HEARING OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

DAY 2, CIVIL AVIATION SECURITY

TIME: 9:01 A.M. EDT DATE: FRIDAY, MAY 23, 2003

PANEL 1: SEPTEMBER 11, 2001: THE ATTACKS AND THE RESPONSE

WITNESSES: SECRETARY OF TRANSPORTATION NORMAN MINETA; MAJOR GENERAL CRAIG MCKINLEY, NORAD; MAJOR GENERAL LARRY ARNOLD, (RET.); COL. ALAN SCOTT (RET.); LT. GENERAL MIKE CANAVAN (RET.), FORMER ASSOCIATE ADMINISTRATOR, CIVIL AVIATION SECURITY

PANEL 2: REFORMING CIVIL AVIATION SECURITY: NEXT STEPS

WITNESSES: STEPHEN MCHALE, DPEUTY ADMINISTRATOR, TRANSPORTATION SECURITY AGENCY; MAJOR GENERAL O.K. STEELE (RET.); MARY SCHIAVO, FORMER INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

MR. KEAN: Yesterday the Commission received testimony from members of Congress and from expert witnesses about the U.S. civil aviation security system that operated in the period leading up to September 11, 2001.

Today we move forward with the first look at the 9/11 hijackings themselves and the security system's performance of that day. Our final panelists will then address the changes which have been made in aviation security since 9/11 and also options for further improvements in the current system.

Before we proceed further, I want the record to be made very clear that the Commission is intensely aware of any number of reports indicating failures outside the area of the aviation security system. These would include failures in intelligence, law enforcement and border security, which may have played a major part in making 9/11 possible. The Commission has a statutory mandate and will be examining those areas as well. They may even be the subject of future hearings.

Our focus today, however, is the field of civil aviation. Today's first -- where we start, we pick up the story of the hijackings on September 11th itself. How did the civil

aviation security system operate that day with respect to the 19 hijackers? What weapons and tactics did they employ to defeat the system? Why couldn't we stop them or, at least in the three out of four cases that reached their target, prevented successful completion of their mission?

This hearing record will remain open for 14 additional calendar days for any of the witnesses who want to to submit additional material and perhaps for the commission to send follow-up questions.

We are very pleased with the group of witnesses who are here today, particularly our first witness. And we're going to hear from the secretary of Transportation, with a long record of public service in the United States Congress, Secretary Mineta.

MR. MINETA: Thank you very much, Chairman Kean, Vice Chairman Hamilton and distinguished members of the Commission, for this opportunity to testify before you.

I want to compliment the Commission on its intention to collect and provide the information on the circumstances surrounding the tragedies of September 11th, 2001. I would like to provide the Commission with a brief account of what happened on September 11th, 2001. I believe I can be most helpful to this Commission by providing information in which I have personal knowledge and a few observations from my perspective as Secretary of Transportation.

There are many events that occurred on September 11th that I do not have personal knowledge of, though I have learned about them in subsequent investigations and reports. I know this commission will be speaking to the same agencies and individuals that provided me with that information, so I will let the Commission collect that information from those primary sources.

However, I do want to comment on what I believe is an important responsibility of this commission, and that is to add to the understanding of the American people about what we call terrorism and the threat that it poses. I have seen terrorism in several forms and from several vantage points over the years, as an intelligence officer in the United States Army during the era of the Korean conflict, and in Congress as one of the early members of the House Permanent Select Committee on Intelligence. Like a mutating virus, I have seen terrorism take different form over the years in an effort to defeat the safeguards that have

been devised to protect against it. And I believe it is critical to recognize this important truth about terrorism: The threat of terrorism is constant, but the nature of that threat changes, because to be successful, terrorism must continually change how it operates.

On Tuesday morning, September 11th, 2001, I was meeting with the Belgian transport minister in my conference room adjacent to my office, discussing aviation issues. Because of the agenda, FAA Administrator Jane Garvey was also in attendance.

A little after 8:45 a.m., my chief of staff, John Flaherty, interrupted the meeting. He asked Administrator Garvey and me to step into my office, where he told me that news agencies were reporting that some type of aircraft had flown into one of the towers of New York's World Trade Center.

Information was preliminary, so we did not know what kind of aircraft nor whether or not it was intentional. Jane Garvey immediately went to a telephone and contacted the FAA operations center. I asked to be kept informed of any developments and returned to the conference room to explain to the Belgian prime minister that our meeting might have to be postponed.

In an incident involving a major crash of any type, the Office of the Secretary goes into a major information-gathering response. It contacts the mode of administration overseeing whatever mode of transportation is involved in the incident. It monitors press reports, contacts additional personnel to accommodate the surge in operations, and centralizes the information for me through the chief of staff.

In major incidents, it will follow a protocol of notification that includes the White House and other agencies involved in the incident. These activities, albeit in the nascent stage of information-gathering, took place in these initial minutes.

A few minutes after my return to the conference room, my chief of staff again asked me to step back into my office. He then told me that the aircraft was a commercial aircraft and that the FAA had received an unconfirmed report that a hijacking of an American Airlines flight had occurred.

While Mr. Flaherty was briefing me, I watched as a large commercial jet flew into the second tower of the World Trade Center. At this point things began to happen quickly. I once more returned to the conference room and informed the minister of what had happened and ended the meeting. I received a telephone call from the CEO of United Airlines, Jack Goodman, telling me that one of United's flights was missing. I then called Don Carty, the CEO of American Airlines, and asked him to see if American Airlines could account for all of its aircraft. Mr. Flaherty reported to me that Jane Garvey had phoned to report that the CEO of Delta Airlines had called the FAA and said it could not yet account for all of its aircraft.

During this time, my office activated the Department of Transportation's crisis management center, which was located on the 8th floor at that time of the Department of Transportation headquarters, and provides for senior DOT personnel to conduct surge operations in a coordinated manner.

By this time, my office had contacted the White House. A brief moment later, the White House called my chief of staff and asked if I could come to the White House and operate from that location. I decided that, given the nature of the attack and the request, that I should be at the White House directly providing the president and the vice president with information.

When I got to the White House, it was being evacuated. I met briefly with Richard Clark, a National Security Council staff member, who had no new information. Then the Secret Service escorted me down to the Presidential Emergency Operations Center, otherwise known as the PEOC. I established contact on two lines, one with my chief of staff at the Department of Transportation, and the second with Monty Belger, the acting deputy administrator of the FAA, and Jane Garvey, both of whom were in the FAA operations center.

And as the minutes passed, the developing picture from air traffic control towers and radar screens became increasingly more alarming. Some aircraft could not be contacted. While on a normal day that may be just a communications snafu, we were faced with trying to quickly sort out minor problems from significant threats. We did not know how many more attacks might be in progress.

The FAA began to restrict air travel in the Northeast United States by a combination of actions which included sterilizing air space in certain regions and at various

airports, and ultimately a nationwide ground stop of all aircraft for all locations, regardless of destination.

Within a few minutes, American Flight 77 crashed into the Pentagon. At this time, as we discussed the situation with the North American Aerospace Defense commander and his staff, we considered implementing an emergency system of coordinated air traffic management to allow maximum use for defensive activities.

It was clear that we had to clear the air space as soon as possible to stop any further attacks and ensure domestic air space was available for emergency and defensive use. And so at approximately 9:45 a.m., less than one hour after I had first been notified of an airplane crash in New York, I gave the FAA the final order for all civil aircraft to land at the nearest airport as soon as possible. It was the first shutdown of civil aviation in the history of the United States.

Within minutes, air traffic controllers throughout the nation had directed 700 domestic and international flights to emergency but safe landings. Within another 50 minutes, air traffic controllers, working with skilled flight crews, made sure another 2800 airplanes returned safely to the ground.

By shortly after noon, less than four hours after the first attack, U.S. air space was empty of all aircraft except military and medical traffic. A total of approximately 4500 aircraft were landed without incident in highly stressful conditions. Additionally, all international inbound flights were diverted from U.S. air space and U.S. airports.

Unfortunately, during this time we also learned that United Flight 93 crashed in Stony Creek Township, Pennsylvania. As America knows, but it is important to keep repeating, that aircraft never reached the terrorists' target due to the heroic actions taken by the passengers and crew on United Flight 93.

A question has been asked whether or not there is evidence that other hijackings and attacks were prevented by the actions that were taken that day. There are classified reports, media reports and investigative documents that indicate that other attacks may have been planned. But the evidence on this question is speculative at best, and I do not believe anyone can assert that other attacks were thwarted on that day unless he or she is the one who either planned the attack or planned to carry it out.

I also want to tell the Commission that although the focus of this commission's interest is on the airplane crashes on September 11th, as secretary of the United States Coast Guard, I was involved that day in the mass evacuation of more than 350,000 people from Manhattan. In addition to the largest maritime evacuation conducted in the history of the United States, our department's agencies were working with the various New York authorities on the devastating infrastructure damage suffered there.

Over the next few days, our department spent hours working with various state, local and federal agencies to reopen roads, tunnels, bridges, harbors and railroads while getting essential relief supplies into the area. I have talked about the staff at the Department of Transportation and how proud I am of how they responded on September 11th and in the days and the months afterward.

I also want to remark on the families, friends, the victims of that tragic day and those who were injured physically and emotionally. I share in much of their grief and heartache, although I can never experience the depth of it. The consequences of September 11th affected all of America, but the greatest effect was on these people. And I have spent a great deal of physical and emotional effort this past year trying to make sure that what happened on that day does not happen again.

We must do everything we can to try and prevent other Americans from enduring the pain that these families and friends have suffered. But in that work, we must never forget those families and that pain and anguish. I know I don't. It helps me in the work I continue to do. They are in my thoughts and prayers.

Thank you very much.

MR. KEAN: Thank you, Mr. Secretary. When you were being prepared in the sense of preparing yourself to take your role in the Cabinet, were you briefed in any way, or what part of the possibility of terrorism occurring was part of your preparation? I mean, as you've looked at all the vast things you have to understand for your position, was the possibility of terrorism and what you might have to do in the result of terrorism a large part of that briefing, a small part of that briefing?

MR. MINETA: The nature of what was happening in the civil aviation industry in the United States at that time did not put terrorism high on the list of priorities. We were still dealing with the whole issue of delays, of congestion, of capacity issues, and so terrorism was really not something that I was prepared to deal with except as it came up on that tragic day.

MR. KEAN: So you had to improvise, in a sense, based on what was happening and the news reports you were getting.

MR. MINETA: Absolutely. And in terms of what motivated me to bring all the aircraft down, as you see one thing happen, that's an accident. When you see two of the same thing occur, it's a pattern. But when you see three of the same thing occur, it's a program. And so at that point I decided to bring all the aircraft down.

MR. KEAN: But in a sense, what I'm trying to get at, I guess, is the government was really unprepared for this kind of event. Nobody had anticipated it, this event or any kind of major terrorist event. So this was not a major preparation. You weren't prepared. You had to do your best under very difficult circumstances.

MR. MINETA: That's correct, sir.

MR. KEAN: There's been some confusion as to the issue of box cutters. You testified, I gather, that as of September 11th, the FAA did not prohibit box cutters, before Congress. Yesterday we got testimony from the ATA that in checkpoint operation guides, box cutters were classified as restricted items, which could be kept off an aircraft if identified. What was the status of box cutters within the aviation system as a whole, and certainly in Boston, where those checkpoints were?

MR. MINETA: The FAA regulation referred to blades of four inches or greater as prohibited items. And so a box cutter was really less than four inches. Now, on the other hand, the airline industry had a guideline. And in that guideline, they did prohibit box cutters, as it was in that guideline. But in the FAA regulations, that was not the case. All they referred to was the length of the blade, and that was four inches. And so under the FAA regulations, box cutters would have been okay on an airplane.

MR. HAMILTON: Mr. Secretary, we're very pleased to have you here this morning. I understand your time is short and you'll only be able to spend a few minutes with us. We're grateful for the time that you're able to make available. It might very well be that we'll have some questions that we would want to submit to you in writing subsequently.

MR. MINETA: And I will submit those to the Commission in writing.

MR. HAMILTON: We thank you for that. I wanted to focus just a moment on the Presidential Emergency Operating Center. You were there for a good part of the day. I think you were there with the vice president. And when you had that order given, I think it was by the president, that authorized the shooting down of commercial aircraft that were suspected to be controlled by terrorists, were you there when that order was given?

MR. MINETA: No, I was not. I was made aware of it during the time that the airplane coming into the Pentagon. There was a young man who had come in and said to the vice president, "The plane is 50 miles out. The plane is 30 miles out." And when it got down to, "The plane is 10 miles out," the young man also said to the vice president, "Do the orders still stand?" And the vice president turned and whipped his neck around and said, "Of course the orders still stand. Have you heard anything to the contrary?" Well, at the time I didn't know what all that meant. And --

MR. HAMILTON: The flight you're referring to is the --

MR. MINETA: The flight that came into the Pentagon.

MR. HAMILTON: The Pentagon, yeah.

MR. MINETA: And so I was not aware that that discussion had already taken place. But in listening to the conversation between the young man and the vice president, then at the time I didn't really recognize the significance of that.

And then later I heard of the fact that the airplanes had been scrambled from Langley to come up to DC, but those planes were still about 10 minutes away. And so then, at the time we heard about the airplane that went into Pennsylvania, then I thought, "Oh, my God, did we shoot it down?" And then we

had to, with the vice president, go through the Pentagon to check that out.

MR. HAMILTON: Let me see if I understand. The plane that was headed toward the Pentagon and was some miles away, there was an order to shoot that plane down.

MR. MINETA: Well, I don't know that specifically, but I do know that the airplanes were scrambled from Langley or from Norfolk, the Norfolk area. But I did not know about the orders specifically other than listening to that other conversation.

MR. HAMILTON: But there very clearly was an order to shoot commercial aircraft down.

MR. MINETA: Subsequently I found that out.

MR. HAMILTON: With respect to Flight 93, what type of information were you and the vice president receiving about that flight?

MR. MINETA: The only information we had at that point was when it crashed.

MR. HAMILTON: I see. You didn't know beforehand about that airplane.

MR. MINETA: I did not.

MR. HAMILTON: And so there was no specific order there to shoot that plane down.

MR. MINETA: No, sir.

MR. HAMILTON: But there were military planes in the air in position to shoot down commercial aircraft.

MR. MINETA: That's right. The planes had been scrambled, I believe, from Otis at that point.

MR. HAMILTON: Could you help me understand a little the division of responsibility between the FAA and NORAD on that morning?

MR. MINETA: Well, FAA is in touch with NORAD. And when the first flight from Boston had gone out of communications with the air traffic controllers, the air traffic controller

then notified, I believe, Otis Air Force Base about the air traffic controller not being able to raise that American Airlines flight.

MR. HAMILTON: A final question and then we'll let other commissioners ask a question. And this is kind of a broad, sweeping one. What worries you most about transportation safety today? What are the most vulnerable points, do you think, in our transportation system today? A lot of steps have been taken, obviously, to improve security, a lot of progress made. What would be towards the top of your list? Or would there be two or three items that worry you the most?

MR. MINETA: I would say today the most vulnerable would be the maritime ports. With the number of containers coming into this country, we really don't have a good handle on what's in those containers. And to me that is one that we still haven't really been able to put our hands on.

I know that the Transportation Security Agency is looking and working on that matter diligently. But with the number of containers that come off of ships every day, something like 16 million a year, it's a formidable task.

MR. HAMILTON: Mr. Chairman, thank you very much. I understand the secretary's time is very tight now.

MR. KEAN: I have one final question and then we'll go to Commissioner Roemer. Is there one recommendation that you know of that's pending now, either in the administration or in the Congress or other, that you believe would be most important to making the traveling public feel safer?

MR. MINETA: I suppose, in terms of aviation, I think that we are probably as confident about the security relating to aviation issues today in terms of where we were before the 11th of September and improvements that were made subsequent to the 11th of September and in terms of each month, each day it gets better.

But, again, I would go back to my maritime containers as still the most vulnerable and the one that really needs the funding to get to the bottom of that issue.

MR. KEAN: Thank you, Mr. Secretary. Commissioner Roemer.

MR. ROEMER: Nice to see you, Mr. Secretary, and nice to see you feeling better and getting around as well, too.

I want to follow up on what happened in the Presidential Emergency Operations Center and try to understand that day a little bit better. You said, if I understood you correctly, that you were not in the room; you were obviously coming from the Department of Transportation, where you had been busy in a meeting in official business, but you had not been in the room when the decision was made -- to what you inferred was a decision made to attempt to shoot down Flight 77 before it crashed into the Pentagon. Is that correct?

MR. MINETA: I didn't know about the order to shoot down. I arrived at the PEOC at about 9:20 a.m. And the president was in Florida, and I believe he was on his way to Louisiana at that point when the conversation that went on between the vice president and the president and the staff that the president had with him.

MR. ROEMER: So when you arrived at 9:20, how much longer was it before you overheard the conversation between the young man and the vice president saying, "Does the order still stand?"

MR. MINETA: Probably about five or six minutes.

MR. ROEMER: So about 9:25 or 9:26. And your inference was that the vice president snapped his head around and said, "Yes, the order still stands." Why did you infer that that was a shoot-down?

MR. MINETA: Just by the nature of all the events going on that day, the scrambling of the aircraft and, I don't know; I guess, just being in the military, you do start thinking about it, an intuitive reaction to certain statements being made.

MR. ROEMER: Who was the young man with the vice president?

MR. MINETA: Frankly, I don't recall.

MR. ROEMER: And was there another line of communication between the vice president -- and you said you saw Mr. Richard Clark on the way in. Was Clark running an operations center as well on that day?

MR. MINETA: Dick was in the Situation Room.

MR. ROEMER: So there was the Situation Room making decisions about what was going to happen on shootdowns --

MR. MINETA: I don't believe they were --

MR. ROEMER: -- as well as the PEOC?

MR. MINETA: I don't believe they were making any decisions. I think they were more information-gathering from various agencies.

MR. ROEMER: Could it have been in the Situation Room where somebody in the Situation Room recommended the shoot-down and the vice president agreed to that?

MR. MINETA: Commissioner Roemer, I would assume that a decision of that nature would have had to be made at a much higher level than the people who were in the Situation Room.

MR. ROEMER: So take me through that. The Situation Room is monitoring the daily minute-by-minute events and they find out that Flight 77 is headed to the Pentagon. Somebody's got to be getting that information. The Situation Room is then communicating with the PEOC and saying, "We've got another flight that's on its way toward the Pentagon. Here are the options." Then the vice president talks to the president and says, "Here are the options; we have a shoot-down recommendation. Do you agree, Mr. President?" Is that what happens?

MR. MINETA: Again, that would be speculation on my part as to what was happening on that day, so I just wouldn't be able to really answer that -- on that inquiry.

MR. ROEMER: I know, because you had been conducting official business, and I'm sure you were hurriedly on your way over there.

MR. MINETA: As I was listening --

MR. ROEMER: I'm just trying to figure out how the Situation Room, which was gathering the minute-by-minute evidence and information and talking probably to a host of different people, and how they're interacting with the PEOC and then how the PEOC is interacting with the president, who is at

that point on Air Force One, how a decision is made to shoot down a commercial airliner.

And then would you say -- let's say we're trying to put that part of the puzzle together. Then would your inference be that they scrambled the jets to shoot down the commercial airliner, it failed, and the commercial airliner therefore crashed into the Pentagon, the jets were not able to get there in time to succeed in a mission that they'd been tasked to do?

MR. MINETA: I'm not sure that the aircraft that were scrambled to come up to the DC area from Norfolk were under orders to shoot the airplane down. As I said, I just --

MR. ROEMER: But it was an inference on your part.

MR. MINETA: It was an inference, without a doubt. And that's why, in thinking about the United plane that went down in Pennsylvania, the question that arose in my mind --

MR. ROEMER: Right away was "Was that shot down?" And did you ever get an answer to that?

MR. MINETA: Yes, sir. The vice president and I talked about that. We then made the inquiry of the Department of Defense. They then got back to us saying, "No, it was not our aircraft."

MR. ROEMER: No shots were fired and no effort was made to shoot that down.

MR. MINETA: That's correct.

MR. KEAN: I'm going to go to another questioner.

MR. ROEMER: Thank you.

MR. KEAN: The secretary's time is limited. Commissioner Lehman.

MR. LEHMAN: Mr. Secretary, I have one question, and that is, we had testimony yesterday that there were many intelligence reports leading up to 9/11 and actual plots uncovered to use aircraft as missiles.

Do you feel that the system set up to provide to you as secretary of Transportation the latest intelligence bearing on

your responsibilities, such as that subject, was adequate before 9/11? If not, have measures been taken to see that you are provided with the best possible product on a daily basis as to threats to the broad range of transportation assets under your purview? Could you comment on before and after?

MR. MINETA: Well, I do get a daily briefing, intelligence briefing. And I did during that time period, prior to the 11th of September and subsequent to the 11th of September. And there's no doubt that the nature of the intelligence data has improved.

And so -- but again, there was nothing in those intelligence reports that would have been specific to anything that happened on the 11th of September. There was nothing in the preceding time period about aircraft being used as a weapon or of any other terrorist types of activities of that nature. And so -- but I do get briefings, and I think that since the 11th of September, 2001, the nature of the briefings have improved.

MR. LEHMAN: Just to follow up, Mr. Secretary, given the fact that there were, in the preceding couple of years, about half a dozen novels and movies about hijackings being used as weapons and the fact that there were reports floating around in the intelligence community, did you personally think that that was a possibility, that it could have happened? Or when it happened, did it just take you totally by surprise? Because yesterday we had testimony from the former FAA administrator that, in effect, it never entered her mind.

MR. MINETA: Well, I would have to, again, say that I had no thought of the airplane being used as a weapon. I think our concentration was more on hijackings. And most of the hijackings, as they occur in an overseas setting, or the hijacking, if it were to be a domestic one, was for the person to take over the aircraft, to have that aircraft transport them to some other place. But I don't think we ever thought of an airplane being used as a missile.

MR. LEHMAN: Given that there was so much intelligence, not a specific plot, but of the possibility and the fact that some terrorists had, in fact, started planning, wouldn't you view it as a failure of our intelligence community not to tell the secretary of Transportation that there was such a conceivable threat that the people like the Coast Guard and FAA should be thinking about?

MR. MINETA: We had no information of that nature at all. And as to whether that was a failure of the intelligence agencies, I think it would have been just even for them hard to imagine.

MR. KEAN: Thank you. We recognize your time constraints. We have two more commissioners --

MR. MINETA: Absolutely.

MR. KEAN: -- who have questions. Commissioner Gorelick and then Commissioner Fielding.

MS. GORELICK: Secretary Mineta, again, thank you for being here. We all know that in the spring and summer of 2001, the intelligence community was putting out reports of a, I would say, near-frantic level suggesting that we were expecting there to be some type of terrorist attack somewhere in the world -- we didn't know where, we didn't know the modality, but a very high level of concern.

My first question to you -- and I'll just give them to you all at once, is, one, were you called to any meeting or summoned at a Cabinet level, or was there any sort of cross-functional group put together across the government to say, What can we do as a government to respond to this very heightened level of intelligence warning that we are getting generally?

Second, even though in response to Commissioner Lehman's questions you have indicated that this particular modality of attack was not made known to you clearly, hijackings and use of aircraft, bombings, bombs on aircraft, were a favorite tool, if you will, of terrorists. Did you yourself do anything within the agencies under your control to seek out mechanisms for being on alert and for heightening our security in this period of reporting? What did you know, what was anyone telling you, and what did you do in response?

MR. MINETA: First of all, on the first question I would say, no, that we had no meetings of an interagency nature given the nature of intelligence that you're describing. I think most of the response at that time was to what you might call the chatter, because the chatter is really just increased communication between people, but nothing specific as to the nature of the kind of attack that might be coming. We're at orange level now, and what prompted that was again increased

chatter. But it wasn't anything specific about the nature of what the threat might be.

MS. GORELICK: Well, let me just contrast perhaps the chatter, the same kind of chatter level right in advance of the millennium. As I understand it, that information was widely disseminated in the government. There were Cabinet-level and sub-Cabinet-level meetings, and each agency essentially searched to do what they could to harden our country against attacks. Now, clearly when you don't know where the attack is coming from or what mode will be used, it's difficult. But what I am asking essentially is: Did this higher level of chatter, the what I believe to be a frantic quality to the intelligence warnings, result in any action across the government, and particularly in the area of transportation? I take it your answer to that is no?

MR. MINETA: That's correct.

MR. KEAN: Commissioner Fielding.

MR. FIELDING: Mr. Chairman, I would like further explanation of the division of responsibility between the FAA and NORAD on the morning of 9/11, because there seems to be some confusion about that. I'd like the secretary's views, but I'd be very happy in respect to his time to submit that in writing to him.

MR. MINETA: All right, I'll submit that in writing.

MR. KEAN: Mr. Secretary, thank you very much.

MR. MINETA: Very well. Thank you very much to the Commission.

MR. HAMILTON: Mr. Chairman?

MR. KEAN: Mr. Hamilton.

MR. HAMILTON: I just wanted to be recognized for a moment to comment on a headline really in *The Washington Post* that appeared this morning. The headline states that a -- and I'm quoting it now -- "New Panel, Independent of 9/11 Commission, Is Sought," end of quote. And I want to observe that I don't see how it is possible to get that headline out of the article. And the article really does not say anything at all about a separate panel.

When I first saw the headline it occurred to me that maybe I had attended a different meeting yesterday than *The Washington Post* reporters and headline writers had attended. But I hope the *Post* will see fit to prominently correct that headline which is quite erroneous.

MR. KEAN: Thank you very much. I would certainly agree.

I would like to have Major General Craig McKinley, commander, 1st Air Force, Continental U.S. NORAD, here representing NORAD.

GEN. MCKINLEY: Governor Kean, Congressman Hamilton and members of the committee, thank you for the opportunity to appear before you today on behalf of the combatant commander, United States Northern Command and North American Aerospace Defense Command, to provide testimony on the events surrounding the events of September 11th, 2001, when our nation was attacked from within by foreign terrorists using commercial aircraft as weapons of mass destruction.

It is an honor to represent the thousands of men and women from the Air National Guard, the active duty forces and the Air Force Reserves still serving around the clock defending America from further attacks in support of the North American Aerospace Defense Command. I personally was inside the Pentagon on September 11th, and I personally know what it feels like to be attacked by hostile forces. Although over 18 months have passed since that tragic day, our vigilance remains focused. We have flown almost 30,000 airborne sorties in support of Operation Noble Eagle in the continental United States alone.

Every day Americans and Canadians work side by side in NORAD to defend North America. We have forged unprecedented relationships with in the U.S. government, with federal agencies to strengthen our ability to detect and defend against further attempts to harm our nation from the air. We are now patterned with the new United States North Command to extend and perfect our mission in both homeland defense as well as civil support missions. We are proud to be a part of this team focused on defending our nation against all threats, and supporting our government in its role, primary role, of protecting its citizens.

First Air Force is a subordinate command of Air Combat Command, and is responsible to the North American Aerospace Defense Commander for the execution of the air defense mission to protect our nation. First Air Force, as NORAD's continental United States NORAD region, is responsible for the air defense of the continental United States under the NORAD agreements.

I personally took command of 1st Air Force in the continental United States's NORAD region on August 1st of 2002, and then became the joint force air component commander for General Eberhardt. This was 11 months after the attacks. I am pleased to say today that when I saw the nature of your questions, that I asked General Eberhardt's permission, and received it, to invite Major General Retired Larry Arnold, the past commander of 1st Air Force, and the commander on the day of the attacks, that led the command through those trying days during and after the event. He is with us today, and has volunteered to be part of this commission's hearings. I also asked for probably the best subject matter expert I could find on the chronology, the series of events that is so vital to this commission, to be with us today with your concurrence to walk us through the NORAD timeline.

I also have with me today Major Don Arias to show you the human nature of this. Don's brother, Adam, was killed in the South Tower 2. He was talking to his brother at 8:59 on the 11th of September, '01, and Mr. Arias is our public affairs officer. Please stand up, Don.

I'd like to thank the Commission staff, especially Miles Kara, for his help in preparing for this. The committee has posed many questions regarding the events surrounding the 9/11 attacks. Our intention is to provide the chronology first to the events leading up to September 11th, as well as taking your questions to give you a detailed look at how NORAD's response was made on 9/11, and any subsequent questions you may have on our posture since. Mr. Commissioner, that concludes my formal statement. The rest will be provided for the record. And, with your indulgence, sir, I would like Colonel Scott (ret.), Alan Scott, to walk you through the timeline.

MR. SCOTT: Good morning, Mr. Chairman, commissioners. It is my pleasure to be here with you today. General Arnold and I worked together that day on September the 11th.

What I will walk you through here is a chronology of the attacks, and I've presented it in a matrix form. And the

only thing I lay claim to is having studied all of the attacks and how they are interwoven together. This was not a linear sequence of events where one attack began and ended and then a second attack began and ended. This was a coordinated, well-planned attack. We had multiple airplanes in the air. The fog and friction of war was evidence everywhere in the country, both on the civil side as well as the military side. And this hopefully will show you how those interwoven events came about.

I will tell you the times on this chart come from our logs. The time on the chart is the time that's in the log. It may not be the exact time the event happened. It may be the time when the log-keeper was advised or became aware of the event.

The first thing that happened in the morning related to the events at 9:02, or I'm sorry 8:02 a.m., Eastern Standard Time, is when American Airlines 11 took off out of Boston. American Airlines 11 was a 767, and it was headed, I believe, to Los Angeles. Fourteen minutes later, also coming out of Boston Logan, United Airlines 175, a 757, also headed to Los Angeles, took off out of Boston, and initially took roughly the same ground track as American 11. Three minutes later, American Airlines 77 took off out of Dulles here in Washington, also headed to Los Angeles, and also a 757, and proceeded westbound toward the West Coast. So now the first three airplanes are airborne together. The first time that anything untoward, and this was gleaned from FAA response, that anything out of the ordinary happened was at 8:20, when the electronic transponder in American Airlines 11 blinked off if you will, just disappeared from the screen. Obviously the terrorists turned that transponder off, and that airplane, although it did not disappear from the radarscope, it became a much, much more difficult target to discern for the controllers who now only could look at the primary radar return off the airplane. That was at 8:20.

At 8:40 in our logs is the first occasion where the FAA is reporting a possible hijacking of American Airlines Flight 11. And the initial response to us at that time was a possible hijacking had not been confirmed. At that same moment, the F-15 alert aircraft at Otis Air Force Base, Massachusetts, about 153 miles away, were placed immediately on battle stations by the Northeast Air Defense Sector commander. At 8:43, as this is going on, the fourth airplane, United 93, takes off out of Newark, New Jersey. It's a 757. It is headed for San Francisco. At 8:46, our next log event, we get the last, and,

by the way, much of this radar data for these primary targets was not seen that day. It was reconstructed days later by the 84th Radar Evaluation Squadron, and other agencies like it who are professionals at going back and looking at radar tapes and then given that they are loaded with knowledge after the fact, they can go and find things that perhaps were not visible during the event itself.

At 8:46, the last data, near the Trade Center,8:46, the first impact on the Trade Center. At that minute is when the Otis F-15s were scrambled. And, again, they were 153 miles away. And that scramble came, and General Arnold, I am sure can address this, based on a conversation between the Northeast Sector commander and himself. Those F-15s were airborne in six minutes. That is well inside the time that is allowed for them to get airborne. But because they were on battle stations, the pilots were in the cockpits ready to start engines, that scramble time was shortened by a significant amount of time.

At 8:53, that's a minute later, in the radar reconstruction, we are now picking up the primary radar contacts off of the F-15s out of Otis. At 8:57, which is seven minutes after the first impact is, according to our logs when the FAA reports the first impact. And about this time is when CNN coverage to the general public is beginning to appear on the TV, not of the impact, but of the burning towers shortly thereafter. So you can see what in the military I am sure you have heard us talk to the fog and friction of war, and as the intensity increases the lag tends to also increase for how quickly information gets passed.

9:02 -- United 175, the second airplane, which by the way never turned off its transponder before impact, crashes into the North Tower at 9:02.

The distance of those fighters which had been scrambled out of Otis, at that particular point they were still 71 miles away, about eight minutes out, and going very fast.

At 9:05, FAA reports a possible hijack of United 175. Again, that's three minutes after the impact in the tower. That’s how long it is taking now the information to flow through the system to the command and control agencies and through the command and control agencies to the pilots in the cockpit. At 9:09, Langley F-16s are directed to battle stations, just based on the general situation and the breaking news, and the general developing feeling about what's going on. And at about that

same time, kind of way out in the West, is when America 77, which in the meantime has turned off its transponder and turned left back toward Washington, appears back in radar coverage. And my understanding is the FAA controllers now are beginning to pick up primary skin paints on an airplane, and they don't know exactly whether that is 77, and they are asking a lot of people whether it is, including an a C-130 that is westbound toward Ohio. At 9:11 FAA reports a crash into the South Tower. You can see now that lag time has increased from seven minutes from impact to report; now it's nine minutes from impact to report. You can only imagine what's going on on the floors of the control centers around the country. At 9:11 -- I just mentioned that -- 9:16, now FAA reports a possible hijack of United Flight 93, which is out in the Ohio area. But that's the last flight that is going to impact the ground.

At 9:24 the FAA reports a possible hijack of 77. That's sometime after they had been tracking this primary target. And at that moment as well is when the Langley F-16s were scrambled out of Langley.

At 9:25, America 77 is reported headed towards Washington, D.C., not exactly precise information, just general information across the chat logs; 9:27, Boston FAA reports a fifth aircraft missing, Delta Flight 89 -- and many people have never heard of Delta Flight 89. We call that the first red herring of the day, because there were a number of reported possible hijackings that unfolded over the hours immediately following the actual attacks. Delta 89 was not hijacked, enters the system, increases the fog and friction if you will, as we begin to look for that. But he lands about seven of eight minutes later and clears out of the system.

At 9:30 the Langley F-16s are airborne. They are 105 miles away from the Washington area; 9:34, through chat, FAA is unable to precisely locate American Airlines Flight 77; 9:35, F-16s are reported airborne. And many times, reported airborne is not exactly when they took off. It's just when the report came down that they were airborne. At 9:37 we have the last radar data near the Pentagon. And 9:40, immediately following that, is when 93 up north turns its transponders off out in the West toward Ohio, and begins a left turn back toward the East.

At 9:49, FAA reports that Delta 89, which had been reported as missing, is now reported as a possible hijacking. So again he is --

MR. : That's 9:41, sir.

MR. SCOTT: I'm sorry, 9:41. Again, he is in the system. He is kind of a red herring for us.

Now, the only thing that I would point out on this chart is this says 9:43, American Airlines 77 impacts the Pentagon. The timeline on the impact of the Pentagon was changed to 9:37 -- 9:43 is the time that was reported that day, it was the time we used. And it took about two weeks to discover in the parking lot of the Pentagon this entry camera for the parking lot, which happened to be oriented towards the Pentagon at the time of impact, and the recorded time is 9:37. And that's why the timeline went from 9:43 to 9:37, because it is the best documented evidence for the impact time that we have. Getting toward the end now, 9:47 is when Delta 89 clears the system by landing in Cleveland. So he is not a hijack. Lots of things are going on now in the system as the sectors begin to call both units that are part of 1st Air Force and NORAD, as well as units that have nothing to do with us. We are beginning to call everyone now and the 103rd Air Control Squadron, for instance, stationed in Connecticut, is an air control squadron, a radar squadron, and they got their radar online, operational, and begin to link their radar picture into the Northeast system. They are not normally part of NORAD. This is really the initial part of a huge push the rest of that day to link as many radars in on the interior as we can, and to get as many fighters on alert as we can.

At 10:02, United 93 last radar data and the estimated impact time for United 93 is 10:03.

At 10:07 FAA reports there may be a bomb on board 93 -- that's four minutes after the impact. At 10:15 they report that it's crashed. And you can see now that fog and friction lag time has increased from seven minutes to nine minutes to 15 minutes, because of the level of activities that are going on. And there are notations here about other airplanes as we begin to divert other airplanes that are just out were intended for training that day. We're picking up the phone, calling Syracuse, the Air National Guard. They're beginning to get flights airborne. They're beginning to arm those aircraft with whatever weapons they have handy so we can posture that defense.

That is how the timeline unfolded. As you can see, it is a fabric of interwoven actions. This is not just a linear

event. So lots of things going on, lots of activities, and lots of C2 centers. Sir, that completes my piece.

GEN. MCKINLEY: Mr. Chairman, we thought right up front we'd put that on the record so we can have that as a departure point for your questions. I'd again caveat by saying that this is the North American Aerospace Defense Command and continental NORAD region timeline. Other agencies may have other logs that may have different times. But this is the best and most accurate data that we could piece together for your Commission, sir. With that, I open up to questions.

MR. KEAN: Thank you very much. Commissioner Ben-Veniste.

MR. BEN-VENISTE: Good morning, gentlemen. First I would like to personally commend each of you and the dedicated men and women who serve our nation through NORAD. I'd like to explain to you what you probably know already, and that is that our mandate as a commission is to provide the most detailed and accurate exposition in our final report of what occurred leading up to the 9/11 tragedy and the events subsequent thereto. And so please understand that our questions may be very pointed. We mean no disrespect, but we have our mission as well. Now, General McKinley, is it fair to say that the mission and the primary responsibility of NORAD is to defend our homeland and our citizens against air attack?

GEN. MCKINLEY: On the day of September 11th, 2001, our mission was to defend North America, to surveil, to intercept, to identify, and if necessary to destroy, those targets which we were posturing were going to come from outside our country. In fact, that tracks originating over the landmass of the United States were identified friendly by origin. Therefore those alert sites that were positioned on the morning of September 11th were looking out primarily on our coasts at the air defense identification zone, which extends outward of 100 to 200 miles off our shore. So that was the main focus of NORAD at the time.

MR. BEN-VENISTE: I asked you about your responsibilities, sir, and I ask you again, whether it was not your responsibility as NORAD to protect the United States and its citizens against air attack.

GEN. MCKINLEY: It is, and it was, and I would just caveat your comment by saying that our mission was at that time not designed to take internal FAA radar data to track or to

identify tracks originating within our borders. It was to look outward, as a Cold War vestige, primarily developed during the Cold War, to protect against Soviet long-range bomber penetration of our intercept zone.

MR. BEN-VENISTE: Well, I think, sir, that you have used a good term, not good for the United States, but accurate, in terms of the vestigial mandate operationally to look outward toward the borders rather than inward. And as vestigial you mean, I am sure, as a result of our decades of confrontation with the former Soviet Union.

GEN. MCKINLEY: Correct, sir.

MR. BEN-VENISTE: And so on the day of September 11th, as you can see these dots -- I know it may be difficult to see -- NORAD was positioned in a perimeter around the United States, but nothing in the central region, nothing on the border with Canada?

GEN. MCKINLEY: That's correct, sir.

MR. BEN-VENISTE: Now, let me ask you, sir, whether the concept of terrorists using an airplane as a weapon was something unknown to the intelligence community on September 10th, 2001.

GEN. MCKINLEY: Very good question, and I --

MR. BEN-VENISTE: Thank you.

GEN. MCKINLEY: -- I asked our staff to provide me some data on what they had that morning. As I said, General Arnold was at the helm that morning. But basically the comments I received from my staff was that there was no intelligence indication at any level within NORAD or DOD of a terrorist threat to commercial aviation prior to the attacks. And information from the daily Joint Chiefs intelligence report on the morning of September 11th indicated no specific dangers or threats within the country.

MR. BEN-VENISTE: My question, sir, and I mean no disrespect, but we'll save time if you listen to what I ask you. My question is: The concept of terrorists using airplanes as weapons was not something which was unknown to the U.S. intelligence community on September 10th, 2001, isn't that fair to say?

GEN. MCKINLEY: I'd like the intelligence community to address that. I would find it hard to believe that they hadn't speculated against that. But it was unavailable to us at the time.

MR. BEN-VENISTE: Well, let's start, for example, with September 12th, 1994, a Cessna 150L crashed into the South Lawn of the White House, barely missing the building, and killing the pilot. Similarly, in December of 1994, an Algerian armed Islamic group of terrorists hijacked an Air France flight in Algiers and threatened to crash it into the Eiffel Tower. In October of 1996, the intelligence community obtained information regarding an Iranian plot to hijack a Japanese plane over Israel and crash it into Tel Aviv. In August of 1988, the intelligence community obtained information that a group of unidentified Arabs planned to fly an explosive-laden plane from a foreign country into the World Trade Center. The information was passed on to the FBI and the FAA.

In September of 1998, the intelligence community obtained information that Osama bin Laden's next operation could possibly involve flying an aircraft loaded with explosives into a U.S. airport and detonating it. In August 2001, the intelligence community obtained information regarding a plot to either bomb the U.S. Embassy in Nairobi from an airplane, or crash an airplane into it. In addition, in the Atlanta Olympics, the United States government and the Department of Justice and my colleague Jamie Gorelick were involved in planning against possible terrorist attacks at the Olympics, which included the potential of an aircraft flying into the stadium. In July 2001, the G-8 summit in Genoa, attended by our president, among the measures that were taken were positioning surface-to-air missile ringing Genoa, closing the Genoa airport and restricting all airspace over Genoa.

Was not this information, sir, available to NORAD as of September 11th, 2001?

GEN. MCKINLEY: It's obvious by your categorization that those events all took place and that NORAD had that information. I would only add, sir, that the intelligence data that we postured our forces for and the training and the tactics and the procedures that we used to prepare our missions for support of the combatant commander of NORAD had hijacking as a primary intercept tactic. And we have some of the finest fighter pilots, as you know in the world, who are some of the best

people in the world who can do their mission extremely well. But we had not postured prior to September 11th, 2001, for the scenario that took place that day.

MR. BEN-VENISTE: Well, obviously it would be hard to imagine posturing for the exact scenario. But isn't it a fact, sir, that prior to September 11th, 2001, NORAD had already in the works plans to simulate in an exercise a simultaneous hijacking of two planes in the United States?

GEN. MCKINLEY: Colonel Scott, do you have any data on that? I'm not aware of that, sir. I was not present at the time.

MR. BEN-VENISTE: That was Operation Amalgam Virgo.

MR. SCOTT: Yes, sir. Specifically Operation Amalgam Virgo, which I was involved in before I retired, was a scenario using a Third World united -- not united -- uninhabited aerial vehicle launched off a rogue freighter in the Gulf of Mexico. General Arnold can back me up -- at the time one of our greatest concerns was the proliferation of cruise missile technology and the ability for terrorist groups to get that technology, get it close enough to our shores to launch it. In fact, this exercise -- in this exercise we used actual drone -- NQM-107 drones, which are about the size of a cruise missile, to exercise our fighters and our radars in a Gulf of Mexico scenario.

MR. BEN-VENISTE: You are referring to Amalgam 01, are you not?

MR. SCOTT: Yes, sir, Amalgam 01.

MR. BEN-VENISTE: I am referring to Amalgam 02, which was in the planning stages prior to September 11th, 2001, sir. Is that correct?

MR. SCOTT: That was after I retired, and I was not involved in 02.

MR. BEN-VENISTE: Will you accept that the exercise involved a simultaneous hijacking scenario?

MR. SCOTT: I was not involved in 02.

GEN. MCKINLEY: Sir, I do have some information on 02, if you would allow me to read it for the record.

MR. BEN-VENISTE: Please.

GEN. MCKINLEY: Amalgam Virgo in general, 02, was an exercise created to focus on peacetime and contingency NORAD missions. One of the peacetime scenarios that is and has been a NORAD mission for years is support to other government departments. Within this mission falls hijackings. Creativity of the designer aside, prior to 9/11, hijack motivations were based on political objectives -- i.e., asylum or release of captured prisoners or political figures. Threats of killing hostages or crashing were left to the script writers to invoke creativity and broaden the required response for players.

MR. BEN-VENISTE: Well, isn't that a bit fatuous given the specific information that I've given you? It wasn't in the minds of script writers when the Algerians had actually hijacked the plane, which they were attempting to fly into the Eiffel Tower. And all of the other scenarios which I mentioned to you. I don't mean to argue with you. But my question is, sir, given the awareness of the terrorists use of planes as weapons, how is it that NORAD was still focusing outward protecting the United States against attacks from the Soviet Union or elsewhere, and was not better prepared to defend against the hijacking scenarios of a commercial jet laden with fuel used as a weapon to target citizens of the United States? When you say our training was vestigial, I think you said it in capsulated form. But would you agree that on the basis of the information available that there could be, could have been better preparedness by NORAD to meet this threat?

GEN. MCKINLEY: In retrospect, sir, I think I would agree with your comment.

MR. BEN-VENISTE: With respect to the bases that were available for protecting the East Coast, you -- and Colonel Scott has gone through the scrambling of aircraft -- I wanted to focus just on one flight, Flight 77, and then Secretary Lehman will ask you some more specific questions. With respect to Flight 77, sir, you testified previously before the House Armed Services Committee, and General Eberhardt was questioned -- you are familiar with his testimony?

GEN. MCKINLEY: Yes, sir.

MR. BEN-VENISTE: Okay. He was questioned about Flight 77, and because of the use of Langley Air Base, which is 105 miles from our capital, as opposed to, say, Andrews Air Force Base, which is in the neighborhood, the question arises again about the positioning and the thought behind the positioning of fighter planes to protect our capital in an enhanced terrorist situation such as existed on September 10th, September 9th, 2002.

Let me ask you about Flight 77 again. The question was the timeline we have been given is that at 8:55 on September 11th American Airlines Flight 77 began turning east away from its intended course, and at 9:10 Flight 77 was detected by the FAA radar over West Virginia heading east. That was after the two planes struck the Trade Center towers. Is that correct, Colonel Scott?

MR. SCOTT: Yes, sir.

MR. BEN-VENISTE: Now, 15 minutes later, at 9:25, the FAA notified NORAD, according to this statement, that Flight 77 was headed toward Washington. Was that the first notification, 9:25, that NORAD or DOD had that Flight 77 was probably hijacked? And, if it was, do you know why it took 15 minutes for FAA to notify NORAD? General Eberhardt said, "Sir, there's one minor difference: I saw it as 9:24, which you do as well, that we were notified, and that's the first notification we received." "Do you know if that was the first notification to DOD?" "Yes, sir, that's the first documented notification that we received." And I want to focus on the word "documented," because it's very important for us to know when NORAD actually received notification, given the fact that planes had already crashed into the World Trade Center, and given I am sure the assumption that these were terrorist acts and there could be more coming, more planes coming.

Is it in fact correct, sir, that the first notification of any type that NORAD received was not until 9:24 with respect to Flight 77?

GEN. MCKINLEY: With your concurrence, sir, I would like to ask General Arnold to address that. He was on the floor that morning.

GEN. ARNOLD: Thank you. The simple answer to your question is I believe that to be a fact: that 9:24 was the first time that we had been advised of American 77 as a possible

hijacked airplane. Our focus -- you have got to remember that there's a lot of other things going on simultaneously here, was on United 93, which was being pointed out to us very aggressively I might say by the FAA. Because our radars looking outward and not inward, the only way for us to know where anything was was for the FAA to pass along that information to us.

MR. BEN-VENISTE: Well, is it not the case, General Arnold, that there was an open line established between FAA, NORAD and other agencies, including CIA and FBI, that morning?

GEN. ARNOLD: Well, I wasn't on that line at that particular time if that were the case. In fact, there is an open line established between our sectors at really the tactical level where they are controlling the aircraft talking to the FAA controllers from time to time. We did not have an open line at that time with the FAA. That is not accurate.

MR. BEN-VENISTE: You did not. You were not -- NORAD was not in contact --

GEN. ARNOLD: The continental United States NORAD region, my headquarters, responsible for the continental United States air defense, did not have an open line with the FAA at that time.

MR. BEN-VENISTE: Was there some NORAD office that had an open line with the FAA --

GEN. ARNOLD: Our --

MR. BEN-VENISTE: Excuse me. Let me finish my question, please. Was there some NORAD office -- and you'll forgive us because we had asked for this information prior to the hearing from FAA and did not receive it -- but we are advised that there was indeed an open line between either the net or some other name given to a -- essentially an ongoing conference where under, in real time, FAA was providing information as it received it, immediately after the first crash into the Towers, we were told, with respect to each of the events that were ongoing of any remarkable nature? I see General McKinley is nodding.

GEN. MCKINLEY: I'd like to, if I may, address this, based on my research and review for this commission. It's my understanding that the FAA was in contact with our Northeast Air

Defense Sector at Rome, New York. Understanding the relationship of how we defend North America from threats, NORAD located in Peterson Air Force Base, Colorado Springs, our continental NORAD region, our air operations center located at Tindel Air Force Base in Florida -- that's where the joint force air component commander resides. And then we have three sectors based on the size and volume of our country that handle that. It is my understanding from talking with both FAA and our supervisors at the Northeast Air Defense Sector in Rome, that those lines were open and that they were discussing these issues.

MR. BEN-VENISTE: So, is it fair to say that at least the NORAD personnel in Rome, New York, had information available to it in real time once it saw -- and we were advised that this occurred at 9:02, which was then 22 minutes earlier that Flight 77 first was observed deviating from its course, something which in the context of what was going on that day would be quite interesting, if not remarkable? Colonel Scott, any comments?

MR. SCOTT: Sir, I think it's also important to understand that like the CONUS region, the FAA is also broken down into subordinate command and control centers as well. I know that the Boston center was talking directly to the Northeast sector. I don't believe Flight 77 was in Boston Center's airspace. They were in Cleveland.

GEN. MCKINLEY: I think the FAA can report accurately on this, but I believe 77 was in Cleveland Center airspace when it developed the problem where they lost its radar image. And I believe -- and the FAA again can testify better to this -- they would take action based on losing that identification in Cleveland.

MR. BEN-VENISTE: Well, actually I think according to the information that we have, the first indication was not a loss of radar contact but rather a course deviation with respect to Flight 77.

Now, I don't mean to take up any more time on this, because we are going to want to follow up on all of this information in great detail. But let me ask whether there is regularly made a tape recording of these open-line communications.

GEN. ARNOLD: (?) Not to my knowledge.

GEN. MCKINLEY: Not to my knowledge.

MR. BEN-VENISTE: Does FAA to your knowledge keep a recording of these crisis situations?

GEN. ARNOLD: (?) I am unaware, but I would certainly direct that to them, please.

MR. BEN-VENISTE: To the best of your knowledge, you don't have anything further to shed light on when you first learned -- you, NORAD -- first learned of Flight 77's probable hijack status prior to 9:24 a.m.?

GEN. ARNOLD: (?) I can provide that for the record. I do not have any further knowledge at this time.

MR. BEN-VENISTE: We would ask that you do so.

GEN. ARNOLD: (?) Yes, sir.

MR. BEN-VENISTE: Thank you, Mr. Chairman. I will have some other questions after.

MR. KEAN: Secretary Lehman.

MR. LEHMAN: Thank you. General, I would also like to echo my colleagues' expression of great admiration for you and your predecessor, your command and your pilots, even though they might require long runways to land.

GEN. MCKINLEY: We understand.

MR. LEHMAN: One of the most serious responsibilities we have in addition to air security is identifying the real dysfunctions in our intelligence system that contributed to the tragedy. And we had prior as you know to your testimony Secretary Mineta, who indicated despite the fact of this long litany of events and intelligence reports of the growing probability that aircraft would be used as weapons, nothing ever got to him, and nothing apparently got to you, and I assume, General Arnold, nothing got to you. This would seem to be a pretty significant failure of our system, because it exists to provide product precisely to you, the most important users tasked with defending it. So I would like to ask -- we'll provide you a copy of this, which is from the Joint Inquiry staff statement -- if you could give us your studied assessment

of what went wrong in the way you interact with, your command interacts with the intelligence community, and why the product did not get to you. These were pretty dramatic events, facts and intelligence reports. It would be very helpful to us to have your assessments as a customer of the system to what went so seriously wrong that you were still only looking out.

There's another, an issue that I would ask perhaps General Arnold to address, because there's a great deal of unease and distress, I think understandably, among many of the families that somehow those aircraft should have been shot down if people had not made mistakes. And I wonder if you would just take us through each flight, given the posture that NORAD was in at the time, which was national policy and not whatever based on erroneous intelligence perhaps. But given that posture and given the times that NORAD was notified of the deviation from -- the possibility of hijacking, could the aircraft on alert for instance at Otis have intercepted? And then if you could also take us through 77 and 93 as well with the F-16s, which -- and if you would tell us as you take us through what the armament was on the F-15s and the F-16s that were scrambled against 77 and 93.

GEN. ARNOLD: Thank you, sir, and I will try to do that to the best of my ability. And perhaps General McKinley has some data that he could shed light on, because I have been retired a little while, and do not have access to the staff for some of the very specifics on that. But I will try to do my best.

As you know from previous testimony from General Eberhardt to Congress, we were in the middle of a NORAD exercise at that particular time, which means that basically our entire staff was focused on being able to do the air operations center mission, which was our job to do. We had just come out of a video teleconference with the NORAD staff and with our folks at that particular time, when I was handed a note that we had a possible hijacking at Boston center, and it had come from the Northeast Air Defense Command, Colonel Bob Mahr (ph), who is commander up there, and he had requested that I call him immediately. And I was upstairs in our facility, immediately went downstairs, picked up the phone, asking on the way to my staff, "Is this part of the exercise?" Because quite honestly, and frankly we do do hijacking scenarios as we go through these exercises from time to time. But I realized that it was not. This was real life.

And I also remembered as I went downstairs, before I even talked to him, that it had been a long time since we had had a hijacking, but the fact that we had reviewed the procedures of what it is we do for a hijacking, because we were in the middle of an exercise. So we were pretty well familiar with those procedures, and of course we have our own checklist that we follow.

As I picked up the phone, Bob told me that Boston Center had called possible hijacking within the system. He had put the aircraft at Otis on battle stations, wanted permission to scramble them. I told them to go ahead and scramble the airplanes and we'd get permission later. And the reason for that is that the procedure -- hijacking is a law enforcement issue, as is everything that takes off from within the United States. And only law enforcement can request assistance from the military, which they did in this particular case. The route, if you follow the book, is they go to the duty officer of the national military center, who in turn makes an inquiry to NORAD for the availability of fighters, who then gets permission from someone representing the secretary of Defense.

Once that is approved then we scramble aircraft. We didn't wait for that. We scrambled the aircraft, told them get airborne, and we would seek clearances later. I picked up the phone, called NORAD, whose battle staff was in place because of the exercise, talked to the deputy commander for operations. He said, you know, "I understand, and we'll call the Pentagon for those particular clearances." It was simultaneous almost for that decision that we made that I am looking at the TV monitor of the news network and see a smoking hole in what turned out to be the North Tower of the World Trade Center, wondering, What is this? And like many of us involved in that, Does it have anything to do with this particular incident? Which we didn't think it did, because we were talking Boston Center, and we were not thinking of the immediate New York metropolitan area. Shortly after that, of course our airplanes became airborne. It just so happens that Colonel Duffy, who was a pilot of that first F-15, had been involved in some conversation because, as telephone calls were made, he was aware that there was a hijacking in the system. It's kind of interesting because he concluded that that indeed might have been that airplane himself, and [he]elected to hit the afterburner and to speed up his way towards New York.

It was then very shortly thereafter that we saw on television the second airplane, United 175, crash into the South Tower. And the first thing that I think most of us felt was, was

this a rerun of the first event? And then it turned out to be the second event. We had no warning of that whatsoever. In fact, that airplane was called possibly hijacked later on, which as General McKinley referred to, as the fog and friction of war, actually caused further confusion, because we were not aware which aircraft actually crashed into the towers. We just knew that by now we had two airplanes that have crashed into the towers. We have two airplanes that are called hijacked. Again, we are still minutes away -- I think the record said eight minutes away from New York City with F-15s that are moving very rapidly in that direction.

Now we have, before I get to 77, if it were, we get a call of United Flight 93.

MR. LEHMAN: Before you go to that, I just wanted to just make -- there was no possibility given the lateness with which you were notified from FAA of a possible hijacking that those airplanes in full after burner flying supersonic could have gotten there in time to intercept either of those two flights. Is that correct?

GEN. ARNOLD: That's correct. That's correct. The first aircraft, of course, American 11, crashed before our interceptors were airborne. We ordered the scramble almost simultaneously; our records show the same minute. I'm not even sure which occurred first, but it was almost simultaneous that we ordered the scramble of the aircraft, and the impact into the North Tower had occurred. And so by the time even the pilot accelerating to 1.5 mach, moving pretty fast, was still eight minutes out by the time the second aircraft had crashed into the tower. And though when the second aircraft crashed into the tower, by now, you know, I think Secretary Mineta said, this becomes a pattern certainly. I would like to tell you that I was absolutely certain at that time that we were under an attack, but I was not absolutely certain we were under attack at that particular time. But we knew that this pattern had to be dealt with at that particular time. And then very shortly thereafter we got a call from on the United 93 flight being a possible hijacking. And that aircraft, as you -- well, I don't know if you know, but it wandered around. That aircraft wandered around and flew up over the northern part of Pennsylvania and Ohio. Mixed in with this was a call about a Delta flight that was possibly hijacked. So now our focus is we are under attack. What are we going to do in order to be in position to intercept another aircraft should it threaten

someplace in the United States? That place of course, we would not know.

In the Northeast at this particular time we had no other aircraft available. The aircraft out of Otis had taken off. We looked at aircraft that were returning from a Michigan, an Air Michigan National Guard aircraft returning from the range, because at one time we thought either the Delta flight or the United 93 might pose a threat to Detroit. We tried to get airplanes airborne out of the Toledo Air National Guard at that particular time. Can you get anything airborne? Because we have this United 93 and this Delta. We need to intercept it and see what is going on with those particular aircraft.

Syracuse, New York Air National Guard unit -- we inquired with them, their ability to get airborne, and ultimately they did somewhat later at that particular time.

And so in the record you see the time when we were notified of the American Flight 77 as being a possible hijack. And I can tell you that I did not know, and I don't believe anybody in the NORAD system, knew where that airplane was. We were advised it was possibly hijacked. And we had launched almost simultaneously with that, we launched the aircraft out of Langley to put them over top of Washington, D.C., not in response to American Airline 77, but really to put them in position in case United 93 were to head that way. They were the closest fighters we had, and we started vectoring them to move towards the Washington, D.C. area, to --

MR. LEHMAN: Did they also go into burner?

GEN. ARNOLD: No, sir.

GEN. MCKINLEY: Sir, they, based on their configuration, traveled at .98 Mach, roughly 575 knots, 660 miles per hour, about 10 nautical miles per minute.

MR. LEHMAN: If they had gone into burner, could they have gotten there in time to get 77?

GEN. ARNOLD: I think if those aircraft had gotten airborne immediately, if we were operating under something other than peacetime rules, where they could have turned immediately toward Washington, D.C., and gone into burner, it is physically possible that they could have gotten over Washington, D.C.

MR. LEHMAN: Why did they head out to sea first?

GEN. ARNOLD: Our standard -- we have agreements with the FAA, and by the way we are looking outward. This is an advantage to us, and so we'd have agreements for clearance. When we scramble an aircraft, there is a line that is picked up, and the FAA and everyone is on that line. And the aircraft take off and they have a predetermined departure route. And of course, it's not over water, because our mission, unlike law enforcement's mission, is to protect things coming towards the United States. And I might even add in all of our terrorist scenarios that we run, the aircraft, if we were to intercept aircraft, it is usually always from outside the United States coming towards us.

So our peacetime procedures, to de-conflict with civil aviation's, so as to not have endanger civil aviation in any particular way.

GEN. MCKINLEY: Secretary Lehman, also if I may add, the complexity of the air traffic over the Northeast corridor is so complex that to just launch fighters, as you know, sir, from your background, into that air traffic system can cause potential damage or midair collision. So we rely on the FAA to de-conflict those corridors. And that is another reason why it vectored east originally.

MR. LEHMAN: The armament on the F-15s and the F-16s was?

GEN. ARNOLD: The armament, as I recall, and General McKinley can correct me on that, we had full-up armament on all those aircraft with both radar and heat-seeking missiles as well as guns.

GEN. MCKINLEY: AIM –7,-8,-9.

MR. LEHMAN: So, to continue with 77, it's fair to say if you had got a more timely notification from FAA, and particularly with regard to where it was heading, that those F-16s launched from Langley could possibly have gotten there before they hit the Pentagon?

GEN. ARNOLD: It is certainly physically possible that they could have gotten into the area. And the speculation is as to whether we could actually have intercepted the aircraft by that time, because everything that we were doing, remember, was

being relayed from the FAA. We had no visibility on those aircraft -- couldn't see, we had no radars, couldn't talk to our pilots. FAA did a marvelous job during that period of time in doing radio relays and assisting us with being able to control them.

MR. LEHMAN: Now, had 93 not crashed, would it not have been possible for the F-16s to have intercepted 93, and do you think they would have?

GEN. ARNOLD: It was our intent to intercept United Flight 93. And in fact my own staff, we were orbiting now over Washington, D.C. by this time, and I was personally anxious to see what 93 was going to do, and our intent was to intercept it. But we decided to stay over Washington, D.C., because there was not that urgency. And if there were other aircraft coming from another quadrant, another vector, we would have been pulled off station, and we would not have been able to -- there might have been an aircraft that popped up within the system closer that would have posed a larger threat to the Washington, D.C. area. So we elected to remain over D.C. until that aircraft was definitely coming towards us. And, as you know, the brave men and women who took over that aircraft prevented us from making the awful decision which the young men that were flying those aircraft would have lived with for the rest of their lives if they had to do that.

MR. LEHMAN: In a short answer, why with the previous attempt of a light plane to hit the White House, wasn't Andrews Air Force Base with F-16s and Marine F-18s available, part of the alert? And I understand, and I'd also like to have you comment on what the role of the Secret Service was in scrambling those F-16s.

GEN. ARNOLD: Are you talking about scrambling the --

MR. LEHMAN: Andrews --

GEN. ARNOLD: The Andrews airplanes. It is my understanding that the Secret Service -- obviously they work with the 113th, because the president's Air Force One is located out at Andrews Air Force Base. So they had personal knowledge of those, of the people out there and the telephone number, and were—I cannot speculate whether they knew what we were doing or not, but in the urgency to get something done they made a phone call to the 113th, I learned later -- I did not know that at the

time -- and asked them to get anything they could airborne, and I think the quote was "to protect the House."

GEN. MCKINLEY: And the 113th is the 113th Fighter Wing at Andrews, the District of Columbia Air National Guard F-16 Wing.

GEN. ARNOLD: And not part of NORAD.

MR. LEHMAN: Now, you said that the clear delineation was you were looking outward, and to do anything inward you had to get authorization from a law enforcement agency. And that is covered, as I understand it, by JCS instruction 3610 on aircraft piracy. In that instruction, as I read it, which I believe is still in effect --

GEN. MCKINLEY: That's correct, sir.

MR. LEHMAN: -- you don't have any delegated authority to interdict. In fact, there is no mention of interdiction, and it's purely an escort function. This is still in effect. Now, presumably you are not following it to the letter, and I would like you to speak to what the chain of command is now. Who has authority to interdict, to shoot down, where is it delegated, and are there published rules of engagement as to what criteria apply to make that decision?

GEN. MCKINLEY: Sir, I'd be happy to answer that, and I thank General Arnold for the comments about the actual data. I appreciate him being here today. Quite frankly, sir, since September 11th, 2001, the Department of Defense, United States Air Force has put a lot of resources into what we call Operation Noble Eagle. As President Bush said, it's the second front on the war on terrorism. And, as I said in my opening remarks, we have flown 30,000 sorties. In fact overhead today here our Noble Eagle pilots are flying, in addition to being supplanted with ground-based air defense artillery.

A lot of effort has gone into taking a look at the things that were not done right prior to prepare ourselves for the aftermath. And it is an honor for me to represent the men and women who do that.

Quite frankly, our relationships began at 9/11, and the aftermath, with General Arnold and our staff to work with the Federal Aviation Administration to bring in those radar facilities so our controllers at our Northeast, Southeast and

Western Air Defense sectors had visibility internally now. And that has been completed. In addition to seeing internally to the United States, we must be able to communicate to the pilots who fly our interceptor missions, so we can have clear lines of control back to our command element, General Eberhart, in Colorado Springs.

MR. LEHMAN: Just to interrupt now, on the radar visibility, are you dependent on the FAA radars, which can have very little capability in a non-transponder environment, or can you, do you have the better air defense radar?

GEN. MCKINLEY: Sir, we try to put the best radars in effect for the mission. Most of those are FAA radars. Most of them are old radars, but they've been maintained properly, and we are actually putting Department of Defense people out to make sure those radars are calibrated for our mission. So therefore we are using their radars. We are using air control squadrons, both active duty Guard and Reserve, to supplement those. We in fact use the United States Navy every chance we can, because their Aegis cruisers are so capable that we link their pictures into our air combat command center at Tindel. So we are doing the absolute best job with the resources we have been given to make sure that internal picture now is transparent to our air battle managers, so that military controllers, when asked now, can pinpoint immediately an aircraft in distress, that we can find the nearest suitable fighter location, which I can say is substantial today. In open testimony I would not like to go into the details of the numbers of alert facilities, but it goes up and down depending on the threat. It is internal now to the United States, which it wasn't on the 11th of September.

So this capacity, this Operation Noble Eagle, which gives the military far more responsibility and latitude to do this mission now, has allowed us to be far more capable. And we have been involved in every airline incident that we have been asked to perform with, with the Federal Aviation Administration subsequent to 9/11, whether there be a disturbance onboard, whether it be an aircraft emergency, whether it be to protect critical infrastructure, our major population centers. We are there.

MR. LEHMAN: To follow up on that, General Arnold, did you have authority to shoot down 93 when it was heading towards Washington? And where did you get it?

GEN. ARNOLD: A lot of discussion on that. Our intent on United 93 -- the simple answer is, to my knowledge, I did not have authority to shoot that aircraft down. We were informed after the airplane had already hit the ground. That's the simple answer.

MS. GORELICK: I'm sorry, could you say that again? You were informed of what after it hit the ground?

GEN. ARNOLD: We were informed of presidential authority some five minutes after that aircraft had hit the ground, according to our records.

MR. LEHMAN: So you were given it after the fact, presidential authority to shoot it down?

GEN. ARNOLD: To my knowledge. Now, I can tell you that in our discussion with the NORAD staff at that particular time that we -- you know, we intended to intercept that aircraft at some point in time, attempted to deviate that aircraft away from the Washington, D.C. area. There was discussion at that particular time whether or not that aircraft would be shot down. But we, I did not know of presidential shoot down authority until after that aircraft had crashed.

MR. LEHMAN: Mmm-hmm. And, General McKinley, could you take us to the present and where those authorities lie now?

GEN. MCKINLEY: Yes, sir. Subsequent to 9/11, the president delegated to the secretary of Defense, delegated to the combatant commander at NORAD, and now United States Northern Command, has the authority to declare a hostile target. Our fighter interceptors will be in position to accept that hostile declaration, and the clearance authorities will be passed up to the highest authority. We have improved our communications equipment. We have secure telephones that allow us to contact immediately the powers in the chain of command. And I, as the joint force air component commander, have delegated emergency authority in the very rare occasion where a telephone fails or we cannot get authority, and under emergency powers can exercise that authority. So the clearances now are in place. General Eberhart is in place in Colorado Springs, or his designated representative. We exercised this in real world, not exercise, probably between eight and 15 times a week. So it's been well documented. Any national security event will bring together the forces and those lines of communication are open now. Clearances are there.

MR. LEHMAN: Thank you. As you know, our rules of engagement are many V-1, so I will take rest and let my colleagues go at you.

MR. KEAN: Commissioner Ben-Veniste.

MR. BEN-VENISTE: Thank you, Mr. Chairman. Following up on this shootdown authority, General Arnold, from what source did you receive the shootdown authority?

GEN. ARNOLD: I did not receive shootdown authority.

MR. BEN-VENISTE: You say it was received subsequent to the crash of 93?

GEN. ARNOLD: Yes, that's correct.

MR. BEN-VENISTE: From what source was that received?

GEN. ARNOLD: It was passed down to us from the NORAD, from Cheyenne Mountain, that they had received shootdown authority. And then, you know, the timeframe escapes me at the moment, but you know for example over the Washington, D.C. area it was declared a no-fly zone by clear -- just by the fact that any aircraft was present, if we could not determine if that aircraft was friendly, then we were cleared to shoot that aircraft down.

MR. BEN-VENISTE: When was the declaration of no-fly zone authorized?

GEN. ARNOLD: I don't know. It was shortly during that timeframe.

MR. BEN-VENISTE: So are you saying that that declaration gave you shootdown authority?

GEN. ARNOLD: It gave us -- that particular declaration that I am referring to is a class bravo airspace within the Washington, D.C. area that was shut down to aviation, except for military or for law enforcement emergency response aircraft at that particular time.

MR. BEN-VENISTE: To help me understand, does it mean once that condition exists, that unless you were able to

determine that this was a friendly aircraft, which under the circumstances I suppose means under the control of the terrorists at that time making it an unfriendly aircraft, that you had authority --

GEN. ARNOLD: That's correct.

MR. BEN-VENISTE: -- by whatever means to bring that down?

GEN. ARNOLD: Yes. The --

MR. BEN-VENISTE: At what time during this process was that order issued, and who issued it?

GEN. ARNOLD: I do not know who issued it. It is my understanding it was issued by the president, or the vice president in his stead, that that order was issued. And it was issued around the time that we decided to put all the aircraft on the ground, as Secretary Mineta had referred to, at that particular time. So --

MR. BEN-VENISTE: We would ask you to supplement your testimony today with specific information about that. At what point was, to the best of your knowledge, any order received from either the president or the vice president of the United States with respect to action to be taken by the military in connection with the ongoing situation?

GEN. ARNOLD: It was my understanding that that occurred, the direct communication, to me. I can't answer if it was done at a higher level at some point in time around five minutes after the United 93 had crashed into Pennsylvania.

MR. BEN-VENISTE: And so you will be able to check the records of NORAD generally, or the DOD generally, to find out when a presidential directive was issued?

GEN. ARNOLD: I am sure General McKinley will do that for me.

MR. BEN-VENISTE: Thank you. And if I understand the context of what you said about closing the perimeter around Washington, the president's directive or the vice president's directive would have been moot, because of the prior order, which would have enabled you to shoot down an unfriendly plane in that sector?

GEN. ARNOLD: We developed a certain -- I guess the short answer again, that is correct. But it's very specifically in the Washington, D.C. area by presence that aircraft was hostile unless we could determine it was friendly.

MR. BEN-VENISTE: Let me go to the issue again to revisit Flight 77, because as we understand it, tragically, it appears that that was the only plane which reached its intended target which might have been interdicted that day, if everything had gone right. Are you in agreement with that?

GEN. ARNOLD: I think, from a physics perspective, yes.

MR. BEN-VENISTE: Let's go beyond physics for a moment, and let me ask you about the planes which were scrambled from Andrews Air Force Base.

MR. : Langley.

MR. BEN-VENISTE: No, from Andrews Air Force Base by the Secret Service of the United States. Who gave the order to scramble jets -- F-16s also, I believe -- out of Andrews?

GEN. ARNOLD: It's my understanding that the Secret Service requested that they launch anything they could to get them airborne.

MR. BEN-VENISTE: Of whom did they make that request?

GEN. ARNOLD: I'm not sure if it's General Dave Worley (ph), and I think they actually talked to him. And I did not know this at time of course, but they called him up and said, What do you have that you can get airborne? He had some airplanes returning from the range on training mission.

MR. BEN-VENISTE: What would be the flight time from Andrews Air Force Base of two F-16s to the Pentagon?

GEN. ARNOLD: From the time they were notified?

MR. BEN-VENISTE: Yes.

GEN. ARNOLD: Probably 15 to 20 minutes, because it takes about 10 minutes to get airborne, and they are not set up on alert or scrambled. In fact, it could have taken, f they

didn't have any airplanes immediately ready to go, it could have taken them 20, 30 minutes.

MR. BEN-VENISTE: And under the circumstances --

GEN. ARNOLD: They already had airplanes airborne. By the time those airplanes were airborne we had airplanes over Washington, D.C.

MR. BEN-VENISTE: Right. Now if the order had been given to Andrews, even simultaneously with the order that you gave to scramble your planes, is it not fair to say that those planes would have reached the Pentagon sooner?

GEN. ARNOLD: They might have, but they would have been unarmed.

GEN. MCKINLEY: Sir, what would be my comment, sir, is those aircraft are not prepped or built up for that mission.

MR. BEN-VENISTE: And in fact we have received reports that are almost incredible in terms of the bravery of the two pilots who went up that day in unarmed aircraft with the mission, I presume authorized somewhere in the executive, to use their airplanes to bring down Flight 77 or 93 if they could interdict them. That means to clip their wings, crash into them, perhaps the pilots at the risk of their own lives. Is that correct?

GEN. MCKINLEY: Sir, as I evacuated the Pentagon that morning, as I came out the river entrance and looked up, virtually simultaneously those F-16s coming back from the range had been airborne, had dropped their weapons, were returning low on fuel -- were visible to 10 to 15,000 people, and it was a very heartening sight to see United States Air Force fighters overhead the Pentagon. And it is my understanding from the review of the records that that was their guidance.

MR. BEN-VENISTE: And who provided that guidance to them? Was that a decision made internally by Secret Service, or did Secret Service require higher executive order in order to launch those planes on that mission?

GEN. ARNOLD: I do not know that.

GEN. MCKINLEY: I am unaware of the answer to that, sir.

MR. BEN-VENISTE: Mr. Chairman, thank you very much, gentlemen.

GEN. MCKINLEY: Thank you.

MR. KEAN: One question. Suppose for a minute that this weekend, God forbid, that some terrorists got on board another plane in Boston and headed for New York. What would be different?

GEN. MCKINLEY: Sir, I am very proud to say that I think the interagency process has worked very, very well. The Transportation Security Administration, under the direction of Secretary Ridge, has implemented stringent procedures on the ground. Let's face it: solving this problem before the terrorists get on the airplane, I think, is the most critical step to protecting commercial aviation, because once the airplane is in the air, then it resolves back to the Department of Defense to take the appropriate action. So TSA deserves a great deal of credit. The Federal Aviation Administration, with their procedures, and they way they are lashed up with us now and the military, and the formation of the Northern Command, I think is vitally important to the security of the United States of America. I think those things in context make it far less likely for this to happen. But, as my boss says, we are not 100 percent safe. We can never be 100 percent safe. I take nothing for granted when I am in our air operations center when any aircraft fails to communicate or fails to make a turn or fails to do what its flight plan said it was supposed to. So we are very, very serious today about what's happening in the skies over America.

MR. KEAN: But if it were able to get into the air, headed for New York, what procedures exist now that didn't exist then? Would you be able to intercept them?

GEN. MCKINLEY: It's my understanding and firm belief that the Federal Aviation Administration would immediately notify us at the first sign of any impropriety, in any aircraft, whether it's commercial, cargo or civilian. We would immediately take action to get our fighters airborne from the nearest suitable location -- and we have that location set now where we didn't have it prior to the 11th. We should be able to protect our critical infrastructure, our major population centers. But there is, as in any case of a military effort, there are some risks. But we are postured to accept that responsibility. The example you gave us out of Boston is the F-

15s out of Otis would be immediately scrambled, they would immediately intercept the aircraft, and we would stand by for further authorities from those above us.

GEN. ARNOLD: And I want to just point out that if the question was if it were to happen today, you have airborne interceptors that would be vectored into that aircraft to intercept.

MR. KEAN: Commissioner Hamilton?

MR. HAMILTON: I just want to clarify a few things after listening to all this testimony. It's not all that clear to me. As of September 11th, only the president had the authority to order a shootdown of a commercial aircraft.

GEN. ARNOLD: That's correct, sir.

MR. HAMILTON: And today who has the authority?

GEN. MCKINLEY: We see the president delegated to the secretary of Defense, delegated to the combatant commander of Northern Command and the North American Aerospace Command, and there are emergency authorities if that fails.

MR. HAMILTON: So you have the authority?

GEN. MCKINLEY: Yes, sir, and others.

MR. HAMILTON: And how many others?

GEN. MCKINLEY: I prefer not to say in this forum, sir, but I can provide it for the record.

MR. HAMILTON: And you do not have to go up the chain of command at all in the event of a --

GEN. MCKINLEY: We certainly will try, we will make every effort to try.

MR. HAMILTON: I'm sure you would. But you don't have to?

GEN. MCKINLEY: In an emergency situation we can take appropriate action, yes, sir.

MR. HAMILTON: Now, one of the things that's curious to me, General Arnold, you said that you did not learn of the presidential order until after United 93 had already crashed. That was about a little after 10 o'clock in the morning. The first notice of difficulty here was at 8:20 in the morning when a transponder goes off on the American Flight 11. I don't know how significant that is, but 20 minutes later you had notification of the possible hijack. So there's a long lapse of time here between the time you are initially alerted and you receive the order that you can shoot that aircraft down. Am I right about that?

GEN. ARNOLD: That's correct.

MR. HAMILTON: In your timeline, why don't you put in there when you were notified?

GEN. ARNOLD: Of which flight, sir?

MR. HAMILTON: Getting the notification from the president of the United States that you had the authority to shoot a commercial aircraft down is a pretty significant event. Why would that not be in your timeline?

GEN. ARNOLD: I don't know when that happened.

MR. HAMILTON: Had you ever received that kind of a notice before?

GEN. ARNOLD: Not to my knowledge.

MR. HAMILTON: So this is the first time in the history of the country that such an order had ever been given, so far as you know?

GEN. ARNOLD: Yes, sir. I'm sure there's a log that would tell us that, and I appreciate the question.

MR. HAMILTON: Maybe you could let us know that.

And then, finally, as I understand your testimony, it was not possible to shoot down any of these aircraft before they struck. Is that basically correct?

GEN. ARNOLD: That is correct. In fact, the American Airlines 77, if we were to have arrived overhead at that

particular point, I don't think that we would have shot that aircraft down.

MR. HAMILTON: Because?

GEN. ARNOLD: Well, we had not been given authority --

MR. HAMILTON: You didn't have authority at that point.

GEN. ARNOLD: And, you know, it is through hindsight that we are certain that this was a coordinated attack on the United States.

MR. LEHMAN: But had you gotten notified earlier, 77's deviance, about when it turned east, for instance, certainly you could have gotten the F-16s there, and certainly there would have been time to communicate to either get or deny authority, no? -- for 77?

GEN. ARNOLD: I believe that to be true. I believe that to be true. That had happened very fast, but I believe that to be true.

MR. BEN-VENISTE: What efforts were made that day to contact the president to seek that authority?

GEN. ARNOLD: I do not know.

MR. BEN-VENISTE: Who would have been in the chain of command seeking authority from the president with whom anyone at NORAD was communicating? GEN. ARNOLD: Can you answer that?

GEN. MCKINLEY: The command director in Cheyenne Mountain is connected with the combatant commander who would have had the telephone lines open at that point. But I don't have knowledge of what happened that day. But that would be the way it would be done.

GEN. ARNOLD: The flow would be through the secretary of Defense obviously, and to --

MR. BEN-VENISTE: Well, the secretary of Defense was under attack in the Pentagon.

GEN. ARNOLD: He was evacuating, yes, sir.

MR. BEN-VENISTE: Now, in terms of anything you know today looking backwards, including all the after-action reports and various studies which I am sure have been conducted internally, and I am sure which we will wish to review, can you not tell us whether there was any effort made to contact the president to seek authority in dealing with what appeared to be a coordinated attack?

GEN. MCKINLEY: I don't have knowledge at this time to make a comment, sir.

GEN. ARNOLD: I don't have knowledge of that. Our actions were to try to get aircraft in position to intercept if necessary.

MR. BEN-VENISTE: Now, just going back, because now I'm confused by on the one hand your statement that the closing of the airspace over Washington provided de facto authority to take whatever measures were necessary to deal with hostile aircraft, and your statement that we probably would not have shot down 77 if we had arrived in time.

GEN. MCKINLEY: The airspace had not been shut down over Washington, D.C. at that time.

MR. BEN-VENISTE: But what time was that? Is that on the timeline?

GEN. MCKINLEY: I believe it is. I believe it was reported by Secretary Mineta ,the timeline that that occurred.

MR. BEN-VENISTE: It's not on your timeline?

MR. SCOTT: No, sir, it's not.

MR. BEN-VENISTE: But do you know what time that was?

MR. SCOTT: Sir, the only thing I've seen is we have a copy provided by General Worley (ph) of an Andrews tower transmission that announced to all aviation traffic that the Class B airspace was closed and that air traffic that did not cooperate would be shot down.

MR. BEN-VENISTE: What time was that, Colonel Scott?

MR. SCOTT: Sir, we'd have to go to the tower logs. We can get that for you. The tower log will show us what time that transmission was made. I don't know what time it was made.

MR. BEN-VENISTE: And on whose order was that directive given, that any plane in this sector would be shot down?

MR. SCOTT: Unknown to me, sir.

MR. LEHMAN: Would you be able to provide that to the best of your abilities to --

GEN. MCKINLEY: We'll do everything we can to provide that for the record, sir.

MR. LEHMAN: From higher authority as well, so we can get on the record the chain of command during that period.

I have one last question on 175. It never turned its transponder off, and apparently you were never notified that it was a possible hijacking. Was that because it continued to communicate with ATC? Or did it deviate from its course?

GEN. ARNOLD: I can't tell you why we weren't notified. You'd have to ask the FAA. But that aircraft was a very, as I understand it, a fairly short flight, and we were not notified. I can't tell you why.

MR. KEAN: Commissioner Gorelick?

MS. GORELICK: Thank you, Mr. Chairman. I'd actually like to follow up on some of your questions about the respective roles of NORAD, Northern Command, the Defense Department generally vis-a-vis law enforcement. As Commissioner Ben-Veniste averted to, when I was at the Justice Department and we were planning for the Atlanta Olympics, we rehearsed a number of scenarios with the Defense Department and the various components thereof who were responsible for providing support to the Olympics. And when we got to the scenario of a domestic hijacking of a plane headed into a stadium, and I asked what they thought the proper division of labor should be, I was told, and it won't come as any surprise to you, General Arnold, given your testimony, that this is a law enforcement matter, and that the armed services would provide technical support to the FBI to shoot the aircraft down. And my response of course was, That's preposterous. And in fact, General Arnold, I am glad to see and hear that when faced with the judgment of whether you should do

your job in defending the United States or wait for someone from the FBI to call you, you decided to get the authority later, because that is the only rational response. It probably could have gotten you court-martialed. But one appreciates that sort of leadership. I say this because it is clear that before September 11th we know that the Defense Depart ment discussed for decades what the appropriate role of our military should be in defending the domestic United States. This was not a new question. It was discussed up and down and across. And I see General McKinley nodding. Anyone who has been in the service for the period of time that you gentlemen have been, know that. And clearly September 11th served, if anything else, if nothing else, to break the resistance that had occurred to having a different view of what the appropriate role of the military should be.

So with that background, I would like to be very clear as to what has changed and what has not. As I understand it, the requirement of prior law enforcement requests has been eliminated. Is that correct?

GEN. MCKINLEY: We are able under Operation Noble Eagle, which we are under presently, to respond to an event as a military entity to be in position to support. As you said eloquently, we don't have time to wait anymore to launch our fighters. So we have to take proactive action to do that.

MS. GORELICK: Thank you for that. Second of all, your radars are now, as you put it, are pointed inward as well. Is that correct?

GEN. MCKINLEY: We have incorporated the radars that were there all along so that our military controllers can now see them, see those tracks of interest.

MS. GORELICK: You remain reliant to a certain extent on the efficacy of the FAA's radar system, as Secretary Lehman pointed out. Are you completely comfortable that they are more than adequate to your mission?

GEN. MCKINLEY: Ma'am, you are absolutely right, we are dependent upon the FAA. We are working closely with them and their programmers, because there are some financial disconnects. The FAA looks at radar differently than the military does. They are optimizing their radar to control traffic for commerce. We the military need to see very specific data which the FAA doesn't need. It costs money to do that. Our programmers along

with the FAA have identified some disconnects and programmatics, and senior leadership is aware of those disconnects. We want to make sure that the radars last so that this mission can be done properly and effectively.

MS. GORELICK: I would ask you to supply for the record, if you could, a statement of what would be necessary in the professional opinion of you and your colleagues, to bring the FAA system, upon which you are now reliant, up to the standards that you think are required to defend the domestic United States.

GEN. MCKINLEY: Yes, ma'am.

MS. GORELICK: The other issue which you've raised in your testimony is that of communication between the FAA and NORAD, or lack thereof. And one of the questions that came immediately to mind is why you would not be co-located with FAA so that there is no such communication issue. Are you now co-located with FAA and have a presence in its command center that opens up when there is an emergency management?

GEN. MCKINLEY: Ma'am, we have done a little of both. After General this tragedy that occurred on the 11th, the FAA provided us with liaisons at all our air defense sectors, our continental NORAD region and at NORAD, so we have real-time people that we can turn to and say, Please use your communications channel so that we can get information. In addition, the national capital region has stood up a coordination center at Herndon, Virginia, in the FAA building, where we have military personnel, members of Transportation Security, the Secret Service and other federal agencies, where they can coordinate the efforts in this area. So that has helped us tremendously, and we think we can continue to do that.

MS. GORELICK: Thank you for that answer. And finally in my list, are you comfortable that you now have the pre-placement of your resources, in terms of aircraft, et cetera, where they need to be to adequately defend our critical infrastructure in the United States?

GEN. MCKINLEY: Yes, ma'am. I believe at the present time we have an adequate force structure to do that. The requirements change daily, weekly, based on the event. For example, if a space shuttle were to take off, we would want to have aircraft at the Cape. So whenever we have a security event -- the Olympics, the State of the Union -- we move our fighters

around in a flexible manner to respond to that. So we do have the capability based on intelligence and real- world need to do that.

MS. GORELICK: We may want to follow up in closed session on that issue. As the charter for NORAD and the existence of Northern Command were being changed and created, there clearly would have been debate within the Pentagon over what the scope of that charter should be -- and I speak of someone who served there twice and I can imagine what some of those discussions might have been. What authorities were contemplated to be given to Northern Command that haven't been? And what authorities, if you were writing that charter on your own, would you give it?

GEN. MCKINLEY: Well, ma'am, I don't mean to dodge the question, but I don't know if I have the level of knowledge that you require for that answer. I will tell you as a component commander who needs to employ resources in defense of United States citizens, I will tell you that the bi-national arrangement with Canada that NORAD has had for over 40 years has worked exceptionally well, for the threat period that we went through, the Cold War and subsequently.

The stand-up of Northern Command has given us the ability to now tailor our forces and to work with local law enforcement so that we can respond to a critical need far more quickly. And we do it in a joint fashion with Navy, Marine Corps, Army, our Guardsmen, our Reservists and our United States Air Force. So the Northern Command framework as I see it -- and we are still in initial operating capability -- we will become fully operational capable when General Eberhart says they are. We are learning, we are training together and exercising together, and from my perspective working exceedingly well.

MS. GORELICK: And one final question, General Arnold. We get some of our most candid advice from people who have taken off their uniform. And I use that phrase as well for civilians who no longer play whatever role they happened to have played. Having lived through the searing moments of 9/11, and having had the awesome responsibilities that you had on that day, and having had limited resources, as you had on that day, legal and physical, to help prevent harm, what advice do you have for us about changes that we should make as a country?

GEN. ARNOLD: Well, I wrote a paper -- no, I didn't write a paper on that, but I think one would have to -- that is

probably where you are going to go. We are very fortunate that we have a country with so many resources. And let me point, out if I could, the -- while you might -- there could be criticism of what we did in response, it worked pretty well in terms of the after-action reports. Airplanes were getting airborne because people knew they had to get airborne. And I don't have the timelines for all of these things. But as the president told the military to prepare to defend the country, we started gathering up all the aircraft that traditionally had not supported NORAD. And as soon as we could get armament to them, we put them on orbit. As you recall, we were on orbit for some time throughout the country. The Navy responded magnificently as well. It was in the press. Vice Admiral Dawson called me. He was on the *George Washington* at the time, and he said, We understand that General Eberhart is the supported CINC, and that you have been appointed the JFAC, the joint force air component commander, and we want to roll under your air-tasking order. Vice Admiral Buckey (ph) of the Third Fleet, who was steaming the aircraft carrier towards the West Coast to do the same thing. So the system in terms of military cooperation worked tremendously well.

I would also hasten to say that during the course of time that we were on orbit and our resources were extremely limited in many cases, because we initially could not see even what the FAA could see, we used our very strained AWACs aircraft, our warning aircraft that are used all over the world, and Brigadier General Ben Robinson was stretched very thin, but he continued to do what he could.

The United States Customs provided us with E-3s, with radars that gave us coverage in other parts of the area. And, as General McKinley alluded to, we were able to bring in units, Air National Guard and active duty theater area control units, units that are designed to be deployed, and integrate them into our air picture, not only for air, but also for voice. So we did a lot of things early on. But the things that were missing in particular immediately were, number one, we couldn't see into the interior of the country, we couldn't talk to our aircraft that were airborne to the interior of the country, and we did not have a command and control system that would absorb the number of radars. And we were able to do that very rapidly. That, coupled with the creation of the Department of Homeland Security and with the Northern Command, has provided defense in depth, in my opinion, to protect this country in a way that it has never been defended before. It's in depth at the present time.

We need to continue down those avenues. I am sure there are ways to improve it. I am sure General McKinley will find those ways. General Eberhart is engaged in that as well. But I feel comfortable that we have done those things that we ought to have done in order to provide security before a certain hijacking would occur. And of course, God forbid, if that were to occur again, we are now positioned to be able to see, to be able to talk, to be able to provide the command and control, and we have exercised repeatedly our capability to pass an order, a military order, down to the pilot in the airplane, or the soldier next to his air-defense artillery.

MS. GORELICK: Thank you very much.

MR. KEAN: Our last questioner is Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman. Mr. Chairman, I want to again commend you and our vice chairman and the staff for all the work that you put into this hearing, especially this panel. This is very helpful to us, and plowing ground that the Joint Inquiry did not get into. And I just want to make sure that you recognize how important that is. And we are very grateful for your time, gentlemen, and your help, and the good work that has gone into setting this hearing up.

General Arnold, you were there that day, correct?

GEN. ARNOLD: Yes, sir.

MR. ROEMER: And you had been there how long?

GEN. ARNOLD: I had been a commander since December the 19th, 1997, so I had been there for some time. I was approaching the end of my tour.

MR. ROEMER: Let me keep you on the hot seat, as Jamie Gorelick has put you there, and ask you a question about military threats, threats to the United States, and the way we try to get intelligence as the world changes from a Cold War to terrorist threats that can come at us from almost anywhere at any time, in nimble quick dynamic ways. Were you aware at all of the fatwa that Osama bin Laden had put out in February of 1998 that said that he wanted to kill Americans, all Americans everywhere he could, whether that was in the Middle East or in the United States of America?

GEN. ARNOLD: The answer to that is yes, and we had briefings, our own briefings. I think we could even provide a date back to 1998 where we called Osama bin Laden the most dangerous man in the world. And our focus, with the demise of the Soviet Union and Warsaw Pact, in accordance with the Hart-Rudman study, was that we felt like the greatest threat to the United States would come from a terrorist, a rogue, or a rogue nation, or I should say a nation of concern.

MR. ROEMER: And then were you aware of George Tenet's statement in December of 1998 that the United States was "at war" with Osama bin Laden and al Qaeda?

GEN. ARNOLD: I don't recall that, but I suppose I was generally aware of that, that the United States was at war with terrorism around the world.

MR. ROEMER: One of the frustrations is that in looking at this issue very carefully over the last year and a half, that a lot of our people responsible for these kinds of things did not know of George Tenet's declaration or did not know of Osama bin Laden's declaration. If Vladimir Putin had made that declaration as the leader of a nation-state, we would probably all be aware of it. If Kim Il Jong of North Korea or Saddam Hussein had made those statements in 1998, we would probably all be aware of it. And that combined with the intelligence that was coming in over the decade of the 1990s that pointed to planes as weapons, we need to look back. Not to blame anybody, but to try to make sure that this information can get in the right hands in the future so that we can respond nimbly and quickly to this very nimble and quick threat that is directed directly at the heart of America. And I would be very, very attentive to any suggestions you would have now that you have stepped away from that most important job that you took on for our country and for our people, and performed very well, I am sure. What do we need to do to break down these barriers of communication and increase the exchange of information so that we can respond quickly to this threat that will continue to come at us?

GEN. ARNOLD: Mr. Commissioner, I think I've stated that earlier what I thought we have done in terms of the intelligence community and awareness. I think we are at a greater awareness today than we ever were before. I'd leave that up to perhaps General McKinley, not trying to duck the question, but I think I've answered that pretty much before.

MR. ROEMER: Well, if you think of more specific answers, please provide those for the record.

Let me ask you a question about the time difference between the scrambling and the battle stations and getting airborne. The F-15s at Otis, which was about -- What was the total timeframe there for the F- 15s at Otis?

GEN. ARNOLD: I believe that from the time they were notified to scramble it was six minutes.

MR. ROEMER: Six minutes? Notified, scrambled and then airborne?

GEN. ARNOLD: Notified, scrambled and airborne. I believe that was six minutes, as Colonel Scott has --

MR. ROEMER: So a total of --

GEN. ARNOLD: You're not talking -- now, they were on battle stations because the Northeast air commander put them on battle stations. But once we said scramble, then I believe it was six minutes.

MR. ROEMER: Then, comparatively, for the F-16s at Langley, what was the total time it took to --

GEN. ARNOLD: Again, if I can look at our data here, I believe it was -- they were reported airborne at 9:35, and I think we would show that we actually --

MR. SCOTT: We got first radar data at 9:30. I believe they were ordered to scramble at 9:24. The 9:35 report is when they were reported to have been airborne.

GEN. ARNOLD: Correct, correct, six minutes.

MR. ROEMER: Six minutes again.

GEN. MCKINLEY: And these fighters, sir, have up to 15 minutes to get airborne. And it's very intricate, as Secretary Lehman knows, to get an airplane without anybody in it, started, cranked, inertia line, to the runway, get a clearance, get in the air. Six minutes is exceedingly quick.

MR. ROEMER: So at 9:35, those F-16s are airborne?

MR. SCOTT: They were airborne, sir --

GEN. ARNOLD: I think they were airborne at 9:30 actually, and that they were reported airborne at 9:35 – correct my error here if I could, please.

MR. ROEMER: Okay. You were in the room when Secretary Mineta talked a little bit about arriving at the White House at about 9:20, and then overhearing a conversation at about 9:24 or 9:25 between the vice president and a young aide, where he inferred that there was already an order in place for shootdown, and he assumed it was for American Airlines 77. So sometime even before 9:20 there was an order in place that he overheard in the presidential executive operations center that had some exchange between, I assume the vice president and the president and maybe the special ops, the situation room, and they had determined that they have would the authority communicated to somebody to shoot down American Airlines Flight 77. Were you at all aware of anything sometime after 9:15 or 9:20 to shoot down American Airlines Flight 77?

GEN. ARNOLD: I was never aware of any order given to shoot down American Airlines 77.

MR. ROEMER: So nothing was ever conveyed to you by the White House or by the FAA administrator or by the secretary of transportation on Flight 77?

GEN. ARNOLD: That's correct.

MR. ROEMER: So the only time you ever received information on a shootdown was on Flight number 93, and that was --

GEN. ARNOLD: After the fact.

MR. ROEMER: Excuse me?

GEN. ARNOLD: After the fact.

MR. ROEMER: That was after the fact, and that was after 10 o'clock.

GEN. ARNOLD: That's correct.

MR. ROEMER: And that was from who?

GEN. ARNOLD: It was from Cheyenne Mountain. I assumed from the commander of the North American Aerospace Defense Command.

MR. ROEMER: Your assumption is that the White House communicated that to Cheyenne Mountain, and then Cheyenne Mountain communicated that to you?

GEN. ARNOLD: Through the National Military Command Center.

MR. ROEMER: Right. And when you had that after the fact, as Commission Hamilton asked you, that was at what time?

GEN. ARNOLD: I believe the time -- we do not have a record on this. I remember the time being somewhere around 10:05, but we do not show that in this.

GEN. MCKINLEY: And we'll try to find that accurately and depict it for the record, sir, because that's probably an important time you'd like to have.

MR. ROEMER: I think it's critically important. Colonel Scott, where you in on any of that information about the presidential authority to shoot down Flight 93?

MR. SCOTT: At the time I was upstairs with the crisis team.

MR. ROEMER: And General McKinley?

GEN. MCKINLEY: I was trying to get out of the Pentagon, which was on fire, sir.

MR. ROEMER: So, General Arnold, with respect to this decision, if you could get any more details on the timing and any information on Flight 77, that would be very helpful to us. Thank you again for your great service to the country.

MR. KEAN: General Scott, General Arnold and Major General McKinley, thank you very much. You've been very helpful today, we appreciate it, and thank you.

GEN. MCKINLEY: Thank you, Mr. Chairman and members of the Commission. Thank you very much.

MR. KEAN: Lieutenant General Canavan is next.

All right, could we reconvene please? Lieutenant General Mike Canavan, former associate administrator for Civil Aviation Security.

MR. CANAVAN: Good morning, Mr. Chairman, Mr. Vice Chairman, members of the Commission. Thank you for inviting me to speak before the National Commission of Terrorist Attacks upon the United States. I sincerely hope that any input will be useful in increasing the safety and security of our flying public. My name is Mike Canavan. From December of 2000 until October of 2001, I served as the associate administrator for civil aviation security at the Federal Aviation Administration. Upon joining the FAA, my first order of business was to review our major mandates and policies, and determine where immediate improvements to civil aviation security could be made, both short and long term. Since the FAA was a regulatory agency and not an enforcement agency, I knew a challenge would lie ahead to work with the airline industry and those outside the federal government making sure every effort was made to ensure the security of the flying public.

The challenge would come in terms of developing and reconstructing this long established partnership. Additionally, outside the FAA but within the federal government, I worked closely with my counterparts within the counterterrorism and intelligence communities. While the FAA is considered part of the counterterrorism community and intelligence communities, it participated only when issues arose that involved aviation-related matters. It should be noted that the FAA was a consumer of intelligence and not really an intelligence collector. This is an important distinction, as we relied completely on the intelligence community to provide the best quality of raw and analyzed intelligence so that when appropriate we were able to turn it into an actual intelligence by which we could take corrective actions to employing countermeasures, transmitting advisories, warnings, et cetera.

During my tenure at the FAA, my staff and I interacted routinely with the intelligence and law enforcement communities. We were advised of current and possible future threats against civil aviation, and worked actively to implement measures to protect the flying public against those threats. Throughout 2001, as the intelligence reporting volume increased, the overwhelming majority was focused on likely targets overseas, particularly in the Middle East. Throughout this period my office issued at least 15 information circulars to authorize the

aviation industry, security professionals, corporate security directors, senior management personnel, ground security coordinators and supervisory personnel at overseas locations, and as appropriate to local airline managers and law enforcement personnel on a need-to-know basis. Oftentimes these were issued in concert with the Department of State public announcements and FBI national law enforcement transmittals. Information circulars contained data derived from law enforcement and intelligence information, focusing on domestic and international terrorism threats directly against aviation.

The information circulars updated U.S. carriers against continuing violence against American citizens and interests around the world, with a particular interest on the Middle East, and encouraged airlines to practice a high degree of awareness. For example, one information circular described a plot to target a public area in the Los Angeles Airport terminal by Ahmed Rassam, who was arrested in December 1999 while attempting to enter the United States from Canada. Another information circular issued in the summer of 2001 updated airline security personnel of developments that terrorists and criminals had in disguising firearms.

Additionally, my organization within the FAA issued security directives which required the airlines and security organizations to implement modifications or upgrades to their current security postures based on a variety of factors, including changes in the threat environment.

The threat environment throughout 2001. As I recall, the threat reporting during early to mid 2001 centered on U.S. targets abroad. In June and July of 2001, the FAA was included in many interagency counterterrorism security group meetings, or CSG, held at the White House by the National Security Council staff regarding possible attacks in the Arabian Peninsula, Israel and Europe. In early July, the NSC chaired a meeting at which the interagency was briefed about additional intelligence indicating that terrorist attacks seemed imminent. The intelligence community briefers emphasized attacks would likely take place overseas. While we all agreed that attacks within the U.S. could not be ruled out, there was no indication from the intelligence community that attacks focused specifically against airlines. Nonetheless, the entire CT community, including law enforcement and intelligence agencies, were placed on the highest alert, and we all sent out notifications for heightened security measures to be put in place immediately

within our organizations. The FAA sent out security directives and information circulars to all interested parties.

During my ten months at the FAA, I was determined to instill a renewed sense of dedication and importance throughout the civil aviation security organization. In the airline and airport industry, that security of the flying public was our principal directive. A few examples include traveling to every CADEX airport -- that's our largest airports, there are 20 -- briefing all civilian aviation security airline and airport staffs regarding commitment to aviation security, and traveling to several international airport locations to ensure that host nations understood the U.S. government's commitment to civil aviation security.

I also made it a priority to draft and obtain buy-in from all FAA civil aviation security staff and agents on a strategic plan that articulated our security mission from the present forward. Additionally, I directed my policy staff to develop a long-term strategy planning effort out to the 2010 timeframe. In the short term I served at the FAA, I firmly believe we began improving the state of the FAA civil aviation security posture.

Some suggestions for aviation security improvements. Of course, it is one's hope to deter, disrupt or prevent every criminal or terrorist attack on the ground or in the skies. While this is the ultimate goal to which we all inspire, realistically this cannot happen as long as we continue to live in a free and open society. We must therefore strike a balance that allows a free and open society with sound and common-sense approaches to security.

There are some aviation security programs that deserve attention and may provide improvements to the flying public. For example, the use of red teams. During my tenure at the FAA I supported completely the concept of the red team to test and evaluate the overall state of readiness to domestic and international airports. From my time in the military I was used to this thing that we do call red teams. Although no airport security system can be flawless, in order to develop and implement improvements it is necessary to work with rather than to punish airport and airline personnel when defects were found by the red team. But you need to develop an improvement plan together. We are the experts.

Based on the red team findings, the airport authorities and airline industry should be made part of the improvement process, rather than be punished only with fines and then allowed to walk away without making the overall system better. This is another example of why it is imperative that the airline industry never be allowed to transfer all of its security responsibilities to the federal government. This must always be a shared responsibility.

Federal air marshals. The strength of this program's foundation is based on maintaining the anonymity of the FAMs. With the significant increase of FAMs deployed on domestic flights over the past 20 months. The FAMs are now as or more likely to be called upon to deal with unruly passengers as they are a threat to the cockpit crew and perceived threat to the cockpit crew and passengers. There is an important distinction between the security of the aircraft, its crew, passengers, versus a disorderly passenger. Disclosing the FAM's identity undermines the very premise under which they are operating. This is another example where the airline industry should share responsibilities by handling unruly passengers, then the FAMs only to be used as the last resort. Then the FAMs are allowed to execute their mission and provide security of the aircraft, its crews and its passengers.

The airline industry's responsibilities. Since September 11th of 2001, the federal government has taken additional responsibilities which have been previously been air carriers' and operators' responsibilities for more than three decades. It seems there is little burden sharing. The concept to share responsibility for good security is sometimes a memory. The airport and airline personnel are the first responders by virtue of them being the eyes and ears on the ground at these airports. They will be immediately directly aware of questionable behavior and potential threats. Now, however, the airline industry is no longer responsible for screening passengers, and are currently trying to relieve themselves of CAPPS and baggage screening, and are opposed to using hardened containers or advanced equipment, as a few examples.

The airlines must be responsible for some measure of security throughout this process. The government cannot and should not be held accountable for all things aviation. The concept of common and shared responsibility for security can be degraded in this manner.

Aviation security abroad at international airports. Foreign governments and airlines hire the personnel responsible for screening in overseas locations. While we may have made significant improvements domestically, we may not have yet dealt with the airports abroad. I understand that a recommendation was made to employ more than 70 explosive trace detection devices in airports overseas to screen footwear after Richard Reid's failed attempt last year to explode an aircraft has yet to be acted upon. This equipment is used domestically, and we should improve our aviation security overseas for flights to the United States and elsewhere.

When I joined the FAA, I was impressed with many of the dedicated employees at headquarters and in the field. However, I recognized that we would be facing a formidable challenge working within the FAA structure, and at the same time in a environment where partnership with the industry took on a whole new meaning. I tried to begin breaking new ground during this time. Not a single day passes when I do not think about decisions, theories and intelligence that might have possibly made some difference to the outcome of September 11th.

I hope that my testimony today and any information that I offer the National Commission will assist in making the traveling public and aviation in general more safe and secure. I take full responsibility for any and all FAA security failures on 11 September 2001. Thank you.

MR. KEAN: Thank you very much, General.

Congressman Hamilton?

MR. HAMILTON: General, thank you for your testimony this morning. You're pretty tough on the airlines, aren't you?

MR. CANAVAN: Well, again, sir, it's back before the rules changed after 2001. It was a shared responsibility.

MR. HAMILTON: You think it should be?

MR. CANAVAN: Yes.

MR. HAMILTON: So what we have seen over a period of time is all of the responsibility for airline security shifted to the government, and taken off the shoulders of the airlines? Is that the general trend?

MR. CANAVAN: Yes, sir, that's how I see it.

MR. HAMILTON: And that's to the detriment of the flying public?

MR. CANAVAN: I think so, because when you take the airports or the airlines out of it, it's like those airports are small cities and those airlines, they are there, the airports are there. When you start taking chunks away from what I think is common knowledge of what's going on in your neighborhood -- everyone knows their neighborhood. You know when a stranger walks in there, you know when things change and that type of thing. When you take any responsibility away from someone like that, then at that point in time there's really no one watching. That's my whole point.

MR. HAMILTON: I see.

MR. CANAVAN: And, to continue on that, for years in this country you had two people in charge of an airport. You had the airlines and you had the airport officials. So you had two folks, and they didn't always come together. The airport manager, you know, he was worried about security, all these other things, making sure people had a place to eat, perimeters, all those things. The airlines -- and I understand it they are there to make money, and they were there to get people on airplanes. So anything that stopped them from getting you from the parking lot to your airplane in a timely manner, you know, they had -- that was difficult for them.

Whereas some of the European models, there's one person in charge of an airport, so as you know, when you have two people in charge of something in the military parlance, then you start to have gaps in your perimeter, and people can obviously slip through those gaps. So that's my point on that.

MR. HAMILTON: So you think airports should be organized in such a way that one person is in charge?

MR. CANAVAN: Yes, sir.

MR. HAMILTON: To go back to a question that has come up here fairly frequently, did the FAA ever consider the possibility that a plane could be used as a weapon prior to 9/11?

MR. CANAVAN: I would say that over time the answer to -- first of all, yes. I dealt with terrorists all over this world, and I've seen the results of what people want to do when they want to push their agenda, unfortunately. And when you look at possible scenarios, well, yes, you could take an aircraft and fly it into something. The Olympics in '84 were mentioned. That aircraft in that scenario was really a crop duster. There wasn't a big wide-body airplane. But then you have to -- then you look at it and you say, Okay, here's all these threats. Now, can you guard against all of them? Do you have the resources and the money and the people and the time and the effort? And a lot of times you have to say, no, you don't. So then you have to put it in priority. You know, when historically you went back and looked at hijackings of U.S. aircraft over the years, of which 107 were hijacked.

MR. HAMILTON: Prior to --

MR. CANAVAN: Prior to 11 September. At no time was an aircraft ever used to fly into something. Now I'm talking commercial airplanes. You know, we had the thing with the small, the Piper Cub at the White House. In 1994, 1995, when the Air France aircraft was hijacked out of Algiers, and ended up in France, at that time I was in command of all of our special operations forces in Europe, so I was always hooked into all of our counterparts. The French debriefed us on that. What those people really wanted to do, what they thought at that time, the best guess by the French intelligence people, were that they wanted to use it as an aerial bomb. They wanted --

MR. HAMILTON: But in your consciousness, had you considered prior to September 11th the possibility that a commercial airliner could be used as a weapon?

MR. CANAVAN: I knew there -- I knew there was a possibility, but it wasn't --

MR. HAMILTON: Not a high priority?

MR. CANAVAN: Not a high priority. What I thought -- usually aircraft are taken to take hostages, they're taken for transportation, they are taken to release someone who may be in jail that's part of the organization.

MR. HAMILTON: Do you remember any publication or any training exercise where a commercial airliner was used as a weapon?

MR. CANAVAN: No.

MR. HAMILTON: And then after you became head of the FAA's civil aviation security, did you take actions prior to September 11th to make the system more effective?

MR. CANAVAN: Yes. My actions -- first of all, I got smart in what really our mandate was. That was in the headquarters. I went to every CADEX airport except for Honolulu, visited airlines, airports, and my own FAA agents in the field. I talked to airline, airports, security personnel, FBI, CIA, Department of State, and tried to get a feeling of what was out there in terms of what was rubbing up against people.

MR. HAMILTON: Do you feel that your activities strengthened the system in that period of time?

MR. CANAVAN: Yes. During that period of time we came up -- first time that we came up with this strategic plan for at least five years that looked in the areas of airport and airline security, air cargo, people and technology to improve all this, and come up with a game plan. At the same time --

MR. HAMILTON: Well, was the plan implemented?

MR. CANAVAN: Yes, the plan was ongoing, on target.

MR. HAMILTON: Ongoing. It was being implemented?

MR. CANAVAN: It was being implemented. It had been briefed to everyone in the field, and we were tracking it at headquarters. It was part of our weekly meetings as to how we were doing on the strategic plan in these four areas, which we all felt were very important.

MR. HAMILTON: So your initiatives were well received and supported by the FAA?

MR. CANAVAN: Yes.

MR. HAMILTON: Can you be a little more specific about the kinds of things you recommended?

MR. CANAVAN: Well, we want to improve the testing in the field. We wanted to improve testing of screeners. We wanted

to improve the access control regulations that we had out there in the field. We wanted to do -- we improved special emphasis testing. In other words, you'll go to, like in the Southeast during that period, over about a three-month period, we did 10,000 tests on both access and X-ray and EDS machine operations. That's what I'm talking about. Of course the red team was going on at this time, and that was happening.

I was talking to a lot of the major airlines security, my counterparts. We needed to improve the screeners operation. We needed to pay them more money. We needed to get better training, better supervision. There were more people making money at McDonald's in airports they were making money working the screening line. So they were hearing this from me all the time. I was concerned about why we had so many foreign nationals working in these airports, as screeners. I mean, at that time you did not have to be a U.S. citizen. You just had a background check. That concerned me. I worked real hard to tell the airlines, you know, the threat is out there. Up until 2001, the last major airline we had hijacked was in '85, a Pan Am flight in Pakistan. So 15, 16 years had gone by. And as you know when people perceive that the threat is not out there, when these airline security personnel, they wanted information from me, because they wanted to go to their bosses and say, The reason why I'm asking for all this money is based on this, this, and this. So we pushed real hard to get everything we got from the intelligence community into the field to include coming up with an FOU on CD-ROM that my intelligence chief went around to all the airports, talked to all the people -- everyone got this CD-ROM, and briefed them on the threat.

MR. HAMILTON: So your feeling is that prior to September 11th the airlines, which had principal responsibility for security, were lax?

MR. CANAVAN: I'm not -- some of them were lax. I mean, I'll be honest with you, their priority as time went by without an incident went to other areas. But at the same time -- but that's not all the airlines and that's not all the airports. Depending on how -- and some were better than others. I don't know any other way to explain it. We were pushing for them to take our explosive detection systems, our trace machines, our TIC (?) machines --

MR. HAMILTON: Well, I'm tempted to ask you to be specific, but I'll defer that, at least for the moment. Thank you, Mr. Chairman.

MR. KEAN: Secretary Lehman?

MR. LEHMAN: Yes, general, I note after the increase in the chatter that people previously talked about on previous panels, with the clear raising of the threat, that you issued a security directive prior -- I guess during the summer of 2001 -- reflecting that, and directing the airlines to get a little more vigorous in their security. In your judgment, did they respond to that? Were your initiatives in intelligence sharing and increased trying to get them to conform to the existing regulations, did they do it? Did that makes things a little better?

MR. CANAVAN: Sir, yes they did, because this was on the heels of our road show talking about that there's still a threat out there, and here is the threat. This is a very intensive briefing. And at the same time with our special emphasis areas in trying to keep bombs and guns off of airplanes, we went at them pretty hard. And, now again, some did better than others. But there was an interest level there that, yes, there is a threat out there, and this is the type of information the security managers wanted to go to their bosses and say, Okay, we are going to have to put some more resources here. So I -- the summer, because again of the threat ICs we kept giving these folks. It went up. It got better.

MR. LEHMAN: The disturbing picture that has been emerging from our testimony yesterday and previous information that has been uncovered is that the response of industry to activist people in FAA like yourself, and to the initiatives developed by the results of the red teams, was basically to do what you just described: shape up until you sort of walk away, and then it's back to business as usual. I mean, the initiatives that I recall during the '90s, after the two, the TWA particularly, to put in Kevlar doors, to lock the cockpit doors, and a number of others that would have certainly diminished the vulnerability. All, as soon as people went onto other things, they disappeared. The cockpit doors got open again. The keys were lost, doors never got put on. Part of the description we got from witnesses yesterday was that there simply aren't enough teeth in the rule-making enforcement for the FAA to see that once good things are identified and ordered that they are actually carried out, the fines are minimal and enforcement lax. Is that a fair description?

MR. CANAVAN: I think that's a fair description. I think what happens sometimes with the airlines is let's just talk about the doors. You can -- if you use the model of Israel, they had two doors. They have a catch. You have to go through one door before the second door opens. It has to close behind you. But my point is -- I wasn't there when all this was being kicked around, but I'm told, because number one it was going to weigh a lot, and every time you added weight to an airplane you took away revenue seats. So there's your problem. Anything that stood -- and, again, the airlines are out there to make money and they, probably based on their history -- well, when's the last time someone really kicked down a door? -- because you have to remember that up until 2001 the airline personnel were trained, and when someone threatened a flight attendant or a passenger or you, you just went along, because most hijackings ended up -- obviously the plane landed on the ground somewhere for the most part, and it was either negotiated out, or at sometime, when that fell apart, then somebody stormed the airplane. So you have to keep it in mind what they're -- they would come back and say, Well, why do we want to do this? Because, you know, now we are just going to land the planes, so why do I want to have this heavy door? Well, obviously 9/11 if you had had a heavy door -- but even if you had a door on 9/11, you still would have had to change the training of the crew. In other words, you will never open that door, regardless of what happens in the back of the plane, you land it. So there's a little dichotomy there.

But, again, we looked at improved luggage containers in the belly of the airplane with Kevlar. So if you had a suspected bag, or even though you checked someone out, but you are still a little leery about what they were carrying, you could put at least those bags inside those containers. We did testing. We knew how much explosives that they could handle -- you know, things like that. But in terms of the teeth, you could find -- there's a certain level -- I don't remember what it is, but there was a certain level of fining for different offenses. And after a while the airlines accumulated huge amounts of money, and then the lawyers would get at a hold of it, between the airlines and the Department of Transportation, and they would figure out some compromise. The thing that they never wanted was for you to go public and say Airline X has been fined X number of dollars because of A, B, and C. That was the biggest hammer you had. So a lot of this would get negotiated out. And of course this was frustrating in the field, because here I had all my agents out there trying to be all they could be and be fair and everything else, and then they would find things wrong

and then at the end of the day sometimes they felt that nothing happened.

MR. LEHMAN: Now, if I were a company, regardless of industry, and I felt that stupid things were being done by the bureaucracy that I didn't agree with, what I would do would be to hire a good lobbyist and to get my industry association to go use some chips to see the secretary of this or the administrator of that and get this troublesome bureaucrat overruled, or at least, you know, let's study it for another six months. Did that happen in the case of these aircraft security measures?

MR. CANAVAN: You mean people going to the Hill and lobbying to change them?

MR. LEHMAN: Not just the Hill, but the senior people, the administration?

MR. CANAVAN: I don't know. But I do know -- I don't know about within FAA or within -- I am sure that --

Let me begin again. I am sure within the FAA -- and I know Ms. Garvey was under a lot of pressure, when we would come up and --

MR. LEHMAN: From the industry?

MR. CANAVAN: From the industry, as we were pushing, trying to get either the fines paid or get certain things -- get rules, get rules out of the lawyer's office, like checked baggage and bag match and screener companies -- all those things that were just kind of laying out there. And we did get them out eventually. But so that was that pressure.

There was the pressure of the industry again where security measures were slowing down the people getting on the airplanes. Because during the summer of 2001, or the summer before I think -- I don't quite remember. But remember the airline system, the eight air traffic control just all bogged up -- late arrivals, late this, late that. So there was a lot of pressure from that point.

The other pressure came from where the lobbyist groups would go to the Hill and hit key members on the Hill and say, You know, we have got this Gore Commission here, and we don't really agree fully with this finding. And what happened -- and after it, you know, some of these things would get watered down.

One example was the explosive detection systems. Now, they'll find -- for the most part they're pretty good. There was only one company that made good machines. We had another company that was trying to catch up, but it was going to take a while along the process to get this thing operational. And we told this company that and said, Hey, we'll put it out there. You know, you can do a demo, we'll put it in a couple airports, and we'll run bags through it and we'll see how it works. Well, that wasn't good enough. They didn't want to do all the steps that the other company did to make sure they had a good product, so they go to the Hill. And then language comes out that says, Every time I buy A I have to buy a B. So then you are with two choices: You either have zero EDS machines or you have a 50 percent solution. So those are some of the pressures I'm talking about that I think you may be alluding to where people get in there and for whatever reason try to sway thinking and judgment.

MR. LEHMAN: You mentioned in your testimony, and you are known as an advocate of red teaming. And certainly my experience, and I am sure yours in the Pentagon with red teams are they are tremendously effective, but have a half life. They are effective as long as they are backed up by the senior person in charge. And as soon as that person moves on, the red team tends to disappear and the members are sent to Siberia. I'm sure you are familiar with the Navy red team experience. So it's built into the bureaucracy, yet it's the only answer, in my judgment, to the function that you were trying to do. We had testimony yesterday that there was no cover-up, and -- on the one hand -- that was the official FAA position. On the other hand we had pretty compelling testimony that whatever name you put on it it had the effect of a cover-up. But the former FAA administrator basically said that the results -- she said I think more than 90 percent of the recommendations of the red teams were passed on to the airlines and they are the ones that did nothing to implement them. Yet there was obviously, since the fact that the red team was in effect disestablished, there was hostility within the senior management of the FAA at the time. Could you comment on that? And then tell us what can be done to institutionalize the red team function without this almost inevitable half life. If they are doing their job, everybody hates them who are in senior positions, because they get embarrassed.

MR. CANAVAN: Right. I can only talk about it from the 10 months I was there. When I arrived, I was briefed on the red team and talked to the red team members. In fact, I talked to the person who was in here yesterday. He told me their

frustrations. I looked into it. And the changes I made was, number one, because there were people within the FAA and even my organization that wanted to do away with the red team -- I said that's not going to happen. We're going to continue, we are going to fund them. The second thing we are going to do is when they come back from an overseas mission or a United States mission, all their findings would be briefed, and we would pass them out to the various organizations in my staff to start looking at these things. At the same time, before they left where they were doing their testing, they were sitting down with airline and airport personnel, and saying, This is what we found. Because I did find over time that some of the frustration on the airline and airports part was they were getting fined for something or finding out their mistake, but they didn't know what it was. They would read about it later.

So I asked the red team personnel to debrief these folks before they left. And then the last thing we did -- and I think it was the first time in memory, because this is what I was told from the airline security personnel -- I brought all the major airline security managers into the office here in Washington, and we had the red team debrief them on what we had been finding. It was about a two-hour briefing -- handouts and everything -- and at the end of that they said, you know, this is great, this is what we want. So that's how I looked at the red team. So I used it.

When you have a red team, as you know, you have to watch out a little bit. You have to monitor these guys, because sometimes you get a thing called creeping excellence. If the rule says this, this is what the rule says. You don't add to it or you don't subtract from it. So any elite organization, so to speak, that I have been associated with, you know you got to always watch that and I think sometimes we had a tendency to go above and beyond what really the rule was. And I think that was a little frustration on the red team part and probably on the customer's part.

In terms of at least institutionalizing something like this, the red team has to work directly for the person in charge and not be subordinated underneath another organization. So they are layered down, so that everything that they find, it never really pops up to the top. And we were in the midst of a reorganization within ACS with my staff and that was going to -- we never got to that because of 9/11, but that was one of the things we were going to do.

But I think you need it, I think you need good people, I think there has to be a timeline on their term of service in the red team, and then to make sure that the person you hired initially is a red team member two years later, is still the same person two years later. Because sometimes -- again my background in elite forces, you know the person you hired initially changes overtime for a lot of different reasons. And then put them up under someone where they have direct contact with the boss, and there is no filter. So that is how I would institutionalize it.

MR. LEHMAN: Thank you. I just have two more questions. One, your responsibilities in civil aviation also extended to general aviation. It is my understanding today that there is a huge hole in the realm of charters, that an al Qaeda team could call up and charter a BBJ, a Boeing 737 loaded with fuel to go to Japan. Nobody would check their IDs, nobody would put them through TSA screening, and they could take off, and we could have another 9/11 on our hands. Why is that and what can be done about it?

MR. CANAVAN: Right after September 11th, the FAA tightened up the rules for general aviation. You either couldn't fly in some areas, they had to go through a screening checkpoint, they had to be verified with ID and manifest and all these other things. That was done at that time. Again, I left in October, so I have no idea what has happened to general aviation since I left and I'm not, probably not the right person to ask that question.

MR. LEHMAN: My second question is, first, the first part of it, was there a full after-action report done, and is that available to us?

MR. CANAVAN: Sir, again, I would have to go back and ask the powers to be now, because right after September 11th a lot of things were going on, and I'm sure that we were looking at lessons learned, but not immediately -- I mean we were reacting to things, getting the airlines back up, you know, getting the aircraft back into the air and that type of thing, and taking added measures at airports. But I'm sure that was done. And if you ask them, they should be able to give you that report.

MR. LEHMAN: We have a copy of an executive summary, and let me read you the second paragraph of the discussion of Flight 11. "At approximately 9:18 a.m., it was reported that

the two crew members in the cockpit were stabbed. The flight then descended with no communication from the flight crew members. The American Airlines FAA principal security inspector was notified by Suzanne Clark of the American Airlines corporate headquarters that an onboard flight attendant contacted an American Airlines operations center and informed them that a passenger located in Seat 10B shot and killed a passenger in seat 9B at 9:20 a.m. The passenger killed was Daniel Lewin, shot by passenger Saddam Al Suqami. One bullet was reported to have been fired.

In subsequent requests to the FAA, we have been unable to confirm that that took place.

MR. CANAVAN: Sir, I looked into that question, and the PSI did write down what the thought she heard over the plane in the command center, wrote it down in the log or from the cell phone call. This was American Airlines -- the command center people later went out, I believe also to the FBI later went back to American Airlines to revisit that question, and everyone denied no knowledge. This did not happen. They said it was erroneous reporting, that there was no gun, that there was no evidence found later. They talked to the person involved, and that's all I know about that.

MR. LEHMAN: Okay, that's all.

MR. KEAN: Commissioner Ben-Veniste, then Commissioner Gorelick, and finally Commissioner Fielding.

MR. BEN-VENISTE: Good afternoon, General, and thank you so much for your candor and your help. Just following up on Secretary Lehman's last question, was the information correct with respect to the identities of the passengers in connection with that incident?

MR. CANAVAN: I do not have that information. I don't know.

MR. BEN-VENISTE: So in checking it through there wasn't any indication of whether there were circumstances that were corroborated other than the issue of the gun and the firing of the gun?

MR. CANAVAN: Yes. They couldn't corroborate anything. I mean, they later went back to American Airlines and said, as far as my understanding of this now, I didn't find this out, you

know, the three weeks following September 11th, but I've asked since then and the answer was they couldn't substantiate any of this, that this took place.

MR. BEN-VENISTE: And to your knowledge were there tape recordings of these conversations that were maintained?

MR. CANAVAN: To my knowledge there were cockpit recorder tapings. I don't know if people on the ground receiving cell phone calls were taping them. I don't know about that.

MR. BEN-VENISTE: This would have been a conversation between a flight attendant and an airline representative?

MR. CANAVAN: Yes, that's to the best of my knowledge. Someone picked up a phone from the airplane and called down to the ground.

MR. BEN-VENISTE: So the question of whether a tape exists of that call somewhere is a question mark in your mind?

MR. CANAVAN: Yes.

MR. BEN-VENISTE: We'll follow up on that. Let me briefly follow up on a couple of things that Ms. Garvey was questioned about yesterday. First of all, was there an after-action report produced by the FAA?

MR. CANAVAN: Again, I am going to assume there was. I never saw one, because by the time I left there obviously wasn't. If it was ongoing, it wasn't complete. But they should -- most organizations I've been involved in, this is what you do: you sit down and figure out what happened and what went wrong and what do you need to fix. I would be surprised if they didn't have one somewhere.

MR. BEN-VENISTE: We have focused very heavily on Flight 77 which ultimately crashed into the Pentagon, because on the basis of everything we've heard, that was the one flight which hit its target which could have possibly been intercepted. What is your understanding of the first time FAA notified NORAD of the fact that this was a possible hijack or that it had deviated from course, or that there was some anomaly about Flight 77 in the context of everything else that was going on that day?

MR. CANAVAN: Here's my answer -- and it's not to duck the question. Number one, I was visiting the airport in San Juan that day when this happened. That was a CADEX airport, and I was down there also to remove someone down there that was in a key position. So when 9/11 happened, that's where I was. I was able to get back to Washington that evening on a special flight from the Army back from San Juan, back to Washington. So everything that transpired that day in terms of times, I have to -- and I have no information on that now, because when I got back we weren't -- that wasn't the issue at the time. We were -- when I got back it was, What are we going to do over the next 48 hours to strengthen what just happened?

MR. BEN-VENISTE: What would be, putting aside the issue, and I think we've covered it extensively, about the preparedness for the potentiality of a terrorist attack using a plane as a weapon, and I think we heard very candidly from General McKinley that basically the system in place was a vestige of the Cold War as opposed to looking inward at the United States to anticipate this kind of a problem, basically looking the wrong way on September 11th. What is the normal procedure? What was the normal procedure on September 11th in the event of a hijacking in terms of the point in time at which FAA would notify NORAD?

MR. CANAVAN: Well, my experience as soon as you know you had a hijacked aircraft, you notify everyone.

MR. BEN-VENISTE: There seems to be a gap of 15 or 20 minutes between the time where there was a substantial indication which was, I suppose, supported by the other events that already occurred, which would put into question whether Flight 77 had been compromised. Can you explain to us what would have accounted for such a delay between the time FAA received the information of deviation from flight pattern and notification of NORAD?

MR. CANAVAN: Again, well, based on my experience, when something happens a lot of times the first reports are wrong. So people will wait a little while to find out, Is this really going on? And I'm basing this on experience in the field, and not so much the FAA model. So I think just the fog of, number one, do we have a hijacked aircraft? Because on several occasions over the years, the pilots have hit the panic button, and all of a sudden he's beeping, he's squawking hijacked, and you find out that that's really not the case. So when these aircraft -- I just as soon when the aircraft either beeped or

went off the airs there's minutes that go by where the air traffic controller, he's not thinking hijack. He's trying to call the airplane, and he's talking around to his other controllers, Do you see so-and-so? And he's talking to pilots in the air, Do you see -- say, the plane behind the other -- Do you see Flight X?

So I think if you look at it like that that eats up your time. And then when you finally find out, yes, we do have a problem, then obviously then the standard notification is it kind of gets broadcast out to all the regions, it gets broadcast to the interagency, it gets broadcast right up to DOT. I mean, those things happen.

MR. BEN-VENISTE: Well, we asked that question yesterday, and Ms. Garvey was not at that time prepared to respond. Last evening she did communicate with the staff at my request, and we were provided a statement which comes from FAA, which I'd like to read into the record, Mr. Chairman. And it is, I am told, authored by two individuals, high level individuals at FAA, Mr. Asmus and Ms. Schuessler. And it's entitled FAA Communications with NORAD on September 11th, 2001. "Within minutes after the first aircraft hit the World Trade Center, the FAA immediately established several phone bridges that included FAA field facilities, the FAA command center, FAA headquarters, DOD, the Secret Service and other government agencies. The U.S. Air Force liaison to the FAA immediately joined the FAA headquarters phone bridge and established contact with NORAD on a separate line. The FAA shared real-time information on the phone bridges about the unfolding events, including information about loss of communication with aircraft, loss of transponder signals, unauthorized changes in course, and other actions being taken by all the flights of interest, including Flight 77. Other parties on the phone bridges in turn shared information about actions they were taken. NORAD logs indicate that the FAA made formal notification about American Flight 77 at 9:24 a.m. But information about the flight was conveyed continuously during the phone bridges before the formal notification." So now we have in question whether there was an informal real-time communication of the situation, including Flight 77's situation, to personnel at NORAD. Can you give us from your experience -- obviously you were not there on the 11th -- but on your experience what this phone bridge communication is all about, and whether it is likely in view of this communication we have just received, that there was some informal communication of the distress of Flight 77?

MR. CANAVAN: Well, this sounds to me when they went into the command center they started calling up these different organizations. That's the phone bridge. And they were probably doing the right thing, because they didn't have all the information to bring in -- it sounds like they brought in the LNO. He opened up his bridge to NORAD. So then you get these organizations talking to one another while above you people are trying to figure out, What do we really have here? That's what it sounds like to me.

MR. BEN-VENISTE: So would there be an expectation that the military personnel on this phone bridge, which is that another name for a conference call? MR. CANAVAN: Yes, or it could be a VTC, it could be anything that -- anything that --

MR. BEN-VENISTE: But in the nature of a conference call?

MR. CANAVAN: Yes.

MR. BEN-VENISTE: -- in which parties dial into a central.

MR. CANAVAN: Yes, and in our JOC there you call up, you get a phone bridge, and that's an open line to that organization.

MR. BEN-VENISTE: So if the military were apprised, as FAA is now telling us, in real time of what FAA is seeing on its radars, and now focusing specifically on Flight 77, that would mean that someone at NORAD was advised of the deviation from course, which is substantially earlier than the formal notification of hijacking. Would it have been expected that receiving that information the military personnel or NORAD personnel on that phone bridge, would communicate with other NORAD facilities, apprising them of the information he or she was learning in real time?

MR. CANAVAN: I think, to answer your question, I would think that they would pass it to someone within the NORAD command center, because that person on that phone is a radio operator, and he takes the log, and he turns around and he gives it to someone and says, We have a problem. He may not know what the problem is. All they know is an airplane is deviating from course, and they are not too sure why, and, Okay, more to follow.

MR. BEN-VENISTE: Would it be expected that the people participating in this phone bridge that day would themselves have maintained a log of what they were hearing?

MR. CANAVAN: I would think so.

MR. BEN-VENISTE: Would it also be expected that there would be a tape recording of that phone bridge?

MR. CANAVAN: I don't know about that. I don't know about a tape recording.

MR. BEN-VENISTE: I think these are some profitable areas for us to explore as we request additional information. Thank you very much.

MR. CANAVAN: You're welcome.

MR. BEN-VENISTE: Thank you, Mr. Chairman.

MR. KEAN: Ms. Gorelick.

MS. GORELICK: General Canavan, thank you for your testimony here today. Just so I can locate you within the bureaucracy, your title was "associate administrator"?

MR. CANAVAN: Yes.

MS. GORELICK: Did you report to Administrator Garvey directly?

MR. CANAVAN: I reported to her deputy and also to Ms. Garvey.

MS. GORELICK: Okay, and Ms. Garvey reported directly to the secretary, or --

MR. CANAVAN: I believe she did, yes.

MS. GORELICK: All right, so you were four levels down in the bureaucracy? Is that about right?

MR. CANAVAN: Well, I would say three.

MS. GORELICK: Three. All right, three to four, that's fine. I am interested in the CSGs, the counterterrorism

security group meetings that you attended. That's a working group within the National Security Council?

MR. CANAVAN: Pardon me?

MS. GORELICK: That's a working group within the National Security Council?

MR. CANAVAN: Yes, it's a working group, and it's an on-call meeting of the interagency, again, chaired by the National Security Council.

MS. GORELICK: All right. And these meetings were chaired by Dick Clarke?

MR. CANAVAN: Dick Clarke most of the time. Sometimes -- well, the ones I went to Dick was the chair.

MS. GORELICK: After those meetings, your action was to send out notices to the airlines?

MR. CANAVAN: Yes, if we felt it had -- the reason why I was there was because there may have been an aviation piece to it. If there wasn't an aviation piece, I did not attend these things.

MS. GORELICK: So clearly the NSC thought that there either would be or could be an aviation security piece to the emergency that was triggered by this very high level of warning and chatter and threat reporting that was coming in. Is that correct?

MR. CANAVAN: Yes, that's correct.

MS. GORELICK: And the response of the FAA was to send out a notice, a circular? Is that correct?

MR. CANAVAN: Yes, information circular.

MS. GORELICK: An information circular. And you had sent out some, I take it from your testimony, about 15 of those over the course of 2001? So the airlines received one of 15 circulars. Secretary Mineta stated this morning that there was no action at the Cabinet level in response to this crisis, no meeting of that sort. Are you aware of any meeting above your level convened by the National Security Council or otherwise to deal with this crisis?

MR. CANAVAN: I'm thinking here. The fact that -- I'm going to assume something here, but the fact that they had a CSG, and they thought it was important enough to get all the right people in the room, to include State, CIA, DOD, FBI, FAA, et cetera, that, and knowing Dick Clarke, he just didn't have a meeting to have a meeting. He was passing out information, and he was also sometimes he was asking for more information from some of these organizations -- that there was a problem out there. And I would believe that these people would go back to their organizations and then they would tell, you know would pass up that there may be a problem here.

MS. GORELICK: Did you brief Secretary Mineta yourself on this issue?

MR. CANAVAN: No. I passed up the ICs through my chain, which they would go up from. I would sign them. They would go up to Monty. He would do it. They would go up to Jane. And then at that point in time it was up to them. You know, I could brief it or they could go over there and brief it themselves. It's up to them -- depending on just how critical it was.

MS. GORELICK: So you passed the information circular up the line and your assumption is that that piece of paper moved up the three or four levels within the organization?

MR. CANAVAN: Yes.

MS. GORELICK: In answer to some questions about the red teams, I think you said that when reports form the red teams went up the line, that as they went up two and three and four layers, that the reports might lose some of their intensity, that they could get watered down in impact. Can you imagine that the same thing might have happened with an information circular that you copied up the line, and then they --

MR. CANAVAN: No. They would have to completely rewrite it, and then they would have to sign it.

MS. GORELICK: Oh, I'm not suggesting that -- I'm sorry, I am not suggesting that the writing would get changed, but just the level of intensity, if you were sitting there as Secretary Mineta that you might not see it as intense if, A, you don't hear it in person from the National Security Council; or, B, you get something from someone of considerable responsibility

at your level, but nevertheless several layers down in the organization?

MR. CANAVAN: Well, they can read it. I mean, it was pretty cut and dried. It said, for the one on July 18th, “we have no specific information on threat to civil aviation. The FAA urges all civil aviation security personnel to continue to demonstrate a high degree of alertness." Again, these things go out based on what we're being told.

To get back to the red team, I'm the one that passes out the information on the red team for the staff and to the airlines and that. Did Ms. Garvey see some of the red team results? Probably not. But these were things we were working internally to fix where we knew there was a problem.

MS. GORELICK: What I'm trying to get at is the level of intensity of response to the threat warnings that were coming into our government as a whole. And we know from your testimony and from other information that is already in the public record that there were these counterterrorism security group meetings. We are unaware of any meetings above the CSG level. And so just for the record I'm asking you – you’ve speculated, and I am asking you, Do you know of any meetings above your level?

MR. CANAVAN: No.

MS. GORELICK: Do you know of any instruction to the intelligence agencies to surge their intelligence? Do you know of any alert that went to NORAD to be particularly on the alert as a result of these meetings?

MR. CANAVAN: No.

MS. GORELICK: Thank you. One other question. Someone of your background and tenure who is brought into the civilian agency at the level you were brought in at might be assumed to serve more than ten months. And I know this is a sensitive question, but I really just want to ask you whether you came to a substantive parting of the ways with your superiors at FAA and the Department of Transportation.

MR. CANAVAN: We had a disagreement on an issue that I couldn't support. That's really all I'll say in this forum.

MS. GORELICK: Thank you.

MR. KEAN: And finally, Commissioner Fielding.

MR. FIELDING: Yes, General, thank you for being with us. Some of my colleagues have asked you some of the questions that I was going to ask, so I would just briefly -- obviously we'll want to follow up with you on your last answer, however. But it seems to me in looking at this and the security systems with which you were involved that screening is a very vital part of the security system and a very vulnerable juncture in the security process. And yet prior to 9/11 screeners were only required to have three hours of on-the-job training, as we understand it. Now, is there a way to reconcile that with the intensity and the sensitivity of the mission they were performing?

MR. CANAVAN: Sir, as I remember it, it was 12 hours of formal instruction, and 40 hours of OJT under supervision on the site. That was the standard.

MR. FIELDING: That's very helpful, thank you. The other thing is that in your prepared testimony, and your testimony today, you said that -- you were talking about the counterterrorism security group meetings that Commissioner Gorelick was just asking you about, and you said, "Nonetheless, the entire CTG community, including law enforcement, intelligence agencies, were placed on the highest alert. We all sent out notifications that heightened security measures be put into place immediately." The FAA sent out SDs and ICs to all interested parties. Did interested parties include the airlines?

MR. CANAVAN: No, that's not a good term. It went out to every -- airlines, airports, all officials, all security officials that we had regulatory oversight.

MR. FIELDING: So --

MR. CANAVAN: That's not very well stated. It went to everyone who was supposed to get a copy of it.

MR. FIELDING: And the ‘supposed to get a copy of it’ included the airlines?

MR. CANAVAN: Yes, of course.

MR. FIELDING: The reason I'm asking is that Mr. May, on behalf of ATA yesterday, his testimony indicated that the FAA

provided the airlines with no specific guidance and credible information about hijackings during all of 2001 up to and including September 11th, and that you issued no relevant security directives in that regard.

MR. CANAVAN: The security directives -- we had five that were still -- you have to, when you open up a security directive, you have to close it. So you have a continuation of security directives over time, and until you close it that security directive was still in force. And a lot of what we saw this summer -- those security directives were still out there and they were in force. The only information we had -- again, it gets back to the intelligence piece -- we really had no credible or actionable intelligence that told us this was really going to happen. In other words, this is a real threat, we are hearing, this, this, this, this and this from this organization. It was just again in the chatter piece so to speak. None of it was ever talked about being held in the United States. It was all overseas -- Israel, Europe and some other -- I forget where else. So that's with these -- when we put out these SDs, and also the information circulars are the same type of thing -- it says like on January 1st, "Alert U.S. carriers to the continuing possibility of violence against American citizens and interests throughout the world due to the unrest in the Middle East." In other words, if you are flying into the Middle East -- Delta Airlines, then, you know, pay attention. Up your level of alertness there at Tel Aviv when you are boarding passengers. That type of thing.

But, again, there was no actionable intelligence that even hinted to me, or to anyone within my organization, that there was a threat to aviation. What we did -- again, you know, you just kind of look at it and say, Well, in 1998 there was the fatwa and that thing was still out there. Bin Laden did say he wanted to do certain things. And so a prudent person says, Okay, this is what we are reading, this is what we are seeing. So, you know, pay attention to what you are doing here. And we also -- this went out to the agents too, and that's where -- and when you do that you increase your inspections also. So those are certain actions that take place.

I don't know if I'm answering your question, but --

MR. FIELDING: Well, but I am trying to determine whether in fact you issued during the year 2001 to the airlines security directives dealing with anything having to do with terrorism.

MR. CANAVAN: Yes. I don't have them in front of me.

MR. FIELDING: No, but could you supply them to us?

MR. CANAVAN: Sure. We had five, I believe -- 15 ICs and five SDs during that period of time that discussed what you are talking about.

MR. FIELDING: Well, thank you very much. That's all I had, Mr. Chairman.

MR. KEAN: General, thank you very much for your time today and for your service. We appreciate it.

MR. CANAVAN: Thank you.

MR. KEAN: I'd ask Mr. McHale, Major General Steele, Ms. Schiavo.

This is now Stephen McHale, deputy administrator, Transportation Security Administration. TSA has assumed security responsibilities not only for aviation, but a number of other transportation modes as well. Following him will be Retired Major General O.K. Steele. We have asked him to focus especially on the Lockerbie/Pan Am Commission recommendations in his perspective as associate administrator for civil aviation security when the report was issued in 1990. Our final witness -- or whatever order you go in -- I know you've got a time problem. I'd ask everybody to summarize and just get into questions. Ms. Schiavo?

MS. SCHIAVO: Schiavo.

MR. KEAN: Schiavo. Former inspector general for the Department of Transportation, and she has a number of perspectives on these various issues. So who would like to go first?

MS. SCHIAVO: I have a time problem, so -- My instructions were to summarize in three minutes. Is that correct?

MR. KEAN: Yes, go ahead. Move things along, and I apologize to the witnesses.

MS. SCHIAVO: That's all right. With your permission then I will just submit my entire statement for the record with the attachments, and I will summarize it very briefly.

Just following up on a couple of things that the previous witness said, I think I can shed light on a few questions. For example, you asked him, and he commented about, the negotiating down of the fines and the problems that were found. When I was inspector general we actually investigated that. We looked at what was the result of the fines that were proposed for very serious violations and what happened to them. Why was no one ever held accountable? And the problem was that it turned out to be about 10 cents on the dollar. You would see a lot of big fines proposed, a lot of saber-rattling, a lot of tough talk. But months or years down the pike, when all the attention of the hour went away, the real result was about 10 cents on the dollar. And I did put in my testimony over the last three years preceding the 9/11 attacks both the carriers, American and United, did have record numbers of fines, one at $3.4 million and one at 3.6. But when you consider that's about ten cents on the dollar, that would recognize a really staggering number of violations. And, as the previous witness said, in some cases it became paying as opposed to improving, because it was easier to pay the fines and go on without a big investment.

Another thing that is very, very important to note, and I must take a little bit of issue with some of the previous testimony, and because it's a very common public misconception, is that the responsibility and the obligation for security is now passed from the airlines to the TSA. Nothing could be further from the truth. I have put in my testimony what the current law is. The current law is very similar to the previous law in that both airlines and airports do still share security responsibility. And I agree with the previous witness it is absolutely imperative. You cannot possibly lift that from the airlines or airports, because then you have lost a very important component of your triad for safety and security in this country. But it is still the law that they are responsible for it. And that's why the actions committee is so very important, because what we have seen time and time before is that there really isn't any accountability. You have these tragedies -- and I put in my testimony some -- hopefully some rather sobering numbers. We hear a lot of testimony, a lot of public urban legend about nothing like this has ever happened before. It hasn't happened in the United States. Planes have never been used as weapons of terror or destruction. And in

many cases I had to resort -- and I want to point this out because it was very important -- in many cases to do our original research we had to result to media reports because, among other things, lots of obscure government regulations sometimes inhibit good institutional memory -- for example, the sundown rules on government records. We very routinely -- and I was a government employee myself for, I suppose if you add all the service together, almost two decades. But the problem is is you toss out your records, you send them off to Boyers, Pennsylvania, you shred them up in the shredder -- legally, I might add, after three years. And there goes your institutional memory. Parties change, people move on, people retire, and everyone ceases to remember what has really happened.

And if, with your permission, I'll stand up here for a second, because I think I can shed some light on some of these now erroneous misconceptions about security. First of all, about the warnings -- and I put this in my testimony -- everybody said, Well, nobody knew about any direct threats. We then had Condoleezza Rice talk about 15 very -- there's an argument over define "specific" -- but they are pretty specific warnings. In fact, we had in the Federal Register on July 17, 2001, some rather alarming language. And, by the way, the carriers were alerted to this, because they responded to this notice of proposed rulemaking, complaining about the expense that the security would cost them. So they were very clearly put on notice, because they complained. And, in particular, this Federal Register, published for all to see, clearly still out there for us lawyers to go get, said, "The terrorist threat level in the United States over the next decade will remain at least as high as it is and will probably rise. Expanding geographical range of terrorist activity is increasingly evident. Members of foreign terrorist groups, representatives from state sponsors of terrorism, and radical fundamentalist elements are present in the United States." This particular Federal Register goes on at length. Indeed, there were additional pages talking about the threat, and in particular it pointed out the threat events in Asia in 1995 in which attacks on 12 jetliners and attacks on buildings was anticipated.

And finally, it goes on to mention that civil aviation, and I quote, "Civil aviation targets may be chosen by terrorists even if alternative, and softer targets are available, especially since an attack on aviation seizes the public's imagination to a degree unequaled by other types of attacks." So I find it interesting that a lot of after-the-fact facts are being created, but there it was in the Federal Record.

Another thing that's important to point out is what the threat really is. And I think the mistake we have made so many times in the past is that as a nation we continue to respond to the last attack. So we were busy talking about bombs in suitcases, when there were many other things going on. And so I put in there, and again, for a lot of these, because the institutional memory is gone, we had to resort to public accounts of things that have happened. And we had many things happen. In 1970 to 2001, hijackings, cockpit intrusions were, contrary to what people say, common -- bombings, shootdown and air rage incidents.

In the short months just preceding 9/11, we had 30 cockpit intrusions. The thought that you can't get into the cockpit is belied by the facts. There they were, 18 months. Now, we are all talking about bombs on jetliners, bombing the plane, something we are all busy as a nation and as a government focused on on 9/11. Indeed, I was able to find 31 from 1970 to 2001. But there were many other things going on. In particular, there was lots of air raging -- things going on in airplanes. I use United's own numbers for that: 531, 621, 454 -- and they didn't have any data for 2001. The FAA didn't match even United's, which was interesting. The FAA's range from 320 to 266. There was a whole lot going on on those airplanes, including cockpit intrusion that our data wasn't collecting.

In particular, the air rage incidents often turned ugly and violent. Indeed, passengers and others were harmed -- or died -- before 9/11. When I resorted to looking, not on our official government reports, but looking to the First Amendment for some real data, I got an astounding 47,402 from 1994 to 2001. And the most astonishing figure of all to me, and a real alarm, and I know it's not exactly what the hearings are about, but the whole idea is to protect Americans was this number. When I resorted to looking at reports other than official government reports to find instances where planes were shot at or shot down, in particular two weeks ago or a few weeks ago we heard about the incident against the Israeli plane, and people were saying, Well, that's hasn't been done before. It has -- 59 times I found when I resorted to data other than just government data where that's occurred.

And finally, the biggest shock, when I did research across the board, is I came up with 823 airlines hijacked from '70 to 2001; 115 of those hijackings the passengers or the crew were able to overcome them, were able to fight back. Look at

that savings there. They were able to save their lives, save the plane, save the carrier, in those incidences. So in this country we had all these supposed these warnings, these things that went out, but no one was allowed to know. Even now after the fact they are saying, Well, these are all secret, you can't know them. Something could have been done, even with information. Information may have indeed been the most powerful weapon we had, and not only was it not told to the persons who might actually been able to do something about it; now, in retrospect, it's all a big secret.

Finally, we had 109 airlines on U.S. soil; 58 on foreign soil. Surprisingly, 11 foreign on U.S. soil.

And probably the biggest or most alarming urban legend that has come out, and I have a difficult time figuring or excusing that was accidental -- is the after-the-fact statements that no rules were broken on 9/11. What could you have done? Nothing was wrong. Nobody violated any laws, nobody violated any federal regulations. That is absolutely false. In my statement I go over the various federal regulations that require security on the various carriers and obligations on them. And then of course we all heard, including persons you have heard from, who went on the media to say box cutters were allowed. They were not, most assuredly not, allowed. This comes from the regulations and the guidelines that the carriers use to do their security. And, by the way --

MR. KEAN: We're exceeding the three minutes a bit. (Laughter.)

MS. SCHIAVO: Okay. And neither was pepper spray. Pepper spray absolutely not allowed. Two, we know for a fact they didn't find any of them, because certain events are supposed to happen when you find those. None of those events happened. So there's a lot of urban legend out there going on, but it's important to get the facts out so this isn't repeated, and to look at the other possibilities.

MR. KEAN: Thank you.

MS. SCHIAVO: Thank you.

MR. KEAN: Mr. McHale?

MR. McHALE: Good morning, Governor Kean and distinguished commissioners. I am happy to be here on behalf of

Admiral James Loy, the administrator of the Transportation Security Administration. Unfortunately, he wasn't able to be here today, but I am sure he will be glad to answer any questions you may have for him at a later date.

At the outset, on behalf of all TSA, I want you to know that each day our thoughts are with the families and friends of those who perished in the terrorist attacks on September 11th. Their loss has steeled our determination to fulfill the responsibilities that the president and Secretary Ridge, Secretary Mineta, Congress and the American people have entrusted to us.

The nine stars and eleven stripes behind the American eagle on our logo are a daily reminder to us of the importance of our responsibilities. Using a systems approach, we have established a network of overlapping layers to prevent and deter terrorists from using our aviation system as a target or a weapon. Today, highly trained federal employees screen every bag and every passenger at almost 450 commercial airports. Airport checkpoints are redesigned. We use state-of-the-art X-ray systems and metal detectors. Explosive detection systems are installed in airports across the country. We have expanded the federal air marshal service from just 33 on 9/11 to the largest, best trained and most professional air protective force in aviation history. Bomb-sniffing canine teams work the entire airport environment, randomly screening checked baggage, cargo mail, searching unattended bags, responding to bomb threats, and at higher threat levels checking vehicles approaching terminals.

The Federal Aviation Administration has ensured that cockpit doors are hardened on all passenger aircraft. And just recently TSA has begun deploying volunteer armed pilots as federal flight deck officers. And through our 19 overseas offices, we continue to work aggressively with our foreign counterparts to ensure the security of international aviation. Most importantly, we have dramatically increased intelligence collection and sharing on threats to transportation. Our Transportation Security Intelligence Service receives, assesses and distributes intelligence on threats to transportation and operates an around-the-clock watch tied to all national and law enforcement intelligence programs. We have direct connections with our field operations across the country and security centers of major transportation stakeholders.

As part of DHS, we are now integrating our intelligence analysis and products with other intelligence communities of the

department. The top DHS and TSA leaders receive daily intelligence briefs. We know that our enemies are alert and resourceful, perpetually probing for weaknesses in our systems, and TSA reassesses its operations and policies to seek improvement to meet new and evolving terrorist threats. We have tried as hard as we can to learn the lessons of 9/11, and we have tried to build them into our corporate culture.

To help TSA maintain a high level of performance and continually improve, TSA conducts aggressive covert testing -- we don't use the term "red team," but perhaps that's an easy shorthand for you -- conducts aggressive covert testing of all aviation security systems, including screening checkpoints, access control, baggage screening systems and catering security. These tests are intentionally designed with a high probability of beating the system some of the time. If we were not so aggressive we would not be able to identify vulnerabilities and avenues for improvement. Admiral Loy and I and other senior members of TSA are briefed on the results of those tests. These tests provide instantaneous feedback, and after the tests are completed in an airport, the testers sit down with the screening managers and the screeners themselves to explain how they beat the system when they've beaten the system, so that there can be instant feedback and opportunities for on-site training of airport security personnel.

Let me address, if I could, Mr. Chairman, those airport security personnel. We are immensely proud of our screener work force, and they come from all walks of life and are motivated by a strong desire to make sure that nothing like 9/11 happens ever again. But as with any large work force put together in such a short time, we face challenges. The first is budgeting -- the need to balance payroll against operational support needs. It does no good to hire the best and to give them the best training if you cannot support them on the job. We must provide them with continuous training and recertification. We must give them the best tools to do the job, and we must maintain those tools. And we must also ensure that all airports are properly staffed. Accordingly, and with much internal pain, over the next three months we will be reducing our work force by 6,000 screeners, to ensure that the 49,000 who remain are well supported and we are distributing the screener work force from some over-staffed airports to some under-staffed ones. But in managing this reduction, our number one concern is to maintain the highest level of security. We are also going to extraordinary lengths to check our screeners' backgrounds, and we continue to do so. All screeners are fingerprinted and checked against FBI records.

They are also subjected to Choice Point and OPM background checks. Virtually all had the FBI and Choice Point checks before they started work. And as we now complete the longer, more detailed OPM checks, we are moving quickly to address any problems that are uncovered.

Looking ahead in aviation security, TSA is pursuing a dual path of improving its core security programs at commercial airports, while launching new measures to protect aviation facilities, air cargo and general aviation from possible attack.

To identify potential airport perimeter vulnerabilities, we are conducting inspections of facilities and critical assets at each airport, and developing countermeasure to thwart potential threats. For example, we are conducting detailed site assessments at over 50 airports to identify areas of vulnerability to shoulder-launched air defense missile systems, and we are educating local law enforcement organizations to that threat.

TSA is moving forward to increase security of maritime, transit, highway, rail, and pipeline systems, and I detail some of those efforts in my written testimony. We are working on many other fronts, such as awarding grants to improve the security of ports and cargo, and working with the Coast Guard and other parts of DHS and DOT to design a terrorist risk assessment tool tailored specifically to maritime and surface transportation facilities. We are working with our other federal partners to ensure intermodal consistency in setting assessment and security improvement standards proportionate to risk for the national transportation system.

In accomplishing our mission, we are acutely aware of the challenge in maintaining balance between freedom and security, and between security and customer service. Our mission is simply stated: it is to ensure the fundamental American freedom, the freedom of movement for people and commerce. We will meet the needs and expectations of the American people with the greatest consideration for their privacy and the least disruption to their routine behavior. But we must protect them from terrorist attacks so they feel free to move. Our top priority is providing maximum security with minimum intrusion.

Thanks to the team work of TSA and our partners in private industry at DHS and DOT and in state and local governments, our nation's transportation system is more secure

today than it was yesterday, and it will be more secure tomorrow than it is today. We look forward to working with the commission in the coming months as you develop recommendations for aviation and trading partner security, and of course I'm pleased to answer any questions you may have.

MR. KEAN: Thank you for that. General Steele.

MR. STEELE: Governor Kean, distinguished members of the Commission, I am Major General O.K. Steele, United States Marine Corps, retired. I served as the assistant administrator for civil aviation security from 1 November of 1990 to 1 November of 1993. You have my statement in the record. I tried to highlight those years that I was in active service; in the second part I try to address the future.

That summarizes mine, except that I would like to make one correction from what you heard yesterday. Your last witness, Mr. Dzakovic, mentioned that he believed that I was fired or had to leave under force or something like that. That's not actually true. When I was hired as ACS they had to do it under a somewhat very quickly and under a kind of emergency situation. And under the rules provided, I believe by the Office of Personnel Management, the secretary of the Treasury or the secretary of transportation had that authority, and he could vet me as an ACS without having to go into any sort of competitive selection process. And that's what was done. But it could only be done for up to three years and then had to be re-vetted. It was my choice to leave after three years.

MR. KEAN: Thank you. Congressman Roemer?

MR. ROEMER: Thank you, Mr. Chairman. Thank you again for your testimony here this afternoon. And, Ms. Schiavo, I hope you can stay with us a little while. Your testimony is very intriguing and extremely interesting to us. Let me start with the whole concept here of your background. For those that don't know, you were appointed by President Bush -- is that right?

MS. SCHIAVO: That's correct, the first one.

MR. ROEMER: The first President Bush. And the first President Clinton, if that's a term to be used -- I don't know if that's --

MS. SCHIAVO: I guess we could say that.

MR. ROEMER: President William Jefferson Clinton appointed you or kept you in place --

MS. SCHIAVO: The male one.

MR. ROEMER: -- as the inspector general at the Department of Transportation, is that correct?

MS. SCHIAVO: That's correct.

MR. ROEMER: And you were there from 1990 to 1996?

MS. SCHIAVO: That's also correct.

MR. ROEMER: And we are going to hear a lot I think over the course of the next 12 months about actionable intelligence and strategic intelligence and predictive intelligence, and maybe even prescriptive intelligence. Actionable intelligence, if it is what Mr. McHale might think it is -- is that, Ms. Schiavo, when somebody says, "John Brown is going to bomb the Hoosier Dome in Indianapolis on August the 16th, 2004"?

MS. SCHIAVO: Well, that depends who you ask. Including the times that I was in the Department of Transportation, the Federal Bureau of Investigation is the entity that makes the threat assessment and then provides the additional intelligence, which of course the FAA fans out to the airlines. But the difference in that, or the key in that statement is the regulations, the security regulations, the operational effect at the airports and the airlines is not supposed to fall down to illegal levels, if I may say that. Because, frankly, when you don't meet the federal aviation regulations you are operating illegally. And so the threat assessment was not supposed to be used to say, Okay, today you really do have to do your job, as opposed to the other 364 days of the year when you can slop off, go to sleep, and hire felons to do your security. So I think one of the biggest problems we have, if everybody is talking about actionable intelligence, but for the levels that we are talking about at the airport, they aren't intelligence officers. And so I think in some ways it's a misnomer to get hung up on who said what to whom.

MR. ROEMER: So warnings coming in, if I understand what you just said, warnings coming in can take all kinds of different variations that can be threats overseas, it can be

chatter in the intelligence, it could be something that happened in the Philippines or other places. Is that correct?

MS. SCHIAVO: Sure.

MR. ROEMER: So we could have information circulars and security directives triggered by these little bit more vague activities that seem to be occurring more and more and more as we reach the spring and the summer of 2001. Is that correct?

MS. SCHIAVO: Well, that's correct. And I think that you have seen that in the 15. For example, one was very specific about cell phones and others were less specific, like, people are training to hijack.

MR. ROEMER: Let me get there. Let me then with that in mind, back in 1994 and '95 it was discovered that Osama bin Laden had a plot, called the Bujinka plot, that was discovered on a hardware drive in Manila, that outlined the possibility of blowing up 12 airliners over the Pacific, and also crashing a plane into Langley in the domestic United States. He also speculated about testing that, and had a bomb on a plane, that the bomb went off, the plane landed, I think one person was killed. You were in the Department of Transportation as IG at that point. Did you recommend any changes after that took place? Did this hit your radar screen? Did the government in the Department of Transportation do anything about this warning?

MS. SCHIAVO: Actually during that period of time we did two major security reviews, and we made a number of recommendations. The first one resulted in Congressional hearings in I believe '92 or '93. The second one resulted in hearings in '96. And so we had two ongoing overall reviews for that, and I will say that probably the sort of highest level of attention still centered on events that were closer to home in terms of things that actually affected the United States. There was still a lot of work on the Pan Am aftermath, trying to get the Pan Am recommendations implemented -- which some of them never did get implemented -- and working on the buildup to the Atlanta Olympics.

MR. ROEMER: So in your two major investigations, did anything change as a result of the attention that you brought to these deficiencies?

MS. SCHIAVO: Temporarily. When we would investigate, when we would make these findings, and we were very similar to

the gentlemen you heard from yesterday from the red team, we did very similar work, and people would get sort of excited and there would be a level of enthusiasm. For example, we did it twice in six years, and then it would calm down, and people would sort of lose their drive. The big problem we had on our second major investigation is we learned later, and the extent of which I had only learned from some of Bogdan's testimony -- the second investigation that we did probably was not as accurate as it could have been, because many of the airports were warned that we were coming, including by the FAA. So some of that was compromised.

MR. ROEMER: So, if I could fairly sum up what you've said, ephemeral temporary changes, nothing that permanently would alter the way that somebody could exploit the system at that point.

MS. SCHIAVO: In documentable, statistical changes they reverted quickly to their old patterns.

MR. ROEMER: Let's start to jump ahead then to right into the spring of 2001 and the summer of 2001. I think Commissioner Ben- Veniste and myself outlined a host of different intelligence discovering by the intelligence community that started popping up through the next five or six years, including the Los Angeles incident at the millennium, where somebody was going to explode a bomb in the LA Airport.

Then we come into the spring, and there are 15 information circulars issued, and there are five security directives issued in a fairly compressed time period. Is this highly unusual, this number 20? Is this standard? Give me some sense of how these people reading these kinds of security directives might be alarmed at this, or simply this is just standard operating procedure for them.

MS. SCHIAVO: That's a -- I mean, I don't call it chatter. I mean, that's a lot of information, and that's a lot of warnings. And you know I have some information that doesn't stem from my service in the government. For example, I mean now a lot of people call me with information because of the work that I do correct. And, for example, I have learned that there was some discussion, that there was extra attention, if you will, during that period of time, and there was a heightened -- I don't want to say "alert," but there was -- and "chatter" seems to be the word that everybody uses. So there was sort of a heightened chatter level, and things were going on. There was

discussion about the situation and training, et cetera. But, again, you got down to the problem of intelligence doesn't go to the lower level people who are supposed to be doing their jobs. So did that translate into operational success? Clearly not.

MR. ROEMER: You mentioned in your testimony, in your written testimony on page 13 anyway, an August circular, and you mention the national security advisor, Condoleezza Rice, in this, and she mentions the possible use of cell phones and key chains and pens as weapons and so forth. Is this something you cite because it happened at that time, or is this something that the national security advisor explained after September 11th?

MS. SCHIAVO: No, I mean -- that happens to be one of the ones I've seen. I mean, that was one of the warnings that went out during that time. The reason I used her summary from the news media is obviously including in the litigation we have not been able to get those warnings yet.

MR. ROEMER: And what litigation are you involved in?

MS. SCHIAVO: Our firm represents a number of the passenger families who perished on 9/11, and that litigation is proceeding in New York City.

MR. ROEMER; And just to be clear for the record, how many people do you represent in that?

MS. SCHIAVO: Forty-seven.

MR. ROEMER: Forty-seven.

MS. SCHIAVO: Only passengers.

MR. ROEMER: You also mentioned in your testimony -- you talk about citing information that credited FBI sources with respect to pre-positioned weapons, a targeted fifth plane, the possession by terrorists of ramp passes, security badges and pilot credentials. Is this information that you gathered from media accounts and media sources, or is this something that you got from other accounts? Can you be much more specific as to what you have evidence of here?

MS. SCHIAVO: Right. Certainly most of the things credited to the FBI sources, as I mentioned they were credited in public or media reports without persons' names attached to them.

MR. ROEMER: Do you have anything else that you can add to that?

MS. SCHIAVO: Again, the information that we have in the litigation has not come from actual litigation, because so far the government has said it's sensitive security information. But I have talked to certain other witnesses. But in terms of actually getting the FBI reports, no, we do not. We do not have those reports.

MR. ROEMER: You mentioned, and I think Mr. McHale mentioned red teams. I think Mr. McHale referred to them as "covert teams," or "covert testing programs." We had a witness here yesterday that you call a hero in your written testimony. He is very critical of these red teams' performances. That the information doesn't get to the appropriate people. And he also went on to say that they are not aggressive at all now, I think it's fair to state -- not quoting him, but paraphrasing him I think that's what he finally said. Do you think that these red teams are aggressive enough today to test the system thoroughly, to make people feel safe?

MS. SCHIAVO: It depends who their leader is and how much support they get. I had the same kinds of teams, and mine were very good, but they got very disillusioned like Bogdan, because when you would see that the administration didn't respond to what you found, they got quite disillusioned. But we thought they were quite successful, and we, for the ones that I had, we got some really tremendous findings and located some vulnerabilities. I thought they were successful.

MR. ROEMER: And how do you make sure -- how do you ensure that these red teams are successful in the future? How do you, as an inspector general who is somewhat insulated in the system, for very specific institutional reasons, how do you try to make sure the red teams have the autonomy to do their job well, to potentially embarrass people and get good results of weaknesses in the system without being punished for that? Where is the balance there? How did you achieve it in your tenure there?

MS. SCHIAVO: Well, I awarded those who did it. But I was criticized for that too. I was called "The Gotcha IG." So I mean I rewarded them. I liked it. They certainly weren't punished for making great findings, and they were rewarded for that. But I wasn't in the line-up of the FAA. I was an

independent, had an independent organization. We didn't have to answer to the FAA, and technically not even to the secretary of transportation. So my employees were rewarded and remained I think pretty tough.

MR. ROEMER: Well, again, I don't want to take up a lot of time. I want other commissioners to be able to ask some questions as well, too. But we appreciate your testimony, and I will turn over the rest of that time to Commission Gorton.

MR. GORTON: Mr. McHale, you are welcome here, and I hope and trust that you can answer the widest range of questions. You won't be offended by our view that we really do need your boss. We need the admiral. You've said that that will be the case in the future, but I think I need to begin this by reminding you of that. We are going to need the number one person here. But I think you can probably answer most of the questions that I'm going to have. And I begin with this: What percentage or what number of boarding passengers have been in the recent past stopped because they were discovered with prohibited articles? Out of every thousand passengers, say who attempt to board, how many are stopped and not just examined, but are actually found to have prohibited articles on their person?

MR. MCHALE: We actually -- I think I look at the number a little bit differently than that, because what we look at is the number of things that we recover. I am not sure I have a specific per one thousand passenger number for you. But we have recovered well in excess -- almost I believe 2,000 firearms since we took over security. We have recovered hundreds of thousands of knives. We recover a lot of other kinds of prohibitive items, some of which are greater or lesser threats. Passengers --

MR. GORTON: At this point I'm trying to get at the psychology of that employee of yours who is doing this repetitively, you know, hour after hour, day after day.

MR. MCHALE: I would say there are a significant number -- even at a good busy checkpoint there are checkpoint there are multiple recoveries of prohibited items every day. Most of those are relatively small items, sharp objects, things like that. Firearms would be rarer, but at our major airports every single one of our major airports makes multiple recoveries of firearms every year.

MR. GORTON: How many or what share, say the people that are stopped with some prohibited item are carrying something that is so serious or otherwise regarded as serious enough security risk so that they are not permitted to board, even after you have taken those articles away from them?

MR. MCHALE: Well, usually all. Generally people who are carrying firearms or large knives generally are arrested, so they obviously don't proceed. People that are carrying small items that may have been overlooked in their packing or things like that generally are going to be treated as just the item will be taken and they will be allowed to proceed, although the airline is consulted on that. There may be instances where you have somebody who tries to conceal the fact that they are carrying a prohibited item, even a small relatively innocent prohibited item. With that kind of concealment we will generally stop them, interview them. They may be arrested. They're almost certainly in that circumstance going to miss their flight, and it will be up to the airline whether they rebook them or not.

MR. GORTON: Well, let me again try to get you to be a little bit more precise. Out of every thousand or hundred thousand boarding passengers, how many are arrested?

MR. MCHALE: Oh, we have almost two million passengers a day, and we probably have two or three arrests a day.

MR. GORTON: So approaching -- it's not much more than one in a million?

MR. MCHALE: Yes, right.

MR. GORTON: As sensitive as this question may be, what is your current estimate of the number of prohibited articles that you miss every day out of those almost two million passengers?

MR. MCHALE: It's always very hard to estimate what you miss, because you don't have it. We do some -- we do do some checking, continue to do gate screening recoveries.

MR. GORTON: Well, you have your --

MR. MCHALE: We have not generally recovered -- we have actually rarely in those instances recovered larger items, like large knives and guns, although we have recovered those after

the checkpoint. There was a very well known incident in New Orleans where that happened last year. But generally the items that are recovered at the checkpoint are the smaller items. It is a small percentage, probably in the --

MR. GORTON: Well, you have your checkers or your red teams now who are testing. What's their share of success in getting away with what they are carrying in the way of prohibited items?

MR. MCHALE: The red teams, we want the red teams to break the system.

MR. GORTON: I understand you do.

MR. MCHALE: So we send them out to break the system. When their success rate drops below 50 percent, we tell them to get harder. We tell them to work harder at getting it through -- find other ways to get the items into the system. That's their goal. So that's what we try to do with them. We try to find any possible way to get a prohibited item into the system.

MR. GORTON: All right, if your goal for your red team is 50 percent --

MR. MCHALE: Right.

MR. GORTON: -- isn't it likely that 50 percent of those who are deliberately attempting to beat the system and have rehearsed for a while are not going to have the same degree of success?

MR. MCHALE: They might. Our red team of course understands the system probably better than any terrorist does. So they probably have an advantage over that. What we look at is we want to make it as hard as possible for somebody intentionally to get something into the system, basically so that it becomes almost impossible for them to plan to get something into the system. That way they will go to another target.

Also, I think the second thing, and very important to point out here, is screening is just one level of security.

MR. GORTON: I will get to that in a moment. With respect to screening, however, is perfection obtainable?

MR. MCHALE: No.

MR. GORTON: How much closer to perfection do you think you can get?

MR. MCHALE: We are going to try to get as close as we can. But it will never be perfect at all. There's no way it could be. You have human factors, you have technology limitations, and you have the tremendous pressure of the crowd. As I mentioned, we have almost 1.8 million passengers a day. We have huge numbers of bags. So it's a huge job every day to screen those people. I think we have to strive for perfection, but I think we would be fooling ourselves.

MR. GORTON: I've spoken so far of passengers and the passenger checking. Could you give me comparable answers with respect to baggage checking? How much checked baggage do you stop because it has prohibited articles in them? And how successful are your tests in getting things through that system?

MR. MCHALE: There are obviously far fewer prohibited items in checked baggage in the sense that there are few items on the list of things that are prohibited. What we do recover occasionally are firearms that are in checked bags that are not properly packed. You can pack a firearm in checked baggage if you do it correctly and notify the airplane. We find several of those a day, and take action against the passenger, if appropriate, with law enforcement. We occasionally find things like pepper spray or mace, which are regarded as hazardous material and dangerous to put into checked baggage. We have not found any bombs. We have only been doing it for about three months.

MR. GORTON: Let me go to one other level, and I would like you to describe what you think both the functions and the effectiveness of the marshal system is. What share of flights now, whether all flights or relatively long-distance flights in which an aircraft taking off has a large amount of fuel on board actually are protected by an on board marshal?

MR. MCHALE: We don't discuss in open session the deployment of the air marshals. I would be happy to provide that in a classified forum. I can tell you though that air marshals today, unlike prior to 9/11, fly both domestically and internationally, and we do cover a significant portion of the flights.

MR. GORTON: Have there been any -- you can tell me whether this is classified as well -- have there been any air marshal arrests or interdictions of what appeared to be not passenger rage but actual attempts at hijacking or destroying aircraft?

MR. MCHALE: There have been arrests of passengers who were considered to be a potential threat. As far as I know there have not been any attempt to hijack U.S. domestic aircraft since we have been out there. So I think I'd probably have to leave it at that.

MR. GORTON: To what extent is TSA experimenting with or considering either additional or certain forms of profiling, and tell me what they are at one end, and at the other end a trusted traveler program?

MR. MCHALE: The FAA has been using for years, really I think since almost shortly after Pan Am 103, something called the CAPPS I system. The CAPPS system it is called -- computer-assisted passenger pre-screening. It started off being used for baggage screening purposes -- what bags should be screened. But it was expanded after 9/11 to help identify passengers. It's a bit of an old system. It's an old technology based on airline reservation systems, and frankly isn't up to the task that we need it to do today.

We are replacing that over the summer with what we call CAPPS II. CAPPS II is an intelligence-based system on the government computers. We will be using intelligence data basically to develop systems programs to help us identify patterns of terrorism and identify terrorists through that. It is not, however, a system that draws on racial profiling or anything like that. That's not really a very useful way to find terrorists, if you look today at the Jose Padillas and the Richard Reids, that kind of ethnic profiling could well lead you in the wrong direction potentially. So we don't -- that's not something we really rely on.

In terms of registered traveler, that is probably -- the way we look at that today is that will probably be a portion somehow integrated into CAPPS II. Registered traveler system would give us an ability to do a background check on a passenger that would be far greater than anything we could do in the commercial environment in which CAPPS has to operate. If we could get a significant level of confidence in that, it would help assure us that the passenger does not need to be subjected

to additional security measures. But our expectation at this time is that we will always maintain a certain level of security screening for all passengers, regardless of whether they are registered.

MR. GORTON: What's the source of your intelligence for CAPPS II?

MR. MCHALE: The intelligence community, the FBI -- basically the entire intelligence community.

MR. GORTON: And is that a relationship with which you are comfortable that you are getting what you need?

MR. MCHALE: We have actually -- yeah, we have a very good relationship today with the intelligence community. We have liaisons at all the major agencies. Our people there, their people, some of their people, with us. There's a tremendous flow of information. I was not at the FAA on September 11th. I came to DOT at the end of 2001. But talking to the people who work for me who were there, my impression is that the flow of intelligence is far, far better today.

MR. GORTON: All of my questioning -- my questioning of you and the earlier questioning has been directed at airline and aircraft security. Close to 90 percent of your money, as I understand it, goes into that form of transportation security?

MR. MCHALE: That's right.

MR. GORTON: And more than half of that into screening.

MR. MCHALE: That would be about right.

MR. GORTON: In your long-range point of view, is that an independent division of your resources? Does it reflect the threat and the scope and seriousness of the threat when you take transportation safety, which is the name of your agency as a whole?

MR. MCHALE: Transportation Security. Yeah, we do. The budget that we have, the division we have is required to meet the legislative mandates that we have. One of the things I addressed in my opening remarks was the need to bring balance to that, to bring balance to our very high payroll costs, to bring operational support. And a piece of that also is to free up part of our budget to drive it over to the other parts of our

mission, to look at the other parts of the transportation system. Asking a government bureaucrat whether he wants more money is kind of like putting a kid in a candy store. But, I mean, I think -- I mean, the reality is we could use more money, but we'll divide it up.

MR. GORTON: Yeah, but if you were not subject to Congressional constraints and you had the amount of money that you did not, would you distribute it in the fashion that it is?

MR. MCHALE: I am not sure that we'd reduce the amount of money we are spending on aviation security.

MR. GORTON: But you might use an increase as somewhat disproportionately for other --

MR. MCHALE: That's correct, that's correct.

MR. GORTON: General Steele, you were in at the beginning in a very real sense of facing these problems over the first three years. You've been an observer ever since, and you see Mr. McHale who is in at the present time. Just in general terms, how effective and how dramatic in your view have the changes been? Is, given the nature of some of the changes and the threat, are we better off now than we were when you started? And if you just had one or two things to say we ought to have as immediate priorities, what would they be?

MR. STEELE: I'd be happy to answer that, Senator. First of all, I have -- I am not privy to the figures that are coming back from their testing, whether that be done electronically using the TIPS system, which is both the training vehicle as well as it can be used to evaluate screener performance. I know what it was when I was there, but I don't know what they are getting. So how much better are they is a very, very good question. This much better? This much better? That much better? I don't know.

I think instinctively everybody believes that the fact that they are federal employees and they have higher standards now. They feel more comfortable about it with the security companies. But they are the only ones who can really say that. I, from what I read though in the paper, and when I say close to it, I say they're still being penetrated too often too easily, even by the press and others who are out there to evaluate or test the system and publicize it. So that bothers me.

A few other things, if I may. I happen to be a believer in the CAPPS system, but I was a believer in CAPPS I. The way Mr. McHale is describing CAPPS II, I am not saying when that's going to be very successful. CAPPS I was simply developed by the airlines based on information they had to separate the knowns from the unknowns. The president of Ford Motor Company is a million miler going through, we don't have to spend much time on him. So it's a way to -- you know, the whole system moves with bags and people at about every six seconds. So it's a winnowing effect. If we can get the knowns through very, very quickly, that offers us an opportunity to spend more time on the unknowns. And that's what that was about. That seems to have been reversed with CAPPS II, and now they are trying to identify a real threat out there, and I don't think there is any way to do that frankly, without going into some very, very intrusive things which I don't think our society is ever going to accept.

I could go on to some other things on --

MR. GORTON: Well, I asked you for your two highest priorities.

MR. STEELE: Well, I would -- is that the last question I am going to get from the Commission?

MR. GORTON: I don't think so.

MR. STEELE: I've got some views on a few other things, on red teams and that sort of things as well, but I'll be happy to respond.

I would like to make a point also -- I think the question is about standards. Are we going to get 100 percent? And of course I agree with Mr. McHale's response. And I think you'll find everybody has said that, including the Chapter VIII, as you look at Pam McLaughlin's report also. She stresses that point on national will. And I think everybody will say that. Even the security guards at El Al will tell you exactly the same thing.

But even on the EDS, the automated explosive detection systems, none of those systems were designed, nor did we certify them to be 100 percent. We had to accept a probability detection rate less than that when we designed those. I won't give it to you exactly what it is, but I am sure your, some of

your staff will tell you. But none of it is designed to be 100 percent, even in our equipment.

MR. GORTON: Mr. McHale, I had one other perhaps philosophical question for you. How do you keep your screeners interested and alert when one out of one million passengers is going to have a dangerous gun and be arrested for it? It just seems to me the job is so routine that to keep people alert constantly, when of course the only measure of their success is negative, you know, that nothing bad happens. How do you deal with that?

MR. MCHALE: That has been a concern of all of us I think who have been in this business. It certainly has been a concern of ours as we have built this work force and as we go forwards. First of all, when we say one in a million, remember that we have almost two million a day, so that's a lot of people going through the system. So, you are right, it sounds like not much, but as General Steele said it's really one person every six seconds going through some of these major checkpoints. It's not actually all that unusual to find something significant. But that's actually not what we rely on.

What we rely on is every day we send out to all our airports, as well as all our air marshal bases, intelligence briefs. They are actually brought down to a very low level of classification, since there's security information, so it can be widely shared. But they identify things that have occurred around the world, or items that have been found at airports, or ways things have been concealed, or other sorts of information, to let the people know every day that there is something, you know, that things are happening out there, to remind them every day that this is in fact a real war they are in, it's an ongoing thing.

We rely on our federal security directors, many of whom have a sense of military or police or law enforcement experience, used to working with teams and motivating teams. We rely on them to motivate their screeners. And of course we test. We test the system. Not only do we do the covert testing, but we have a more routine form of testing that goes on at all the airports. Plus General Steele mentioned the TIPS system, which is critical. It's one that we were challenged frankly to get it on to every explosive detection machine in the country as we went out last year and increased the production r ate from 40 a year previously to over a thousand last year. We are putting those on all the machines throughout this year. Our plan is to

have those all hooked up so that we can download new images. The TIPS system, just very briefly, if you don't know what it is, is a system that basically puts up a false image occasionally of a threat item in a kind of hidden way that's a little difficult to see, and it puts that up on the X-ray screen, and then we can actually measure how often our X-ray technicians actually identify that item. So that helps with X-ray screening. But we have to test all the other systems -- the wanding, we have to recalibrate the metal detectors. So that is very important to us. It is a human engineering issue, and it's one that we work very hard to keep our people alert.

MR. STEELE: May I also just follow in on that, if I may, sir? The answer is, first of all, it's not in money. The answer is in that's, what we call the CSS, the supervisor. He is the key or she is the key. And I found in the years that I was there if that supervisor was good you had a pretty strong defense. And conversely it wasn't why then you could penetrate it. Do you remember the movie "The Sands of Iwo Jima." And you remember Sergeant Stryker who took these 12 young Marines and trained them and got them ready for the battle of Iwo Jima, and what he did and the coaching he did, and what he knew about the strengths and weaknesses of each one of those youngsters. What we need is a Sergeant Stryker at every one of our checkpoints, whenever that checkpoint is open, who knows the people, knows them, knows that when you put somebody on that screen that you need to warm up. You go out and play tennis, you don't go out and just play tennis, you warm up. We do the same for the screeners. Now, there are limits to how long. But we found that when they made their errors was when they first went on the machine. So you take your weak ones, and you take it when you're not being surged but kind of the slower times, put your weaker one on there, throw those test objects at him, train him, put the arm around the shoulder. That's -- getting them trained.

And then, conversely, just like we went to sea and you were at general quarters, you had a battle staff up on the bridge. During the search times you got the varsity back out doing those things. That's the person who knows and who can understand those rhythms is what we really need. And it takes a long time. And it's leadership. That's all it is, pure and simple. A lot of human factors at work, which I hope you go into, is involved here, and we really are pushing it at the end, and particularly in my last year was encouraging the air carriers, that's where you need to make your investment. And I would say TSA needs to follow through on that one. It's not money.

MR. MCHALE: I couldn't agree more, and obviously that's what we do try to follow through on. We also move the people around too. We don't want to leave somebody on any task too long. That causes them to lose their edge, if you leave them at the X-ray machine for hour after hour. So we rotate them around, try to encourage them.

And I think one last thing though that's important is you also do need experience. And one of the problems that we found -- we managed the contract screening operation for about six months before we brought out the federal screeners, from February until almost November. And one of the problems we found was whenever there was any testing that revealed that an item got through the checkpoint, the screeners were all fired who were responsible for it. And that became kind of the expected thing: if something gets through the checkpoint, fire the screener.

One of the things we tried to do is look at this as a system. If something gets through the checkpoint that shouldn't have gotten through the checkpoint, we need to look at the entire system: Was the X-ray machine calibrated correctly? Was the metal detector calibrated correctly? Is our training good enough? What are we doing? What are we doing wrong? What is it -- I mean, obviously if the screener is asleep we are going to fire the screener. But that's not -- I think there was a reaction, certainly in the time after 9/11, sort of immediately after 9/1l. I don't know what was done before -- that was every time there was a lapse at the checkpoint you fired the screener. The result of that was you end up firing a lot of experienced people, and not necessarily getting to the real cause of the problem. So that's something else we look at very hard.

MR. STEELE: I found that women, for example -- senior women were absolutely the best screener. It's something in their -- in their pattern recognition-- I don't know if it's in their pattern analysis, something that they do. But they they found things that I looked at -- I would have looked at it for million years and never see anything. But they could pick it out in an instant. I don't know why it is. But those are little tips, you know, the things you learn over time -- not all of them. But they also had great ability to concentrate, and that's what you need is somebody who is concentrating in that time that they are on those machines. Conversely, they may not like to meet the public, so that's not the person to put out and

hand-wand or anybody else. Those are the little things, you know.

MR. ROEMER: Mr. Chairman, could I just? Just as General Steele took us back to Sergeant Stryker, let me take us back for just an instant to CAPPS II. We constantly here this balance between civil liberties and civil rights and the security needs in this new terrorist world. You mention that in CAPPS II we might be working with your liaison, which you feel is strong in CIA and FBI. We just read reports recently that the FBI has new powers to occasionally be able to go to libraries and check up on what people are reading. We understand that the CIA may be running the TTIC, the Terrorist Threat Integration Center.

In light of this, and in light of Americans' concerns about this, can you be more specific as to what CAPPS II is going to be looking at? Are we talking about watch-listing information? Are we talking about private sector databases? Are we talking about law enforcement information? Exactly what are we talking about, Mr. McHale?

MR. MCHALE: I can't be too specific in an open forum, but again that's something we can provide the commission as appropriate. But let me just say --

MR. ROEMER: Can you be vague?

MR. MCHALE: I can be vaguely specific.

MR. ROEMER: And I'd be very interested in the follow-up on this in private.

MR. MCHALE: Sure. We are checking all sorts of databases. We are checking public and we are checking private databases to get a sense of what we have. But the system is actually designed -- it's been designed actually in a lot of consultation with the privacy groups. And in fact, although we -- the technical term is "ping" -- although we ping off the public databases to run some of these algorithms and things, we do not actually get that private data into a government computer database. We do not build a database with CAPPS II. So I think I need -- that's -- it's actually quite an interesting and complicated system to explain. It's very hard to do it here. But I --

MR. ROEMER: Yes, I think we can do this --

MR. MCHALE: It's important for you to understand that.

MR. ROEMER: And it's important for the American people to understand the debate on some of this as well, too.

MR. MCHALE: That's correct. We're going to -- there is obviously going to be debate and discussion of this. But we are very, very sensitive to the privacy side of this. And, frankly, that's something that's important.

I'd just like very briefly to address something that General Steele suggested. We actually also see CAPPS II as a system for focusing our resources, and really a large part of what it will do is identify the vast, vast, vast majority of people who should just move quickly through security. And that's really what it does. But then it works your way down to a point where you also get some red flags up as people who need considerably more scrutiny.

MR. ROEMER: My last question, General Steele. I love testimony that is futuristic and challenges us to look at threats, you know, ten years from now. On page seven of your testimony you outline four, and you look at such things as the shoulder-launched missiles and a coordinated terror campaign against cargo flights using smaller bombs. You talk about driving a car or a truck up to a terminal and exploding it. Congress at some point, as we heard yesterday, is going to say to us, We have limited resources, we don't have all the money in the world to fund every one of your recommendations, whether it be screening, ports, airports, terminals, outside terminals for cars, equipping airliners with the necessary defensive mechanisms for shoulder-fired missiles. Specifically how would you prioritize a future threat in this industry, but maybe other threats in other industries that we are going to have to look at? Look broader than just the industry that you are here to talk to us about, and anticipate what we are going to be faced with in 12 months, recommending to Congress how they try to spend resources on the most likely threats across the board.

MR. STEELE: Well, despite the dramatic events of 9/11, I still believe the weapon of choice for -- and the one that is really the most difficult to defeat -- is still an improvised explosive device probably in checked baggage, given the number of checked bags that pass through the system every day, and the fact that there are bombers, very artful bombers out there, who

can make those almost undetectable, and with out some sort of a person, but an automated system that would alert us to it.

And so until we really have those out there deployed -- and not only here, but also, as I mentioned in my statement, abroad, because we have got to have parallel systems over there or all we are going to do is squeeze the bubble here, and it will pop out over there. I think that is really the most important. And then also containers. We really need to get some containers. It was coming on line when I was there in '91, we pushed it further, and we still don't have any deployed, except for a few out there as test cases. We need to get busy on that.

But we must also know, and you know Mr. Roemer especially, that once you close out one avenue then there will be a new threat vector as sure as anything. For example, when they talk about future threats in our profiles and what we were seeking on passengers, it used to be a male, and particularly from an Arab nation and a certain age and everything else, excluding females. Now from what we now see coming out of the Middle East, we have to include the females, don't we? We can't exclude those. That's an example.

We started thinking in my last year there, Listen, we are going to have EDS out there some day, and what are they going to do? And what we were already seeing was an emerging threat of MANPADs, or surface-to-air missiles that we were receiving out of places like Athens. They had knocked down a couple of airplanes in Africa-- cargo, not commercial -- and clearly that was going to be kind of on the horizon, particularly when we closed that avenue, and we had to start at least intellectually beginning to figure out what we were going to do. So I still think that is the greatest threat. I think the cargo business is more kind of nuisance, panic, smaller bombs that we may have to face out there that -- not catastrophic loss of an airplane necessarily, but just to tell the American people, this is, you know, we are still capable of doing this at a fairly low risk way of introducing something.

MR. KEAN: Senator Gorton?

MR. GORTON: Mr. McHale, I have a question that came here from a Senate office. It's really quite interesting: What percentage of mid- and senior level staff at TSA have actually worked physical security at an airport?

MR. MCHALE: I don't have a percentage for you. Quite a few at different places. Our federal security director in Phoenix is the former head of the Phoenix police unit that ran that. Our federal security director, that ran the airport unit in Seattle is a former employee of the FAA civil aviation security. We have a lot of people who have got military security backgrounds. Some of them provided airbase security. We have a lot of people with security backgrounds and law enforcement backgrounds. I don't have a specific percentage for you on that.

MR. KEAN: I have one question. This is a question I guess that the public ought to be interested in. People go through airports a lot see certain people pulled out of line. We had witnesses yesterday who said what we should be really concentrating on is people, not things, and indicated I gather a form of profiling is what we should be after now. Well, right now we are pulling out grandmothers and grandfathers and teenage girls and people who it's very hard to conceive of any threat. I've been pulled out a couple of times, but maybe I fit. But what is it? People are interested. Why are these people pulled out who look like no threat whatsoever?

MR. MCHALE: Two reasons. One is the CAPPS I system does and also some of the watch lists have -- the CAPPS I system does result in a fairly high number of false positives. Plus, the watch lists have a lot of common names on it. The third most normal reason people are pulled out is because there may be some sort of alarm or some sort of indication they are not sure what's in the bag or whatever it is. We need to remember that terrorists have used dupes. Perhaps the most famous one was the Irish tourist in Israel who became pregnant and whose Palestinian fiance hid a bomb in her checked baggage, and luckily the Israeli security agency talked to her, uncovered that. That's a very famous story, but it's one that reminds us that dupes are out there and we see that quite frequently as a fairly common, potential tactic.

Also, there is no easy ready profile of a terrorist. You need to look at a variety of things. In Israel there have been 65-year-old suicide bombers. So we need to think about all of that. We have had -- the IRA used to smuggle explosives in the bottom of children's strollers under sleeping babies. So we cannot fall asleep. We need to look at a wide range of things. But do we pull over too many grandmothers and too many kids? Yes.

MR. KEAN: Last question from Secretary Lehman.

MR. LEHMAN: Well, I -- you stole my thunder on that one, because --

MR. KEAN: Sorry.

MR. LEHMAN: Because I thought that was one of the most telling things that came out of yesterday's testimony that it's all very well we have to concentrate on counting things and metrics and things that are measurable and X-raying and so forth. But we have been overlooking, and I agree with Mr. May, the industry spokesman who made this point, we have got to look at people. And as another witness yesterday was pointing out, it's the other side of the coin that General Steele was saying on the people of our side of the fence. You have got to look at the human being and people that fit a profile, not because the computer spits them out, although you can use that too, but because if there is an Arab, a young Arab male or female, and a little old lady from Pasadena, you pick the Arab to pull aside and talk to him. Talk to him as a human being -- not measure him or see if he's carrying a knife. Because as the point is made, an effective well-trained terrorist doesn't need a knife, doesn't need a box cutter.

So it worries me. Your testimony, Mr. McHale, worries me that the system is once again falling prey to the metrics, the fallacy of metrics, as opposed to the human factor that General Steele was --

MR. MCHALE: Well, I think a lot of the testimony -- my testimony certainly in the questions I've answered, but just listening to the testimony and reading some of the ports from yesterday's testimony, often focuses on the screening checkpoint and the screeners and what they do. And I think that gives you a false impression of what aviation security is all about. It is perimeters within perimeters. We have intelligence, we have intelligence reporting. They tell us what to look for. We have airport police who are trained in surveillance detection. Our federal air marshals are trained in surveillance detection, looking at people who may well be planning or surveiling an airport. We deal with obviously the checkpoints. We try to train our people about what to look for. In addition to that we have obviously the air marshals. We have the hardened cockpit doors today that are hard to get through. Frankly, we have the passengers. Somebody referred to that earlier today, and I

think we have to recognize that the passengers themselves are a part of our security. And then we have the armed pilots.

What I regard this as is a series of hurdles. I think if you look at security as a series of hurdles going all the way out to the farthest reaches of the intelligence community, including the movement of money. At some point a terrorist must pop up over those hurdles. And our hope in security is that we catch them when they pop over one of those hurdles. No one hurdle is going to be enough. You have to have a whole system. You have to work it as a whole system and keep the bad guys off the plane.

MR. LEHMAN: How can you assure us that the system you have, which sounds very good in description, isn't just as toothless as the system that preceded it, which we heard from witness after witness really had no teeth -- fines ended up being a tenth of what was assessed, lobbying pressures prevented the issuing of rules, things like the locked doors that went into the memory hole over time. What teeth do you have that FAA didn't have before 9/11?

MR. MCHALE: I think that the best thing that we have is people, and people who are reminded and remember 9/11. That is ultimately what is going to be about.

MR. LEHMAN: They don't have any more teeth?

MR. MCHALE: Well, we have more teeth. I mean, we have a lot more federal presence. We have very good, very senior people who are the heads of security at all our major airports.

MR. LEHMAN: Though what I'm talking about is enforcement when, as you said, you have got to keep the industry as an essential partner. If after things settle down, hopefully, and there are no more incidents, a couple of years go by, just like after the '95 and the Pan Am 103, the doors start swinging open again, people start forgetting. And even though the red teams -- and you know my last question -- I know you want to talk about red teams, because you made a great reputation as being very aggressive when you were there and very effective with the kind of red team approach. But there has been no real teeth in enforcing people who get negligent. I'm not talking about the people who work for TSA. I am talking about the industry, the airport people. How are you going to put the fear of God in them that if they get complacent, or they

talk themselves into thinking that something is not cost effective -- therefore we don't have to pay attention to it?

MR. MCHALE: Well, you know, I'm not actually all that familiar with what the teeth were of the FAA before. So let me tell you what our teeth are, and you can decide whether we have more. I do know that the civil penalties have been increased, that we can assess the amounts the penalties have been increased. But they are still $25,000 per violation for an air carrier, and $10,000 per violation for a passenger. You can actually pick up a lot of violations if you go after somebody.

But in addition to that we do have the authority given to the administrator by the Aviation and Transportation Security Act to prohibit a flight coming into the United States. We have turned flights around. We have done a significant amount of reverse screening. We have delayed flights. We have dumped passengers off flights for re-screening if appropriate. There are a lot of different things we can do. I can tell you when you have a breach of a concourse, and you dump the entire concourse to re-screen all the passengers, that is a multi-million dollar impact on the airline, if it's a big concourse. So there are a lot of -- and we have done a lot of that. I mean, there's a lot of those kinds of things. I do not know the extent to which FAA had all those things available to them or used them in the past.

MR. LEHMAN: General Steele, red teams.

MR. STEELE: Thank you, Mr. Secretary. Also, let me just clarify something that Mary Schiavo said. She talked about her red teams. I don't think she understood. She didn't have red teams. She was the IG and she had inspectors, but they were not the red teams that we had had which really were former counterintelligence people, a lot of experience in the field, who used all the guile and everything else, which made it even more embarrassing when her inspectors were able to penetrate. But, nevertheless, they really weren't in the sense of the word red teams who were going to out to really evaluate the system and give you an honest answer.

My view is that, yes, certainly TSA needs its red teams to be able to give feedback on equipment buys, policy decisions and that sort of thing. But you also need -- and I think perhaps -- and I've given this a lot of thought, and I want you to know it's a serious proposal. In fact, I started thinking about it when the the House bill and the Senate bill were out

there and you remember the House bill still kept the private sector versus the large number of people.

My feeling was then you did not probably have to create a huge new work force of federal people, that you could probably still use the system. But to build in it a very, very robust red team capability that ought to be not only just aviation, but probably all modes of transportation. And I would maybe put it under the secretary of Homeland Security versus the TSA. In other words, a more independent view. You would still need strict protocols. This is not cowboy stuff. I mean, you are going to keep them tight, and you probably have to rotate them around. But you would send them out to evaluate let's say an airport. And if in their findings that there are serious gaps, and particularly if more than two or even three layers had failed and continued to fail, and that that becomes kind of a consistent report, then that secretary -- it would have to be a Cabinet officer -- notifies the secretary of transportation that you either get that fixed in 48 hours or we are shutting you down. And you will shut down maybe perhaps that terminal, perhaps that entire airport, or perhaps that cargo area or maybe an airline. But that's the time you've got to get it fixed, and we'll be back. And then you do it. In my former life of a Marine I learned the lesson early that there's no lesson in the second kick of a mule. There's a lesson in the first one. But this beast has kicked us now a couple of times, and it's like this a couple of other times. And I'm really hoping that your commission is going to be able to get a hobble around it this time. And I offer that as very constructive means of doing this. We do this internationally. Did you know -- I mean, if you look at the Foreign Airport Assessment Act, and we didn't do it in quite such a dramatic way, but we have a means where our inspectors, the TSA inspectors today find the airport in Athens for example not meeting the ICAO minimum standards on one of their inspections, and the secretary of Transportation issues a warning through the State Department that they've got 90 days to get that, and we'll work with them. And we did this a number of times. I was there in Bogota, and we did it in Barcelona during the Olympics, because there was a lot of construction and the place leaked like a sieve. It was -- so you have -- and then you do work with them and they've got 90 days. And if they pull up their socks and earnestly pull that in there, then you may or may not. If they don't, then advisories start going out, and then the secretary of Transportation says no U.S. airplane will fly into your airport. Boy, that gets them busy. So there are incentives for doing that, and it can't be just done arbitrarily, and it's got to be kind of worked out. But I think

we are at that point right now, and it's got to be done at the highest level, because we know the costs. And I think that would be a terrific way to be able to kind of keep this complacency from coming back.

MR. KEAN: General Steele. Thank you. I'm glad we got that in, because that's important. I want to thank the witnesses very much, General Steele, Mr. McHale. I'm glad, by the way, that all the witnesses over the last couple of days have been with us and have done it in open session, because I think it's very important whenever we can in our work that the American people are allowed to see the evidence and see the kinds of things we're discovering.

I would remind all of those who are interested in the work of our commission that we are still in our early stages, but we will be issuing our final report just not much over a year from today. So with the help of the kind of people we have had with us the last few days, both as witnesses and the audience, have increased confidence that we will meet that deadline and have a report that the American people can be proud of. So thank you all very, very much. And thank you all for coming to be with us.

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