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**PREPARED STATEMENT OF TESTIMONY
BEFORE THE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

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Good morning, Madam Chairman, Senator Lieberman, and Members of the Committee. I am honored to have this opportunity to appear before your committee one day after the five-year anniversary of the terrorist attacks of September 11, 2001.

For the record, my name is Richard A. Falkenrath. I am the Deputy Commissioner of Counterterrorism in the New York Police Department. Prior to joining the NYPD, I was the Stephen and Barbara Friedman Fellow at the Brookings Institution. From 2001 until 2004, I served on the White House staff, first as Director for Proliferation Strategy on the National Security Council staff; then as Special Assistant to the President and Senior Director for Policy and Plans within the Office of Homeland Security; and finally, as Deputy Assistant to the President and Deputy Homeland Security Advisor. Before government service, I was an Assistant Professor of Public Policy at the John F. Kennedy School of Government, Harvard University.

I will begin this testimony by giving you a brief overview of the New York Police Department's counterterrorism program. I will then summarize for you the Department's present view of the terrorist threat – globally, nationally, and to New York City. I will conclude prescriptively by making a set of recommendations on how the federal government can do a better job securing the homeland in general and New York City in particular.

I speak to you today not in my personal capacity but as a representative of the NYPD. Nonetheless, I may from time to time provide a perspective that derives from my experience as a former academic specialist on homeland security and former federal homeland security official.

I. The NYPD Counterterrorism Program

The NYPD is charged with the protection of New York City. With a population of over 8.1 million and an area of 321 square miles, New York is the largest city in the United States. New York is also the most densely populated major city in North America as

well as one of the most diverse: an estimated 40 percent of the population of New York City is foreign born. The New York metropolitan area has a population of 18.7 million, making it one of the largest urban areas in the world. New York City is an international center for business, finance, media, culture, diplomacy, tourism, and travel. In 2004, the gross metropolitan product of the New York urban area was estimated at \$901.3 billion, a level greater than all but about a dozen countries in the world.

With a staff of over 52,000 people and an annual budget of \$3.8 billion, the New York Police Department is the largest public safety agency in the United States and one of the largest police departments in the world. (For comparison, the NYPD is larger than the U.S. Coast Guard and more than twice the size of the Federal Bureau of Investigation; at the federal level, only the Army, Navy, Air Force, and Marine Corps are larger.) Over 1,200 NYPD personnel are members of the National Guard or the Reserves; more than 800 have served or are serving in Iraq.

Since the early 1990's, the New York Police Department has been a national leader in crime reduction. According to the Federal Bureau of Investigation's uniform crime reports, New York City is now the safest big city in the United States – an astounding achievement when one recalls the crime epidemics that gripped the City in the 1970's and 1980's.

Every American remembers the heroism and sacrifice of New York City's first responders – from the Fire Department of New York, the Port Authority Police Department, the NYPD, and many other agencies on September 11, 2001. I can claim no credit for their heroism and sacrifice – at the time of the attacks, I was working in the relative safety of the White House – but I serve now with the knowledge that my present-day colleagues lost family and friends that day and risked their own lives, and will do so again if we are attacked once more.

Needless to say, since the terrorist attacks of September 11, 2001, the NYPD has enhanced its counterterrorism program in a manner that is unique in this country. The

New York Police Department has made the defense against the terrorist threat its number one priority. Immediately after his appointment, Police Commissioner Raymond W. Kelly created the NYPD's Counterterrorism Bureau, which I now have the privilege to lead. My two predecessors are two men with decades of distinguished national-security experience at the federal level: retired Marine Corps Lieutenant General Frank Libutti, the former Commanding General of Marine Forces Pacific; and Ambassador Michael Sheehan, a member of the National Security Council staff under three presidents and the Department of State's former Ambassador-at-Large for Counterterrorism.

Commissioner Kelly has also dramatically expanded the Department's Intelligence Division. The Deputy Commissioner for Intelligence is David Cohen, a 35-year veteran of the Central Intelligence Agency and its former Deputy Director of Operations. The NYPD's intelligence program is nimble, innovative, and unique in the United States. By combining select elements of CIA tradecraft with tried-and-true law enforcement techniques, and utilizing the New York Police Department's legal authority, the intelligence program has produced remarkable results. One of the benefits of this program came to light in August 2004, when the Police Department foiled a plan by two home-grown Muslim extremists to bomb the Herald Square subway station in midtown Manhattan. The NYPD arrested those suspects just a week before the Republican National Convention with the help of a confidential informant the Intelligence Division had developed in the community.

In the words of FBI Director Robert Mueller, the NYPD's Counterterrorism Bureau and revamped Intelligence Division are "models for the nation."

All together, the New York Police Department dedicates more than 1,000 officers, and allocates roughly \$200 million dollars annually, to the counterterrorism mission. Over 100 NYPD detectives – all of whom report to me – are assigned to New York's Joint Terrorism Task Force (JTTF). Hundreds of NYPD personnel have been granted security clearances by federal agencies. NYPD detectives frequently travel to the

Guantanamo Bay facility and other locations abroad to interview detainees about ongoing cases. The Department has roughly 275 certified interpreters of 45 different foreign languages – including Urdu, Hindi, Pashtu, and Arabic – whose specialized abilities have been used by federal national security agencies on numerous occasions.

The NYPD has implemented a wide range of specific counterterrorism initiatives and programs, including the following.

Counterterrorism Field Operations. In 2003, the NYPD implemented a comprehensive security plan known as Operation Atlas that incorporates highly visible deployments throughout the city. These are designed to disrupt terrorist planning and surveillance operations and include Critical Response Vehicle (CRV) surges, Hercules Team deployments, Transit Order Maintenance Sweeps (TOMS), and Subway Explosive Trace Detection checkpoints.

CRV operations bring patrol vehicles from each of the 76 precincts in New York City to a central location, allowing for a show of force and deployment to high-threat, high-value target locations across the City. Our Hercules deployments are comprised of mobile teams of heavy weapons-equipped personnel who patrol at sensitive locations throughout the City. TOMS consist of teams of uniformed officers that sweep trains for suspicious persons or packages. These sweeps are sometimes conducted in conjunction with explosives trace detection screening operations that can detect explosives residue on items people are carrying into the subway system.

Threat and Vulnerability Reduction. The NYPD created a threat reduction and infrastructure protection program. Critical infrastructure is divided into five categories, and a team of investigators covers each one. These officers visit facilities throughout the City, identify vulnerabilities, and develop comprehensive protection plans with site managers. Members of the Counter Terrorism Bureau have conducted hundreds of threat and vulnerability assessments of strategic and high-visibility sites. The goal of

these assessments is to work with the private sector and other city agencies to improve the security of their facilities against terrorist attacks.

International Liaisons. In addition to enhancing our domestic law enforcement partnerships, the NYPD has established an international intelligence liaison program. Currently, the NYPD has ten officers assigned to eight foreign countries. Our goal is three-fold. First, we are seeking to uncover any information pointing to another terrorist attack against New York City. Second, we are seeking to uncover any terrorists or their supporters residing in the New York metropolitan area. Third, we are developing information on the terrorists' tactics and methods and the best practices we can use to defeat them. We are also developing our own direct relationships with foreign law enforcement agencies for the specific purpose of gathering terrorist-related information that is generated overseas.

Detectives have covered a number of international terrorist acts, including the March 2004 Madrid attack, the July 2005 London bombings, and the recent incident in Mumbai, India. The intelligence they collect and transmit back to the Department immediately impacts the deployment of personnel and resources to ensure proper protective measures are in place throughout the City.

Intelligence Analysis. The Department has hired a cadre of trained civilian intelligence analysts to take raw information gathered from informants and undercover agents in the field and translate it into valuable, real-time reporting for our commanders. These analysts work to ensure a steady flow of intelligence on the terrorist threat. They routinely provide Terrorism Awareness Bulletins to every precinct and command in the City. These are read at every roll-call and posted conspicuously for all officers to review.

CBRN Defense. The Department has deployed a variety of different teams that specialize in response to chemical, biological, and radiological events throughout the City. We established a medical team to help protect our officers from chemical,

biological, and radiological attacks. The Department has distributed personal protective equipment and sophisticated detection equipment to members of the Department, including sensors to detect the presence of radioactive material and personal dosimeters. In addition, the Department established a medical directorate within the Counter Terrorism Bureau to help us protect our officers and to advise us on our preparations for responding to a chemical, biological, or radiological attack.

The NYPD has also acquired approximately 700 hand-held gamma monitors, otherwise known as radiation pagers, and 120 gamma neutron detectors to detect potential radiological weapons of mass destruction. These pagers have been distributed throughout the Department. Over 200 pagers have been designated for precincts, with the requirement that every Sergeant on patrol carry one at all times while on duty.

Radiation pagers have also been issued to our Special Operations Division, our patrol task forces, the Shea and Yankee Stadium details, members of the service stationed at ferry terminals, our headquarters security unit, and other commands. The Housing and Transit Bureaus have distributed pagers among key patrol posts. In addition, advanced gamma detectors and Geiger counters have been assigned to other specialized units such as the Emergency Service Unit and the Bomb Squad. The Department continues to seek out and acquire new technologies to aid us in the war on terror. In the future, we plan to procure additional nuclear, biological, and chemical detection and monitoring devices.

Outreach to the Private Sector. Under Operation Nexus, members of the NYPD Intelligence Division meet with small business owners and suppliers throughout the city who might unwittingly be used to provide material support to terrorists. Our goal is to increase their counterterrorism awareness. We ask them to report anomalies in purchases of goods and specialized rental equipment to our citywide counterterrorism hotline.

In July 2005, the NYPD launched a new initiative with the private security industry in New York called “NYPD Shield.” We have created a comprehensive program website featuring training materials and threat updates, and we have offered detailed briefings to a number of private sector industries.

We exchange threat information daily with the city’s corporate and institutional security directors through an instant messaging system. NYPD has also held briefing sessions for various segments of the public who may come in contact with terrorist plotters.

Counterterrorism Inspectors. We have assigned a senior officer responsible for overseeing counterterrorism initiatives at the rank of Inspector (the NYPD equivalent of a Colonel) to each patrol borough. These executives are responsible for all counterterrorism issues within the borough command. They also ensure that all counterterrorism training and equipment mandates are complied with by every precinct within the borough command.

Lower Manhattan Security Initiative. The Lower Manhattan Security Initiative (LMSI) is an in-depth, intelligence-driven counterterrorism plan designed to improve the security of lower Manhattan, perhaps the single most important center in the global financial system. When fully implemented, Lower Manhattan will be one of the most target-hardened areas in the nation. This initiative will include closed circuit surveillance cameras and License Plate Recognition readers (LPRs) on every bridge and tunnel coming into and leaving lower Manhattan. In addition, steel barriers will be used to block access to sensitive streets and locations. Mobile LPRs will be mounted on helicopters and deployed in non-descript vehicles to aid in the tracking and interdiction of suspect vehicles, and upwards of 1,000 officers will be dispatched from a central coordination center. This will significantly enhance our response capacity to any major incident affecting lower Manhattan.

The Department has engaged in an extensive collaboration with the New York Stock Exchange and downtown business leaders. The area around the Exchange is the

subject of 24-hour police presence. We also established vehicle checkpoints at seven major intersections leading into the Exchange. Each is monitored by Stock Exchange security officers trained by the NYPD. Each checkpoint is outfitted with Police Department-recommended equipment including Department of State-rated vehicle barriers configured to deter truck bombs, explosives screening points, and ballistic-resistant guard booths.

Counterterrorism Training. In the aftermath of 9/11, the NYPD developed a broad counterterrorism training curriculum for all ranks within the Department. This curriculum includes instructional courses based upon existing and developing trends in target selection and attack methodologies, using our broad experiences as a law enforcement agency in intelligence collection and analysis; force protection; target hardening; countersurveillance; and terrorist tradecraft. Recognizing the critical need to share information with all those engaged in the war on terror, the NYPD established a regional counterterrorism training center in 2002. This center provides training to both our own members and our local law enforcement and public safety partners in recognition of the fact that terrorists do not recognize jurisdictional and geographic boundaries.

This regional training center provides training to members of the New York City Fire Department; the Metropolitan Transportation Authority Police Department; the New York State Police; the Nassau, Suffolk, Westchester, and Rockland County Police; as well as police departments and other public safety agencies from New Jersey, Connecticut, Maryland, Minnesota, Virginia, and even Canada. We also routinely train members of the Federal Protective Service, U.S. Coast Guard and Park Police. We have brought in dozens of private security professionals from hotels, banks, and other institutions to train them in ways to better protect their facilities. In all, over 130,000 training days have been provided by the regional training center since early 2002.

The Hazardous Materials Operations course was implemented in November 2003. It has been certified by the DHS Office of Grants and Training and been delivered to in excess of 15,000 members of the Department. In addition, a one-day Counterterrorism

Awareness for the Law Enforcement Professional course, a two-day Advanced Explosive Trace Detection, a three-day Vehicle-Borne Improvised Explosive Device (VBIED) / Checkpoint Operations, and a ten-day Tradecraft for Asset Handlers course have been developed and submitted for certification by the DHS Office of Grants and Training.

NYPD has also provided training to all of our uniformed personnel in the new Citywide Incident Management System (CIMS). The system provides for a command structure that allows the Department to work seamlessly with other first responders, as ideally envisioned in the National Response Plan.

The result of our significant training activity is that New York City has never been better prepared to defend itself from a terrorist threat. These preparations, however, come at a steep price: about \$178 million per year to maintain our daily counterterrorism and intelligence activities. I want to emphasize: these are ongoing operational costs to defend the city.

The Department needs the ability to self-certify the training courses we regularly and expertly deliver. We find particularly onerous the DHS requirement to obtain DHS certification of our training courses before federal grant funding may be used to provide this training to our members. This requirement delays our training, most of which is provided on overtime, so as to avoid any reductions in our operational patrol strength.

Exercises. The NYPD routinely conducts counterterrorism mobilization drills involving members of our patrol and special task forces to discern who should, and who should not, respond to major disaster scenes. These drills are conducted at high visibility sites. In addition, we consistently run tabletop exercises for our senior executives to practice our decision-making in response to mock attacks.

We conduct daily exercises throughout the City in responding to a terrorist attack. This constant training and drilling paid off during the blackout of 2003, when the Department

was quickly mobilized to protect the city against the potential for disorder. Given our high state of preparedness, few arrests were necessary and disruptions were kept to a minimum.

Special Events and Security. The NYPD routinely handles security and provides comprehensive police services at hundreds of large major public events annually. These include, for example, the annual United Nations General Assembly; dozens of parades; street fairs; demonstrations; and high-profile/high-threat dignitary visits. The Republican National Convention of 2004, a national special security event, was one such major undertaking that demanded a great deal of planning and staffing resources on our part. The Department's size and experience allows us to satisfy these additional security needs while maintaining the same high level of police protection and service throughout the City.

II. The Terrorist Threat – Globally, Nationally, and to New York City

Terrorism is not an abstraction to New York City. Consider the following 18 events from the recent past:

1. NOVEMBER 5, 1990: El Sayyid Nosair shot Jewish Defense League leader Meir Kahane in front of the Marriot East Side Hotel in Manhattan. Nosair would later become a co-conspirator with the "blind sheikh," Omar Abdul Rahman, in a plot to destroy New York City tunnels and bridges.
2. FEBRUARY 26, 1993: New York City sustained the first terrorist attack on the World Trade Center; six innocent people were killed.
3. JUNE 1993: An al-Qaeda plot to destroy the Holland Tunnel, the Lincoln Tunnel, the George Washington Bridge, and the United Nations Headquarters was uncovered, and the plotters successfully prosecuted.

4. MARCH 1, 1994: Rashid Baz, a Palestinian angered by an Orthodox Jew's attack on a Muslim holy site, drove his livery cab to the Brooklyn Bridge where he opened fire on a van occupied by Hassidic students, killing one of them: 16-year-old Ari Halberstam.
5. FEBRUARY 23, 1997: Abu Kamel, a Palestinian residing in Florida, selected the Empire State Building to carry out his intent of "annihilating" perceived enemies. He went to the observation deck on the 86th floor and shot seven people, including a Danish tourist who was killed. Kamel then turned the gun on himself and committed suicide.
6. JULY 31, 1997: the New York Police Department stopped a plot at the last minute to bomb the subway complex at Atlantic Avenue in Brooklyn. The bombers were assembling the devices when police officers entered their apartment and shot and wounded them before they could detonate the bombs.
7. SEPTEMBER 11, 2001: The World Trade Center was destroyed by al-Qaeda with the loss of more than 2,700 lives.
8. OCTOBER 2001: In the space of a week, employees and visitors at the New York Post, NBC, CBS, and ABC News in New York City fall victim to anthrax attacks. Later the same month, a New York City woman died of inhalation anthrax because of cross-contamination of mail she handled at work with that of the targeted media.
9. JUNE 2002: Security personnel from Iran's Mission to the United Nations were observed by NYPD videotaping landmarks and infrastructure. They were expelled from the United States by the State Department because of their suspicious activities.

10. LATE 2002 AND EARLY 2003: al-Qaeda operative Lyman Faris, on orders from his handlers overseas, twice examined the Brooklyn Bridge to evaluate the feasibility of destroying it.
11. NOVEMBER 2003: Two more security personnel assigned to Iran's Mission to the United Nations were caught by the NYPD video taping tracks and tunnel of the Number 7 subway line as it entered the tunnel under the East River. They returned to Iran soon after the incident.
12. APRIL 10, 2004: al-Qaeda operative Mohammad Babar was arrested by NYPD detectives and FBI agents in Queens, New York, for his role in a plot to bomb pubs, restaurants, and train stations in London.
13. JUNE 2004: Once again, two more security personnel from Iran's Mission to the United Nations were caught – this time by the FBI – videotaping sensitive locations in New York. Suspected of conducting reconnaissance of New York City landmarks and infrastructure, they were again expelled by the State Department.
14. JULY 2004: A laptop computer of an al-Qaeda operative overseas is recovered. On it are detailed reconnaissance plans that show al-Qaeda operatives had been in New York City to plan an attack on the New York Stock Exchange, Citigroup headquarters in mid-town Manhattan, and the Prudential building across the river in Newark.
15. AUGUST 2004: A week before the Republican National Convention, two Islamic radicals from Brooklyn were arrested in a plot to bomb the Herald Square subway station. One pleaded guilty and cooperated with the investigation. The other was convicted in Federal court on May 24, 2006. He was found guilty on all four counts.

16. NOVEMBER 2005: Uzair Paracha, a Pakistani-born resident of New York City, was convicted of providing material support to al-Qaeda. While residing in New York, Paracha agreed to pose as an al-Qaeda operative, Majid Khan, in an attempt to disguise the fact that Khan had illegally left the U.S. for Pakistan. Paracha's father, who had met Osama Bin Laden, was part owner in a Manhattan garment district business. It was suspected that the ultimate goal was to use the Paracha business's shipping containers to smuggle weapons and explosives into New York City.
17. JUNE 2006: Syed Hashmi, a Queens resident active in the New York City chapter of a radical Islamic group known as al-Muhajiroun, was arrested in London where he was engaged in providing material support for al-Qaeda fighters in Afghanistan.
18. July 2006: A leak to the media revealed a sensitive investigation into an international terrorist plot to use suicide bombers to blow up New York City tunnels and flood lower Manhattan.

While the specific numbers are classified, it should be noted that the number of investigations ongoing at New York's Joint Terrorism Task Force significantly exceeds that of any other city in the nation.

In short, we believe that New York City continues to be al-Qaeda's number one target in the United States, if not the world.

In the view of the New York Police Department, the threat of terrorism is a global phenomenon that continually presents the possibility of manifesting, at any time, and with catastrophic consequences, in our city. Thus, while the NYPD has a great deal of knowledge of local extremist, radical, and militant individuals and groups, we are equally interested in indicators of terrorist activity elsewhere in the country and around the world. Our reason for this wide view is simple: as terrorists have demonstrated time

and again, the efficiency of modern transportation systems – commercial aviation, highways, trains and transit systems, etc. – permits our enemies to conceive, plan, and prepare attacks at far-flung locations, transferring the weapons or operatives to their final target at the last minute. The NYPD does not have the luxury of concerning itself only with our five boroughs, though we wish we did.

Globally, we have seen the central apparatus of al-Qaeda reduced to a fraction of its former self. We believe that the al-Qaeda leaders who remain at large have struggled, with little success, to resume offensive operational activity against the United States and our allies. While we cannot discount the possibility that “legacy” al-Qaeda will successfully mount an attack against the U.S. homeland or American interests abroad, Osama bin Laden and Ayman al-Zawahiri appear to have been transformed into leaders of an ideological movement rather than an operational organization.

More generally, because of continued offensive operations by the United States and its allies against some known international terrorist networks, as well as significant improvements in U.S. border security, the ability of any international or foreign terrorist organization to launch an attack into the United States from abroad appears to have diminished somewhat since late 2001. The NYPD takes no comfort in this analytic conclusion, however, because our baseline vulnerability was enormous.

We also believe that many of the most significant international trends that have bearing on the terrorist threat to New York City and the U.S. homeland are moving in a bad direction. In particular, we have observed a continued proliferation of extremist, often Salafist, militant ideology across the Muslim world. This ideology, with its literalist and generally intolerant worldview, as well as financial backing from a variety of different sources in the Persian Gulf, is a precursor to continued terrorism. Its spread shows no sign of abating; if anything, it is accelerating.

There is no single reason or simple explanation for the spread of extremist militant ideology across the Muslim world. The process has been underway for many years,

and undoubtedly much of the blame lies with the failures of the governments of nations with large Muslim populations to provide adequately for their people. Yet hostility toward U.S. foreign policy is clearly a significant motivating force among Muslim extremists and militants; there is ample evidence of this abroad as well as in New York City. Criticism of U.S. military action in Afghanistan and especially Iraq, coupled with American support for Israel, are consistently discussed among pockets of the Muslim community and serve as catalysts for radicalization. These political grievances have contributed to both the expression of extremist rhetoric and, more importantly, the development of a jihadist “soldier of fortune” mindset among some young male Muslims who want to “do something.”

We have also seen evidence that this phenomenon has worsened as a result of recent events in Lebanon. In the last few months, we have begun to reconsider the threat of terrorist attacks against the homeland emanating out of the Shiite groups, such as Hezbollah, which have to date, for the most part, refrained from attacking the United States directly. We strongly suspect that these groups have the latent capacity to attack the United States directly and effectively. We are deeply concerned that, as result of events in the Middle East, they will elect to do so.

The most important trend that we have observed over the last several years is the rise of the “homegrown” threat, which has been widely commented on in the media.

Since September 11, 2001, most terrorist plots and attacks perpetrated worldwide have been conceived, planned, and executed by individuals who are part of the local populace and who have only limited, if any, transnational linkages to terrorist organizations abroad. Recent examples of “homegrown” terrorist plots and attacks abound: the recently disrupted terrorist plots in the United Kingdom and Canada, as well as the successful attacks against the London and Madrid subways, to name only four.

New York City is a microcosm of global demographic trends. It contains significant populations from over a dozen countries of terrorist concern. As militant extremism

proliferates throughout the world via the Internet, chatrooms, literature, videotapes, sermons, conferences, and traveling militant imams, its effects on foreign as well as domestic Islamic populations appears to be consistent. Despite the success of U.S. overseas efforts in degrading al-Qaeda as an organization, its powerful radical influence on the City's younger generation – especially among its sizeable Muslim community – continues to pose a serious threat from within.

We consider the fuel that ignites this inside threat – extremist militant ideology and influences – as the most critical challenge in addressing this inside threat in New York City. We are especially concerned with the radicalizing influence of the Internet, coupled with the potential role of its 2nd and 3rd generation citizens as the receptors of these influences and as the future radicalizing agents.

In addition, Islamic conversion and radicalization among the population in the prison system is a trend that may contribute to new threat emergence among the indigenous Muslim population. Within the prison system, inmates, seeking protection or prayer privileges, “convert” to Islam. Though most prisoners revert back to their original religion following their release from prison, a segment of the convert population continues their conversion process outside the prison. This process is aided and abetted by an imam/mosque network that guides recent parolees to particular mosques for employment, temporary housing and for some – international travel to the Middle East or South Asia for further indoctrination.

There is no question that many countries – the United Kingdom, for example – face a threat of “homeland” terrorism that is more acute than that faced by the United States. Again, the NYPD takes no comfort in this conclusion. The possibility of a “homegrown” terrorist attack against New York City or any other American city is real and is worsening with time as the radicalization process unfolds.

III. Recommendations

This is not the setting and, given my current position, I am not the person, to offer a comprehensive assessment of the federal government's efforts to secure the homeland or a comprehensive set of recommendations. Congress and the Federal Executive Branch have taken countless actions over the last five years that have significantly improved the security of the United States. It is not for me to catalog these achievements. At the request of the Committee, however, I will suggest the following areas in which the federal government could, by doing more or conducting itself differently, combat the threat of terrorism against the homeland more effectively.

Federal Counterterrorism. President George W. Bush and his principal officers have said repeatedly that the prevention of another attack against the homeland is the nation's top priority. The NYPD agrees completely. For five years, the country has been successful at this task. Our challenge – it is a daunting one – is to continue this success indefinitely.

Earlier in this statement, I outlined organizational reforms that the NYPD has undertaken to better protect New York City and to improve our ability to thwart terrorist plots before they manifest as attacks. In parallel, the U.S. government has enlarged and reformed virtually all of its federal agencies with counterterrorism responsibilities. Much progress has been made, but this extremely important process is by no means over. I will confine my comments on this process to the NYPD's most important federal partner in the field of counterterrorism, the Federal Bureau of Investigation.

The NYPD has an excellent partnership with the FBI's field office in New York. As I mentioned before, over 100 NYPD detectives are assigned full-time to the Joint Terrorism Task Force in New York City. The JTTF permits the awesome power of the federal government's national intelligence capabilities to be brought to bear against any particular terrorism case, subject, of course, to the Attorney General's guidelines, the

customary bureaucratic procedures of the FBI and the Department of Justice, and the cooperation and effectiveness of the intelligence collectors.

The NYPD agrees with the President, the Attorney General, the FBI Director, and the 9/11 Commission on the vital need to transform the Bureau into an agency with a robust, effective domestic intelligence capacity and an absolute priority on prevention of terrorist attacks. Reforming a proud and powerful organization like the FBI is always a difficult task. We fully support FBI Director Robert Mueller's plans for achieving his ambitious goals. We believe that it is vitally important that the implementation of Director Mueller's reform agenda not lose momentum as the memory of September 11, 2001, recedes.

The rise in the "homegrown" terrorist threat underscores the importance of an effective domestic counterterrorism and intelligence program. It is no secret that the preponderance of the federal government's unilateral intelligence collection and counterterrorism activities, as well as its liaison relationships and joint operations with partners in the war on terror, are directed against terrorist operatives and networks abroad. These intelligence and counterterrorism activities abroad are tremendously useful in combating transnational terrorist threats: when a terrorist group seeks to deploy into the United States from abroad, as the 9/11 hijackers did, a lead generated abroad can quickly lead to the individuals already in, or trying to enter, the homeland.

But "homegrown" terrorists, by definition, have only limited, if any, linkages across national boundaries. Thus, compared to transnational terrorism, there are relatively fewer benefits to be gained in combating "homegrown" terrorism from the federal government's vast intelligence and counterterrorism program abroad. While no comprehensive accounting of the country's expenditure and investment on domestic as opposed to international counterterrorism has ever been conducted, it is clear that the domestic element is but a small fraction of the international element.

The implications are obvious: the country is under-investing in the sort of capabilities most needed to combat the most dynamic element in the spectrum of terrorist threats – the “homegrown” element – to the homeland. In combating “homegrown” threats, the burden shifts instead almost entirely to local law enforcement. A “homegrown” threat, like the terrorist plot against the Herald Square subway station disrupted by the NYPD in August 2004, presents few obvious inherent indicators and the few signatures are subtle and embedded within the daily activities of a vast civilian population. Such threats are most likely to be detected by dedicated investigators with both intimate knowledge of the population in question and mastery of human intelligence tradecraft who are backed by the full power and resources of a major law enforcement agency.

This is one of the reasons why the NYPD has decided to augment its joint counterterrorism investigative work with the FBI with an organizationally distinct intelligence program operating under separate legal authorities. Put differently, in the NYPD’s view, a reformed FBI and an aggressive, genuinely *joint* Joint Terrorism Task Force are necessary – indeed, are vital – but are not sufficient to combat the threat we face. So far as I am aware, the only such domestic intelligence program in the United States today is the New York Police Department’s.

An important question for the Congress and the Administration is whether some additional domestic intelligence and counterterrorism capacity is required in the rest of the country.

Information Sharing. Most federal officials and outside experts recognize the need to share terrorism-related information with state and local law enforcement agencies. The reason is obvious. The right piece of intelligence, in the right hands, can lead to the identification of a potential threat and, possibly, to the prevention of a terrorist attack. The country learned this lesson the hard way in the aftermath of the attacks of September 11, 2001, when then-Director of Central Intelligence George Tenet acknowledged the CIA’s failure to inform the FBI, the State Department, and local agencies that two known al-Qaeda operatives – Khalid al-Mihdhar and Nawaf al-Hazmi

– had entered the United States. Hopefully, this is the last time our country will learn this lesson.

Given my personal experience with this issue while serving on the White House staff, I know the enormous difficulty of building an effective interagency and intergovernmental information-sharing system. It is vital, however, that the federal government continue the effort.

From my new vantage point within the New York Police Department, my observation is that the federal government, while well-intentioned, has no overarching vision for terrorism-related information sharing with state and local agencies and no clear federal direction or leadership. Part of the problem was made clear by the Government Accountability Office in its March 2006 report, which identified 56 different sensitive but unclassified designations that federal agencies use “to protect information that they deem critical to their missions.” At least three Cabinet-level officers – the Secretary of Homeland Security, the Attorney General, and the Director of National Intelligence – have substantial oversight responsibility for the federal government’s information-sharing system; none of them appears truly engaged by the topic. The only established information-sharing mechanism with real coherence and consistent value is the sharing of usually case-specific, classified information with the Joint Terrorism Task Force; this mechanism works reasonably well for what it is, but even it has significant limitations. From the NYPD’s perspective, the utility of the Department of Homeland Security’s information-sharing initiatives is severely limited by DHS’s apparent inability to treat various state and local agencies differently according to their role, their sophistication, their potential contribution to the national mission of combating terrorism, and their size and power. Consequently, NYPD’s collaboration with other members of the Intelligence Community and with foreign law enforcement and intelligence agencies is substantially more valuable than is our collaboration with DHS.

In information sharing, the quest for perfection is a fool’s errand. So is the quest for absolute control. The right model of *intergovernmental* information sharing is precisely

the same as the right model of *interagency* information sharing – namely, a massively interconnected network. State and local agencies with major investments in intelligence collection and highly sophisticated analytic capabilities should be able to access existing federal classified information networks without prejudice so long as they obey the same rules and regulations as all other participants in the network. A pipeline, in which one or a few agencies seek to tightly control the flow of classified or sensitive information to state and local agencies, is exactly the wrong conceptual model for intergovernmental information sharing; any effort to impose such a model on agencies such as the NYPD would be a major step backward with extremely problematic consequences.

The Terrorist Watchlist. There is one particularly important form of information sharing that deserves urgent attention and should be utilized much more aggressively. As a result of Homeland Security Presidential Directive 6 and the first-rate work of retiring director Donna Bucella, the Terrorist Screening Center (TSC) has developed an integrated terrorist watchlist for the entire United States, supported by a 24/7 operational support center. This institutionalization of an integrated watchlist is one of the many relatively small, but important, successes that generally go unnoticed.

The Terrorist Screening Center has been a great success. My concern is that the capability it provides is not being used extensively enough by the U.S. government, state and local agencies, or the private sector. Aside from a few well-established screening procedures, such as visa applications, border entries, and criminal records checks, the country is missing countless perfectly lawful opportunities to screen lists of names against the watchlist. The federal government needs to do a much better job of promoting the widespread utilization of watchlist screening. One aspect of this effort should be TSC's incorporation of technology that will permit a "blind" (or "anonymized") query against the watchlist – that is, a query that will not reveal the personal information of the individual being checked against the list to any law enforcement or intelligence agency unless there is a positive "hit" against the list.

Among the many venues in which the federal government could but is not routinely screening individuals against the terrorist watchlist, the most egregious is undoubtedly domestic aviation. (Passenger manifests of inbound international flights are checked against the watchlist, but currently only 15 minutes after their flights take off; the NYPD supports the Department of Homeland Security's recent proposal to require watchlist checks against the passenger manifests of inbound international flights prior to their takeoff.) Despite the existence of the terrorist watchlist, despite unambiguous regulatory authority, despite repeated terrorist plots and attacks against aviation, and despite a statutory requirement to do so, the Transportation Security Administration still has not deployed a system that will permit the real-time, automated checking of passenger and crew names against the terrorist watchlist for domestic flights or outbound international flights.

Critical Infrastructure Protection. As one of the original architects of the Department of Homeland Security, I say with some sadness that there is no area of the Department's work that disappoints me more than critical infrastructure protection. The problem was rather embarrassingly illustrated by the DHS Inspector General's report that DHS had a database of our nation's vulnerable critical infrastructure, key resources, and national assets that included sites such as Old MacDonald's Petting Zoo in Alabama, a bean festival in Georgia, and the world's largest tin foil ball in Ohio.¹

The New York Police Department has assessed countless potential terrorist targets in the City, and we monitor the construction or renovation of new potential targets. We have ranked them in terms of the danger they present using defensible analytic criteria. We maintain and carefully guard this list. We maintain a file on each of those potential targets that we assess to present the most serious danger to New York's residents, commuters, and visitors and to New York's economy. And most importantly, we take action to reduce the inherent vulnerability and danger of these top-priority targets.

¹. http://www.dhs.gov/interweb/assetlibrary/OIG_06-40_Jun06.pdf

The precise combination of actions we take depends on the particularity of each potential target. In some cases, we may emplace or require the emplacement of bollards on the curb. In others, we may temporarily close a street to vehicle traffic, or put in place a vehicle screening check point. In others, we may engage with the owners or real estate developers to convey our sense of the appropriate design basis threat for a new building, and to ensure that these requirements are followed through construction and operation of the building. In other cases, we may deploy a radio car – or perhaps even a harbor launch – with armed officers to an access point to a particularly critical vulnerability. In still others, we might install or require the installation of protective fencing around a particular vulnerability, such as bridge cabling. These measures, and countless other steps like them, constitute critical infrastructure protection. DHS does hardly any of this and provides only marginal assistance to us as we do it.

In addition to more generous grant support, if the federal government wanted to provide more consequential assistance to the state and local agencies that are actually attempting to protect critical infrastructure, it could do two things.

First, the federal government could recommend a design basis threat and blast performance standard for all major, newly constructed buildings for inclusion in state and local building codes. The Department of State, the Department of Defense, and the General Services Administration currently set such standards for federal facilities. The country as a whole, however, has no such standards though we note that the National Institute of Standards and Technology has recently released a draft set of new construction design standards for comment. The result is that, with few exceptions, major new buildings are being built all across America with almost no regard for their ability to withstand the effects of a curb-side VBIED. Cities such as New York are forced to grapple with this issue on an ad hoc basis, without any consistent national framework.

Second, the federal government could intervene in the insurance market to promote private-sector insurance against terrorism risk. The percentage of commercial real

estate that is insured against terrorism risk has fallen dramatically over the past five years. This development is worrying for a number of reasons, the most important of which is that it reduces an important, market-based incentive for private property owners to build and maintain their facilities to a higher security standard. The disappearance of commercial insurance against terrorism risk has been caused by a number of different factors: most important is that the primary insurers now generally exclude terrorism risk from their standard commercial policies, in some cases not insuring against terrorism risk at all, while in others, selling separate—and quite expensive—terrorism-risk insurance policies, which policyholders generally elect not to take. There is no mandate or expectation that commercial policy writers will insure against terrorism risk.

The market will not address this problem and federal action to date has been inadequate. The Terrorism Risk Insurance Act (TRIA), which was scheduled to sunset in 2005 but extended by Congress to 2007, merely backstopped the reinsurance firms that underwrite primary insurance companies. TRIA's backstopping of the reinsurance market may be necessary but is clearly insufficient for security purposes. To reverse this trend away from terrorism risk insurance across the nation, the federal government should consider adopting, as national policy and law, the mandatory inclusion of terrorism risk in all commercial insurance policies nationwide, without regard to location.

Chemical Security. This committee knows my views on chemical facility security and the need for new legislation from my April 2005 testimony. Poorly guarded toxic industrial chemicals represent the most severe and widespread mass casualty vulnerability in America today. My view of this matter has not changed since I joined the New York Police Department.

Since 9/11, there has been no meaningful reduction in the inherent vulnerability of toxic industrial chemicals in facilities or in transit to a terrorist attack. The Executive Branch has elected not to use its existing statutory authority to improve the security of

chemicals in transit, and lacks the statutory authority to require security improvements at chemical facilities.

I know this committee agrees with me that Congress should enact, and the President should sign, a law which provides the Secretary of Homeland Security the authority to impose risk-based security regulations on chemical plants. With only a few legislative days remaining before adjournment, it now appears certain that the 109th Congress will send no such bill to the President's desk. It is patently obvious that the issue of chemical security is a priority for neither the President nor the Congressional leadership. This is a great disappointment. One can only hope that the 110th Congress will take the matter more seriously.

Ammonium Nitrate Security. Another area in which Congress has failed to act, and in which the Executive Branch has shown no leadership, is the regulation of ammonium nitrate fertilizer. It has become commonplace to ask why, five years after September 11, certain security enhancements have not been implemented. In this case, the question is "Why has nothing been done about ammonium nitrate more than ten years after the Oklahoma City bombing?"

In April 1995, Timothy McVeigh and Terry Nichols destroyed the Alfred P. Murrah Federal Building in Oklahoma City with a 4,000 pound main explosive charge that consisted of ammonium nitrate fertilizer, nitromethane (racing fuel), and fuel oil. McVeigh and Nichols procured the ingredients lawfully and easily. They mixed the ingredients in 55 gallon plastic drums and measured the quantities with a five gallon bucket and bathroom scale.

The commercial explosive ammonium nitrate and fuel oil, also known as ANFO, is the cheapest and most widely used explosive in the United States. ANFO is subject to tight federal regulation under USC Title 18. The problem is that the ingredients needed to make this explosive may still be purchased *separately*, with ease and with no significant security checks, just as McVeigh and Nichols did in 1995.

To demonstrate this, in September 2004, the NYPD Counterterrorism Division conducted a red cell operation in an effort to acquire ammonium nitrate fertilizer and other materials to construct a VBIED. On two occasions, NYPD investigators purchased approximately 1,000 pounds of ammonium nitrate fertilizer at retail outlets within and outside New York State. The operation proved the ease with which the fertilizer can be legally obtained and used as part of an explosive device.

As in the case of chemical security legislation, and despite the efforts of this committee and the House Committee on Homeland Security, it has now become virtually certain that the 109th Congress will fail to send to the President's desk legislation that would impose strict regulation on the sale and purchase of ammonium nitrate fertilizer. As a result, it is today, and will remain for the foreseeable future, as easy for a terrorist to build a truck bomb as it was for McVeigh and Nichols to do so more than ten years ago.

Port Security. Port security has received an enormous amount of attention since 9/11. According to a recent estimate, funding for port security has increased 700% since September 11, 2001. DHS is reported to have spent \$1.6 billion on port security in FY2006.

However, the threat that seems to dominate discussion among federal policymakers and the media is the theoretical possibility that a terrorist organization will use the cargo shipping system to deliver a dangerous weapon into the United States. Our view is that while this threat cannot be discarded entirely, its significance has been greatly exaggerated. In our view, the most significant port security threat is an improvised explosive device borne by a small boat – that is, the precise method used by al-Qaeda in its successful attack on the USS Cole in Yemen in October, 2000. With a few exceptions, the federal government has done very little to help protect America's waterways and congested ports against this threat, generally leaving state and local agencies to their own devices. DHS's port security grants are overwhelmingly biased toward cargo and container security; these funds should be redirected to support relevant security operations on the water.

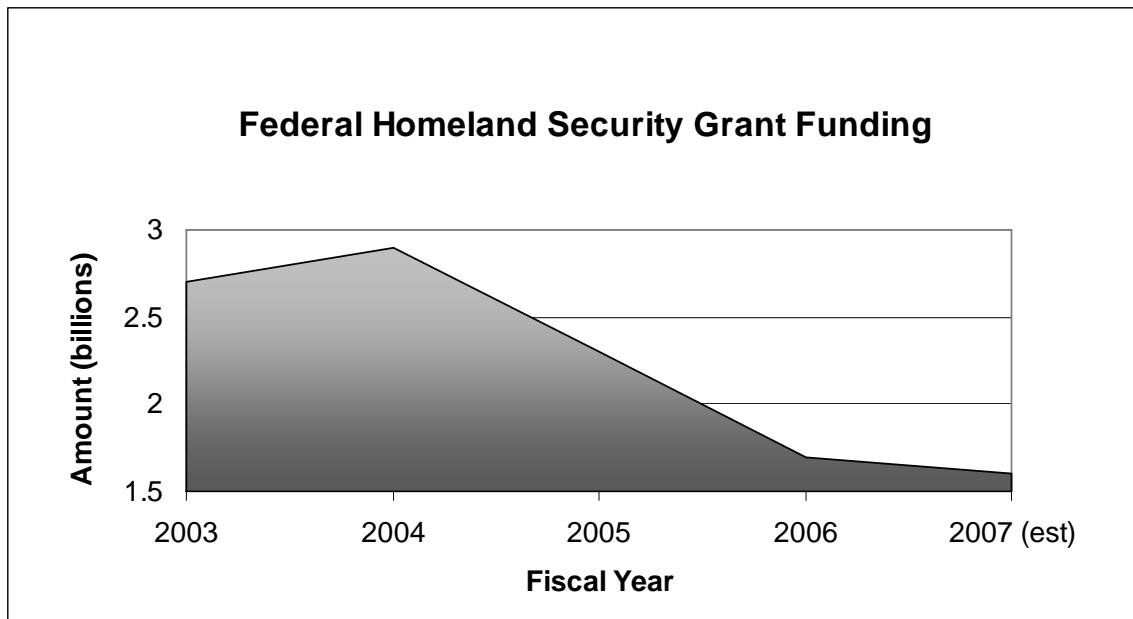
“Securing the Cities” Against Radiological and Nuclear Threats. The NYPD was intrigued when, on July 14, 2006, the Secretary of Homeland Security announced the “Securing the Cities” initiative, starting with New York City. We are currently working with the Domestic Nuclear Detection Office (DNDO) to explore the technical and operational viability of an intelligent, integrated metropolitan sensor network that goes beyond radiation pagers and a few mobile sensors. The NYPD shares the federal government’s concern with the radiological/nuclear threat, and are hopeful that a comprehensive defensive system proves technically and operationally viable.

It will be vital, however, for the Administration to request and Congress to appropriate funds specifically to support the development, deployment, and operation of the Securing the Cities initiative. If states and cities are expected to fund these efforts through the use of existing DHS grant programs, the initiative is certain to fail.

Mass Transit Security. The NYPD is profoundly concerned by the threat of attacks on mass transit systems. The New York City transit system is the largest in the nation with 840 miles of track, 468 stations, and 4.5 million passengers per day. New York City has only 35 fewer stations than all of the other subway stations in the country combined.

The responsibility for transit security ultimately lies at the local level but more financial support is needed. There are 2,635 NYPD transit officers assigned to police this system. In addition to their traditional crime fighting role, these officers play a central part in supporting counterterrorism and terrorism interdiction operations in a high threat environment. These officers, for example, are primarily responsible for implementing the Department’s important Counterterrorism Container Inspection program. The very nature of the transit system, with its confined spaces, heavy mechanical equipment, and dense ridership, demands that these officers be prepared to act decisively and efficiently with minimal supervision under the most extreme and dangerous conditions. This commitment at the local level to protect the New York City transit system against an enemy of the United States deserves significant and continued support from the federal government.

Since 9/11, the investment in mass transit security as opposed to aviation security is widely disproportionate. Billions of dollars have been spent since 9/11 on aviation security; only a small fraction of the money spent since then has been devoted to mass transit security. According to the findings contained in the Public Transportation Security Act of 2004, the federal government has invested \$9.16 per passenger in aviation security but only 0.6¢ for each transit rider. The federal government must do a better job of investing in transit security. It may be possible for the federal government to take the perspective that an attack on mass transit is inevitable – but as officials in NYC, we do not have that luxury.



Federal Homeland Security Grant Program. From my previous work in the White House, I know that the allocation of grants is a thankless job. Nevertheless, the federal government can do a much better job than it is doing now. I believed this before I joined NYPD and believe so even more today.

I will limit my comments on the federal homeland security grant program to six main points.

1. The size of the overall federal homeland security grant budget, as shown in Table 1, has fallen to an indefensibly low level. In the President's FY2002 Budget, the first released after the terrorist acts of September 11, 2001, the Administration requested and Congress ultimately appropriated roughly \$3.5 billion in new "first responder" grants. In the coming days, the House-Senate conference is expected to recommend an appropriation of roughly \$1.6 billion in total homeland security grant funding, a drop of \$1.9 billion from the first post-9/11 budget. By contrast, according to the Congressional Research Service, the U.S. government has spent approximately \$10 billion per month in FY2006 to support military operations in Iraq and Afghanistan. Given the rise in the "homegrown" terrorist threat described earlier in my testimony, and the essential role of state and local agencies in combating this threat, this vast disparity in federal outlays simply cannot be justified.
2. As the 9/11 Commission recommended, all of the funds appropriated by Congress for homeland security grants should be distributed solely on the basis of risk. The former 9/11 Commissioners, in assessing the federal government's implementation of its recommendations, gave the Congress a grade of "F" on this issue. Politically derived formulas embodied in statute should play no role in the disbursement of funds needed to protect the homeland from terrorist attack.
3. To the extent that Congress nonetheless requires the distribution of homeland security grants to the states on the basis of formulas embodied in statute, the Department of Homeland Security should require that governors distribute these funds on the basis of risk. Furthermore, these intra-state risk-based allocations should in no way prejudice a city's allocation of additional DHS risk-based grants.

4. DHS should reconsider and revise its mechanism for distributing discretionary grant funds in FY2007. The mechanism used by DHS in FY2006 was incomprehensible, incoherent, and an embarrassment to the federal government. In particular, any methodology which determines that New York City has only four financial institutions and no “national monuments and icons” should be scrapped. DHS’s use of so-called “peer review panels,” managed by Beltway contractors, to evaluate the effectiveness of NYPD’s intelligence and counterterrorism programs is equally preposterous. DHS and the peer review panels apparently view counterterrorism operational investment as a purely local matter, for which the federal government is not responsible, since it is a local function performed at local expense by local personnel already in place. We see our ongoing initiatives, like Operation Atlas, as a necessary component of our strategy to prevent terrorist planning and attack, worthy of federal investment in the ongoing personnel costs required to sustain it.
5. Currently, all DHS grant programs are biased toward the expenditure of funds for equipment, external consulting, and consequence management at the expense of manpower, current operations, and counterterrorism and intelligence activities designed to prevent attacks before they occur. This bias makes no sense given the evolving terrorist threat facing the U.S. homeland and the operational requirements to counter it. Time and time again, well-trained law enforcement personnel have thwarted potential terrorist attacks. It is fair to say that the most effective tool in our counterterrorism arsenal is manpower. In a recent study undertaken by the NYPD of more than 20 terrorist plots that were successfully thwarted in the last decade, NYPD analysts found that technology was not integral in the prevention of any of them.
6. The Congress would be ill-advised to condition a city’s receipt of homeland security grant funds upon that city’s policies regarding contacts between city employees and the Bureau of Immigration and Customs Enforcement relating to an individual’s immigration status. The homeland security appropriations bill

passed by the House would do just this. We can all agree that immigration policy is a controversial and divisive subject in American society. It would be foolish to hold hostage a city's ability to protect itself from terrorist attack over ongoing political disagreements over immigration.

The country needs human intelligence to disrupt terrorist planning, like the plot to bomb the Herald Square subway station and the conspiracy recently revealed to attack multiple targets in Ontario, Canada. We need to dedicate officers to specific counterterrorism and homeland security missions, around the clock, on overtime as needed, to protect prime targets. We need to train them throughout their careers to contend with emerging threats and to use the equipment that federal funds may purchase. It appears that New York City is being disadvantaged because we are ahead of the curve, and that our funding needs are different from those of many other jurisdictions precisely because we have attended to so many of these needs ourselves, for so long. We need the federal government to step up and adequately share the burden of these ongoing costs to defend vital national assets in New York.

IV. Conclusion

Thank you once again for affording me, as a representative of the New York Police Department, the opportunity to appear before you today. I would be happy to answer any of your questions.