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## Senate Homeland Security and Governmental Affairs Committee Holds Hearing on the Nomination of Janet Napolitano to be Secretary of Homeland Security

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LIEBERMAN:

The hearing would -- will come to order. Good morning. Welcome to this hearing, which is called to consider President-elect Obama's nomination of Arizona Governor Janet Napolitano to become the nation's third secretary of Homeland Security.

Governor, I welcome you tonight. I want to say that the fact that you've asked not just Senator Kyl, but Senator McCain to introduce you today is -- is just another sign of your personal confidence and courage. And it's a great -- it's a great pleasure to welcome our dear friends, John McCain and Jon Kyl, and, obviously, speaks well of -- of what Arizona thinks about you, as you assume this new responsibility.

I, personally, believe that Governor Napolitano is a superb choice to lead our nation's domestic security agency, and help in its ongoing transition from a startup operation to a mature agency whose component parts work together so well that the whole is much greater than the sum of those parts.

This nomination has received support from an assortment of different groups and individuals, whose names I will put into the record.

Let -- let me just say a few words by way of setting the scene. The Department of Homeland Security was created six years ago, its origins coming out of this committee, which was, then, the Governmental Affairs Committee. It was created, obviously, in direct response to the Islamist terrorist attacks against the United States on 9/11/01.

Former Homeland Security secretaries, Tom Ridge and Michael Chertoff, have done great work, I think, in leading the department through the growing pains of its early years, and making progress in turning this initial amalgam of 22 agencies, and now more than 200,000 employees,

all with different cultures and missions, into a single department with a singular mission, which is to protect the safety of the American people.

Now, Governor, as the department goes through its first presidential transition, we have confidence that you will build on the work of your predecessors. To help advance this transition, Senator Collins and I intend to bring before this committee a comprehensive authorization bill for the Department of Homeland Security that outlines key areas of improvement we think can make the department more efficient and effective in its various missions, and we will also recommend levels of funding for the department in that authorization bill.

We hope that this can become an annual exercise in which we will work with you to both become advocates and authorizers for a sufficient level of funding for this critical department, but also to use the authorization bill as a way to improve the authority and functioning of the department.

I do want to say, parenthetically, in that regard, that an important milestone in the history of the Department of Homeland Security was reached just a few days ago, when the National Capital Planning Commission gave its final approval to a new Department of Homeland Security headquarters on the St. Elizabeth's campus, which means that this department, which is meant to function as a unity, but has been spread throughout the Capital area, now will have a -- a house in which you can work together.

I do want to say this: Six years into the department's mission, and in spite of the significant improvements in its performance in protecting the safety and security of the American people, there are still those who believe that the department should be chopped up, and its parts shipped off to other agencies. And there's always a prospect, as we go through the first presidential transition of the department, that those who have those aims will attempt to act on them now.

LIEBERMAN:

I believe that is exactly the wrong way to go. It makes no sense. It would take us back to where we were, after all, on 9/11, when the terrorists exploited the vulnerability -- our national vulnerability -- caused by the balkanization of our many Homeland Security agencies, to attack and kill 3,000 people.

Some, as you know, have proposed removing FEMA from the department, and making it a free-standing agency. I will do all I can -- and I know Senator Collins and I will be working, once again, side- by-side on that to stop such disintegration, because we feel so strongly that FEMA benefits. Not only has it been improved dramatically post-Katrina, but it benefits from the cooperative atmosphere and environment in which it works with the other relevant disaster-response and preparedness agencies in the Department of Homeland Security.

I am going to include the rest of my -- my statement in the record. I want to simply say, for the record -- and I'll be asking questions about this -- we have some priorities and unfinished

business that we've discussed with you. And we want to work together with you on those priorities.

One is, though we have dramatically improved the security of aviation transportation post 9-11, we have not done as well in non- aviation transportation -- rail and transit. That's unfinished business we -- which we want to work on together. Our preparedness to both deter and, God forbid, respond to an attack with weapons of mass destruction, particularly biological weapons is -- is -- we have raised our guard, but we're not where we need to be. We want to work with you on that. The same is true of chemical security, where the existing legislation needs to be reauthorized in the year ahead.

And, of course, as the secretary of Homeland Security, you preside over the immigration and border-security agencies of our government. And there -- there is, obviously, a lot that we need to do together to improve the functioning of those agencies, and the enforcement of law.

Bottom line, we welcome you. We look forward to a good exchange of ideas here today. We're going to work very hard to get this nomination of yours to a point where it can be confirmed by the Senate as soon after the president-elect is inaugurated next Tuesday, as possible.

I think we all, on this committee, and I hope people, generally, feel that getting you into the office of secretary of Homeland Security today is as important as seating the secretary of -- of defense to the security of our country.

I thank you very much for your willingness to take on this assignment.

And I would now call on the ranking member, Senator Susan Collins.

COLLINS:

Thank you, Mr. Chairman.

Mr. Chairman, I know that Senator McCain and Senator Kyl have very busy schedules. So I would be willing to allow them to do their introductory statements prior to my giving my opening statement, if that would be helpful to them.

LIEBERMAN:

That's very...

COLLINS:

I still do want to give my statement, of course, but, having them proceed...

(CROSSTALK)

LIEBERMAN:

That's very gracious of you.

Do -- do our colleagues accept the offer?

Senator McCain?

MCCAIN:

Well, thank you both.

Thank you, Mr. Chairman.

And thank you, Senator Collins, for your usual gracious consideration.

I welcome the opportunity, and with great pleasure that -- introduce, along with my friend and colleague, Senator Kyl, to the committee, Governor Janet Napolitano.

Janet Napolitano has served Arizona as a United States attorney, attorney general, and, currently, is the state's 21st governor. In 2005, she was voted one of America's top five governors by Time Magazine, which stated, and I quote, "Positioning herself as a no-nonsense, pro-business centrist, she has worked outside party lines since coming to office."

I agree wholeheartedly with Time's assessment, and am confident she will use the same no-nonsense attitude toward running our nation's third-largest department, that employs over 200,000 men and women, who work each day to protect our homeland.

Not only does Janet Napolitano possess a no-nonsense attitude, she also possesses remarkable stamina, and unlimited energy. She's hiked the Himalayas, climbed Mount Kilimanjaro, and battled cancer. She'll need the same energy to lead a department that was created five years ago, through the merger of 22 agencies. After some time on the job, she may find that climbing Mount Kilimanjaro -- far easier than navigating the halls of the department.

One of the major challenges facing the department and our country is the issue of illegal immigration. If the new administration chooses to tackle this difficult issue, I stand ready to assist in their efforts by working closely with this outstanding nominee. I know that Governor Napolitano would provide this administration and Congress a unique perspective as it attempts to tackle comprehensive immigration reform.

Governor Napolitano explained her experience far more eloquently than I could, when she testified before the House last April. She said, "Unlike many in Washington, I have actually walked, flown by helicopter, and even ridden a horse over much of the border's rough, rugged desert and mountainous terrain." She went on to say, "I have toured the drug tunnels, where cocaine and marijuana enter our country by the ton. I've seen the sewers where children who are crossing the border alone sleep at night, and have seen the campsites strewn with abandoned clothing, human waste and refuse.

"As a U.S. attorney for the district of Arizona," she went on to say, "I have supervised the prosecution of more than 6,000 immigration felonies, and broken up drug-trafficking, human-smuggling and money- laundering rings. As governor, I have sought to continue to provide for the vital health care, education and infrastructural needs of the nation's fastest-growing state, all while shouldering the disproportionate burden of the federal government's inability to control the borders and provide a meaningful plan for immigration reform."

Clearly, Arizona's loss is the nation's gain. We're very fortunate to have such a dedicated, capable person in public service.

I thank you, Governor Napolitano.

I commend the president-elect for selecting such an outstanding and capable individual to fill this important leadership position, and look forward to working with Governor Napolitano in her new role.

LIEBERMAN:

Thanks, Senator McCain, for that very strong statement on behalf of the nominee.

Senator Kyl, welcome. Good to see you.

KYL:

Thank you, Mr. Chairman, and members of the committee.

I, too, am pleased to join my colleague, Senator McCain, in introducing Arizona's governor, the honorable Janet Napolitano, to be the next secretary of the Homeland Security Department. She will bring a wealth of experience to the department, particularly having served as governor of a border state, which is dealing, as Senator McCain said, with the critical problem of illegal immigration.

Governor Napolitano's distinguished career well prepares her for this unique position. Elected as governor of Arizona in 2002 and reelected in 2006, she has important executive

experience. She's Arizona's third female governor, the first woman to be reelected to the post, and the first in the country to succeed another elected female governor.

She became the first Arizonan to chair the National Governors Association, after having served as chair of the Western Governors Association.

And prior to her service as governor, she was appointed by President Bill Clinton to serve as the United States attorney for the district of Arizona.

In that capacity, she supervised the prosecution of more than 6,000 immigration cases, of course, among many others.

She subsequently served as attorney general of the state of Arizona from 1998 until her election as governor in 2002.

And as Senator McCain emphasized, Governor Napolitano will bring an important perspective to the department, as she understands what communities along the border must deal with every day as a result of the continuing flow of illegal immigrants across our borders.

It's a local perspective that's too often not been well represented in federal agencies in Washington. In fact, in 2005, she spoke to her fellow Arizonans and said this: "While we here in Arizona will do our jobs, we need to insist that the people in Washington do theirs. The federal government has a long and nearly unbroken record of misunderstanding our region and our state. When it comes to homeland security, we read a lot of bold talk in the newspapers, but when it comes to resources, federal policy is nothing less than timid."

Well, Governor Napolitano will come to Washington having worked with federal officials to bolster border and immigration enforcement resources and her new position will present a great opportunity to continue to respond to the clear call from the American people to secure the border and enforce our laws.

I congratulate Governor Napolitano on her nomination, look forward to working with her as she assumes the important duties as secretary of the Department of Homeland Security.

LIEBERMAN:

Thank you very much, Senator Kyl.

Governor Napolitano, your state and its Senators are clearly strongly behind you. We appreciate that both of you are here and, obviously, understand that you've got to go on to other work now. Have a good day. Thank you.

And now Senator Collins and I both agree, in response to the statement that Arizona was a very progressive state since it had had already three women governors, and with that, I will call on my ranking member, Senator Susan Collins of Maine.

COLLINS:

Thank you, Mr. Chairman.

I join our chairman in welcoming Governor Napolitano to our committee.

Two great national traumas, the terrorist attacks of September 11, 2001 and Hurricane Katrina, tragically demonstrated the loss and suffering that occurs when our nation's guard is down and we are unprepared.

As the Department of Homeland Security nears its sixth anniversary, those of us who advocated for its creation can salute its accomplishments, while still recognizing that it remains very much a work in progress.

The men and women at DHS have helped to deter and protect our nation from terrorist attacks. Our nation's ability to prepare for and respond to disasters has also improved dramatically with the reforms that this committee made to FEMA.

Nevertheless, constantly evolving terrorist threats and the forces of nature require further improvements at the department and its vital mission demands a strong, skilled leader at its helm.

I recently met with the governor to discuss a wide range of issues, including security at our borders and seaports, cooperation with state and local law enforcement, and the myriad tests that DHS will confront in coming years.

I was impressed with the governor's background and knowledge of homeland security issues. Her experience as a border state governor in particular is most welcome to those of us who represent border states with extensive cross-border travel and trade.

Residents of our border communities work, shop, worship and visit family on both sides of the border, complicating the challenge of border security.

Governor Napolitano understands that we have to let our friends in, while keeping our enemies out, enforcing border regulations in a practical manner, as we seek to protect the American people.

Among the significant emerging challenges that the new secretary will face is the need to enhance security at our nation's biological laboratories.

The Commission on Weapons of Mass Destruction has predicted a terrorist attack using a biological weapon within the next five years. The commission pointed to lax security at biological labs as one of the bases for that chilling assessment.

Another threat that the department must address is the security of our nation's cyber infrastructure. Our federal systems require an empowered coordinator that understands the cyber threat and who can establish and enforce best practices across the executive branch.

We must also redouble our efforts to work with the private sector on cyber security.

Another area where the next secretary must forge a partnership with the private sector is the security of our nation's critical infrastructure.

With more than 85 percent of those assets in private hands, this is a daunting task. Seaports and chemical facilities are two categories of infrastructure that we have made more secure through legislation that this committee authored.

During the 111th Congress, I look forward to working with the next secretary to authorize these critical programs, while continuing to strengthen the framework embodied in the national infrastructure protection plan.

In the last six years, the department has improved our all hazards preparedness and response capabilities. Homeland security grant funding for our state and local first responders has certainly played a critical role in that effort.

But consistently, funding levels have been under attack by the executive branch and DHS has not yet fully complied with the requirement to establish an all-hazards risk formula.

COLLINS:

Since every state is at risk for terrorist attacks, especially if terrorists see gaps in our defenses, it is critical that we maintain strong funding for these programs and continue to support a baseline of capabilities for each and every state.

It is the Federal Emergency Management Agency that forms the core of the department's ability to perform its preparedness response and recovery mission.

After Hurricane Katrina, as the chairman has indicated, this committee launched an intensive bipartisan investigation and wrote the law that has resulted in vital reforms of FEMA.

If you look at FEMA's handling of disasters since then, whether it's wildfires, tornadoes or severe storms and floods, you see a new FEMA with improved capabilities, bolstered by increased coordination with state and local governments and military resources.

FEMA's documented improvements and the logical combination of all-hazards prevention, preparedness, response and recovery in a single department underscore the need to keep FEMA within DHS.

Detaching FEMA in the vain hope of recapturing some mythical FEMA of long past days would weaken its effectiveness, reduce the ability of DHS to carry out its all-hazards planning mandate, cause needless duplication of effort, and cause confusion among state and local first responders.

And that is why I am confident that the governor, in reviewing this issue in more depth, will listen not only to the chairman and to me, but to our nation's firefighters and other first responders who have taken a very clear position on this important issue.

As a relatively new department, DHS still suffers from some significant integration and management challenges. That is to be expected. With a department that has over 200,000 employees and combined more than 22 agencies, there are going to be management challenges.

But we have seen great progress in the last nearly six years, from the program's management and resource allocations to the basic need for a consolidated headquarters. The new secretary, however, will need to focus intently to remove the remaining obstacles to effective integration and improved performance.

The challenges are many, but the new secretary can look forward to a bipartisan sense of commitment and resolve from this committee.

Thank you, Mr. Chairman.

LIEBERMAN:

Thank you very much, Senator Collins, for that excellent opening statement.

I mentioned in my opening statement that there were many groups that had welcomed President-elect Obama's nomination of Governor Napolitano. There may be many in the room.

I note in the first row and I want to welcome Harold Schaitberger, head of the International Association of Firefighters, and I also saw here, in a different sense, but very important to the whole history of the department, and that is Mary Fetchet, who is a founding director of the Voices of September 11, which has continued to be involved in the ongoing work of protecting the security of the American people so that no other families would experience the loss that they did, that the Fetchets did, certainly, loss of a son on September 11.

Governor Napolitano has filed responses to a biographical and financial questionnaire, answered prehearing questions submitted by the committee, and had her financial statements reviewed by the Office of Government Ethics.

Without objection, this information will be made part of the hearing record, with the exception of the financial data, which, as is our custom, will be on file and available for public inspection in the committee's offices.

Governor, our committee rules require that all witnesses at nomination hearings give their testimony under oath. So I'd ask you now to please stand and raise your right hand. Do you swear that the testimony you are about to give to this committee will be the truth, the whole truth and nothing but the truth, so help you God?

NAPOLITANO:

I do.

LIEBERMAN:

Thank you, and please be seated.

Governor, it will be our honor and pleasure to hear your opening statement at this time.

NAPOLITANO:

Well, thank you, Mr. Chairman, and good morning. Good morning, Ranking Member Collins, members of the committee.

It is a privilege and honor to be seated before you today in nomination to serve as the secretary of the Department of Homeland Security and it is humbling, because as you know better than anyone, the urgent mission of this important agency is critical to the lives and security of every citizen of the United States.

Mr. Chairman, Senator Collins, I want to particularly note and commend your foresight and leadership with respect to this agency. After the tragedy of 9/11, you understood the need for a more organized, systematic approach to domestic terrorism, to homeland security, and you held the vision to forge a new department.

I also would like to commend the first two secretaries of the Department of Homeland Security, Secretary Ridge and, most particularly, Secretary Chertoff, for their work in building this department, and particularly Secretary Chertoff for his work on the transition, which has been extensive and very thoughtful, not just by him, but by a number of members of the department.

We have come a long way. The department has come a long way, but there is a ways to go, as you have noted, and I look forward to helping the department become even better as time goes on.

To secure the homeland means to find and kill the roots of terrorism, to stop those who intend to hurt us, to wisely enforce the rule of law at our borders, to protect our nation's infrastructure, particularly things like our cyber infrastructure, as you mentioned, and to be prepared for and to respond to homeland disasters with speed, skill, compassion, effectiveness, and common sense.

This is a mission of paramount importance to the Obama administration, to this committee and to me. And as we seek to meet that responsibility, I seek to bring to this committee several things.

NAPOLITANO:

One is a close working relationship with this committee, and with the Congress. I recognize this committee's unusual expertise with respect to the subject matter here, and I will cooperate fully with its oversight and investigative functions as we work together to keep building the department.

I also look forward to the committee's assistance on making changes, as changes need to be made. After, all we do share that common goal -- a strong and vigorous Department of Homeland Security.

I will also bring to this role, should I be confirmed, a great deal of experience. As Senator McCain and Senator Kyl noted, as a border governor on the southwestern border, I have dealt with the immigration issue from every aspect since I entered public life in 1993. I know that border very well, and the challenges presented there. I look forward to getting to know the northern border as well as I know the southwest border, because it is different. And we've already spoken, some of us, about the need to -- to get as familiar with the north as I am with the south.

As a governor, I bring other types of experience to this role. I was the governor during the Lewis Prison hostage crisis in Arizona, a 15-day standoff, with several of our prison officers kept hostage by armed inmates. And we were able to resolve that after 15 days, without loss of life.

The -- the pipeline -- the Kinder Morgan pipeline that brings, basically, all of the gasoline into the Phoenix area ruptured. And it was there that I recognized that -- not only the criticality of infrastructure, but how fragile it is, and how necessary it is to have a working relationship with the private sector, which controls much of that physical infrastructure. It only takes one hot Sunday afternoon in August, in Phoenix, where people cannot get gasoline, for a governor to recognize how critical that infrastructure is.

I have dealt with drought and response to drought, and also with the -- the major natural catastrophe that affects Arizona, which are forest fires that are ever-increasing and ever-larger.

As governor, we created a 211 system in our state to provide alternative sources for information to the 911 system that is updated on a current basis and real-time basis, during any type of emergency. We mobilized early and effectively to accept evacuees from Hurricane Katrina. And we were among the first states to create a statewide anti-terrorism fusion center that is now being used as a model for other states.

On the issue of cyber-security, when I was the attorney general, I created the first cyber-crime unit within the attorney general's office. We brought one of the first prosecutions -- or some of the first prosecutions in the country in that area. And, as governor, but executive order, I created a statewide information-security-and- privacy office to deal with all of the issues affecting the -- the collection of data in databases -- not just from a security side, but from a privacy side as well.

Because I am a governor, a chief executive, I have a lot of experience with budgets and management and the like. And though the Department of Homeland Security is larger than the administration of the state of Arizona, it shares with it some of those same features.

There are many issues with the Department of Homeland Security, and I look forward to working with the committee on them.

We must work to make sure the -- the department continues to merge as a whole, and has a unified vision for homeland security. We must work to streamline communications. We must work to recruit, train and retain the best and the brightest amongst our employees. We must continue to work on federal relationships with other agencies.

And I will share with this committee that, during the course of the transition, President-elect Obama has held a number of exercises with the national-security team. And, then, indeed, this week, on Tuesday, there was one with the -- President-elect Obama's security team, and President Bush's current security team. And all of those exercises have illustrated the central role now that the Department of Homeland Security plays.

And, as we strengthen these federal links, we must recognize the important partnerships we have with state and local law enforcement and first-responders. The federal government cannot do the homeland- security function alone. Amongst all the departments, it is as essential as anything to make sure that we have linked in, planned with, exercised with, our state and local partners. And that is something that I hope to spend a great deal of effort on.

We hope to move our -- our security team in place at the department as quickly as possible. I look forward, again, to working with this committee. And I am privileged to appear before you today to discuss the issues of concern with you.

I want to thank you for hearing me today. And I, again, am very humbled and privileged to receive this nomination.

LIEBERMAN:

Thanks very much, Governor.

Let me start the questioning with the standard questions that we ask of all nominees. First, is there anything you're aware of in your background that might present a conflict of interest with the duties of the office to which you've been nominated?

NAPOLITANO:

No.

LIEBERMAN:

Second, do you know of anything personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you've been nominated?

NAPOLITANO:

No.

LIEBERMAN:

And, finally, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

NAPOLITANO:

Yes.

LIEBERMAN:

Thank you. You're doing very well so far.

We're going to start our first round of questions, limited to seven minutes each.

I -- I -- I hadn't planned this as my first question, but I want to -- you -- you said something that leads me to say this: From you, and others that I have talked to, the -- the -- President Bush and his administration have really been quite remarkable and proactive in this transition. And, as far as I can remember, it's -- it's one of the best ever, maybe the best.

You said something -- and I -- and I appreciate that you thanked Secretary Chertoff for what he's done to get you ready to assume these jobs. I mean, this is obviously way beyond anything that's political and, certainly, not partisan. We're talking here about homeland security.

But you said something that I hadn't heard about; I hadn't known about. And if you're comfortable just saying a little more -- that -- that you've actually gone through some exercises. I presume you mean exercises in responding to a -- a -- a virtual, kind of imagined, national-security crisis, alongside the -- the Bush-administration team.

Can you say a little more about that?

NAPOLITANO:

Yes, Mr. Chairman.

On Tuesday, in the old executive office building, there was a exercise with the current President Bush team and the incoming nominees, to walk through, in sort of a briefing table-top fashion, a -- a scenario that is one that could happen. There is no firm intelligence that it would, but it's -- it's a scenario that...

LIEBERMAN:

Great.

NAPOLITANO:

... of multiple IEDs going off in different places, over a period of time, and how that information would be received, processed -- what different departments would begin to do, and the like.

And that followed on the heels of several sessions that President-elect Obama has had just with the incoming nominees on the -- on the security side -- to really forge that national-security team. And that has been ongoing over the last several months, as well.

LIEBERMAN:

Well, it's very reassuring on -- on both counts -- both -- and, obviously, should encourage the American people that, next Tuesday, when the new administration takes over, you're going to be ready.

Also, I will say, from the point of view of this committee, that I'm grateful and proud that you were right there in the middle of it, because the secretary of Homeland Security needs to be in the middle of it. And it happens to be the newest department, but -- of our government. But I -- I will tell you that, in my opinion -- and, I hope, everybody else's -- it ranks in -- in importance with the very first departments created by our government in its history. So I thank -- thank you for your answer to that question.

There have been many wonderful things, positive things, said about you in -- in response to your nomination. One -- perhaps the only critique that I've heard -- and I want to give you a chance to respond to it -- is -- is that, yes, you've had extraordinary law- enforcement experience. You've had the management experience and all the substantive experience that comes with being a governor and, indeed, a border-state governor -- managing response to disasters and crises, as you mentioned.

But the -- the criticism has been -- or the question has been that you have had no specific involvement in counterterrorism, as it were. And I wanted to give you a chance at the outset to respond to that.

NAPOLITANO:

Yes. Thank you, Mr. Chairman.

I think my direct experience with counterterrorism began when I was United States attorney for Arizona in 1995, when our office handled a large segment of the investigation into the Oklahoma City bombing case. As you may recall, the planning for that crime occurred within Arizona. And we were responsible for setting up the command center and all of the investigative measures that were taken in -- in connection with -- with that matter.

Since then, both on the prosecution side, I've handled cases that -- that had aspects of that. I've prosecuted a militia group, for example, that was filming federal buildings in the Phoenix area, with the intent to blow them up simultaneously, and -- and cases of that sort.

Now, have I done that on a daily basis? Fortunately, not. And, for that -- you know, that's just the reality of it. But the whole issue of terrorism and counterterrorism -- the investigative mechanisms that must be employed, the appreciation of good-quality, credible intelligence, the understanding that not all intelligence received initially is accurate, and you really have to work to make sure you get to the bottom of things -- that is something I have direct experience with.

LIEBERMAN:

I appreciate that.

And, obviously, you -- you bring, as you said in your opening statement -- and Senator McCain and Senator Kyl said that the unique management experience of a governor, regardless of what the particular threat that you're responding to -- let me ask you one of those questions we always ask. And it's interesting, but never definitive, as you start up.

But based on what you know now, and the briefings you had, give us a sense of -- of what you're -- of, first, one or two -- let's say you're two priorities will be as you go in as secretary of Homeland Security.

NAPOLITANO:

Well, I think, initially, I -- I go in with the idea of continuing to create a unified vision for this department, and to create a culture, as it were, that this is a Department of Homeland Security that has many aspects to it, not 21 separate agencies or 22 separate agencies; and that means having consistent guidance department-wide on everything from the nuts and bolts of acquisition, program management, procurement, to how we handle getting information to me, out from me, and the like, from a management perspective.

The second thing, Mr. Chairman, is this department has a lot of parts to it, many of which require presidential appointment and confirmation. And we want to, as I said in my statement, recruit the best and the brightest...

LIEBERMAN:

Right.

NAPOLITANO:

... to move into those leadership roles. And -- and that will be of immediate priority.

The third thing is, in a way, to complete the work of transition. I've had hours of initial briefings. And, indeed, the secretary was kind enough to send teams to Arizona so I could do briefings there while I continued to serve as governor.

But should I assume the role as secretary, should I be confirmed, there will be a whole nother level I will -- will want to get at. And we'll -- we'll go methodically through that.

Some of the areas of the department, I have a lot of day-to-day experience with; some, not so much. We'll want to -- we'll want to get those things equivalent.

LIEBERMAN:

Thank you. It's a good beginning. My time's up.

Senator Collins?

COLLINS:

Thank you.

Governor, you mentioned in your opening remarks that -- for our nation to be fully protected -- there has to be a robust relationship with state and local governments. And, indeed, we talked about that in our private meeting as well.

Yesterday, the Associated Press reported that key provisions of Arizona's Homeland Security Plan, which you first announced back in 2003, have not yet been implemented. And some of them are important provisions, such as establishing a statewide interoperable radio-communications program for first-responders.

What did you find to be the obstacles that prevented you, on the state level, from fully implemented -- a plan that you announced five or six years ago?

NAPOLITANO:

I'm glad you asked that question, Senator. I think it will not surprise you when I say I don't think the newspaper story was entirely accurate. Indeed, it even misspelled the name of the homeland security director in Arizona.

NAPOLITANO:

Be that as it may, we had 10 action items in our Homeland Security Plan. Eight were fully effectuated, two were not. One was to computerize all criminal records within the state of Arizona. We are well on our way to doing that. The records that have not yet been totally computerized come from the more rural parts of the state.

The major urban areas, the urban areas that cover 90 percent or so of the state's population now have been unified and computerized. So there's easy access for officers on the street. And the rest, should I have stayed as governor the remainder of my term, would have been complete.

On the interoperability issue, the key obstacle was funding and that is something that, as the secretary, I would hope to take up on an operational way, because I know of no state really that's been able to get to full interoperability.

That being said and given the true fiscal issues involved there, what we did in Arizona was we purchased a series of what I would call patch trucks, trucks that can be moved into different areas at different times to provide a connect between different types of radio systems.

So for example, if you have a forest fire in one area and you have a number of different responders working there, you send up the trucks to help make sure you have interoperability.

You have flooding in the Nogales Wash at the border, you send the trucks down to make sure you've got some functional interoperability.

The trucks were asked for in response to Hurricane Rita and we sent them over there. So we patched together an interoperability system that has worked for us while we deal with the greater -- and I think it's really a national issue of the entire interoperability concern.

COLLINS:

Well, this is an area that the chairman and I have worked a great deal on. We were appalled when Hurricane Katrina struck to find the same inability of first responders to communicate with one another. That marked the attacks on our country on 9/11. And that lack of interoperability truly cost lives.

It's something that the chairman and I have created a special funding program to assist states in this area.

Do you anticipate helping us to increase the funding for that program, given your experience with the cost obstacle in Arizona?

NAPOLITANO:

Senator, not just that, I really want to bring some people who are technically savvy to look at this interoperability issue to make sure that we're getting the kind of system we really need, with the best and most current technology available.

One of the things I'm concerned about, having dealt with this for the last five years, is I'm not sure we have the right people talking with the right people about how this actually gets done.

So it's a money issue, but I also want to make sure that, from a technology standpoint, we're really getting at it.

COLLINS:

In your response to Senator Lieberman's questions about priorities, you talked mainly about management issues.

I would like to hear from you more about your priorities in the area of terrorism and counterterrorism.

This committee has attempted over the years to identify emerging threats, vulnerabilities, such as our seaports, our chemical plants, and to enact legislation in this area.

We've undertaken a major investigation into homegrown terrorism, which isn't solved by better border security, for example.

We are looking at the vulnerabilities of biological labs, of cyber security.

When you look at emerging threats, what areas were you the most -- what areas were you -- are you going to particularly focus on?

NAPOLITANO:

Senator, I think one of the things we can do at the department is to focus on areas that other departments don't necessarily focus on, because in the intelligence world, what I have perceived is there's a lot of duplication of people looking at the same things.

But in my view, two areas that this department ought to focus on area transportation security, because from a prevention and protection standpoint, not just aviation, but surface transportation, as well, and to pick up Senator Lieberman's comment, that is a work in progress. We haven't done as much there as we have done on the aviation.

But, also, working with the private sector on the private infrastructure, and that's chemical. On the biological, now you get into the -- in part, into the academic sector, because many of those facilities are on universities who don't necessarily view themselves as a security risk the same way, say, a nuclear plant might.

So those are the types of things where we want to guide the department. Let's go where the gaps are that our department is uniquely qualified to fill.

COLLINS:

Thank you.

LIEBERMAN:

Thanks very much, Senator Collins.

We'll go in the normal committee custom, which is in order of arrival here.

Senator Voinovich, welcome. You're next.

VOINOVICH:

Thank you.

First of all, I really appreciated the opportunity that I had to spend some time in my office with you and there's no question that you have the management qualifications to be secretary of the department.

You've mentioned some experiences that you've had as governor that are relevant to the operation of the office. I am impressed with the grasp that you have of the department, even though you haven't been there.

And one of the things that I'm interested in and I think would be very helpful to this committee is that once you've had a chance to get in the saddle, is to come back with some of the priorities that you have outlined, that you think are the most important for you to get the job done, and to share with us ways that we can be of help, maybe it's legislatively or maybe it's getting involved with the administration and getting some things done, questions about whether you have flexibility to hire and retain and reward people that you're going to have to have in order to get the job done; also, even in the area of the budget that you need to get the job done.

My observation around here is that so many of you have been asked to do work and not given the resources to do it and I've always said that if you don't give someone the resources that they need to get the job done, you basically tell them that you don't think very much of the job you've asked them to do.

One of the things that's been of real concern to me, and I know that some of the members of this committee have been concerned about it, is that the 9/11 report made a recommendation to provide better and more streamlined oversight of the Department of Homeland Security.

And I remember when the sense of the Senate that was accepted during this committee's markup of the 9/11 bill, calling on the Senate to reorganize itself, was removed from the bill before floor consideration and it's one of the big things that we have not done.

And I think, for the record, that you should know and the American people should know that we have 88 committees -- 88 -- in the House and Senate. And last year, you were subjected,

and your team, to 375 visits to the Hill, and that doesn't include the meetings that many Senators and Congressmen may have had with top people in your office.

I think that is absolutely unacceptable. As a committee, we should do what we can to try and respond to this recommendation of the 9/11 commission so that this woman can get her job done and the people that are working for her can get it done without having to come up here so many times to respond to Congress.

I think that's something that I'd like you to look at and I'd like the president perhaps to even jawbone that it's time that we enforce that provision of the 9/11 commission report.

The other thing that you and I talked about was the visa waiver program. I got very much involved in that and I was pleased that the State Department and the Department of Homeland Security came together and we've come up with a new system.

That system, I think, is one that we should all be happy about. It not only improves the sharing of information between countries that are now eligible for the visa waiver program, but it also has responded to a very major public diplomacy problem that we've had, where many of these nations that have come into NATO, are our friends, have been kept out of that program.

And I know there's going to be some heat that you're going to experience on the program and I'd like you to tell me whether or not you're familiar with the recommendations that the GAO has made to look at them, which I think are objective, and just where do you stand in regard to this issue.

NAPOLITANO:

Well, thank you, Senator. And to your first comments, thank you for those comments

With respect to visa waiver, I have looked generally at the GAO. I have not drilled down on the recommendations themselves.

There is a balance, obviously, to be struck between the security issues implicated in visa waiver and the public diplomacy elements associated with visa waiver.

So I look forward to working with you and the committee on those and with the State Department, which has a very, very important role to play.

But I'm very cognizant of the very important balance that needs to be struck.

VOINOVICH:

Well, I know I mentioned to a member of the State Department that if we were to overnight try and yank visa waiver from the 27 countries that now have it, it could be a disaster in terms of public diplomacy and I think we ought to be able to handle that in a more diplomatic way and get them to do some things we want them to do.

The other is the relationship that we have with Canada and you're familiar with the problems, because you have been a governor and chair of the NGA.

One of the things that we've been promoting is to allow the pass card to be used -- the pass card to be used today. You can do it for land and sea. We'd like to have it available for air travel and we'd like you to look into that.

You're probably going to be seeing some legislation to make that happen. But I really think it's important that we calm the fears of our friends from Canada particularly that some of the stuff that we're implementing may interfere with this wonderful relationship that we have with them.

There's other issues we talked about, but I'll mention the interoperability issue.

I have visited all four of our communities and spent several hours in each one of them about interoperability and most of them aren't where they're supposed to be.

A really great program -- and Columbus, Ohio is lucky, because when I was governor, we instituted the MARC (ph) system, which is one of the best in the country in terms of statewide communication.

But the real problem that most of them are having is they don't have the wherewithal to get the equipment that they need. And I think you kind of alluded to the issue of the technology here and what kind of technology and looking at the issue if is everybody using the same stuff or is there a problem with that.

And then the other issue, of course, is interoperability between state-to-state. For example, we've been working with the state of Michigan to try and make sure there's some interoperability there.

So a lot of these issues are things that we've got to dot the "i"s and cross the "t"s, but I think, as you know, from your experience as governor, that's where you get the job done is when you do that.

NAPOLITANO:

Thank you, Senator. And it is a resource issue, it's a regional issue, it's a state issue, but we've got to get this done and I think it's something that, given my own experience in Arizona and working with other governors, this is something that the department really should take a leadership role on now.

VOINOVICH:

And I'm glad you understand that E.M. Peachey (ph) is very important to making that happen.

NAPOLITANO:

Thank you.

VOINOVICH:

Thank you.

LIEBERMAN:

Thanks, Senator Voinovich.

I just want to say a word about the very strong point that Senator Voinovich made, that 9/11 commission recommendation that we reduce the number of committees the secretary of homeland security reports to.

We actually tried, we brought that out on the floor, and we got overwhelmed. You'd be surprised to hear that there's a certain protection of turf that occurs here.

Some consider subcommittee and committee chairmanships to be the beginning of policies of manifest destiny, and so it's hard to resist.

I don't know that we can offer you -- and it's really not a good situation. I don't know that we can offer you really the prospect of legislative help on this.

But I would urge you at least to try to cut back on it by seeing if you can establish a rule of your own that you're only going to testify at the full committee level.

I think if you start getting picked away by subcommittees, except in rare circumstances when there's something really critical going on, it's going to be very hard for you to do the rest of what we want you to do.

Thanks, Senator Voinovich, for bringing it up.

Senator McCaskill?

MCCASKILL:

Thank you, Mr. Chairman.

And let me start by making a comment. As I watched this hearing unfold this morning and I watched Chairman Lieberman gavel us in and I watched Senator McCain introduce you and Senator Kyl introduce you, the thought kept running through my mind -- our democracy is a class act.

And I want to say that I don't think there's anybody that could be more thrilled to have you sitting there than I am, and I want to welcome you and congratulate you.

MCCASKILL:

And I know you know this, because we talked about it, I think you're taking on one of the biggest and maybe one of the most difficult jobs in our country in terms of government.

So enjoy today, because it's all going to be warm and fuzzy today, and that's probably going to be it.

Let me talk a little bit about immigration enforcement. As you and I have discussed, I'm a firm believer that enforcement on the employer side is the only way we are going to get to true immigration reform in this country.

Americans are not willing to support comprehensive immigration reform right now because they believe that we are looking the other way on enforcement.

And by the way, I don't think it's enforcement of the immigrants. You and I have talked about that these people are not coming to this country for a vacation. They are coming for a job.

And I believe the federal government has hid behind the notion these cases are too hard to make, these cases are too difficult to make against employers.

I believe the previous administration purposely looked the other way as it related to employers. E-verify or no e-verify, the idea that the head of immigration enforcement in this country, in early September of 2007, had no idea how many employers had received criminal sanctions was symptomatic of this attitude.

And it took interns in my office taking hours to go through records to figure out how many employers had had enforcement actions against them. We now know, because the head of ICE then undertook the effort of determining how many employers had been sanctioned, we now know that both in fiscal year '07 and fiscal year '08, it was around 10 percent of the total.

That's not enough, because, frankly, everyone in this room knows -- and there were only 22 entities that were fined in the whole country, 22 in the whole country. You could find 22 in Missouri if you halfway decided to concentrate on it.

So I would like to hear your plans for prioritizing the enforcement of our immigration laws against those who allow 40 or 50 people to use the same Social Security number in the workplace.

NAPOLITANO:

Well, thank you, Senator. And I'll try to remember the warm and fuzzy feeling later on. Thank you for mentioning that.

With respect to employers, my experience is that you have to deal with illegal immigration from the demand side, as well as the supply side. You have to enforce the rule of law at the border. That requires manpower and technology and a good system at the border itself.

But you also have to deal with what is drawing people illegally across the border and, particularly with respect to the southern border, to make that very tortuous and dangerous journey, and it is the prospect of a job.

And we do have employers who use the lack of enforcement as a way to exploit the illegal labor market, to depress wages, to exploit workers in some cases, and that requires enforcement.

Indeed, one criticism of the 1986 revision of our nation's immigration laws was that it lost its credibility because there was no sustained employer enforcement action undertaken after that. So we need to do that.

I signed the nation's strongest employer sanctions bill when I was governor, in part, because of my belief that you have to get at the employer side, as well as the employee side.

But you've got to do it in the right way. You've got to do it in a smart way and you have to target appropriately. And we have to have appropriate agreements with the Department of Justice and the U.S. attorney's offices that they're going to bring actual cases.

So one of the first things I will do, should I be confirmed as secretary, is begin a collaboration with the Department of Justice and, hopefully, with the U.S. attorneys offices throughout the country so that we can start moving actual prosecuted cases through the system.

MCCASKILL:

Also, as we talked about, I think there is an opportunity -- we have some unfortunate enforcement efforts, I think, that are going on at the state and local level, but I think with some

leadership from your office, that talent and that resource could be channeled more effectively as we do a comprehensive enforcement strategy by utilizing local prosecutors.

And that's why I think your experience as a governor -- you know what it feels like when Washington isn't doing it right and I know that you won't forget what it feels when Washington's not doing it right. So I think that's a great plus.

The other thing I want to bring up with you is we used to say, when I was a prosecutor, that we were doing all the serious felonies and the rapes and the murders, but the face of the criminal justice system was needed in the court. That's where most people were coming into pay traffic tickets and do -- and that's how people got their impression of how we were running the system of enforcing the law in the community.

And I think the same thing is true in airport screening as it relates to homeland security. I've just got to tell you, a whole lot of it has appeared ad hoc to the general public.

I mean, the best example, and I've talked about in this hearing before, is mascara. I mean, women across America are going, "Huh, what is it about my mascara that's so threatening?" And I never got a good answer to that question.

By the way, they've quit worrying about mascara, quietly. Mascara is now OK. To the women of America, you can take your mascara and not worry about it being taken from you. But they changed that without even really telling anybody.

Now, I understand that there are things they change, like -- and pat-downs have changed. I know, because I have a fake knee, that I have to get patted down every time I go through. So I am on the front lines of knowing how we're doing in terms of these airport screenings.

Well, they've changed what they're doing on pat-downs. Now, I don't recall ever, on this committee, us even being given any information about them changing pat-downs.

So if you're not a United States Senator and these changes are going on, you go, "Well, what is going on? Why are they doing this?" And it gives you a sense of unease that people that are in charge have no idea what they're doing, and I would like you to speak to that.

NAPOLITANO:

Well, Senator, I think one of the things we need to do at the Department of Homeland Security is communicate, because I believe the American people want to help participate in their own security and are willing to undertake and do things that are inconvenient or somewhat of a hardship if they believe there's a reason for it.

But you can't take advantage of that goodwill and one of the things that we will be working on at the Department of Homeland Security is explaining when there is a change in procedure or why we're doing certain things the way we are and to make sure that if we are going to enact

something that is going to inconvenience 53 percent of the traveling public, that there's a good database reason for that change and that the change is explained and then carried out uniformly, because another critique I have received in the course of the transition is inconsistency at different places for the same action.

So again, we'll be -- like I said, first of all, there are a lot of wonderful men and women working at the TSA and they're doing a wonderful job, but we can work to make it even better and then explain it better to the American traveling public.

MCCASKILL:

(OFF-MIKE) anyone to misinterpret. I am not anxious for the pat-downs to come back. I don't miss the love pats, the extra love pats. So don't misinterpret my comment as saying I want there to be some good reason to reinstate the pats.

So thank you, Mr. Chairman.

LIEBERMAN:

Thank you, Senator McCaskill. You left me speechless there.

Now we go to Senator Akaka.

I was thinking about the membership of the committee, that this committee really is very geographically diverse, in addition to the extraordinary capabilities on it, really from sea to sea and coast to coast.

And you mentioned earlier about the northern border. Senator Tester has been a particular advocate for the security concerns of the northern border. Obviously, Senator Akaka, who I'm going to call on next, takes us all the way west to Hawaii.

Senator Akaka?

AKAKA:

Thank you very, very much, Mr. Chairman, for holding this hearing. For me, it has been exciting.

Governor Napolitano, I want to thank you for taking time to be with us this morning. And I just want to repeat again that I'm very, very impressed with you, your background, your experience, and, also, your performance prior to moving into the cabinet position here, and,

therefore, you have really heightened my confidence in what's ahead for this administration, this country, with the service as secretary of this department.

The Department of Homeland Security represents perhaps the most serious management challenge in the federal government today. At the beginning of a new administration, a focus often is on new policy objectives.

I urge you to focus closely on improving the department's management functions, as well.

At Secretary Chertoff's nomination hearing four years ago, I stated, and I believe it's worth highlighting again, the price of security should never erode our constitutional freedoms.

There is an urgent need to review and revise policies as DHS that infringe in privacy and civil liberties, and I look forward to working with you on those issues.

But before I move on to my questions, Mr. Chairman, I want to ask that my full statement be made part of the record.

LIEBERMAN:

Thanks, Senator Akaka. Without objection, so ordered.

AKAKA:

Thank you very much.

Governor Napolitano, you signed Arizona legislation rejecting Real ID because of inadequate federal funding.

As you may know, I support more secure drivers' licenses, but I believe that Real ID is deeply flawed. I have advocated repealing and replacing Real ID with a more workable solution to increase state buy-in and improve privacy protections.

Do you believe that it is time to review the Real ID status and, if its flaws cannot be fixed through administrative action, to amend or replace it?

NAPOLITANO:

Senator, I did sign a bill, I was one of a number of states that said we would not participate in Real ID, not out of a philosophical objection to having a secured driver's license that could be relied upon in our country, but because it's a huge fiscal burden. It costs a lot of money to do it.

I also think that we didn't have enough consultation and collaboration with states who -- after all, it's where motor vehicle divisions are run and have the whole mechanism by which the Real ID would be accomplished.

So in response to your question, what I intend to do is to sit back down with a group of governors -- the National Governors Association has formed a task force here, bipartisan, and get the sense of their recommendations and where we need to go with respect to Real ID.

And if it's a matter that needs to be taken up again legislatively, I hope to work with this committee on the necessary improvements, because as it stands right now, we really have a patchwork of states and of what they're doing.

In particular, with the condition of the states fiscally, I don't think we can reasonably anticipate that they have money available now to put into an enhanced driver's license program.

So we need to rethink, revisit, re-consult, and then, if necessary come back to this committee.

AKAKA:

As you know, at this moment, half of the states have passed laws rejecting Real ID.

DHS, Governor, has struggled with poor morale, high turnover and high vacancies, due, in part, to the department's efforts to alter collective bargaining, and its rules in implementing a pay for performance system.

These proposals were resisted by the employees and their representatives and ultimately were blocked by the courts and Congress because of fairness concerns.

DHS must improve its ability to recruit, train, motivate and retain skilled employees in order to meet its mission.

Please discuss your key priorities for investing in the department's workforce and ensuring a fair and transparent personnel system.

NAPOLITANO:

Well, Senator, I have been very impressed with the men and women I have met in the department, both here in Washington, and those tend to be those in the higher reaches of the department, but then out in the field, as I've run into them in different circumstances and the like.

And so we start with that. And we start with the premise that the men and women of this department want to work to keep America safe. That's why they're here. That is their mission. And so we start with the goodwill.

I think, as the secretary, we want to continue to enforce that. We want to provide, for employees, a sense of being part of this very important mission, and some real career paths for them, so that if they begin at a low-level position, say, in the TSA, they know that over the course of their career, if they perform well, they can advance, and that it's a -- it's a -- it's a real career path for them.

Those are the kinds of things that make for good morale, and those are the kinds of things that we will be working on.

AKAKA:

Yes.

Governor, only one large U.S.-flag cruise ship remains operating in Hawaii. Rapid growth in foreign-flagged ships has forced domestic ships out of business by avoiding U.S. tax, labor and employment laws.

The Passenger Vessel Services Act restricts foreign-flagged ships from operating in the U.S. ports. But it has not been enforced. Customs and border protection issued an interpretative rule on the PVSA, clarifying the scope of the law. But the Office of Management and Budget returned that rule for further consideration.

Will you work to craft a new interpretive rule to enforce the existing statutes?

NAPOLITANO:

Senator, yes, I'll be happy to look into that rule and its particular application to the Hawaii situation.

AKAKA:

Thank you very much.

Thank you, Mr. Chairman.

LIEBERMAN:

Thanks, Senator Akaka.

Senator Tester?

TESTER:

Thank you, Mr. Chairman. I appreciate the opportunity visit with Governor Napolitano. And I just might add, as a sidebar, that I don't think you're the first guy that Claire McCaskill has left speechless.

But that aside -- that aside, I want to say welcome. I appreciated the opportunity to visit with you yesterday. And I think we've got a lot of work to do. But as we have these committee hearings with -- with nominees -- I will just say that I think, as Claire said, it's fuzzy now, and it's going to go away, but I think you've got -- you've got a real opportunity to make a difference in -- in -- in the security of this country and the efficiency of how the department works, and how tax dollars are spent. And so I think that there is some real opportunity with those challenges as they come forward.

I appreciate your willingness, as I do with -- with -- with everybody -- for the service to this country. Thank you for what you've done. Thank you for what you're about to do. I think you will be confirmed, and I hope it's done quickly.

We have tried to move the discussion, as the chairman has said, to the northern border, a time or two, and how we use those resources, and making sure we use those resources in ICE. As we go up there, we see those border patrol with new stations and plenty of personnel. We see a lot of the ports on the northern border, where there are too few custom agents, inspectors. They're cramped, insufficient, for dealing with -- with the work that they have to do up there, from my perspective. And I think it's bad for security. I think it's bad for commerce.

DHS does not appear to have an integrated coherent strategy for the northern-border security that matches up well with the public- identified threat.

In the 9/11 Commission Recommendations Bill, I included an amendment to do a study to look at the vulnerabilities on the northern border, and how DHS was going to plan to address them. Unfortunately, the document, from my perspective, was almost useless. There was no strategic plan for dealing with -- with the border. There was nothing that indicated that there was any real thought given to the northern border at all. And this is more than seven years after 9/11.

To the question: What actions, as secretary, would you take to ensure that we have sufficient and appropriate use of resources along the northern border?

NAPOLITANO:

Well, Senator, I think the -- the -- one of the first things I want to do is go to the northern border, physically -- get a sense of the area, see the facilities that are there, talk to members of the communities in those border towns -- the mayors, the sheriffs and like; talk to the employees who work in those border- patrol stations.

And, then, I want to see what work has been done toward having a northern-border strategy, and then really drill down on it to make sure that it is a cohesive strategy that makes sense for the geography that we're talking about.

TESTER:

OK.

You've mentioned local law enforcement, visiting with them. What -- what role do you see in your -- in your -- in your duration in this office? What role do you see local -- local law enforcement playing in regards to border security?

NAPOLITANO:

Well, I think it's at least two-fold, Senator.

One is through programs like Operation Stonegarden, thorough augmenting overtime and the like. They can help augment law enforcement interdiction, apprehension, prosecution. But they also can, and should be, extra eyes and ears on the ground. And that doesn't necessarily require a formal financial relationship.

My experience is that law enforcement is law enforcement. And if they are asked to keep an eye out for "X" or -- and -- and know that that information is welcome and will be acted on, and also if the information that the feds have is shared with them -- that is the kind of ongoing partnership with -- with law enforcement that we want to build.

TESTER:

Good. I look forward to you building those relationships. I think they're important, and I think you get the most bang for the buck in those.

We have, as we talked about yesterday, we've got reservation -- an Indian community -- significant -- that -- that butts up against Canada, in the northwest part of the state, I guess -- northwest or north-central. And there are some issues dealing with the sovereignty of that -- those -- that tribe, in particular, and our goals. And I -- I don't think the goals are any different, but -- but the sovereignty issue makes it a little different play.

Do you -- do you think -- I mean, you've got -- I think you've got a Shadow Wolves program in Arizona, I believe. Do you -- has -- first of all, as that worked pretty well? And, second of all, do you think that that's something that could work other -- other areas of the country, when you're dealing in Indian country.

NAPOLITANO:

Senator, I can't respond. I haven't looked at Shadow Wolves for a while. But I can say this: I'm very sensitive to the -- the -- the sovereignty and jurisdiction issues that Indian country presents.

We -- actually, in Arizona, we have an Indian reservation -- the Tohono O'odham reservation actually crosses the border into Mexico. And so, working with tribal leaders there, in terms of what measures would be taken along that stretch of border -- and it requires direct work and consultation, and a realization that there are tribal jurisdictions involved in the homeland-security picture. And -- and there are differences there we need to appreciate.

TESTER:

Good.

I -- I want to associate my -- with -- with Senator Akaka's comments on REAL ID. I'm not going to get into it now, because I don't think it's important. I think it's very, very important. But time is limited. And I think -- I think he hit on a lot of very good points that I absolutely agree with, when you talk about freedom versus civil liberties.

I do want to talk about small-business contracting. This is a big agency that -- that lays out some pretty good-sized contracts. And in that process, they, from my perspective, only get big contractors to bid on those big contracts.

I would hope that -- there's a lot of good ideas out there in small businesses that could really help border security, from what I've seen. I'm -- and I'm sure you'll get an opportunity to see some of that down the line.

But would you make a commitment to -- to really take a look at the small businesses and give them an opportunity to be a part of our security future, as far as contracting goes?

NAPOLITANO:

Senator, yes, I will take a look at that whole issue of contracting small versus large; also, the phenomenon of big contract to sub-contract, and how that's working within the department.

TESTER:

I would certainly appreciate that.

Once again, Governor, I -- I look forward to working with you on this committee. I -- I look forward to you not having to come up and testify in front of all these committees, as -- as Senator Voinovich said, because we'll know you'll be doing the right thing, and we don't need to bring you up every other day to quiz you. Thank you very much.

NAPOLITANO:

Thank you, Senator.

LIEBERMAN:

Thanks, Senator Tester.

Senator Landrieu, good morning.

LANDRIEU:

Good morning, Mr. Chairman. Thank you so much. I always learn some -- most extraordinary things, Mr. Chairman, when I come to your hearings. And this morning I'm happy to know that I now know who to thank for being able to keep my mascara as I'm traveling.

LIEBERMAN:

Yes.

LANDRIEU:

I did not know it was our own colleague, Senator Collins.

LIEBERMAN:

Yes, I had the same reaction myself.

LANDRIEU:

Yes, I know -- I know you enjoy keeping yours.

LIEBERMAN:

I do.

LANDRIEU:

But also, more seriously, I want to associate myself with the remarks of our ranking member on the issue of interoperability, and thank her again, and the chairman, for their really relentless work in this area.

And although we've made progress, we have, obviously, a great deal more to go. And I would only refer to one comment that will forever stick in my mind, when I was doing a CNN interview, within a day or two of the storm, Katrina. And I happen to be interviewed with the National Guard general from Alabama, who I couldn't see, but I could hear -- because we were both being interviewed.

And a question was posed to him, "General, what is the communication system that you're using now?" And he was -- I'm going to paraphrase. But it was, generally, "I hate to report, but we're basically using the technology that I imagine we used during the Civil War, when we were sending runners," he said to the reporter.

So I commented that that was basically the same thing happening in Louisiana. So when I say, on behalf of the people that I represent, and the 1,900 people that lost their lives in those days after this catastrophe, I just can't impress upon you, should you be confirmed as secretary -- and you will, in fact, have my vote, because of your outstanding credentials -- the importance of getting this right.

And as I look at the firefighters on the front row, we don't have to go too deep within ourselves to remember the horrifying days in New York. And it's not fixed. This committee has done a tremendous amount of work in trying to fix it. But without the right leadership pushing with us, it's impossible.

So I look forward to working with you, but I have -- on interoperability. But I have two questions. One, Madam Governor, in President Bush's last press conference, which was just a few days ago, he was quoted as saying, "People say, 'Oh, well, the federal response was slow.' Don't tell me the federal response was slow when there were 3,000 people pulled off the roofs right after the storm passed." He was referring to Katrina, prompted by a question by a reporter. It's a pretty quick response.

Apparently, the president has a lot on his mind the last two -- two weeks of his administration -- and I can appreciate that. But a -- a cursory review of the historic record will reflect that although the storm hit on Monday morning, early in the morning, when hurricane-force winds -- hurricane three to four -- hit the metropolitan area -- it was not until Friday that the first official military airplane or vehicles showed up.

Now, the Louisiana Wildlife and Fisheries was there. The National Guard called out under Governor Blanco's direction. And the Coast Guard, God bless them, acted on their own standing authority, to rescue those people.

But when the real investigation is ever completed, if it ever is, I think the record will probably indicate that more people saved themselves by giving up and swimming, or floating off their roofs to safety, than actually who was rescued. Now, I -- I don't know, because there's been no real investigation that thorough. However, having said that, no one, except maybe the outgoing president, would say, in the entire world, that the response was quick.

So my question to you is: Can you just briefly talk about your philosophy now, as the incoming secretary of homeland security, your experience as governor -- how you would change. And do you recognize -- how would you change the response? And do you recognize the significant role that the federal government must play in a catastrophic disaster, whether manmade or naturally occurring, which in our case was both.

NAPOLITANO:

Senator, yes. And I -- I appreciate not only the -- the gravity of Katrina, and its uniquely catastrophic impact, but also the fact that there is work left to be done. And one of the things I would seek to do, should I be confirmed as secretary -- and you and have talked about this -- is come down to New Orleans with you, and get a sense of what -- where we are, what needs to be done, what the obstacles are to completing the work that is under way, and get at it.

I think that there have been a number of changes in FEMA, post- Katrina, in response to this committee and others' strong and legitimate criticisms of what did not occur there on a timely basis. But there still is work to be done as well.

And -- and we want to make sure that, from my standpoint, FEMA plays a key role in our nation's homeland security, not just in mitigation of disasters before they occur and working to identify measures that can be undertaken, but, also, in quick response, recovery, and to demonstrate the incredible resiliency of this country, get people back in their homes, back to work, communities reestablished as quickly as possible.

And those are all areas that FEMA has expertise in. They must be marshaled and then recognize that FEMA, like so many other areas of this department, has to work in cooperation with state and local authorities, because so much of emergency preparation and response initially is done at the state and local level, because that's where the personnel are.

But there has to be training, education, communication, all of those things that knit together an emergency response framework that really works.

It can be done. It has been done in other situations. So it's not as if there has been a record of uniform total historical failure, but it also can be improved.

LANDRIEU:

Thank you. And one more question. And one more question. I know I've just got a limited time, so if we could have a brief answer here.

The state of Louisiana, and I'm sure Mississippi and Texas are in this position, as well, I don't have their specific numbers, has appealed approximately 1,200 public assistance projects, work order sheets, which you, as a governor, are very familiar with.

Over \$1 billion is in dispute. But the actual number is about 4,000 that basically FEMA and the state can't come to grips with. So these projects are stalled, recovery is stalled, and jobs are being lost because of this.

We'd like to get this fixed in the stimulus package, because the benefit is it doesn't cost anymore money. We've already appropriated it.

If we could fix it, we could get the recovery done and create jobs, which would, I think, meet the president's objective.

But I just wanted to say, for the record, in closing, and then ask a brief response, auditors hired by the state of Louisiana, one of them, in particular, was R.F. Means (ph), that is a construction cost standard firm that basically trains the FEMA personnel, was our auditor that said that the amount of money that FEMA owed was X.

Despite that independent record of an auditor that they obviously think well of, because they train FEMA, they still will not pay the money that the state believes it is owed.

Will you take an aggressive role to fix that and would you consider a binding arbitration system that we could get this recovery underway or something equally as effective to resolve the differences between states and FEMA on what is owed after a disaster?

NAPOLITANO:

Senator, I will take a serious look at that and, also, look forward to working with you and this committee.

I think all of us share the desire to work with Louisiana and try to begin getting some closure on some of these things.

LANDRIEU:

Thank you. Thank you, Mr. Chairman.

LIEBERMAN:

Thanks, Senator Landrieu.

I do want to mention, as Senator Landrieu indicated, that there was one great agency that performed heroically, federal agency, post- Katrina and right away, and that's the U.S. Coast Guard.

And there, you're going to have the pleasure and honor of working with them, because, obviously, they're now part of the department. And I may to those separationists, the Coast Guard, which, in some ways, might be saying have a real strong claim to be separate, they seem to be happy, very happy with the interactions in the department, which speaks to the integrity of the department and, also, particularly, of their connection in the department to FEMA, because they're so much a part of rescue. But they really were heroes.

Senator Levin, welcome.

LEVIN:

Thank you so much, Mr. Chairman. Welcome, Governor. You're a great appointment. We look forward to your service.

I talked to you, I think, on the phone very briefly about a number of questions and I want to raise them here just very, very quickly.

I know you've been asked about the number of Border Patrol agents that need to be hired, the additional ones, and the requirement in law that 20 percent of the additional increase in agents be assigned to the northern border.

The northern border has been shortchanged severely in terms of the number of agents. I think at least one of my colleagues has already gone into that issue with you.

Are you aware of the requirement that 20 percent of the increase in agents, Border Patrol agents, be assigned to the northern border? Is that something you're familiar with?

NAPOLITANO:

Yes, I'm generally familiar with it, Senator.

LEVIN:

And will you take steps to see that the requirement is met? So far, it has not been. Only six percent of the increase apparently from '06 to '08 has been along the northern border.

Will you take that on?

NAPOLITANO:

Senator, I'm going to look at the entire allocation of Border Patrol and where they are, and, obviously, we want to make sure the allocations meet the requirements of law.

LEVIN:

Thank you. I think you also commented on interoperability issues. That's, I think, the number one request we get from all law enforcement is a focus on interoperability, the ability to communicate with each other at all levels of government.

Six of the demonstration grants are supposed to be in border states because of the needs that we have not just to communicate with each other, but also to communicate with Mexico and Canada.

And is that something that you will look at and take seriously?

NAPOLITANO:

Yes, Senator, and, indeed, build on my own experience as governor of Arizona, where, at the state level, we built an interoperability project with the state police of Sonora, Mexico, the state that borders us on the south, just because of the reason that when issues happen and you're a border area, they tend to go over the border.

LEVIN:

Thank you. The permanent Subcommittee on Investigations, this committee, we call it PSI, which I chair, has looked into foreign corruption and the ability of corrupt foreign officials to receive financial safe haven here in the United States.

In August of '06, President Bush announced the national strategy against kleptocracy, the use by corrupt foreign officials of our financial system to hide money which is improperly in their hands.

What role, if any, do you see in the effort to make sure that kleptocrats do not receive safe haven, physically or financially, in the United States?

NAPOLITANO:

Senator, I think this is one of those areas where the Department of Homeland Security has a relationship with the Treasury Department and the Department of Justice. All would have a role here.

But again, drawing on my own experience, one of the ways you get at terrorism and counterterrorism is through the money laundering and the money aspect channel, and I have a lot of experience in terms of damming warrants and other things with respect to interrupting the whole money aspect of not only terrorism, but human trafficking and drug trafficking.

LEVIN:

At a time, Governor, when demand for fire grant funding appears to be increasing, the administration has continued to propose significant cuts in firefighting assistance, firefighter assistance in our budgets.

Given the need and given the increase in demand for fire grants, to what extent do you believe the corresponding increases in firefighter assistance is warranted?

NAPOLITANO:

Again, Senator, an area that I have much experience in. Many people don't know, but Arizona is home of the largest Ponderosa pine forest in the continental United States and we've had large fires during the course of my governorship, hundreds of thousands of acre size fires. So those grants are very, very important.

One other area I will want to look into, however, is funding for fire prevention and restoration of forest health, which might go a long way to helping us protect persons and property before fires that are started from whatever cause become these great big mega-fires.

LEVIN:

Mr. Chairman, I'm going to have to return to the Armed Services Committee, where we have four nominees before us.

I thank you and the ranking member for holding this hearing, for prompt consideration of the governor's nomination, look forward to her confirmation.

I do have some additional -- three additional questions for the record. If we could get those answered promptly, I'd appreciate it.

LIEBERMAN:

Thanks, Senator Levin. Thanks for making the extra effort to come over. Give our regard, Senator Collins' and mine, to committee members on the Armed Services Committee.

LEVIN:

(OFF-MIKE)

LIEBERMAN:

Thank you.

Governor, we'll go to a second round, looks like the three of us will go forward.

I want to thank you for listing, in response to Senator Collins' question about substantive priorities after your understandable management priorities, non-aviation transportation. I appreciate that very much, because I think it is urgent unfinished business.

We know that terrorists struck transit systems in Madrid and London and, in fact, in Mumbai, I believe it was 2006, before the urban jihadist attack of last November.

The latest number I've seen says that 14 million people use mass transit systems in the U.S. every day. So these are very -- these involve a lot of people.

I understand it's early in your term, in fact, it hasn't even begun yet, but what thoughts do you have about the steps you might take to improve security, homeland security, in rail and transit systems in our country?

NAPOLITANO:

Well, Senator, should I be confirmed, one of the things I want to do, there are -- first of all, there is some real expertise in this country, and so solicit their advice.

It's not necessary to reinvent the wheel here. This is an area, again, where private entities need to be brought to the table and municipalities and the like, the actual owners and operators of these transportation systems.

So we need to figure out a way to how do we do that in an expeditious a way as possible. And then we need to move forward and say what are the easy common sense -- say what's the low hanging fruit we should do over the next 30, 60, 90 days; what requires a longer- term strategy to accomplish.

And really, just as Senator Tester, I really want to look at a northern border strategy and plan. We want to do that for surface transportation and we don't want to wait for the plan to do what we already know needs to be done.

So you do that and get yourself started. But then things should fit into a longer-term strategy.

LIEBERMAN:

OK. We're going to do a lot of work together on this and, obviously, there's a lot to be learned at this point from other countries that are dealing with this problem.

Interesting, I think I mentioned, when we spoke in my office, the Pew Center did a poll on various government services a while ago and asked the American people to rate them, favorable or unfavorable, and, interestingly, encouragingly, and probably surprisingly to some people, one of the highest rated federal services was the Transportation Security Agency. It was at 70 percent or higher.

Unfortunately, one of the lowest rated was border security. I want to come to that in a minute.

One of the theories given by the organization that did the polling was that maybe more people have contact with TSA and they're generally positive. People are troubled by the controversies around border security.

But I know, being a border security governor, that you know that these are real problems that go to the integrity of our immigration law and, also, obviously, in some sense, to our security.

So I know you've spoken -- Senator McCaskill asked you about enforcement of some of the laws relating to employing illegal immigrants and Senator Tester did somewhat with regard to using law enforcement personnel.

I want to ask you more broadly, as you come in with some experience in border security, what are your thoughts about how better to secure our border and enforce our immigration laws.

We've struggled with this. We've acted on it. We've spent a lot of money so far.

Do you think we should attempt to cover the entire southern border with a fence? Maybe I'll stop there and let you begin to answer.

NAPOLITANO:

Well, I think border security requires a system and a system has several parts to it. It requires boots on the ground.

And so one of the things I will be counting, as the secretary, is how many -- not just how many agents we have or in training or what have you, but how many boots on the ground do we have in places at shift time and the like.

It requires technology. It requires things like ground sensors. The SBInet, which has had a problematic start, is something I think, however, could hold great promise and we want to keep pushing the issue of technology, because these borders are vast and manpower alone is -- is not going to do it. You need to be able to augment manpower with technology, keep pushing that technology fence, as it were.

There is a role for some fencing, particularly around urban areas, because it -- it helps prevent those who are crossing illegally from blending immediately into a town population.

But these borders are -- are so vast that the notion that a -- a fence alone is worth the expense to go, say, from San Diego to Brownsville, I don't think I would be giving good advice to the committee, if I said that's the way we're going to protect the border.

It needs to be done strategically as part of a border system.

And then you've got to have interior enforcement, because once someone has run the gauntlet of the border, if they get through -- and we have to anticipate that you're never going to have 100 percent protection against that -- you need to have some means of -- of interior enforcement.

And that's really where the employer actions come in.

I'd like to mention this as well, however, Senator, that there are those who use that border not just for labor. I mean there are drug traffickers. There are human traffickers. And there are -- and we have to be cognizant that there could be potential terrorists using that border.

To the extent we deploy law enforcement to deal with the illegal immigrant coming to work, we have to -- we have to do the right thing to make sure that we -- we continue the -- the key focus on those that are coming to do real evil in our country and make sure that we haven't diluted our law enforcement resources to such a degree that we -- we don't really have an adequate focus on -- on those evildoers.

And I want to make sure that we're -- that we are working with state and locals and others on those borders -- northern and southern -- are creating a good balance.

I have a particular concern right now. Mexico, as you know, is -- is undergoing a very serious issue with violence related to President Calderon's really quite -- quite admirable initiative going after the big drug cartels.

But it has caused a lot of violence in those border states, so -- along the US border -- so we have to be very cognizant of that, in addition to all the other concerns.

UNKNOWN:

Let me ask you a quick question. When we spoke in my office, you had some interesting practical sort of commonsense things to say about your experience in Arizona with the National Guard in terms of border enforcement.

I wonder if you'd expand on that a little bit now -- and indicate -- well, just do you -- do you think we ought to make use of the National Guard in -- in terms of border security?

NAPOLITANO:

Senator, I was one of the first governors to say the National Guard could play a very useful role here to augment Border Patrol -- not to substitute for it, but to augment, so in essence you expand the manpower hours that we have.

And I look forward to working with Secretary Gates to see whether there is and can be a continuing role for -- for the Guard at the borders.

LIEBERMAN:

Am I right that you -- one of your conclusions -- feelings was that though the -- the presence of the Guard or even the announcement that the Guard was involved in border security

had a deterrent effect, perhaps particularly on some of those evildoers, who are -- who are thinking of coming over, like drug dealers -- and human traffickers?

NAPOLITANO:

Yes, Senator. That was my perception. When Operation Jumpstart began, which is the name given to the -- to the Guard at the border initiative, there was an awful lot of press in Mexico about it. And I think that press in an of itself was very helpful.

LIEBERMAN:

Well, I -- I agree with that position. I know there's all sorts of sensitivities, but I -- I thank you for your intention stated here to work with Secretary Gates and the Department of Defense on this.

And I -- I think it could be done in a thoughtful way that can both ensure the enforcement of our laws and also keep out some of the people we want to keep out. Thank you.

Senator Collins? And then we'll go to Senator Carper.

COLLINS:

Thank you, Mr. Chairman.

Governor, the challenges of border security on the northern border are very different from the focus on the southern border. And I've already invited you to come to Maine to learn more about those challenges.

Let me just give you a few examples. In border communities in Maine, Canadian nurses are absolutely essential to the operation of some of the smaller hospitals. They are crossing back and forth every single day.

There's a golf course in northern Maine where the course is on the American side of the border, and the clubhouse is on the Canadian side of the border. And lately, Customs and Border Protection is trying to enforce the crossing of the border in a way that affect that golf course.

Another example is a potato farmer in northern Maine, who literally has fields on both sides of the border -- not really practical for him to have to drive many miles to go to a crossing in order to -- to plow his field.

There are all sorts of practical realities, because prior to the attacks on our country on 9/11 of '01, the border was very integrated in Maine. And it still is in many ways. Many families have relatives on both sides of the border.

We're going to be facing in June the full implementation of the Western Hemisphere Travel Initiative, which has caused some concern in the state of Maine about what the impact will be on legitimate travel and trade.

I would also point out that Canada is our biggest trading partner in the United States. An astonishing \$1.5 billion of trade occurs every day between the United States and Canada.

What will you do to ensure that as we keep implementing more stringent security requirements, that we do not impede legitimate flow of travel and trade between two friendly countries?

NAPOLITANO:

Senator, your -- your question really illustrates how there is a -- a -- there are two competing interests, really, in the border area. One is security, and we must continue to work to enforce the law, our immigration laws and -- and our laws to do evildoers out.

But there are border communities all over, where people need to go back and forth, and have for years, for generations. So how do you accommodate those within a real and ever-increasing border enforcement strategy?

I think it's going to require some creativity on our part. And without saying today what we're going to do, I do have some ideas in -- in this regard.

And it may be the kinds of identification that may be used by those who live in the border and must go back and forth regularly versus those that are only episodic travelers, say, for example.

So I would look forward to working with you on some ideas there. But it is -- I think you recognize that there is a lot -- there are lot of legitimate family, trade, commerce, tourism issues that are embodied here, even as we enforce the border security, and that really an effective border security mechanism means that we have to accommodate both -- both of those competing tensions.

COLLINS:

Thank you. I look forward to working with you on that.

Governor, there are a couple of federal programs where you have been critical of the implementation, and now you're going to be in a position to solve all of these problems.

I -- I want to talk to you about two of them. One is a series of exercises that the Department of Homeland Security undertakes with state and local governments called the TOPOFF exercises.

I have participated in two of those, and my impression is quite different from yours. I thought they were very well-run, very helpful to state and local governments, and focused on -- on real life scenarios.

By contrast, in October of 2007, you participated in a TOPOFF exercise and were very critical in a letter that you sent to Secretary Chertoff in early November of 2007, in which you described the process as too expensive, too protracted, and to remove from a real world scenario.

You also said there wasn't sufficient information sharing. There wasn't a good feedback system.

Well, now, you're going to be in charge of those TOPOFF exercises. What are you going to do to address the concerns that you experience?

NAPOLITANO:

Thank you, Senator. What goes around comes around, I guess is the -- is the point there.

But one of the key concerns I had was the expense. I mean I think exercises benefit from frequency, and -- and one of the real benefits to be gained is people learning how to work with each other, who to call, who's going to be on the other end of a communique, who's prepared to stand up under what circumstances, and the like.

One of the problems with TOPOFF is they're so big and gigantic and expensive that they really don't permit of that.

A second one is that they're too slow to get feedback to the participants. For example, we participated in October of '07. We don't yet have an analysis of what happened, why, and what worked and didn't work.

Well, now that the top officials who were involved in that such as myself, many of us have moved on. So we've got to -- if we're going to be doing these kinds of -- of things -- and they are valuable -- the underlying philosophy is a good one, but they need to be in my view streamlined.

And the response in terms of analysis and -- and improvement recommendations and the like need to be much more -- much quicker.

COLLINS:

Thank you.

Mr. Chairman, I'll wait to ask my next question till after Senator Carper.

LIEBERMAN:

Good. And we'll do one more quick round.

Senator Carper, thanks for coming. I know you've had a business morning, but we appreciate seeing you. You have an uncanny way of -- you're very steadfast member of the committee, but you're always here when there's a governor testifying.

(LAUGHTER)

CARPER:

I come before you as a recovering governor.

(LAUGHTER)

And with a little luck, Janet, you'll come before us as a recovering governor in the -- in the years to come. I -- I want to thank you for -- for your service to the people of Arizona and to say it was just a real pleasure to serve with -- with you and -- as the board members of the board that you chaired for the Jobs for America's Graduates, which is the nonprofit organization that's designed to help reduce dropouts in our schools.

But thank you for that. I enjoyed that very, very much and appreciated your leadership and appreciate your leadership as the governor of Arizona and -- and also look forward to your leadership in the Department of Homeland Security.

I apologize for being late. I was saying goodbye today to two of our colleagues, and to one of those who's our senior senator, Joe Biden.

And for two months now, ever since he was elected vice president- elect, people have been calling me senior senator.

And people kept coming up to my -- my wife and me at (inaudible) the national convention after he'd been nominated and saying to my wife -- they'd say, "Well, how does it feel that your husband's going to be senior senator?" And she'd say, "I don't know." I mean thousands of people

came up to say, "How does it feel that your husband's going to be senior senator?" "Well, I don't know."

We got back to our hotel room that night and she said, "I have just one question about the senior senator stuff." I said, "What is that?" She says, "Does it pay more?"

(LAUGHTER)

I said, "Well, no." And she said, "Well, who cares?"

(LAUGHTER)

But Joe Biden's going to be a senior senator for another five hours and two minutes. Then it's my turn. There you go. And we'll usher him out the door. But we just said -- he gave a -- I had to follow him on giving speeches in Delaware for 30 years. He's about as good as there is, and I had to follow him again today on the Senate floor as he said goodbye. And then we said goodbye to him.

And then we finished that up. Hillary gave her farewell address. It was very -- very poignant, and I -- so I apologize for being late, but hope you understand.

I -- I -- later this week -- this weekend, in fact, there's a train going to be coming down from Philadelphia down to Washington, D.C. They're going to make a stop in Wilmington, and Joe Biden and Barack Obama will make their way down to our nation's capital, sort of a modern-day version of a whistle stop tour. And we're excited about it and looking forward to it.

The -- I know in -- in Arizona you have some trains and some transit. I come from a part of the country where there is a whole lot more of that, as -- as you know. And we have more people literally in a tunnel or the tunnels that lead under the rivers into New York City at any given time that would fill up seven or eight 747s.

During the course of the day I think there are hundreds of thousands of people who are in those -- those tunnels, every day people going up and down the Northeast corridor, going to the Baltimore tunnel, which is about 150 years old.

If -- we have all kinds of bridges and places going where people can do mischief to the folks that are using our -- our trains or our transit. We've been blessed and fortunate that we haven't had that kind of terror attacks that they've had in London and Madrid, where a lot of lives have -- have been lost.

But I know others have spoken to you about -- that are here today about to make sure we don't just focus on air -- air travel, but we also focus on -- on rail. And given the sort of renaissance that's going on with train travel across this country, ridership is up.

CARPER:

I also learned recently that during the altercation where the Russian troops moved into Georgia, it wasn't just Russian troops that moved in. But they did a pretty good job of really almost eliminating the ability of the Georgian country to operate in a lot of ways by simply -- through cyber attacks.

And probably they did it at something on a -- on a more -- a modest level with another country, one of the Baltic countries. I think it was Estonia.

Sitting here today, our nation is under attack. Many of our departments are under attack, and it's not just by kids. It's not just by criminal elements.

It's by sovereign nations trying to hack their way into our Department of Defense and steal our weapons system ideas and any number of -- of other places, not just folks that are interested in -- in getting -- capturing somebody -- stealing somebody's identity, but -- but actually putting our nation at peril and at risk.

And I would just ask you to share with us some of your thoughts. And I know this is something you're interested about and know about. But just share with us some of your thoughts as to how we can better address, because these -- my suspicion is those threats won't be diminishing during the time that you leave the Department of Homeland Security.

If anything, they are going to be increasing. And the hearings that Senator Coburn and I have held suggested that we're not -- we're not doing all we can do on that front. But I would welcome your -- your comments as to what we might do.

NAPOLITANO:

Well, Senator Carper, I -- I in earlier comments mentioned cyber infrastructure specifically as something that I think we're -- we are in some important respects at the beginning of attacking the attacks, as it were.

And this is one -- again, one of those areas where Homeland Security and the Department of Defense and the nation's intelligence structure and others all have some kind of cyber aspect.

But Homeland Security has a key and central role to play. We have the -- the cyber -- the cyber center. But I think it -- it's not heavily staffed.

And I think this is an area that I'm going to want to cloud very deeply, very quickly, because I know that President-elect Obama has said several times that this is an area where he wants to get a national strategy and the national coordinated plan going, and using the best and

brightest minds that we have in -- in America, where the cyber world is concerned, to make sure that we are employing them to help us protect that very valuable infrastructure.

CARPER:

I -- I understand. Some of our -- our adversaries are trying to figure out now how to hack into blackberries, particularly blackberries that are possessed by president-elects. And so I say this with tongue in cheek. But the threats are -- the threats are -- are very -- very real.

Last, and another issue that I'm sure has been raised with you. I'll just ask this one as well. And if you've already addressed, maybe you can just truncate your response.

But there are -- have been a lot of discussions -- all the -- imagine all the debate we had when we put Homeland Security together at the department. What should be in and what should be out? Should FEMA report directly to the president? Should it not? How to -- how do we put all this together and not end up with what we call in Delaware a dog's breakfast?

And I'm sure that there are those days that's sometimes we think about what we've created is very much that.

But in terms of the structural change, what do you see about it that you like -- that's for God's sake, don't change this. This makes sense. And what are some things that you think might make some sense? Or is it just too early to say?

NAPOLITANO:

Well, I think, Senator, my -- my key focus is to make the organization that we have worked even better. There have been a number of reorganizations even within department's short life. All of those interrupt, cause delay and so forth.

And my key -- I think my -- where I'm going to start right now is take the organization we have and how do we make it even better, as opposed to moving a lot of boxes for?

CARPER:

I think we -- we once had a vice president who said about a war in Iraq that this is -- you -- you go with the Army you've been given. And so you -- you have a chance to go with the department that -- that you've been given.

But we -- we look forward to not only to working with you on the issues of cyber attacks and the issues of real safety, but we look forward to -- to working -- working with you once

you've had a chance to settle in and decide what does make sense and frankly what doesn't to see if there are any changes that should be made.

I've -- I've always felt that the -- the most important thing is -- is not necessarily the structure of -- of an organization, although it is important, but even more important the kind of people that we choose to provide leadership to the nearest parts of that organization and the -- and the selection.

We didn't always do so well in the current administration picking leadership, especially in -- in areas of -- of first responders. A team is a good example of that and sort of a poster child for that, but we need to be -- we have a responsibility to -- to scrutinize, to look closely at the people that the administration -- that you send to us for confirmation.

And we'll just -- just encourage you to find people who know how to do the jobs to which (inaudible). And thank you again for your willingness to take this on. Hopefully, you'll be (inaudible). I'm pretty sure you're going to be not just nominated, but confirmed.

And if that happens, we just very much look forward to working with you. Thank you.

NAPOLITANO:

Thank you, Senator.

LIEBERMAN:

Thanks, Senator Carper.

Listening to your telling of the conversation with your wife about being the senior senator, it struck me that if my late mother was here -- were here, she would say to you that the reward you deserve for being the senior senator from Delaware -- you'll probably have to wait to receive it until the world to come.

And -- and so I hope that gives your wife some encouragement.

(LAUGHTER)

And you shouldn't arrive there too soon, but yes, no. All right, but anyway we thank you for your service, senior or junior, on this committee and in the Senate.

CARPER:

Mr. Chairman, the only thing I would say in response to that comment is I would like unanimous consent to put my full statement in the record.

(LAUGHTER)

LIEBERMAN:

OK.

I want to come back to some issues related to how people get into the country that are -- that are under your jurisdiction a secretary.

I want to mention one that you may not have been briefed on, but I -- I want to sort of put it on your radar screen, because it's concerned me. It relates to the visa waiver program, which I think is the -- is a good program.

The intentions are -- are good, and it -- it has both commercial advantage to make it easier for tourists to get in here, and it's also a diplomatic step with regard to certainly countries in the former Soviet Union, who've now become our close and -- and very supportive allies.

But it -- it does involve risk when you make it easier for people to come in here. And this risk is not just, or even primarily, associated with the new countries that have been just allowed into the visa waiver program. It's true of -- of the countries that have been in there a long time in Western Europe.

I mean after all you know Zacarias Moussaoui, one of the 9/11 terrorists, came in from France. Richard Reid, the -- the shoe bomber, came in from England.

And this committee was very concerned about this potential vulnerability that was -- that was inherent in the visa waiver program and in the -- the second wave of 9/11 Commission legislation 2007, we included a provision to secure the visa waiver program.

And the goal, to put it simply, was to make sure that any passenger, who got on an airline from one of the visa waiver countries, had to be checked against a terrorist watch list before they could get onto the airplane.

The department has -- now has created a mechanism for doing this, which they call the electronic system of travel authorization, E-S-T- A, ESTA. In fact, it went into effect just on Monday of this week.

But I, as you may know, have made no secret of the fact that while I'm supportive of the visa waiver program, I believe the department moved much too quickly to certify the electronic travel authorization system is operational in order to allow the new countries to get into the program.

And the fact is that GAO has been critical of ESTA. And even some department officials has -- have confirmed that, through our committee, that airlines lacked the ability to determine whether travelers from visa waiver program countries have obtained travel authorizations from -- from ESTA.

So I don't know whether you've been briefed on it. If you have any preliminary thoughts about it, I'd welcome them. If not, I'd ask that you make this a priority of your attention as you come in.

NAPOLITANO:

Well, Senator Lieberman, as I responded to Senator Voinovich, the -- the whole visa waiver issue is a -- is a balance between the security needs of our country and public diplomacy and the other aspects.

In -- in some ways it's reminiscent of -- of actual enforcement border security. You're always -- you know there's the good and the bad that always need to be looked at.

Secretary Chertoff did brief me on ESTA over the course of the last six weeks. But I have not had the opportunity, obviously, to look into what actually has occurred and what is the capacity there that's been operationalized.

So I will be happy to look into that and to work with you on that, Senator.

LIEBERMAN:

I appreciate it.

A final question for me, a very different kind of question related to how people get into the country, and that is how we treat those who seek asylum in our country.

I've been interested in this for a number of years, particularly after a report of the -- I forgot the official name, but it's a commission on religious freedom that was set up of our government that reports periodically -- and they did a searing reports on the way in which people coming to the U.S. seeking asylum based on discrimination and worse in their home countries because of their religion -- also relates to people seeking political asylum -- both in the way that they are housed.

I mean these are not -- I understand that this right of asylum can be gained. We all understand that. That's why we create a -- a filter.

But non-criminal aliens here are being housed for very long periods of time in high-security detention facilities, and because there's not enough of them, in local and county jails, where they are often denied medical care and basic needs.

That's just the finding that the commission and others have had. They're also not permitted to request their release from an immigration judge. So it's just the kind of behavior that we don't - particularly for people who are -- who have in mind those -- those moving words on the base of the Statue of Liberty about this being a sanctuary for those seeking freedom as it has been.

So I -- I wanted to ask you whether you had any information on -- on that or an opinion now or as secretary, of course, would you consider taking steps to improve the treatment of asylum seekers, while obviously also carrying out the law to make sure that they have a genuine cause be granted asylum here in the United States.

NAPOLITANO:

Mr. Chairman, you're correct. I haven't spent a lot of time working my way through that particular issue. I have been giving some attention to the whole area of detention and the ICE facilities and the like.

But I will be more than happy to drill down, look into what is there, but allegations are being made. Are they really fact-based? And to work reviewing your staff on this.

LIEBERMAN:

Good. Thank you.

Senator Collins?

COLLINS:

Thank you, Mr. Chairman.

Governor, in October you sent a very strong letter to the federal government with an invoice calling upon the federal government to reimburse Arizona for more than \$500 million for incarcerating criminal aliens.

And you say in the letter by refusing to fully reimburse Arizona for its SCAP -- the name of the program -- costs, the federal government has unfairly forced Arizona to bear the federal government's costs arising from its failure to adequately secure its borders.

I suspect may be in October you were not aware that you might be the secretary of homeland security. Now you're going to have a role to play not only on border security, but in helping to set priorities in the budget for the new administration.

Do you think this bill should be paid now?

NAPOLITANO:

Senator, first of all, the bill went to the attorney general of the United States, so it's the -- it's the new governor of Arizona sends a bill, I'll be happy to -- to give it to the attorney general.

(LAUGHTER)

But the greater point remains. And that is I think one of the reasons President-elect Obama asked me to serve in this position is the real world experience I've had in dealing with an immigration system which, when broken, falls unfairly on border stay.

\$500 million for a state like Arizona, where the annual budget is just about \$10 billion, is a lot of money. So I -- I would hope to contribute to the discussions within the executive branch and bring to bear that experience and suggest some options that might be propose.

COLLINS:

In all seriousness, it is a significant burden for border states, and I do think, given that the law requires the reimbursement, and as you eloquently point out in your letter, the federal government is only paying pennies on the dollar, it is an issue that does need to be reviewed.

And I think it's very helpful to have a governor in the cabinet who's been on the other side of unfunded mandates and unfulfilled promises.

A similar one is the REAL ID law. I completely support the goal of having more secure drivers licenses. The 9/11 Commission pointed out that some of the hijackers were able to use their licenses in order to board airplanes. It is unacceptable that people in this country illegally are able to get drivers licenses, because it is a gateway card.

On the other hand, there's no doubt that it's an expensive process for states to come into compliance. I do hope that you will work too, with additional financial assistance to help states comply with the goals of the REAL ID program. Otherwise, we're imposing a very expensive unfunded federal mandate on the states.

NAPOLITANO:

Well, Senator Collins, I -- I will take that -- as I said to Senator Akaka earlier, it's the unfunded mandate aspect of it, but I -- I think as well getting governors back to the table, because this -- in the end, if it is going to work, the states really are where it's going to be operationalize.

And so we're going to have to build that partnership in a much different way than we've had heretofore.

COLLINS:

And finally, I do have some questions that I would ask to submit for the record, as well as some questions for the record from Senators Specter and Grassley that I would ask unanimous consent be submitted as well.

I do want to reinforce what the chairman said about the Coast Guard. It is an absolute gem. It is the one agency that at all levels of government that performs extraordinarily well.

In the wake of Hurricane Katrina, it needs budget help, especially given the new White House directive on the Arctic region. It's going to have a need for additional icebreakers. And I'm going to be submitting some questions to you about that as well.

And finally, I would be remiss in my capacity as the ranking minority member if I did not supplement the question that the chairman asked you at the beginning.

And that is to ask you in addition to responding to requests for information from the chairman or joint request, will you also be responsive to requests for data and other information from minority members of this committee?

NAPOLITANO:

Yes. And with respect to the -- the Coast Guard, Senator Collins, I would be remiss if I didn't mention that the admiral in charge of the -- commandant of the Coast Guard is actually from Arizona. So it's...

COLLINS:

That seafaring state.

NAPOLITANO:

There it is.

(LAUGHTER)

COLLINS:

Surprising.

Thank you, Mr. Chairman. And again, I want to join you in -- in expressing the -- my hope for a very long and productive relationship with the nominee.

LIEBERMAN:

Thanks, Senator Collins.

Without objection, the questions from our colleagues will be submitted for the record. Also without objection, we're going to keep the record open until the close of business today for the submission of any written questions or statements for the record.

Now, that's very quick, but that's because of the sense of urgency that the committee has about how important it is to get you confirmed as soon after President-elect Obama becomes our president by taking the oath as possible.

Governor, I thank you for your testimony today. You've been very informed, very helpful, occasionally even funny.

(LAUGHTER)

I -- look, overall you have shown yourself ready to take on the awesome responsibilities that come with being secretary of homeland security. I'm -- I'd be very proud to support your nomination on the floor, and I look forward to working with you, as I know Senator Collins does, in the years ahead.

With that, the hearing is adjourned.

NAPOLITANO:

Thank you.

CQ Transcriptions, Jan. 15, 2009

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List of Panel Members and Witnesses

PANEL MEMBERS:

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SEN. SUSAN COLLINS, R-MAINE RANKING MEMBER

SEN. GEORGE V. VOINOVICH, R-OHIO

SEN. TOM COBURN, R-OKLA.

WITNESSES:

SEN. JON KYL, R-ARIZ.

SEN. JOHN MCCAIN, R-ARIZ.

GOV. JANET NAPOLITANO, D-ARIZ., NOMINATED TO BE SECRETARY OF  
HOMELAND SECURITY