Coast Guard officers on my staff, all to ensure the BTS-Coast Guard team is a strong and coordinated one.

d.) How do you envision the relationship between the Directorate and the DoT modal administrations?

Answer. A BTS mandate is to ensure security across all transportation modes, while at the same time, ensure the speedy, orderly, and efficient flow of lawful traffic. Fulfilling that mandate requires close and coordinated effort with the modal administrators of DoT. I am committed to establishing the coordinating mechanisms (i.e., liaisons, councils, operational connections, collaborative standard setting) that will make that mandate a reality. TSA has been in the process of executing MOUs with DoT modal administrations. These MOUs will likely form the basis of the relationship between BTS, TSA and DOT. These MOUs are currently under review and will be finalized as soon as possible

e.) The Federal Government regulates important safety and commercial aspects of interstate and foreign commerce through many different agencies in several departments, including the Department of Transportation. Assuming inspectors from the Department of Homeland Security might search hazardous materials shipments for possible security risks, how will you ensure the most effective coordination with inspections already being performed by other agencies, so as not to impede interstate commerce, while still maintaining the primary requirement of security?

Answer. We are in the process of developing MOUs to assure that a coordinated effort exists between DHS inspectors of hazardous materials and the inspectors from other agencies and departments in order to ensure that interstate commerce is not impeded and that security concerns are addressed.

f.) What steps will you take to ensure that inspections occur at the most proper place, given the security needs, and avoiding duplicate, costly private sector expenditures? For instance, avoiding a situation where a container ship must unload a container for inspection at three different ports, also having to reposition countless other containers that are in the way?

Answer. BTS agencies have initiated a number of programs to improve port security while reducing the impact of these security measures on the private sector. These include efforts to push the borders overseas, such as the Container Security Initiative, Operation Safe Commerce, Customs Trade Partnership Against Terrorism, and Operation Safe Commerce. These complement International Maritime Organization initiatives that will enhance international shipping security while creating a level playing field for maritime shippers. Importantly, the consolidation of many port inspection agencies into BTS, together with the creation of the DSH Information Analysis and Infrastructure Protection Directorate, will allow greater coordination and information sharing. This will allow our inspectors to focus the right level of attention on cargoes coming across our border and avoid unnecessary duplicative inspections.

Question 4. Since TSA was created by the Aviation and Transportation Security Act of 2001 (ATSA), it has been operating under Memoranda of Understanding (MOUs) with various government agencies. Additionally it is my understanding that TSA under the provisions of the Maritime Transportation Security Act (MTSA) envisions executing a number of MOUs to help coordinate security functions.

a.) As TSA transitions to the Department of Homeland Security, do you foresee any possibility that these MOUs will have to be changed in any way? If so, what needs to be done to make the MOUs workable for the new Department?

Answer. Any existing MOU's will continue in effect and will not be affected by the transfer of TSA into the Department of Homeland Security. However, we are in the process of reviewing existing MOU's to determine what, if any, changes are appropriate and we will consider whether we should enter into any new agreements to enhance the coordination of security functions.

b.) How do you feel you will be able to maintain open paths of communication between the Border and Transportation Security Directorate and the rest of the Homeland Department, other federal agencies, local law enforcement and industry?

Answer. One of my top priorities is to maintain open paths of communications between the Border and Transportation Security Directorate and the rest of the Department as well as other federal agencies, local law enforcement, and industry. I plan to work very closely with the Department's Office for State and Local Government Coordination and with private industry to ensure that we coordinate activities that affect those entities and maintain open lines of communications.

c.) Please provide a list of all existing MOUs, and those MOUs under consideration by your Directorate.

Answer. There are no existing MOUs of the BTS Directorate. MOUS with the Departments of State, Transportation, Justice and Agriculture are in progress.

Question 5. In section 70116 of the Maritime Transportation Security Act (MTSA) we established a program for the Department of Homeland Security to evaluate and certify secure systems of intermodal transportation. The MTSA repealed the original provision on secure systems of transportation which housed the program in the Department of the Treasury under the jurisdiction of Customs. The change to this program in MTSA was done in recognition of the intermodal nature of container transportation, and the domestic and international nature of container movements.

Given the many different programs that have been initiated on intermodal cargo security, such as the Customs' program CTPATT and the Container Security Initiative, as well as programs such as Operation Safe Commerce. Do you feel that the Directorate could establish one program on the certification of secure systems of transportation and bring these other programs into consideration and review under one set of standards? What agency in your Directorate do you see leading the effort to establish and certify systems of international intermodal transportation?

Answer. We are in the process of collecting information on the various programs that have been initiated on intermodal cargo security by Customs, TSA and the Coast Guard. After further review and analysis of that information, we will determine whether or not to establish one program on certification, the feasibility of one set of standards, and which agency or agencies could further lead efforts at establishing and certifying systems of international intermodal transportation is appropriate.

Mission

Question 6. With the concentration on aviation security, the remaining modes of transportation are largely neglected. There are a number of issues that need to be addressed such as the movement of hazardous materials, the security of passenger rail, and the appropriate relationship of government and industry as we work to establish security standards and work to enforce them.

a.) How will you ensure that the Department of Homeland Security will place more focus on maritime and surface transportation security risks?

Answer. By necessity and the statutory mandates of ATSA, TSA has focused its near-term efforts on aviation security. The agency is now turning its efforts to strengthening the security of the other transportation modes such as martime and surface transportation. DHS is committed to strengthening security of these modes and is working with TSA to define responsibilities and develop risk assessments based on threat information to develop performance-based standards for these transportation modes.

b.) The manpower shortage within TSA's division of Maritime and Land Security shows a significant lack of security oversight in these areas. How will you resolve this staffing issue in an expedited manner?

Answer. We look forward to working with TSA to ensure that Maritime and Land Security components are adequately staffed.

c.) How do you envision that the Department of Homeland Security will ensure the security of shipments as they move in intermodal commerce, traveling from ships to rail to trucks?

Answer. DHS and BTS are committed to strengthening security of our intermodal transportation systems. We will ensure that vulnerability assessments are conducted as soon as possible so that performance-based security standards for the surface transportation are modes can be established.

Question 7. We understand that less than 3 percent of all intermodal and general freight containers coming into United States maritime ports are physically inspected for their contents. Does the Department of Homeland Security have a goal to increase this percentage? While it may be impossible to physically inspect all marine containers, the current system relies on an evaluation of information on cargo entry in order to evaluate the cargoes that may pose the greatest risks. However, given that it is incredibly easy to falsify shipping documents, it will be vitally important to have a effective inspection regime. What are your plans to reach an inspection rate that will provide an adequate deterrent for the use of maritime freight containers for terrorism or illegal activity?

Answer. We will look at the whole system of container security, including methods to secure containers, tracking devices, and better targeting, to ensure the appropriateness of our container examinations. A high-risk random examination process and further review of examination concepts will be conducted, to ensure better, more intensive targeting is being performed, to adequately address the threat of terrorism in maritime freight containers.

Question 8. How will you deal with international commerce issues that arise from the transport of hazardous or nuclear materials (i.e., explosives) across the Canadian and Mexican borders when international trade laws allow such crossings? Specifically, what will TSA's role be in completing background investigations of hazardous materials drivers as required by the USA PATRIOT Act, and as well what steps will you take to ensure that mariners who ship spent nuclear materials pose no threat to our security?

Answer. TSA is in the process of developing the Transportation Worker Identification Credential(TWIC) to provide improved perimeter control to the national transportation system. The TWIC will allow implementation of a uniform, nationwide standard for secure identification of transportation workers and access control for transportation facilities. The TWIC is intended for each of the 12 million transportation workers requiring unescorted physical access to secure areas of the nation's transportation modes including those who transport hazardous materials.

Intelligence

Question 9. Intelligence failures still resonate from the events of 9/11, perhaps such breakdowns played the most critical role in allowing the terrorist plans to go forward without resistance. Provisions in ATSA and MTSA seek to improve communication between the Federal Government, law enforcement and the intelligence community.

a.) Are strategies being developed so that intelligence is received, analyzed, and disseminated to the appropriate agencies that can best make use of this?

Answer. I am mindful of the criticality of ensuring that vital intelligence information flows quickly from those who initially receive it to those on the front lines of border and transportation security. One of my top priorities will be to work with the Directorate for Information Analysis and Infrastructure Protection as well as the FBI's Joint Terrorism Task Forces to make sure that the right information is received, analyzed, and disseminated in the most timely and effective fashion.

b.) What progress has been made to date on this front? How quickly is information analyzed and disseminated to law enforcement, potential targets and other pertinent entities? What types of impediments are causing problems? What steps need to be taken to improve and speed the flow of vital intelligence information from those that initially receive it to those on the front line of transportation security that need it?

Answer. While progress has already been made on this front, we will certainly be looking at what steps need to be taken to improve the flow of intelligence information. In the Directorate for Border and Transportation Security, I believe that combining some of the resources we will have at the borders and in the interior will facilitate and speed up information sharing. In addition, the Department of Homeland Security's Command Center will be a single point for disseminating information to Federal, State, and local governments, as well as the private sector, as appropriate.

c.) Is there a place for biometric technology in visa and even ticketing/boarding pass systems?

Answer. I believe that there is a lot of value to be gained in employing biometrics to secure our borders and transportations systems and I intend to focus on that area in particular.

d.) In particular, I have concerns about the ability to coordinate and evaluate maritime intelligence. In your capacity with DEA you have experience with the cooperative efforts of the Joint Inter-Agency Task Force (JIATF). Would this model provide a good basis for the coordination of maritime intelligence?

Answer. I am familiar with the JIATF model and will consider a similar model within BTS.

TSA

Question 10. When the Transportation Security Administration (TSA) was created through the passage of the Aviation and Transportation Security Act of 2001 (ATSA), Congress recognized that transportation security was indeed an issue of "national security." We understood that building the TSA from the ground-up would require a major restructuring of the current system of security. TSA has made good progress on aviation matters over the year since it was established, but now, it has been placed in the Homeland Security Department, and many have expressed concern that the mission of the TSA will be negatively impacted as a result of this move—significant steps remain to protect air travel and we are just scratching the surface of protecting other modes of transportation.

a.) Would TSA's mission have been better served by keeping it as an independent entity until the Homeland Security Department is fully up and functioning?

Answer. From the start, TSA's mission has been to secure our nation's transportation systems, with particular focus on the aviation system. Whether TSA resides at the Department of Transportation or at the Department of Homeland Security, that mission will not change. What will change is the closer relationship TSA will enjoy with other BTS agencies in the new structure. Admiral Loy has done an excellent job of standing TSA up and preparing the agency for its transfer to DHS, and I am confident that the transfer will not affect TSA's ability to fulfill this mission.

b.) What steps are you taking to ensure that placing the TSA in this larger department will not cause the focus and progress that has been made on securing the various modes of transportation to be diminished?

Answer. Creating the Department of Homeland Security was never intended to hinder the agencies incorporated into DHS from doing their part to protect the homeland. Admiral Loy and TSA have had, and will continue to have a seat at the Border and Transportation Security Directorate table, especially with respect to policy initiatives. Furthermore, inclusion of TSA in BTS, which also houses the Customs Service, INS enforcement and Border Patrol, and close coordination at the operational level and at senior management levels with the Coast Guard and the Intelligence Directorate, will allow us to augment TSA's already excellent presence in the aviation arena, and focus resources most effectively in the areas where TSA's work is just beginning.

Question 11. Amtrak transports more than 23.5 million passenger and 61 million commuters per year. TSA is now considering implementing a limited pilot program

to conduct screening of passengers and baggage at train stations. Amtrak is in a precarious financial situation and they do not have a seurity force along the lines of the aviation screeners employed by TSA.

While the aviation industry enjoys the services of federally-funded TSA screeners, what can you do to ensure that Amtrak screeners receive the same level of training and expertise to safeguard rail passengers?

Answer. For the last year, TSA's congressionally mandated mission and allocated resources have appropriately been devoted to securing our nation's aviation systems. However, recognizing its broader mandate to secure all modes of transportation, TSA has entered into agreements and Memoranda of Understanding with all of the modes of transportation, including the Federal Rail Administration, Federal Transit Administration and Amtrak, in order to partner with those agencies and their constituents to leverage their limited security resources and focus on the most significant threats. TSA will continue to work in close partnership with those agencies to develop guidelines and standards for the training and deployment of rail security screeners.

Question 12. Since 9/11, Amtrak has been appropriated only $105 million for security, $100 million of which is being put towards life safety needs in tunnels below NYC, Baltimore, and Washington. I understand there are still needs totaling $698 million in these tunnels. But for the rest of the system, how will you ensure that appropriate attention is focused on rail infrastructure security needs?

Answer. TSA has been working with Amtrak, states and localities, and the Federal Rail Administration to assess vulnerabilities and focus limited resources where they will be most effective. TSA and BTS will continue these partnerships and working relationships, working with them and with the Congress to ensure that rail security is given appropriate levels of attention.

Question 13. As you know, the Bush Administration announced last year that it would open the U.S. border to Mexican long-haul trucking, thereby permitting Mexican trucks to travel anywhere in the United States. That action was stayed last week by the Ninth U.S. Circuit Court of Appeals which ruled that the government must first complete an environmental review of the demise of a 10-year-old moratorium banning Mexican trucks from operating in the United States. As you know, under the USA Patriot Act, U.S. drivers who haul hazardous materials, including explosives, must undergo a criminal history record check before receiving a hazardous materials endorsement. Although the Department of Transportation has not yet promulgated regulations to conduct these checks, once they have:

a.) What steps would you take as Under Secretary of Homeland Security for Border and Transportation to assure that Mexican truck drivers who haul hazardous materials into the United States receive a similar criminal history record check?

Answer. Pending the outcome of the Ninth U.S. Circuit Court of Appeals, environmental impact decision, we will coordinate with the Department of Transportation on the promulgation of regulations to conduct background checks, and to potentially include criminal history record checks on drivers entering the United States for long-haul hazardous materials trucking.

b.) What assurances do you have that any criminal history record check conducted by Mexican law enforcement officials can uncover anyone that might be influenced to conduct a terrorist act against the United States?

Answer. We've been working with our Mexican law enforcement counterparts and look forward to maintaining and improving this relationship.

c.) What measures would you initiate to assure that Mexican long-haul trucking does not become a way for terrorists to smuggle an explosive device into the United States?

Answer. Consistent with the layered enforcement approach taken by the Administration, including background checks, criminal history checks, and biometric identification for the long-haul drivers, in addition to Customs Trade Partnership Against Terrorism (CTPAT) measures to thwart terrorist attempts, we will continue to refine our efforts.

Customs

Question 14. In general I am supportive of the Customs Department's "Container Security Initiative (CSI)." During your nomination hearing you mentioned the competitive pressures driving ports to join CSI, nevertheless, I have concerns that it may be diluted by inviting every nation in the world to join. I would suggest that only those nations that have the highest standards of security, the purveyance of quality information, and that provide us with full access and the ability for law enforcement to pursue. What sort of standards are you planning to implement to en-

sure that only those nations that have the highest security standards will be part of the container security initiative?

Answer. CSI rollout will include standards focused on volume of containers being exported to the United States, seaport security at that foreign location, a strong professional Customs Service with a commitment to seaport security, rapid information sharing, and the capability to deploy non-intrusive detection technology systems. Countries participating will be carefully screened and vetted.

Question 15. Current devices used to examine the contents of a shipping container use gamma ray technology that provides a picture similar to the picture on an airport carry-on luggage machine. The inspectors looking at these images are having to determine the significance of different densities represented in the image. At issue here is that a large shipping container can be full of many different cargoes that have different densities making it more of an art than a science to determine the difference between a legitimate shipment of microwaves, bicycles and other items and a threatening item. How would you encourage the development of improved technologies that will facilitate a scientific evaluation of huge containers that may have many different shipments and what steps will be taken to manage their implementation?

Answer. We look forward to working very closely with the new Under-Secretariat Directorate for Science and Technology, here within the Department of Homeland Security, on identifying and procuring new and improved technologies at pinpointing anomalies and discrepancies in containerized cargo. As these technologies are identified, we will work towards rapid procurement and deployment to our nation's ports.

Port Security Funding:

Question 16. The Senate added an amendment to the Appropriations Bill providing $150,000,000 for developing nuclear and biological detection technology as well as other types of technology that could help secure U.S. seaports. This is only one aspect of port security, and the money is for research and development, and not for the implementation of physical security enhancements needed to comply with MTSA. The Coast Guard has preliminarily estimated compliance costs to be much closer to $7 billion. What are the priorities and potential methods for funding port security?

Answer. The Maritime Transportation Security Act just passed by Congress offers a systematic approach of defining responsibilities, creating standards, assessing vulnerabilities, and authorizing funds to address those vulnerabilities. It prescribes a number of actions that include conducting port vulnerability assessments, to accurately identify and prioritize the security weaknesses in each our nation's 361 seaports. This is critical to understanding where to invest the public and private monies to provide the best security return on that investment. One of my top priorities will be to conduct these assessments as quickly as possible. We will apply available funds to address the greatest risks in the most vulnerable ports, and employ matching fund grants authorized by the Act to develop the public-private sector approach that maritime security requires.

Rail Security Concerns:

Question 17. After 9/11, the freight rail industry took steps to improve security throughout the system, including developing an industry-wide threat response plan. Do you feel the rail industry efforts are sufficient to safeguard rail infrastructure from the possibility of sabotage and other security risks?

Answer. The steps taken by the rail industry are important first steps to improve security for our nation's surface transportation system. We are committed to working in partnership with the rail industry to improve security by conducting risk assessments, assessing threat vulnerabilities and issuing performance-based security standards.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK LAUTENBERG TO ASA HUTCHINSON

Question 1. Mr. Hutchinson, controversy has surrounded the appropriateness of using racial profiling for transportation security. Secretary of Transportation Norman Mineta has made some strong statements about the counter-productiveness of racial profiling. What are your perspectives on the usefulness of racial profiling for maintaining transportation security?

Answer. I do not believe that treating citizens differently on the basis of race or ethnicity is appropriate, and I will ensure that the employees of the Department do

not engage in any form of unlawful discrimination. I will make it clear that racial discrimination will not be tolerated, and I will pay close attention to any concerns expressed by the Officer for Civil Rights and Civil Liberties along these lines, as well as complaints or concerns raised by citizens or interest groups.

Question 2. Three million containers annually are moved in the port of New Jersey and New York, the second largest amount in the nation. In the FY 03 budget, we will have some $300 million for port security between the bill and the supplementals. Yet, the Coast Guard estimated that over $7 billion could be needed to improve the security of vulnerable facilities near water and vessels that could be involved in a "transportation security incident." We are obviously nowhere near the levels of funding needed right now. Clearly, there is a great need for increasing funding for port security. Given the President's budget cuts and fiscal restraints, how are we going to effectively protect our ports?

Answer. The Maritime Transportation Security Act just passed by Congress offers a systematic approach of defining responsibilities, creating standards, assessing vulnerabilities, and authorizing funds to address those vulnerabilities.

It prescribes a number of actions that include conducting port vulnerability assessments, to accurately identify and prioritize the security weaknesses in each our nation's 361 seaports. This is critical to understanding where to invest the public and private monies to provide the best security return on that investment. One of my top priorities will be to conduct these assessments as quickly as possible. We will apply available funds to address the greatest risks in the most vulnerable ports.

BTS agencies have initiated a number of other programs to improve port security. These include efforts to push the borders overseas, such as the Container Security Initiative, Operation Safe Commerce, Customs Trade Partnership Against Terrorism, Operation Safe Commerce. These complement International Maritime Organization initiatives that will enhance international shipping security. Importantly, the consolidation of many port agencies into BTS will allow greater coordination and information sharing.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY MARIA CANTWELL TO ASA HUTCHINSON

Question 1. In your confirmation hearing, you emphasized that you found being out in the field valuable experience. Washington is the most trade-dependent state in the nation, and one in three jobs in my state depends on trade. Our land border generates an estimated $35 million a day, providing thousands of jobs for the Washington economy. Our seaports move over $56 billion in trade annually, and the Port of Seattle alone supports 165,000 jobs. Staying competitive is critical for our ports as they are often directly competing with their Canadian counterparts just 90 miles north. At the same time, both our port and land borders are some of the most vulnerable due to their proximity to large population bases, and we have an unfortunately proven record of terrorist activity.

Given the unique challenges that my state is facing, as the Department of Homeland Security moves to create a more integrated approach to border security, would you commit to making a trip to Washington state to tour our border and port infrastructure this year?

Answer. Creating a port environment that is both secure and competitive is the balance that Homeland Security must work to achieve. It would be very helpful for me to see first-hand the challenges faced by the Port of Seattle and the State of Washington with regard to your border and port infrastructure. I certainly will commit to making every effort to travel to Washington State this year as you requested.

Question 2. You were asked a number of questions about port and container security and the need to secure containers before they reach our ports. The Port of Seattle for example, is only five blocks away from Safeco Field and Seahawks Stadium. How will you seek to develop bilateral security agreements and build an international consensus with our trading partners on security protocols to ensure that cargo is safe before it sets sail for the U.S.?

Answer. Developing international partnership to improve cargo security is essential to protecting the homeland, and it shares the responsibility for security across the board. I will support these objectives by continuing the Container Security Initiatives of U.S. Customs and expanding the number of nations participating in the bilateral security efforts.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GORDON SMITH TO ASA HUTCHINSON

Question 1. **TSA and airport coordination**—The Federal Government and individual airports have worked well together to protect the safety and security of the traveling public. I would like to commend Admiral Loy for doing a tremendous job to reach out to individual airports and addressing their specific concerns while also seeking their involvement and guidance in many areas. How do you intend to foster continued involvement and input from airports across the country?

Answer. As airport security continues to be strengthened and adjusted to address threat assessments, it is essential to have a close partnership with the airport managers and the various associations representing large and small airports. I will be sure that Admiral Loy and TSA representatives continue to work with the individual airports to know of their concerns and the partner with them to the largest extent possible to address security issues which are a priority to all. In addition, I will personally meet with Airport Managers and Association representatives as I inspect airports across the country. Finally, as policy decisions are made, it is important to consult with affected parties, including airports, to weigh the impact of policy decisions.

Question 2. **Partnerships between TSA and aviation groups**—What public or private initiatives and partnerships have been formed to promote security in the advent of the war on terrorism within our nation's borders?

Answer. TSA has formed partnerships with aviation association such as the Air Transport Association, Regional Airline Association, Cargo Airline Association, American Association of Airport Executives and Airports Council International, North America. TSA has also formed partnerships with the Airline Pilots Association and the Aircraft Owners and Pilots Association. These associations are the points of contact for TSA in promoting aviation security within our nation's borders. TSA has developed highly effective relationships with these associations and is in daily contact with them regarding operational, policy, security and safety matters that affect all facets of the airline industry.

Question 3. **Immigration Concerns**—My state has had a very negative history with the former INS District Director in Oregon. How will you ensure that local immigration offices will be accountable to local concerns and the effects of enforcement on local and state economies?

Answer. The structure of INS will change as it moves over to the Department of Homeland Security on March 1. There will be a division of responsibility for INS Services, INS Enforcement and INS Shared Services.

If confirmed, I will be responsible for INS Enforcement oversight. This division of responsibility will give DHS leadership an opportunity to hold INS officials more accountable to local concerns. It is important to have an ongoing discussion with local leaders on the effects of enforcement and to address, as appropriate, the concerns of local leaders. I will foster this type of interchange with the INS Enforcement Agency.

In addition, within the BTS Directorate, an Office of Professional Responsibility and Quality Review will be established to address assessment of management and quality of operations.

Question 4. Oregon students, businesses and tourists have been adversely affected by lengthy security clearance delays at various embassies and consulates. What measures will you take to ensure that these clearances are processed timely to support the flow of business, while continuing to maintain our nation's security and protect our border?

Answer. We will work with the Departments of State and Justice to ensure the sharing of information among databases and to improve the timely flow of information to embassies and consulates. Under the authority given to us in the Homeland Security Act, we will be deploying employees to embassies and consular posts to develop programs of homeland security training for consular officers, review visa applications and facilitate the clearance process. Obviously, DHS has a responsibility to protect America from those who would abuse the visa procedures. It is our hope to accomplish this objective without unduly delaying legitimate visa applications.