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NOMINATION OF C. SUZANNE MENCER

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF C. SUZANNE MENCER TO BE DIRECTOR, OFFICE FOR DOMESTIC PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY

SEPTEMBER 16, 2003

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NOMINATION OF C. SUZANNE MENCER

TUESDAY, SEPTEMBER 16, 2003

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 11:38 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Levin, and Lautenberg.

Chairman COLLINS. The Committee will come to order. I notice that two of my distinguished colleagues from Colorado are with us this morning and I also know that they are on very tight schedules, so I am going to dispense with the ordinary order for this hearing and call on my colleagues to introduce the witness and then I will do my opening statement.

This is a hearing on the nomination of C. Suzanne Mencer to be the Director of the Office for Domestic Preparedness, the Department of Homeland Security. I would say to the nominee that she obviously is thought very well of by the two Senators from Colorado, that both of them have taken time from their extraordinarily busy schedules to join us this morning.

We will start in order of seniority with Senator Campbell.

Senator CAMPBELL. Madam Chairwoman, with your permission, I would like to yield to Senator Allard. I know his schedule is a little tighter than mine.

Chairman COLLINS. OK.

Senator CAMPBELL. The last two times, I think I went first anyway.

Chairman COLLINS. That would be fine. Senator Allard.

TESTIMONY OF HON. WAYNE ALLARD, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator ALLARD. Madam Chairman, if that would be all right with you, I will proceed.

Chairman COLLINS. Absolutely. Welcome. We are delighted to have you here.

Senator ALLARD. Thank you for your consideration and thank you for the good work that you do.

Madam Chairman, it is a privilege to be here with my good friend and colleague, Senator Campbell, to present to you Sue Mencer, who the President has nominated to be the Director of the Office for Domestic Preparedness in the Department of Homeland Security.

Madam Chairman, Members of the Committee, we in Colorado approach this nomination with mixed emotions. On one hand, we are pleased that the President selected such a strong, competent leader to head this important office. Yet on the other hand, we feel the impact of losing one of the Rocky Mountain State's finest public servants.

Ms. Mencer served our country for nearly 25 years and the State of Colorado for the last 3 years as the State's Executive Director of Public Safety. As a distinguished FBI agent, Sue proved her mettle during several high-profile national security investigations and later as the FBI's supervisor for the Denver Joint Terrorism Task Force.

However, those years in the FBI must have seemed like a walk in the park compared to the last 3 years. Appointed in 2000, Sue took over the Department of Public Safety just in time for the tragedy of September 11. As we all know, the shock waves from that terrible day were felt around the country, including Colorado. Fortunately for Colorado, though, we had in Sue a leader capable of developing a new plan for preventing and, if necessary, responding to a potential terrorist attack.

Under her guidance, Colorado quickly moved to create an Office of Preparedness, Security, and Fire Safety, which brought focus and structure to the State's terrorism prevention and response planning. The Office has also acted as a conduit for counterterrorism and response activities, including Federal first responder grant programs. Perhaps more importantly, Sue helped develop Colorado's homeland security strategy. This well-crafted document strikes a delicate balance between enhancing the State's homeland security activities while emphasizing the importance of close cooperation with local officials, Federal agencies, and the private sector.

Madam Chairman, the importance of first responder preparedness cannot be understated. Sue once said, "A lot of home security is common sense." That is refreshing, isn't it? "It is preparing for times that there might be a cessation of activity as you know it, no different than being prepared for a natural disaster, like a winter snowstorm or a tornado in the Midwest."

As the Director of the Office for Domestic Preparedness, Sue will bring the same common sense, practical thinking, and steady leadership that made Colorado one of the most prepared States in the country. I believe the President chose the right person in Sue and I give you my strongest endorsement for her confirmation.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you very much. Senator Campbell.

TESTIMONY OF HON. BEN NIGHTHORSE CAMPBELL, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator CAMPBELL. Thank you, Madam Chairwoman. I appreciate being here also to co-introduce Suzanne Mencer. I have been scratching a few things off of my notes. Everything that Senator Allard has already said, I certainly endorse, but will try not to be redundant.

As Senator Allard said, Suzanne served as an FBI agent for over two decades. She began her career with the Bureau after spending

several years teaching Spanish in the public school systems of Florida, Ohio, and Missouri. One thing I did not know about her is that she met her future husband through FBI training, too, and I would like her to introduce her family before I finish my statement, if she would.

Ms. MENCER. Thank you, Senator. With me today, I am very happy to have my husband, John Mencer, my son, Alex, my nephew-in-law, Chris, and my brother-in-law, George Doms. They came from New Jersey for my hearing. Thank you.

Chairman COLLINS. We welcome all of them today.

Senator CAMPBELL. Thank you. Once with the Bureau, she left for service in Mobile, Alabama, and continued on to positions in New York City, FBI headquarters here in Washington, DC, and finally a move to the Denver office in 1990, which was certainly Colorado's gain.

During her term with the FBI, she participated in specific operations which made use of her English and Spanish skills. She is fluent in Spanish, and in this day and age, I think that is an extremely important asset to have in any public sector. She went on to serve as a supervisory special agent while here at the headquarters in Washington, and she was also in charge of investigations in country-specific areas of national security and had responsibilities for preparing the Congressional budget for the National Security Division of the Bureau.

Once in Denver, she had the important responsibility of supervising a squad of special agents, analysts, local law enforcement officers, and other Federal agency investigators in the Joint Terrorism Task Force that Senator Allard mentioned. She served as the chair of the Interagency Threat Analysis Group for the Summit of Eight which was held in Denver in 1997, and leaders from literally all over the world were at that conference. She was also the chair of the Intelligence and Threat Analysis Committee of the Denver Consortium of the White House Commission on Aviation Security and Safety.

After she retired from the FBI in 1998 and thought she was going to move forward in a life of relaxation with her family, she worked as a consultant providing antiterrorism training to local law enforcement throughout the United States in cooperation with the Institute of Intergovernmental Research.

Then in 2000, Suzanne was appointed by the Colorado Governor, Bill Owens, as Senator Allard mentioned. She has done a terrific job in that capacity, overseeing the Colorado Bureau of Investigation, the Colorado State Patrol, the Division of Criminal Justice, and the Division of Fire Safety. She currently manages 1,200 employees and an operating budget of $195.5 million.

I might also say, Madam Chairperson, when Suzanne first got involved in law enforcement some years ago—I am sure you are well aware of this—it tended to be a male profession. There were very few women in those days in the FBI or any Federal agency, and even in the local departments. They did have some trouble in those years working themselves up to positions of authority and to command. And certainly from that standpoint, Suzanne, I think, was really one of the women that cracked the glass ceiling, so to speak, in law enforcement.

During her time with the Department of Public Safety, she has also been instrumental in creating the Colorado Office of Preparedness, Security, and Fire Safety, and did all that without adding additional employees and without receiving appropriation from the Colorado General Assembly, which is generally broke, as all State offices are now.

She worked with a number of groups that I was very interested in, and, in fact, sponsored a number of bills dealing with them, the Police Officers Standard and Training Board, the High-Intensity Drug Trafficking Board, which is called HIDTA, the Judicial Discipline Commission, the Governor's Clemency Board, and she currently also serves as adjutant professor at the University of Colorado in Denver.

So I have no doubt, as does Senator Allard, that she is more than well qualified to be the Director of the Office for Domestic Preparedness. She understands that the new warriors in this war on terrorism very often are local police, local firemen, and certainly has the support of them, too.

So with that, I would say that this very dedicated, tenacious, and extremely talented lady, I should think would be well received by this Committee and by our colleagues on the floor of the Senate.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you very much, and in that regard, your strong endorsement makes a great deal of difference to this Committee and to your colleagues, so thank you very much for taking the time to be with us today.

Senator CAMPBELL. Thank you. I told Suzanne that I would have to excuse myself because I have other commitments, too. Thank you.

Chairman COLLINS. Absolutely. Thank you.

We are now going to resume with the normal order of procedure and I will deliver my opening statement.

OPENING STATEMENT OF CHAIRMAN COLLINS

Senator COLLINS. Today, the Committee on Governmental Affairs is holding a hearing to consider the nomination of Suzanne Mencer to be the Director of the Office for Domestic Preparedness, known as ODP to the Members of this Committee, in the Department of Homeland Security. The ODP administers a number of homeland security grants to State and local governments.

If confirmed as Director of the Office for Domestic Preparedness, Ms. Mencer will be responsible for assisting States and local jurisdictions in their efforts to help prevent, plan for, and, if necessary, respond to acts of terrorism through training, equipment, technical assistance, and other support. She will also be called upon to distribute billions of dollars of Federal assistance for States, localities, and first responders with what is now a notable lack of guidance from Congress. Indeed, the 187-page Homeland Security Act contained but a single paragraph on grant programs for first responders, but help is on the way.

This Committee has taken a keen interest in improving the way we support our States, communities, and first responders. The Committee has held three hearings examining this important issue. In addition, earlier this year, the Committee unanimously endorsed

legislation I introduced, the Homeland Security Enhancement Act, which would streamline and strengthen homeland security grant programs. And just last week, Senator Pryor and I introduced legislation to provide advanced counterterrorism equipment and information to law enforcement agencies to help them prevent, detect, and apprehend terrorists.

By working with and listening to State and local officials and first responders, the Director of ODP will be able to improve the security of each and every community.

I am hopeful, Ms. Mencer, if you are confirmed, that you will take swift action to correct some of the problems we have experienced in the distribution of homeland security grants. One is making sure that the grants, training, and exercises are flexible enough to meet the homeland security needs of our communities. On a number of occasions, officials and first responders from my home State of Maine, as well as other States, have expressed concerns to me about the lack of flexibility in grant funding. This has hindered their efforts to protect their communities.

For example, Maine's fire chiefs have told me that the rigid rules of homeland security grant funding are actually preventing fire fighters from accepting training opportunities at the National Fire Academy. That just does not make good sense.

There have also been delays in distributing money from the Federal Government to the local level. I hope you will work to expedite the distribution of funding so that we don't have the experience that we heard about at one of our hearings, where the local fire chiefs and police department chiefs who testified said that they had yet to receive any homeland security funding.

I was very pleased to read in your written responses where you stressed your commitment to providing flexible resources to each and every State. I strongly endorse your commitment to establishing a baseline level of capacity to prevent and respond to terrorist attacks. We recognize that different areas of the country have different needs, but every area needs to bring their homeland security baseline up to a certain level. After all, each State must protect its vulnerabilities, including critical infrastructure and borders. Each State must train and equip first responders.

Coordination with agencies within and outside the Department will also be key to your success. I hope that you will take steps to eliminate redundant paperwork, standardize equipment and training standards, and coordinate emergency preparedness plans.

And I realize that you can't do this alone. This Committee has worked on a bipartisan basis to improve the resources available to the Department. I hope that you and your staff do not hesitate to contact this Committee and work very closely with us if you find that you need additional tools to effectively assist our communities and first responders.

Let me end my statement by saying that I am very pleased you have agreed to take on these challenges. Your extensive experience in the FBI, as the State official leading the Department of Public Safety in Colorado, and as a private consultant providing antiterrorism training to local law enforcement make you unusually well qualified for this vital position.

I now want to indicate for the record that you have filed responses to a biographical and financial questionnaire, that you have answered the pre-hearing questions submitted by the Committee, and that your financial statements have been reviewed by the Office of Government Ethics. Without objection, this information will all be made part of the hearing record, with the exception of the financial data, which are on file and available for public inspection in the Committee offices.

Ms. Mencer, our Committee rules require that all witnesses at nomination hearings give their testimony under oath, so if you would please stand and raise your right hand so I can administer the oath.

Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. MENCER. I do.

Chairman COLLINS. You may be seated.

It is my understanding that you do have a statement you would like to make and I would ask you to proceed at this time.

TESTIMONY OF C. SUZANNE MENCER,[1] TO BE DIRECTOR, OFFICE FOR DOMESTIC PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY

Ms. MENCER. Thank you. Madam Chairman, I appreciate the opportunity to speak before you today and I just want to express my sincere thanks to Senators Allard and Campbell for their statements. That was very humbling and I appreciate that.

My name is Suzanne Mencer and I am President Bush's nominee for the position of Director of the Office for Domestic Preparedness in the Department of Homeland Security. It is indeed a great honor to appear before you today.

If I may, I would like to introduce yet again very briefly my husband, John, who has been my biggest supporter, my mentor, my biggest fan through these 25 years. Our son, Alex, who is here missing school today but getting extra credit for his American Government class, so we are happy that he is here. Our daughter, Jessie, is unable to be here. She is a student in Massachusetts in college and she couldn't make it for the hearing, but she has always been very proud of everything I have done and I appreciate that. My brother-in-law, George, and his son, Chris, who came all the way from New Jersey this morning to be here with me today. Thank you for allowing me to introduce them again.

Thirty-five years ago this month, as I began a 10-year career as a high school Spanish teacher in Worthington, Ohio, I never dreamed I would be sitting here today, nominated by the President of the United States. And not even after a 20-year career in the Federal Bureau of Investigation, investigating and supervising foreign counterintelligence, international and domestic terrorism, did I dream of this. Not even when Governor Bill Owens appointed me to become the Executive Director of Public Safety for Colorado 3

[1] The biographical and professional information of Ms. Mencer appears in the Appendix on page 19.

Pre-hearing questionnaire appears in the Appendix on page 37.

Post-hearing questions and responses appear in the Appendix on page 75.

years ago did I imagine being here today. Indeed, this is a great honor.

However, I do believe that my experience at the Federal level in terrorism matters, combined now with my years of service at the State level, working closely with first responders and local law enforcement, provide a truly unique perspective. I have seen what is necessary at the Federal, State, and local level to combat terrorism and I have seen it from an investigative response and tactical perspective. I know firsthand how important equipment, training, and exercises are to prevent another event from occurring, but if it does, to have the resources to respond in the most effective and efficient way possible.

I have worked closely in Colorado with sheriffs, chiefs, fire chiefs, emergency response personnel, health care providers, and our Federal partners to develop plans using regional approaches. We stress in Colorado that we must all work together, crossing city lines, county lines, State boundaries, because a weapon of mass destruction overwhelms the capability of any one community to respond. But more importantly, we stress that we must combine our resources. Terrorists are not restricted by city, State, or county lines, and we need to prepare accordingly.

If confirmed, I hope to use that perspective to ensure that the Federal funds so necessary to the defense of our country are directed and applied throughout the United States to reap the greatest benefit to detect, deter, and respond to a terrorist act.

If I am confirmed, I would be grateful, humbled, and honored to have the opportunity to use my expertise and my abilities to serve the President and my country in the Department of Homeland Security.

Thank you very much, Madam Chairman, for considering my nomination and I would be happy to answer any questions you might have.

Chairman COLLINS. Thank you very much. I will start my questioning today with the standard questions that we ask of all nominees.

First, is there anything you are aware of in your background which might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. MENCER. No, Madam Chairman.

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

Ms. MENCER. No, Madam Chairman.

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

Ms. MENCER. Yes, Madam Chairman.

Chairman COLLINS. We will now begin the first round of questions, which we will limit to 8 minutes each.

In response to the Committee's written questions, you voiced your general support for creating a one-stop shop for homeland security grants and other assistance for State and local governments and first responders. A number of us on this Committee, including

Senator Levin and myself, have pushed very hard for there to be a central point of contact that State and local governments and first responders could go to get information about grant programs.

And as I mentioned in my opening statement, the Committee has approved legislation that would create a one-stop shop for first responders. It would also enact other measures to streamline the grant process. In addition, the Department is moving in that direction, as well. The legislation would require the creation of a single toll-free number for grant assistance. It would reduce duplicative grant applications and required plans.

Based on your experience in Colorado and elsewhere, what specific steps would you take to bring about a consolidation as far as having a single point of contact for our first responders and our State and local governments? How can we improve the ability, since you have seen it from the State level, of our governments and first responders to get quick and accurate information about potential grants?

Ms. MENCER. Yes, Madam Chairman. I do believe that there are things that can be done and I think ODP, the Office for Domestic Preparedness, has already started down that path, to look at ways to streamline this process. And certainly in the State of Colorado, ODP has been a tremendous help already with answering our questions concerning all the grant issues on this very important issue of homeland security.

I think the Office for Domestic Preparedness will continue to do that and I understand there is some discussion at the Department of Homeland Security to further streamline the process, as you have suggested.

Chairman COLLINS. Are you aware that it is now a 12-step process to actually get the money down to the local level? It requires the filing of a report saying how you want to spend the money, then that is approved, then another report, and another plan have to be filed. Will you commit to working very closely with this Committee to simplify the process? We are committed to getting our bill through, but it may be next year before it is signed into law.

Ms. MENCER. Absolutely, Madam Chairman. I would be committed to working with this Committee on a number of issues and that is one of them. I think streamlining is always something that we should strive for, as long as we maintain the funding for the maximum amount of good and make it efficient and effective.

Chairman COLLINS. I also want to bring to your attention a very popular grant program that has worked extremely well in my State and in States across the country, and that is what is known as the Fire Act. It gives grants directly to local fire departments so they can improve their capacity to respond in the event of a terrorist attack. And with the help of the fire fighting community, we drafted our bill very carefully to preserve the administrative structure of the Fire Act program because it has a minimum of bureaucracy. It works extremely well and there is a high satisfaction level.

The administration has suggested a different approach. We want to make sure that this program, which is working so well, while it is being transferred to a new location, continues to be administered as a separate grant program. When something is working

very well, we ought to preserve that and not jeopardize it by folding it into other grant programs that aren't working as well.

If confirmed, will you work to preserve the administrative structure of the Fire Act?

Ms. MENCER. Madam Chairman, I believe it is the intent of Governor Ridge—Secretary Ridge at this point to maintain the Fire Act as it presently stands no matter where it happens to reside. I think it is a good program. I have heard from my fire fighting associates that, indeed, it is a program that they like, and I am sure that it will maintain its integrity no matter where it goes.

Chairman COLLINS. The next issue I want to discuss with you has to do with the formula for allocating homeland security grants. As you can imagine, whenever we discuss formulas or the allocation of resources in Congress, those of us who represent smaller States often have different views than those of us who represent more urban populated States.

What I want to point out to you, since you will undoubtedly be involved in the discussions on this, is that each and every State, regardless of its size, has certain homeland security needs and vulnerabilities. The State of Maine is a perfect example of that. We only have 1.2 million people, but we are a border State with Canada. We have an extensive coastline that makes us vulnerable. We have a very busy port that is the second-largest port by tonnage along the East Coast.

We know that two of the hijackers on September 11 started out in Portland, Maine. I think that illustrates that we have to be very careful about allocating funds purely on a per capita basis—and some have argued that that is how it should be done.

Larger States already receive substantial homeland security funding from other programs, such as the High-Threat Urban Area Grant Program, which I support, and which the legislation that I have authored would expand upon. In fact, during the past 2 years, Congress has provided more than $1 billion for high-threat funding, which benefits only a handful of States, and that amount is roughly a third of the total homeland security assistance to State and local governments.

Second, not all potential threats directly target people where they live. A recent edition of *Government Executive* magazine focuses on the growing threat to our agricultural sector and our food supply. The article notes that foot and mouth disease is the most infectious virus known, for example, and that it could be spread by the wind more than 170 miles in aerosol form. The article also cites a National Defense University report that states even a limited outbreak of foot and mouth disease in this country affecting not more than 10 farms could have a $2 billion impact.

I wanted to take some time to give you that background because I have a feeling you will be hearing alternative views from some of my colleagues. But I want to make sure that I have your commitment that you will carefully assess this whole area of funding and not adopt what I believe would be a simplistic approach based on population that would not take into account the real vulnerabilities and threats that different States may have.

Another example would be a State like Delaware, a very small State but one that has a large Air Force base in Dover, a speedway.

I know my colleague, Senator Carper, is very concerned about the issues that his State would face, too.

Do you share my belief that we need to consider a range of risks, threats, and vulnerabilities in addition to population when deciding how to effectively allocate homeland security grant funding?

Ms. MENCER. Yes, Madam Chairman. I believe you are absolutely correct. It is a complicated issue that deserves a more measured response, and certainly not a simplistic approach. And I think you are absolutely right that you have to take in many factors when you look at how to protect a State and what needs to be protected. You have to consider its vulnerability, the threat level against that State, and also its critical infrastructures and its population. So it is a multi-faceted view of how to protect these States.

Chairman COLLINS. Thank you. Senator Lautenberg.

OPENING STATEMENT OF SENATOR LAUTENBERG

Senator LAUTENBERG. Thank you, Madam Chairman, and welcome, Ms. Mencer. It is nice to see someone here who is so well qualified and we look forward to your service.

I doubt that establishing the Department of Homeland Security has not been a gargantuan undertaking, but I was concerned about something—and by the way, you have a Colorado connection and I have two. They are two little grandchildren, my son's children who were born in the mountains in Edwards, Colorado, just a beautiful place. We have a real fondness for Colorado and understand Colorado builds great character—— [Laughter.]

So we are happy to see you here.

Chairman COLLINS. Senator, excuse me for interrupting you, but I would note that she has New Jersey relatives with her that she introduced, so I knew you would want to know that and——

Senator LAUTENBERG. From where? Maybe we can wrap this up. [Laughter.]

Senator LAUTENBERG. Where are you from?

Mr. MENCER. Pennsauken.

Senator LAUTENBERG. Oh, Pennsauken, more in the Southern part of our State. It is nice to see you here, and for sure, that is another plus, Ms. Mencer. [Laughter.]

That was good judgment. [Laughter.]

There was an article in Sunday's *Washington Post* entitled, "The Government's Hobbled Giant," and it talked about the slow start and the confusion and suggests low morale at DHS. Now, the President initially resisted creating the Department and we hope that he is fully committed to giving it the resources that it needs to do the job that it must. I am interested in what you have had to say on the subject.

I am also interested to learn what our nominee thinks about the adequacy of the formula ODP used to allocate first responder grants. Last March, ODP made an additional allocation of $566 million. Small States received anywhere from $4 to $9.78 per capita. New York, ground zero on September 11, received $1.40 per capita. Only California did worse on a per capita basis. My home State of New Jersey lost 700 people on September 11, received $1.69 per capita when the nationwide per capita average was $1.98.

Now, Congress is partially to blame for the allocation formula used since the PATRIOT Act requires that each State, regardless of size, receives 0.75 percent of the total funding. That means that nearly 40 percent of it gets doled out in equal allocations. The Chairman talked about a bill that she has to improve the ODP grantmaking. Unfortunately, the bill does not fix the small State minimum, nor does it require that the population density be incorporated into the allocation formula.

So I hope that you will be able to agree with us that S. 1245 needs to be fixed so that we can reduce the enormous per capita disparities in the ODP's first responders grants, disparities that I, frankly, cannot justify to my constituents, many of whom were directly affected by the tragedy of September 11.

I am concerned that in the nearly 2 years since September 11, the Bush Administration has failed to direct and assist States in developing a comprehensive threat assessment, which is of immediate importance to local and State Governments, as you surely know based on your own experience. If confirmed, what can you do to help expedite these Federal-level assessments and to help the States and the locals to develop their own comprehensive threat assessments or threat evaluation?

Ms. MENCER. Madam Chairman, Senator Lautenberg, that is kind of a multi-faceted question and I will try to take them as I remembered them.

As to the morale in the Department of Homeland Security, I certainly haven't been there, but I certainly haven't noticed anything in the individuals that have been working with me through this confirmation process.

Senator LAUTENBERG. You saw the story in the paper?

Ms. MENCER. I saw the version that was printed in our *Denver Post,* yes.

Senator LAUTENBERG. I see.

Ms. MENCER. Yes, but that is all I have seen, but I have not witnessed that at all.

As to the formula process and trying to assess what a State needs and what kind of funding should be distributed, as I said earlier, I think it is a multi-faceted process and it is my understanding that the Department of Homeland Security is presently working on revising a formula—the formula, revising it so it is more comprehensive and takes into account a lot of factors.

Senator LAUTENBERG. The threat assessment, I think, is the most important. I mean, if there is ever a vulnerability that has been identified——

Ms. MENCER. Right.

Senator LAUTENBERG [continuing]. It is our region, New York-New Jersey region, and——

Ms. MENCER. Yes, sir, and they also are working—I know we are working very hard in Colorado to do a threat assessment now that is due to the Office for Domestic Preparedness by December 31, and that is working with our State, Federal, and local law enforcement and first responder community to do certainly a comprehensive and complete threat assessment.

Senator LAUTENBERG. Would you comment on the effectiveness of the color-coded homeland security system? I have had some signifi-

cant doubts about it because it is so non-specific that people don't know what to do. I get calls in the office from constituents asking, "Is it safe to plan a wedding in New York? Can we visit this place or visit that place? Do we dare do it? These are friends of children, grandchildren. So I say, yes, you can't not conduct your normal life. What do you think about the homeland security system—and I understand there is some review taking place there, is that true?

Ms. MENCER. Yes, sir. It is my understanding it is under review currently. In the State of Colorado, I can tell you that we have made decisions based on what we perceived as our threat in our particular area by consulting with all of our partners in the State. I am certain that my former colleagues at the FBI would certainly, if there were specific threat information, let that be known to any area that might be more susceptible or the subject of a threat. So I am fairly confident that if there were specific information, it would be passed, then we must devise—each State must determine how are you going to react to these threat levels, and that is what we have done in Colorado.

Senator LAUTENBERG. Yes. I think that the system was originally designed to reach those who are responsible for the law enforcement side, the whole security agenda, and as a consequence, there was some comfort taken, well, the governor would know and the head of the State police and the local police departments and emergency units. But again, because of the confusion that it brought, and without any direction or any warning as to what you do when the threat level is raised, what you don't do, do you keep your kids home from school, don't go to the doctor, don't go to work, all of those things.

But, Madam Chairman, we have a very good nominee here and I am sure that she will pass with flying colors. I just want her to remember that New Jersey has specific vulnerabilities in our attempt to protect the entire country. Thanks for being here. The job, though complicated, is one that has to be done and we are sure that you will lend excellent leadership to it.

Ms. MENCER. Thank you.

Chairman COLLINS. Thank you. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Madam Chairman.

First, let me welcome our nominee. We congratulate her, and we look forward to her speedy nomination.

Our Chairman has raised a number of issues with you which are very important issues which I think all of us have a great interest in, including the question of the administration of Fire Act grants, and I understand that your answer to that is that they will continue to be administered in the same way even though they are located in a different place. Does that mean that the Fire Act grants would still go directly to fire departments?

Ms. MENCER. Just to clarify, I believe, Senator, it is Secretary Ridge's intent to maintain them as they are. I am, of course, not privy to those discussions, have not been to this point, so that is something I think I will be looking forward to working with and to looking at that issue if I am confirmed.

Senator LEVIN. Is it your belief, then, from what you know and have been informed of that the Fire Act grants would still go directly to fire departments?

Ms. MENCER. I think, presently, that is the intent. I, of course, again, am not privy——

Senator LEVIN. As far as you know. I understand.

Ms. MENCER. As far as I know.

Senator LEVIN. OK. That is fair enough. On the one-stop shop issue, I again congratulate and commend our Chairman because she has been a leader in this effort to try to get the Department to have an 800 number, to have a one-stop shop, because there is a huge amount of confusion and uncertainty out there and they need our local communities, fire departments, responders, they all need to have one place, one number where they can go and get information and find out where applications are going to be filed. I know it is forthcoming and I would hope that, when confirmed, that you would speed up that process.

Ms. MENCER. I think that Secretary Ridge has expressed that he is also looking for a one-stop shop to enable the States to have a central location to refer all their questions, all their grant information to, and I believe that is his intent.

Senator LEVIN. What we have seen, I am afraid, so far, however, is some real storm clouds here in terms of funding. As I read the numbers, the administration has actually requested less for first responders in the 2004 budget than in the 2003 budget when we add together the Office of Domestic Preparedness budget with the fire grant program budget. In 2003, the total of those two programs was $4 billion plus, and it is $3.5 billion, slightly more than $3.5 billion in the 2004 request. And that, it seems to me, is a real underfunding.

We will have the debates over formulas, which are perfectly normal around here and understandable, but it seems to me when it comes to the overall funding of first responders, that we are way underfunded. There was a report issued by the Council of Foreign Relations detailing the inadequacy of Federal funding for our first responders entitled, "Emergency Responders: Drastically Underfunded and Dangerously Unprepared." It concluded that an additional $20 billion is needed to adequately fund first responders, and that is $16 billion more than is being provided in the 2003 budget.

I am wondering whether or not you will be weighing in on that issue. Do you have any feelings on that issue?

Ms. MENCER. I think it is always a concern, how safe is safe enough and how much money do you need to do what you have to do to protect the country, and I think that will always be an ongoing debate.

I think we have seen in the State of Colorado more money coming in than we have ever seen, and it has made a tremendous difference and will continue to make a tremendous difference. And yes, I would be committed to working to try to determine how safe is safe enough.

Senator LEVIN. And would you be committed to trying to obtain adequate funding for our first responders?

Ms. MENCER. I think we absolutely have to ensure that we put the money where it can do the maximum benefit and make sure we are efficiently and effectively doing that.

Senator LEVIN. And that we have adequate funds to do that?

Ms. MENCER. I think that is part of the whole interpretation of that, is to make sure the funding is adequate to protect our citizens.

Senator LEVIN. Now, on the formula issue, obviously, there are some differences depending on what States we represent, but there is a common theme, I think, which is that funding ought to go where there are vulnerabilities and threats. There are States with small populations which have greater threats than some States perhaps with larger populations. The Chairman's State, with a long seacoast, for instance, that is a real vulnerability. The other vulnerabilities and threats that she has identified in Maine are real. The other small States have their own vulnerabilities. Delaware is frequently mentioned. It has vulnerabilities.

If we allocate funds based on vulnerability and where threats are, I am happy. The problem is when we go beyond that and have an arbitrary formula, that is where we get into difficulty. Now, traditionally, we have done that. We have had a so-called small State minimum that has been guaranteed to every State, separate and apart from what vulnerabilities and threats will be. That doesn't mean there are no vulnerabilities and threats, it just means as a base, that we have provided funding to all States.

Traditionally, it has been somewhere between half of one percent guaranteed to each State and zero, and there are dozens of programs, over 50, where that formula is being used, up to half of one percent, down to nothing.

In this particular program, it is three-quarters of one percent, which is, I think, unique except perhaps for one other grant program. And so the issue is whether or not there is going to be that kind of an arbitrary allocation not based on specific threats or vulnerabilities and that is where there are obviously differences here between us.

I would like to read to you the Federal Funds Information for States, which is a leading organization that analyzes State grants, Federal grants to States, which says that the structure of the 0.75 minimum as a base represents a departure from the traditional small State minimums, which are typically 0.50 or less, in other words, half of one percent. And so that is what I hope the Department is going to be looking at when they decide what they are going to do. In fact, I think we have on record a statement previously by the governor that he is going to be looking at this whole issue and, indeed, is going to try to make a rational allocation of funds which is based on vulnerability, based on threat to the maximum extent possible. We are going to rely on him and you to do just that, because a minimum State formula just means one that is in keeping with traditions around here to the extent that we have one. But to the extent possible, maximally, based on our vulnerabilities and based on threats.

By the way, under the current formula, just to give you one example, Texas receives $4.50 per capita. Wyoming receives $32 per capita. I don't think it ought to be per capita distributed. I happen

to agree that that is not a rational system, either, because of the need to distribute based on threat rather than on some arbitrary formula. But that is the result. It is kind of hard to think that Wyoming has got greater threats than Texas. Maybe, but it doesn't jump out at me that way.

And finally, on this same point that the Council for Foreign Relations writes that Congress—well, I think I just quoted that, should work to establish a system for distributing funds based less on politics and more on threat. I just mentioned a few minutes ago that Secretary Ridge has stated he has got problems with the current formula and is working on a better way to allocate ODP dollars for 2004.

So I think we all want to feel comfortable that we can count on you to the maximum extent possible to be looking at a formula here which does provide some funds for all States, because all States have some threats and all have administrative costs. But to the maximum extent possible, it is based on where the maximum vulnerabilities and threats are. Can we count on you for that?

Ms. MENCER. Yes, sir.

Senator LEVIN. Madam Chairman, thank you.

Chairman COLLINS. Thank you, Senator Levin.

As you can see, Ms. Mencer, it is going to be a challenge to be head of the ODP, but it is an extremely important position.

In view of the hour, I am going to just submit some additional questions for the record for you to answer.

I do want to make just one final point on the funding issue, not to get into a big debate with my distinguished colleague, but that is as you tackle this issue, I think it is very important that you look at all of the sources of homeland security funding and how they are allocated. And to give you an example, for the funding for fiscal year 2003 that was included in the omnibus bill, just two States, California and New York, received half of all the high-threat funds.

So as you review these issues, it is important that you look at all of the funding and how it is allocated. The high-threat urban area funding obviously benefits only a handful of States, but that has been set aside to deal with large urban areas. But only two States get more than half of that funding. So I think it is important to take a broad look.

And the final comment I would make is that Secretary Ridge has testified both before this Committee and the Appropriations Subcommittee that he supports a base-level of funding for every State because we want to make sure that every State meets a certain baseline level of capacity, and I would assume that you would agree with the Secretary's position on that matter.

Ms. MENCER. Yes, ma'am.

Chairman COLLINS. Thank you.

I would like to thank you for not only appearing before the Committee today, but also for being willing to take on this task. You really have the ideal background, your many years as an FBI agent, your work at the Department of Public Safety at the State level, and the work that you have done as a private consultant in training local law enforcement in antiterrorism efforts. It gives me

great confidence that you are the ideal person to head this very important agency. We look forward to working very closely with you.

Without objection, the record will be kept open until 5 p.m. tomorrow for the submission of any additional questions from Committee Members or statements for the record.

This hearing is now adjourned.

[Whereupon, at 12:29 p.m., the Committee was adjourned.]

APPENDIX

PREPARED OPENING STATEMENT OF SENATOR NORM COLEMAN

This hearing marks another important step in the creation of the Department of Homeland Security. The creation of the Department represents one of the largest management challenges in our Nation's history. It is important that we move expeditiously to approve the President's nominees.

We all know that much of the responsibility for protecting our Nation falls on the State and local officials who live in each community. The Office of Domestic Preparedness plays a vital role in making sure that these jurisdictions have the equipment and training they need to do their job. It is also responsible for ensuring that Federal dollars are spent wisely according to a coordinated State plan.

Ms. Mencer seems to be well qualified for the post to which she is nominated. Her experience in law enforcement gives her a good appreciation of the challenges facing our Nation. Her experience in State Government should make her more appreciative of the need to make it easy for State and local governments to work with the Federal Government.

Today's hearing also gives us an opportunity to address the operation of the State and local grants program. This committee has already passed legislation sponsored by Senator Collins that would give the Department more guidance in how to distribute the grants to first responders. This same legislation would require the Department to implement changes that would make it easier for local governments to identify and apply for grant programs that would meet their needs. I hope that the Department will begin working on these initiatives immediately.

PREPARED OPENING STATEMENT OF SENATOR DANIEL K. AKAKA

Thank you very much Madam Chairman. I would like to welcome Ms. Mencer and her family this morning.

Ms. Mencer, as the former Executive Director of the Department of Public Safety for the State of Colorado, you appreciate that homeland security policies must address specific needs to States and municipalities to be effective.

The Office of Domestic Preparedness (ODP) is in the process of working with States to assess and improve preparedness. However, a number of concerns have been expressed, which lead me to believe that more needs to be done to ensure that ODP grant programs address the homeland security needs of each State.

Homeland security grant allocations should fully account for all who are present within a State. Grants are currently based on population data from the U.S. Census Bureau. With respect to Hawaii, the high military and tourist populations in the State are not counted for grant allocation purposes.

As a result, Hawaii does not receive full funding for the entire population the State must protect. In fact, Hawaii has the largest per capita population of military service members of any State. As the Department of Homeland Security develops its strategy to revise the current grant allocation process, it is imperative that Hawaii and other States' military and tourist populations are included in any new grant formula.

ODP grant programs also must ensure maximum flexibility for States to address unique homeland security needs. States are currently required to budget for grant aid in advance and wait for reimbursement once Federal funding is received. This is a considerable burden which diverts State resources and prevents effective program planning.

Federal assistance should be tailored to meet each State's homeland security needs. For example, Weapons of Mass Destruction training grants are often only available for preparedness and awareness training, whereas in some States like Ha-

waii, officials have already received initial training and require advanced operational guidance. In another example, requirements for grant funding to be allocated solely to support interoperable communications systems results in barriers for basic equipment upgrades to ensure reliable communications among first responders. We need to ensure that States have the flexibility to sue these funds as needed.

In an effort to address many of my concerns, I am pleased to join Chairman Collins in seeking enactment of S. 1245.

Ms. Mencer, thank you for being with us. I look forward to working with you to ensure that Federal homeland security policies administered by ODP fully meet the unique needs of each State.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Constance Suzanne Mencer nee Herd, Constance Suzanne Wooddell (first married name)

2. **Position to which nominated:**

   Director of the Office for Domestic Preparedness

3. **Date of nomination:**

   June 16th, 2003

4. **Address:** (List current place of residence and office addresses.)

   home:
   office: 700 Kipling St., Denver, Colorado 80215

5. **Date and place of birth:**

   November 15, 1947, Oak Park, Illinois

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Married, John Fredrick Mencer

7. **Names and ages of children:**

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

   1961-1965 Upper Arlington High School, Upper Arlington, Ohio, diploma
   1965-1968 the Ohio State University, B. of Sc. In Education
   1977-1978, graduate work, University of South Florida, Tampa, Florida

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

   1968-1972 high school and junior high Spanish teacher, Worthington School District, Worthington, Ohio
   1973-1974, junior high Spanish teacher, Pinellas County School District, St. Petersburg, Florida
   1974-1976 high school and junior high Spanish teacher Parkway School District, Creve Coeur, Missouri
   1976-1978 junior high Spanish teacher, Pinellas County School District, St. Petersburg, Florida
   1978-1998 Special Agent, Federal Bureau of Investigation, Mobile, Alabama, New York City, Washington,D.C., Denver, Colorado
   1998-2000 private consultant
   2000-present Executive Director, Department of Public Safety, State of Colorado

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

Appointed and served on the Governor's Columbine Review Commission
Appointed and serve on the Governor's Judicial Discipline Commission
Serve on the High Intensity Drug Trafficking Board
Serve on the Peace Officers' Standards and Training Board
Serve on the Governor's Clemency Board

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Upon retirement from the FBI, taught classes for the FBI with the Institute of Intergovernmental Research on Weapons of Mass Destruction to local law enforcement throughout the U.S.; taught a class in fall of 2002 for the University of Colorado, Denver campus, Public Affairs Department on Terrorism and Weapons of Mass Destruction.

12. **Memberships:** List all memberships and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

Member of the Alpha Phi social sorority 1966-1968, the Ohio State University
Member of the Pi Lambda Theta National Honor and Professional Association for Women in Education, 1968
Current member of the Society of Former Special Agents of the Federal Bureau of Investigation

13. **Political affiliations and activities:**

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

None

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

None

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 5 years.

July, 1998 to July, 2003:

01/2000: Bill Owens 1st Anniversary Inaugural Ball	$300.00
10/01/2000: Republican National Committee	100.00
05/30/2001: Citizens for Bill Owens	250.00
05/04/2002: Republican National Committee	150.00
09/05/2002: Friends of Jane Norton	200.00
09/24/2002: Colorado Federation of Republican Women (lunch)	18.00

09/28/2002: Beauprez for Congress	200.00
10/07/2002: Allard Leadership Committee	250.00
01/2003: Center for the New Century, Gov. Owens	500.00
03/28/2003: Bob Beauprez for Congress	50.00
	$2,018.00

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Member of the Pi Lamda Theta National Honor and Professional Association for Women in Education, 1968
Received Gates Foundation Scholarship to attend the JF Kennedy School of Government, State and Local Executive Session, June, 2003.

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

Wrote a letter to the editor, Rocky Mountain News, as a member of the Jefferson County Task Force for School Safety, formed after the Columbine Shooting, was asked to write a series of four articles summarizing the proceedings of the task force for the community newspaper, Life at Ken Caryl.

16. **Speeches:** Provide the Committee with four copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

See Attachment

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I believe I was chosen because I am a 20 year veteran of the FBI, with a concentration in the last 10 years on terrorism and I have oversight now of Public Safety for the State of Colorado, supervising the Colorado State Patrol, the Colorado Bureau of Investigation, the Division of Criminal Justice and the Office of Preparedness, Security and Fire Safety.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I believe that my background in both the federal system, concentrating on the supervision of terrorism investigative matters and my current position in state government concerning public safety provides the expertise and experience necessary to deal with issues concerning the safety and security of the Untied States from a federal, state and local perspective.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or

business organizations if you are confirmed by the Senate?

Yes

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No

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

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

None

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

Yes

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any

federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

No

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

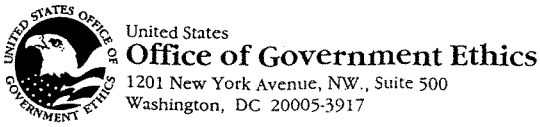
Kathleen L. Dameron being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

C. Lyanne Mercer

Subscribed and sworn before me this 1st day of July, 2003

Kathleen L. Dameron
Notary Public

expires 2-27-06



July 2, 2003

The Honorable Susan M. Collins
Chair
Committee on Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Constance S. Mencer, who has been nominated by President Bush for the position of Director, Office of Domestic Preparedness, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated June 19, 2003, from Ms. Mencer to the Department's ethics official, outlining the steps which Ms. Mencer will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of her confirmation date with the actions she agreed to take in her ethics agreement.

Based thereon, we believe that Ms. Mencer is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Amy L. Comstock
Director

Enclosures

Speeches

Speech to the Graduating Class of Cadets
From the Jefferson County Sheriff's Office

I am very happy and honored to be here with you today.

You are truly the best and the brightest. the cities and counties you represent put their faith and trust in you every day to keep them safe and you haven't failed them.

I have always believed that safely is like your health, you never miss it, never even think about it, until you lose it. We, as a nation, have lost our health, our sense of well-being. We will get it back, and when we do, it will be because of the efforts of each and everyone of you, because you are our leaders.

People look up to you, respect you and honor the sacrifices you make, that's why you're sitting here today. It takes a very special person to raise their hand and swear to uphold the laws of this land with a badge and a gun. Yes, there are some who don't respect that, but there are many, many more who do.

There are some in this world who thought that be destroying two buildings in New York and the building that represents our military might, would tear apart the fabric of our country. They thought that they made holes in that fabric with their evil deeds. They thought that the cloth that holds us together, that binds us one to another was tattered and worn and easily destroyed. On Sept 11th, they pierced that fabric,

but I say today that I have seen it rewoven, I have seen it mended quickly. It was mended by the firefighters and policemen and women who raced into the twin towers and perished with all those who were the unwitting victims of this cowardly, dastardly act.

The fabric of this county strong again. It is red white and blue with a field of stars and it hangs from almost every porch of every house in this nation. The fabric of this country is as strong as the resolve and the courage of the men and women in this room.

We are proud of our country, proud of the citizens who have given so generously to help those who were victimized, proud of our law enforcement who every day risk their own lives to serve and protect others. They underestimated who we are and what we are. We have developed strength from our adversity, resolve from our pain and courage from our tears. What they did not know about us when they attacked on Sept 11 is we are not measured by the strength of our buildings but by the strength of our character

I ask all of you to continue to live your lives as examples to others, as mentors to those who admire you, as faithful and trusted members of your community. Thank you for all you have done, for all you will do. Thank you on behalf of the citizens of this state, of this nation.

God Bless America.

Graduates, families, friends, members of the Arvada Police Department, the Breckinridge Police Department, the Colorado State Patrol, the Jefferson County Sheriff's Department, the Lakewood Police Department, the Silverthorne Police Department, the Thorton Police Department and the Vail Police Department. I am so very honored to be here with all of you today. What a great privilege it is to speak before a group of men and women who have chosen law enforcement as their profession. You should all be very proud of the wonderful accomplishment you have achieved. You have overcome obstacles, performed every task given to you , and made your friends and family very proud of you.

You have entered into law enforcement, one of the most noble of professions, but make no mistake, it is a profession that does not come without considerable risk. It is not an easy thing today to raise your hand and swear to uphold the law of this land. You will face problems and adversities that those who came twenty years or even ten years before you never imagined. Today, terms such as weapons of mass destruction, and nuclear, chemical , biological warfare have become part of our vernacular. The astounding innovation is weaponry and terrorist tactics are a testament to not only mans ingenuity, but further evidence of man's inhumanity to man. It is an unfortunate contradiction that at a time when law enforcement has an amazing repertoire of high tech tools at its

disposal, that those who would commit crimes have and equal or better access to sophisticated tools of evil for their use.

It is not an easy profession you have entered, but it is one that has more honest, dedicated, loyal, sincere individuals than any other. You will find friends that will be there for you the rest of your life, and you for them. You will have challenges that will fill you with pride when you meet them, and in meeting those challenges, you will earn the gratitude of your peers, your superiors, and the citizens of this state.

To each of you sitting here today, ready to receive your shield and the best wishes of your friends and family, I wish for you many things that at times may be difficult to attain, but things that you should always strive to acquire.

I wish you COURAGE. the courage to uphold the laws of the land, courage to do what's right, in spite of real temptation to do otherwise. Courage to protect someone's life, even if it means endangering your own.

I wish you PRIDE. Pride in your profession, pride in your fellow officers, pride in your family, pride in the beautiful state of Colorado, pride in your country, and pride in yourself for all you have accomplished to be sitting here now.

I also wish you STRENGTH. Strength to carry out the mission of the Police and Sheriff's Department to which you are assigned, Strength to be brave in the face of adversity, strength to live your life as an example to others. Strength to adhere to the principals of integrity and honesty that form the foundation of law enforcement.

I challenge all of you to adhere to the high standards of each of your departments, to emulate those who came before you and those who are working beside you.

I challenge all of you to wear the badge proudly, for that badge is a symbol to all, a symbol of courage, a symbol of pride **~~strength~~, and a symbol of ~~pride.~~** strength
To all of you - We are not measured . . .

Congratulations to you ~~all.~~ first graduating class of the Colorado Police Corps.

Speech to the Colorado Press Association

In 1993, a rental truck drove into the lower garage parking level of the World Trade Center. It never came out. It took six hours to evacuate the buildings. New Yorkers couldn't believe that anyone could destroy these two strong buildings. That time they were right. Just in case lightening does strike twice, and no one really believed it would, New York began to plan and prepare for another such disaster. In the World Trade Centers they studied and practiced evacuation drills, they put lighting in the stairwells that were dark in 1993. They planned and practiced and thought that they would never need to use those plans. Hadn't they caught, tried, and convicted those who perpetrated the act?

We saw on September 11th that, indeed, lightening can strike twice in the same place, and the second time, the second time those two strong buildings were no match for the cunning and evil of those who would destroy them. Today, I would like for you to focus on something other than the devastation, the deaths, the destruction. I would ask that you think not of the over 3,000 people who lost their lives, but think for a minute of the 18,000 people who lived that day. Think of the 18,000 people who were able to go down those lit stairwells, think of the 18,000 people who were able to put into practice those evacuation drills. Think for a minute that those two buildings were evacuated this time on September 11th, in just two hours. Think how many lives were saved by the planning, the procedures that were in place.

While we cannot think in terms of the people in those buildings as being "lucky", certainly on that day, because of the planning, procedures, and equipment that were put into place because of what happened 11 years before, many more lives were saved.

It can't happen here. How many times have we naively thought that, hoped that, assured others of that. I think we only need to look as far as Columbine High School to know that violence can happen anywhere. It can take many forms, shapes, and come to us in many ways. I am often asked, "give us a profile of a terrorist" and I say, that there is no such thing. The face of terror can speak with an Arabic accent, and Irish brogue or it can sound like a disgruntled former soldier who didn't get into special forces and decides to blow up a federal building. The face of terror can be homegrown or foreign, they can be any color, shape or size. Their motives may be political or social, real or imagined, but the consequences of their actions are just as devastating. They can strike anywhere, anytime. The key element of their success is surprise. We don't know when, we don't know where, we don't know how. It can be a cell or group or it can be a lone individual. We can take out the ruling Taliban in Afghanistan, but can we realistically take out every person who would commit a violent act because they disagree with American foreign policy, with our government?

What do we do? Do we convince ourselves that it can never happen here? Do we say, it's an east coast problem...a federal

problem, we don't want to overreact. 3,000 people dead, 18,000 saved. Do we want to be prepared so we can save lives? How do we do that?

We plan. We determine what in this state needs to be protected: the water supplies; the dams; the reservoirs; the tunnels the electrical power supplies; the seat of government; the public buildings; our telecommunication system; our military installations. We coordinate among all the agencies in the state, the police chiefs, the sheriffs, the fire chiefs, the federal agencies. We make coordinated response plans, and to ensure that these plans will work, we practice them. Where do we do this, we do this in every part of the state. Not just the front range, not just the obvious areas of high population. We look beyond the obvious and look at the things in this state that we need to protect, no matter where they are. This is no easy job. This goes beyond the approach that we have used successfully through the years to address tornadoes, floods and fires. Why do we have to go beyond that approach? Why do we need an Office of Preparedness and Security? Because we can never be too safe or too prepared. Because the terrorists have gone beyond what even Hollywood imagined.

When our firefighters respond to an explosion and a fire, we want them trained to be alert for signs of sabotage. To not only put out the fire and save victims, but to be alert to protecting the evidence at a crime scene. We want our police officers to have the best

equipment, the best training. We want all entities in law enforcement and the fire chiefs to be able to communicate. to share information, to not only give information, but to receive information. We want federal, local, and state agencies to have the tools that they need to communicate and to respond. We want their response plans to be integrated. We want them to have practiced and rehearsed their response plans so much that it becomes second nature to them. We want all of our critical infrastructure components to be identified and protected. Because, ladies and gentlemen, if it can happen in New York, if it can happen in Washington,D.C. if it can happen in Oklahoma City and if it can happen in Littleton, Colorado, it can happen anywhere. We need to be ready when it does.

Speech at the Governor's Star Awards Luncheon
Honoring Outstanding State Employees

All of us can recall with perfect detail where we were and what we were doing on September 11th, 2001. We know exactly who we heard it from and what was said. We all watched in horror as the two mightiest buildings on the New York skyline came down in a black ugly cloud of smoke and debris.

The images after that horrific scene are the ones that I try now to remember first when I think of that day. I try to remember the firefighters, policemen, office workers and passersby who went rushing to the aid of the victims of this senseless tragedy. I try to remember those brave firemen, police and co-workers who went up the stairwells, who assisted office co-workers out of that crippled building.

All of us here todaywonder what would we have done in that circumstance. Would we have been brave enough to go back in, to go up the stair well when everyone else was coming down? Would we have disregarded our own safety and thought only of helping others? I think we would all like to answer yes. Hopefully we will never have to find out.

What I do know is that each of you who are being honored here today would have done just that. How do I know this? I know because you help others all the time, everyday. It doesn't take a disaster, a catastrophic event, a time of emergency for each of you to show your compassion, your caring for your fellow man. You are constantly trying to improve someone else's life.

Since September 11th, we have honored the law enforcement officers, the first responders, and we have also honored the men and women of the flight that went down in Pennsylvania. The people on that plane weren't people wearing badges and

carrying guns. These were everyday businessmen and women. They were fathers and mothers, knowing that they could make a difference. They knew what had to be done and they did it.

You, all of you being honored here today, are just like those brave ordinary people on that jet who became extraordinary. You take time out of your busy lives to make a difference to others. You give of yourselves, of your time, your energy, to make others a little happier. It's easy to write a check for that charitable donation. It's much harder to give of your own time and energy to help someone else.

Of all the phone calls I received after September 11th, the calls that impressed me the most were the ones from people who just wanted to help. To provide whatever skills they had to make this state safer. They didn't ask, what's in it for me? what do I get in return for helping? I was grateful for their desire to help.

President Bush understands the value of volunteering and the need for Americans to contribute and has created the Freedom Corps. We will be working with Governor Owens to make the Freedom Corps a reality in this state, so that all those who called, all those who would like to help in some way will have a way to do just that.

There has been a tradition of volunteering in this country for centuries, from the early days of barn raisings, quilting bees, nursing the sick, and rolling bandages, to the present day service organizations, boys and girls clubs, church community outreach groups, mentoring and tutoring programs, and soup kitchens. We have a proud, strong tradition, but we can always do more.

If each one of us convinced two more people to volunteer their time to helping others in some way, think of the difference we could make. If each one of you could convince two people to help someone less fortunate, think of the impact you would have. It doesn't have to be a formal, organized group dedicated to a cause. It can be just checking on an elderly neighbor, fixing her screen door, baby-sitting for a single parent who needs a night off.

I think the young girl whose life ended abruptly, unjustifiably, and horrifically, Anne Frank, put it simply and eloquently, " How wonderful it is that nobody need wait a single moment before starting to improve the world."

The Governor wishes me to convey how very proud he is of all of you for everything you have done to make this world a better place. Congratulations on your dedication to your fellow man, on your willingness to devote your time and effort to helping others. You are the measure of just how great our country is, for what we have shown the world since September 11th is something we have known all along, we are not measured by the strength of our buildings, but by the strength of our character.

Thank you and keep up the great work you are doing.

U.S. Senate Committee on Governmental Affairs
Pre-hearing Questionnaire for the Nomination of C. Suzanne Mencer
To be Director of Office for Domestic Preparedness
Department of Homeland Security

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Director of the Office for Domestic Preparedness (ODP) at the Department of Homeland Security (DHS)?

No. 1 Response

I believe I was nominated because of my 20-year service in the FBI, with an emphasis on International and Domestic Terrorism matters and my three years of service to the State of Colorado as the Executive Director of Public Safety and the Governor's Homeland Security point of contact. I also believe that Colorado's approach to protecting the state is in keeping with Secretary Ridge's stated objectives for the nation.

During my time as the Executive Director of the Colorado Department of Public Safety, I have worked on several projects and initiatives important to law enforcement and first responders in general and homeland security specifically. I was instrumental in the creation of Colorado's Office of Preparedness, Security and Fire Safety. This office was created without adding additional employees and without an appropriation from the Colorado General Assembly to coordinate Colorado's efforts to prevent, plan for and respond to potential terrorist threats.

Under my leadership, Colorado established the Infrastructure Advisory Committee, made up of business leaders, law enforcement and other state agencies, to examine critical infrastructures in Colorado.

While in the FBI in Denver, I served as Chair of the Interagency Threat Analysis Group for the Summit of the Eight, held in Denver in 1997, was the Chair of the Intelligence and Threat Analysis Committee of the Denver Consortium of the White House Commission of Aviation and Safety and Security and created the Denver FBI's Joint Terrorism Task Force.

I presently serve on the Peace Officers Standards and Training Board, the High Intensity Drug Trafficking Board, the Judicial Discipline Commission and the Governor's Clemency Board.

I currently manage a department of over 1200 employees and an operating budget of 195.5 million. The Colorado Department of Public Safety is divided into several different divisions: the Colorado State Patrol, the Colorado Bureau of Investigation, the Office of Preparedness, Security and Fire Safety, and the Colorado Division of Criminal Justice.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No. 2 Response

No, there were no conditions implied or expressed to this nomination.

3. What specific background and experience affirmatively qualifies you to be Director of ODP?

No. 3 Response

As stated above, my background in terrorism from a federal investigative/supervisory perspective, as well as my present position in the State of Colorado working with local law enforcement and the first responder community concerning grants and terrorism response and preparedness would enhance my capabilities in the role of Director of ODP. I have worked diligently in the State of Colorado to ensure that we develop a regional approach to planning, training and assessing the needs of Colorado.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Director? If so, what are they and to whom have the commitments been made?

No. 4 Response

I have made no commitments to anyone or any entity with respect to policies and principles.

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

No. 5 Response

I have signed an agreement that if I assume the position of the Director of the Office for Domestic Preparedness, I will have no influence or be involved in any decision making concerning any awards to the State of Colorado for the period of one calendar year.

II. Role and Responsibilities of Director of the Office for Domestic Preparedness

1. How do you view the role of Director of ODP?

No. 1 Response

The key role for the Director of ODP is to help prepare the nation's state, tribal , territorial and local governments to prevent, respond and recover from acts of terrorism. This is achieved through grants, training and exercises. The key to providing this critical service to state, tribal, territorial and local governments in an effective and efficient manner is first having a good understanding of what their needs are and perfecting a process that addresses those needs in the most expeditious way. Therefore, one of the key roles of the Director should also be one of a liaison between the federal leadership of Homeland Security and the first responder community.

2. How do you plan to communicate to the staff at ODP on efforts to address relevant issues?

No. 2 Response

Communication is the key to any successful business or government operation. I have always used regular meetings and e-mails with my previous staffs. I also believe that no one person has all the answers and listening to the staff is critical to the success of any undertaking.

3. What do you believe are the most important responsibilities of the position to which you are nominated and what challenges do you expect to face?

No. 3 Response

As stated above, serving as the liaison between the Department of Homeland Security and the interests of the first responder and law enforcement community is a key responsibility. Ensuring that the funds requested and expended are essential and necessary to the protection of the nation is a critical responsibility as well.

4. What objectives would you like to achieve in your tenure as Director? Why do you believe these objectives are important to ODP, DHS and to the government?

No. 4 Response

A regional approach, at all levels of government, is an essential objective. The ability to prevent the use of a weapon of mass destruction, or the detonation of such a weapon, by definition overcomes the capability of any one community. Therefore, the state plans and requests for funding to implement those plans should be geared to a regional approach. Terrorists are not bound by city, county or state boundaries.

Consequently, the plans that are put into effect and the funding allocated for those plans, equipment and training should address a regional approach.

III. Policy Questions

1. How will the functions of ODP directly relate to the mission of the Border and Transportation Security directorate (securing the nation's borders and transportation systems)?

No. 1 Response

I believe that the role of the Office for Domestic Preparedness' (ODP) is to serve as the nation's primary emergency responder preparedness agency. As such, ODP will continue to provide assistance to state and local emergency response agencies and personnel through a variety of means, including training, exercise support, equipment acquisition funds, and technical assistance. To achieve this mission, ODP will work closely with other components of the Department of Homeland Security, other federal agencies, and state and local officials.

2. How will the functions of ODP be distinct from the functions of other organizations within DHS, such as the Federal Emergency Management Agency (or FEMA)? In what areas will ODP take the leadership role? In what areas will ODP play a more supportive role for other DHS organizations? How will this be determined?

No. 2 Response

Consistent with the Homeland Security Act of 2002, ODP will be the lead Federal agency within the executive branch for terrorism preparedness. By serving as a portal for grants, training, exercises, and technical assistance, first responder communities will be able to learn and easily apply for DHS terrorism-preparedness grants, an issue that has been repeatedly identified by Congress as a necessity. ODP will interface with other organizations within DHS, including FEMA and TSA to ensure that a coordinated effort is put into place. This will require close coordination in the areas of grants policy and administration, training and exercises to ensure that our State and local communities receive appropriate assistance to ensure the safety of our nation's citizens.

Assessing Preparedness

3. Do you agree with the special task force of the Council on Foreign Relations on the urgent need for preparedness standards? What role should ODP play in determining and implementing such standards, and a related needs assessment?

No. 3 Response

I agree that the development of standards for emergency response is extremely important, especially because these standards serve as a means of protecting the first responders. I know that for several years, a number of federal agencies, including the Departments of Justice, Commerce, and Defense, have been addressing the issue of developing scientifically valid standards for emergency response equipment. I believe the Department of Homeland Security (DHS) and the Office for Domestic Preparedness (ODP) also recognize the critical importance of standards.

It is my understanding ODP has implemented and continues to develop additional standards and guidelines for the equipment, training and exercise support funded through its grants. These standards and guidelines have been and are being developed collaboratively with subject matter experts within ODP, other federal agencies and the state and local emergency response community. They are intended to ensure that an appropriate preparedness baseline is achieved nationally for response to incidents of terrorism involving weapons of mass destruction. Compliance with many of these guidelines and standards is achieved by tying receipt of grant funds to their acceptance. I believe compliance will be further validated through an enhanced monitoring program currently under development by ODP.

Also, ODP sponsors and is active in the Interagency Board (IAB) for Equipment Standardization and Interoperability. The IAB is comprised primarily of local responders, but is also represented by state and federal officials. ODP has used the standardized equipment lists developed through the IAB as the basis for the equipment it allows grantees to purchase through its grant programs. The IAB has also taken an active role in supporting the development and implementation of federal equipment and operational standards. I believe that ODP will continue to work with other DHS components as well as other federal agencies, and professional emergency response associations and organizations (ie: the International Association of Firefighters and the National Sheriffs Association) to continue this critical effort and make standards available to the field as quickly as possible.

4. How is DHS helping first responders assess their risks, capacity needs, and readiness? Is DHS ensuring that first responders (particularly state and local governments) are using a common method and standards for assessing risks, determining needs, and measuring readiness?

No. 4 Response

The Office for Domestic Preparedness, working in collaboration with several other federal agencies, updated the State Homeland Security Assessment and Strategy (SHSAS) Process to allow states, territories, and the District of Columbia to update their previous assessments and strategies, which were conducted between 1999 and 2001. Earlier this year, ODP provided each state, territory, and the District of Columbia comprehensive guidelines and handbooks on the updated assessment and strategy process. The handbook provided easy-to-follow direction and information on how to complete the assessment and strategy.

5. What intelligence and other information is DHS providing to first responders to assist them in making these assessments? Is DHS providing enough information and intelligence to help them make these assessments?

The Department of Homeland Security is actively engaged in sharing information on a regular basis with State and local governments. The Office of State and Local Government Coordination (SLGC), in conjunction with the Department's Information Analysis and Infrastructure Protection Directorate has a number of protocols in place for sharing information.

Most consistently, the SLGC through the Department's Homeland Security Operations Center, provides daily terrorism situational awareness information via e-mail to State Homeland Security Advisors, which I currently receive. The SLGC also conducts bi-weekly conference calls with all State Homeland Security Advisors, providing an opportunity to relay relevant homeland security-related information to our counterparts as well as to receive information, thoughts, concerns, and ideas. I am a regular participant on those calls.

The SLGC is also actively engaged in communicating with State and local governments via electronic mail, sending copies of informational material that may be of benefit; these include threat advisories, press releases, and other information as deemed appropriate. Electronic mail communication typically takes place at least two to three times per week.

Through its desk within the DHS Operations Center the SLGC serves as a focal point for State and local governments to contact DHS with questions, concerns, ideas, and requests. Calls are relayed throughout DHS as deemed appropriate and ensure that our State and local counterparts are able to speak to or receive information from the appropriate personnel within DHS in a timely and accurate manner.

The SLGC is also working closely with other Department entities that have established relationships with State and local governments. These relationships help to ensure that DHS is aware of what each entity is doing as it relates to State and local government interactions.

The Department of Homeland Security, in collaboration with the rest of the Intelligence Community, is committed to producing unclassified tear-line reporting whenever possible, to convey threat and vulnerability information to State & local officials. DHS has taken major steps forward to support the sharing of classified information, when necessary, by clearing many of the State Homeland Security Advisors, and processing the paperwork of those who are not yet cleared, and by ensuring that all of the Governors now have a secure phone in their office and each has signed a non-disclosure agreement, allowing the receipt of information up to the Top Secret classification level. I have received both classified and unclassified threat information from the Department. I also understand that DHS is in the process of clearing an additional five people from each state, as designated by the Governor.

6. Has DHS developed guidelines, training, or other means of reliably comparing risks, capacity needs, and readiness among federal, state, and local first responders?

No. 6 Response

Yes, the Department of Homeland Security, through the Office for Domestic Preparedness (ODP), has developed extensive and comprehensive guidelines on the updated State Homeland Security Assessment and Strategy (SHSAS) Process and provided these materials to all 56 states, territories, the District of Columbia, and Puerto Rico. ODP also convened a number of regional conferences to orient and train state officials on the SHSAS Process.

Overall, I think the SHSAS Process will allow states and local jurisdictions to update their capabilities, needs, threats, and vulnerabilities assessment data to reflect post-September 11, 2001 realities, as well as to identify progress on the priorities outlined in their initial homeland security strategies. This information will greatly serve the states, and provide an invaluable resource for federal officials as they determine future homeland security needs and requirements. While ODP provided extensive guidelines on how to conduct their assessment and develop their strategy, it is up to each state to conduct these efforts and provide the information to ODP. The completed assessment and state strategy are a requirement of states receiving their Fiscal Year (FY) 2004 ODP funds. To facilitate this process, ODP has made a wide range of technical assistance available to states.

7. Were there any critical lessons to be learned from the recent TOPOFF II exercise in Seattle and Chicago? How does a large exercise such as this help DHS and state and local governments be better prepared for future events?

No. 7 Response

The Department of Homeland Security's (DHS) Office for Domestic Preparedness (ODP) is currently in the process of finalizing the Top Officials (TOPOFF) 2 (T2) After Action Report (AAR). At this point, DHS is controlling access to the T2 exercise findings in order to prevent any premature release of the data prior to Secretary Ridge's review and approval of the final report. It's my understanding that the report is scheduled for completion on September 30, 2003.

Changing Threat Levels

8. What guidance, if any, has DHS provided to federal, state, and local responders with regard to the actions they should take or consider when the national threat level increases? For example, from yellow to orange? If there is guidance, is it the same across the nation, or does it vary by location?e.g., for major ports, sparsely populated areas, etc.? What additional guidance do you believe DHS should provide to states and localities about the appropriate response when the threat level is increased?

The purpose is to alert the public generally that for the time being we think the threat of an attack is higher. It's primary purpose is to alert the law enforcement and security personnel around the country that they need to enhance security at certain venues around the country, at certain bridges, at certain tunnels, at certain chemical plants, and the list is fairly extensive.

It's my understanding that nearly every governor from every state and territory has adopted the threat advisory system, and we look forward to working with you in the months ahead trying to make improvements. I need to remind my colleagues in public service, however, that there is a -- that there is enough flexibility in this system, as it presently exists, to give very specific warnings to a city, a state, a region, a sector of the economy, if the information we receive is specific enough to generate that kind of warning.

I realize many questions have been raised regarding the current system and, if confirmed, this is an area in which I would focus.

Role of Office for State and Local Government Coordination

9. How will this office work with state and local jurisdictions to get their input and buy-in for policies, measures, standards, etc.?

The Office of State and Local Government Coordination is actively engaged in working with State and local first responder communities, as well as elected and other appointed state and local officials to achieve input and buy-in on a number of endeavors.

One of the most visible endeavors the Office has been involved in with State and local governments is the development of the National Response Plan (NRP). In order to ensure that the NRP incorporates the expertise, lessons learned, and needs of State and local Homeland Security partners, the Office of State and Local Government Coordination, in concert with the NRP Task Force, has assembled a NRP State and Local Working Group. This working group will review and assist in the refinement of the NRP and National Incident Management System (NIMS) initial working drafts and processes. The group consists of first responder community members representing state, local, and tribal interests.

The Office of State and Local Government Coordination is also actively involved in attending and participating in first responder association forums, conventions, and briefings and ensures that all DHS components, including ODP, are briefed on the feedback provided by state and local officials at those meetings. The Office also conducts regular bi-weekly conference calls with all of the nation's State Homeland Security Advisors to discuss homeland security issues.

10. What are the plans and timeframes for getting this office fully operational?

The Office of State and Local Government Coordination became operational on January 24, 2003 and has been further standing-up and improving its operations since that time.

11. What priorities has DHS set for this office to improve coordination and collaboration with our state and local partners?

The Office of State and Local Government Coordination is communicating with the State Homeland Security Advisors on a daily basis. The office also regularly communicates with local officials from around the country via telephone, e-mail and conferences. This interaction is designed to better understand the needs of the state and local communities and to ensure better policy and operational coordination between DHS and state and local governments. The Department held a national meeting with all of the State Homeland Security Advisors in February 2003 and is also hosting another meeting in October of 2003; this second meeting will focus on information sharing and will involve representatives from the Department's Information Analysis and Infrastructure Protection Directorate.

12. Please describe the respective roles of ODP and the Office for State and Local Government Coordination, how those roles relate to one another, and how the two offices will coordinate their activities with respect to states and localities.

ODP frequently interfaces with each State's grants administering agency and first responder communities to ensure that grant funds are administered properly for developing plans, conducting training and exercises, and acquiring equipment. The Office of State and Local Government Coordination frequently communicates with State and local Homeland Security Advisors to relay national-level developments with respect to policies, intelligence, threats, and other issues that may impact the safety and security of our nation's citizens. These two different audience members at the State levels are closely interrelated and often overlap; consequently, ODP and the Office of State and Local Government Coordination have been engaged in close working relationships with each other to ensure that information is relayed and coordinated at the Federal, State, and local levels.

Standards and Performance Measures

13. By what standards will you measure the performance and accountability of ODP programs and initiatives?

- What are the strategic goals and objectives of ODP?
- What performance indicators and associated measures are being/to be used?
- What role will state, local, and private sector agencies play in meeting these objectives? How were these roles determined?

No. 13 Response

The mission of the Office for Domestic Preparedness (ODP) is to develop and implement a national program to enhance the capacity of state and local agencies to prevent and respond to incidents of domestic terrorism, particularly those involving weapons of mass destruction (WMD), through coordinated training, equipment acquisition, technical assistance, and support for Federal, state, and local exercises. ODP's mission and ensuing responsibilities are tremendously vital to the safety and security of this nation. To fulfill this mission, ODP oversees a multi-billion dollar budget. If confirmed by the Senate, I will work to ensure that that these funds are spent wisely, efficiently, and most importantly, effectively.

14. In what specific areas will DHS and ODP be setting standards and establishing performance measures for states and local governments to meet when spending federal dollars?

No. 14 Response

The Office for Domestic Preparedness (ODP) has implemented and continues to develop additional standards and guidelines for the equipment, training and exercise support funded through its grants. These standards and guidelines have been and are being developed

collaboratively with subject matter experts within ODP, other federal agencies and the state and local emergency response community. They are intended to ensure that an appropriate preparedness baseline is achieved nationally for response to incidents of terrorism involving weapons of mass destruction. I believe that compliance with many of these guidelines and standards is achieved by tying receipt of grant funds to their acceptance. I also understand that compliance will be further validated through an enhanced monitoring program currently under development.

15. The inability of first responders from different departments or form neighboring jurisdictions to communicate with one another in an emergency has been a persistent and dangerous problem. What efforts are underway to ensure that money spent by state and local governments on communications and other equipment will result in systems that are compatible and interoperable between first responders, state and local jurisdictions, and with federal agencies that might respond to a given incident?

No. 15 Response

Interoperability of communications systems among different emergency response agencies is a critical issue. Both the Public Safety Wireless Network and the National Task Force on Interoperability, of which I was a member, examined this issue and reached similar conclusions: that true communications interoperability is critical to responding effectively, and that it is an extremely expensive undertaking.

The Department of Homeland Security, through the Office for Domestic Preparedness, ' administers that State Homeland Security Grant Program (SHSGP), Part I and II. Under both of these programs states, territories, and the District of Columbia (DC) are allowed to use their allocated funds to purchase equipment that supports communications interoperability. ODP provided significant funds under SHSGP, Part I and II. Under Part I, ODP provided $500 million for states, territories and DC, to purchase equipment, and support training, exercise, and planning activities. Under Part II, ODP provided $1.3 billion for the same purpose areas. Interoperable communications equipment is one of twelve allowable equipment categories that states can choose to use their allocated SHSGP, Part I and II funds. The states must determine how they will allocate their funds. This determination is based on a comprehensive needs, vulnerabilities, threats, and capabilities assessment, and the development of a comprehensive statewide domestic preparedness strategy.

True interoperability among emergency responder agencies is an inherently expensive undertaking. The federal government is working to improve the nation's interoperable communications system. However, in the absence of a single, integrated communications network, there are a number of interim solutions that several states and localities are turning to, including the use of the ACU-1000 Modular Interface/Interconnect System and the TRP-1000 Transportable Radio Interconnect System. Both of these technologies are designed to interconnect dissimilar radio systems, telephone, and cellular units to allow multi-agency communication. As you may be aware, Denver, Colorado received a TRP-1000, which helped the state make significant progress in addressing our internal interoperability issues.

16. More specifically, how will DHS ensure that states prepare and maintain communications and interoperability plans to make certain that state and local government purchases of new communications equipment are interoperable on a regional and state-wide basis? Also, how will DHS ensure that federal agencies procure communications equipment that is compatible with state and local equipment? What role will ODP play in this process?

No. 16 Response

In order to receive funds under the Office for Domestic Preparedness' State Homeland Security Grant Program, states are required to complete capabilities, needs, threats, and vulnerabilities assessments, and use this information to develop statewide domestic preparedness strategy. The statewide assessment allows each state to determine its needs and requirements, which give it the ability to plan for current and future equipment purchases, including communications equipment. The assessments lead to development of a statewide domestic preparedness strategy, which guides each state's spending of its allocation funds. These funds can be used to purchase interoperable communications equipment. In an effort to foster improved communications interoperability, ODP states in the SHSGP guidance and application kit that all radios purchased with ODP funds should be compliant with a set a standards called ANSI/IIA/EIA-102 Phase I (Project 25). These standards were developed to allow for backward compatibility with existing digital and analog systems and provide for interoperability in future systems.

17. What do you understand the respective roles of the Office of Science and Technology (which has been given the primary responsibility for leading the effort to attain interoperability) and ODP to be with respect to interoperability? How do you intend that ODP will coordinate with the Office of Science and Technology on this issue?

a. Please identify the staff resources DHS has dedicated to assisting states and local governments with this effort and the specific kinds of assistance they are providing.

b. What process is DHS using to determine the appropriate level of federal funding necessary to help achieve interoperability?

c. What are the specific goals and timetables that have been established to achieve interoperable communications systems?

We all appreciate how critically important communications interoperability is to the nation's response capability. It is my understanding that at this time conversations and planning efforts are underway between ODP and the Science and Technology Directorate. Without question, both ODP and the Science and Technology Directorate have critical roles to play in this issue. Should I be confirmed, this is undoubtedly an issue that will have my full attention. I will work

with all parties involved, including the Science and Technology Directorate and, most importantly, the first responders, to address this vital issue.

Homeland Security Planning and Allocation Process

18. What steps are currently taken to ensure local input in the homeland security plans required by the Office for Domestic Preparedness?

No. 18 Response

Prior to issuing applications and guidelines for its State Homeland Security Grant Program, ODP convened a number of regional conferences. These conferences were held earlier this year for the purpose of gaining feedback from the field on different homeland security issues and concerns. It's my understanding that this information was used by ODP to formulate the SHSGP, Part I and II program. Additionally, ODP convened a number of regional briefings prior to the initiation of the Urban Areas Security Initiative Program. Like the SHSGP conferences, these allowed for direct interaction between ODP and state and local officials.

19. Do you believe that local governments and first responders have sufficient input into the planning process and allocation of homeland security funding?

No. 19 Response

Yes, I think that the Office for Domestic Preparedness goes to great lengths to ensure that state and local officials and emergency responders have meaningful input into the planning process and the allocation of homeland security funding. The State Homeland Security Grant Program and Urban Areas Security Initiative Conference are a prime example of this input. Additionally, state and local officials, including emergency responders, take the lead in developing each states assessment and strategy. This is the first, and perhaps most important, step in the planning, grant making, and funds allocation process. Input into the assessment and strategy development process is essential because it allows state and local officials and emergency responders to determine how the state will distribute the funds it receives from ODP.

20. In a recent hearing before the Senate Government Affairs Committee, first responders stated that they have received little funding from ODP's State Homeland Security Grant Program. How does the Department ensure that this funding reaches the local level and addresses the diverse needs of local first responders?

No. 20 Response

As a condition of the grants it provides under the State Homeland Security Grant Program, Part I and II, states are required to pass through 80% of the total award amount to units of local government. To ensure that these funds receive local communities in a timely manner, the states

are required to pass through funds within 45 days of the receipt of the award from ODP. States are also required to provide an obligation certification when the funds have been obligated to the units of local government.

21. The Office for Domestic Preparedness is currently working with states and localities to update the three-year homeland security plans required by the Department. How many states have completed these plans? What barriers exist to ensure that all states complete these plans?

No. 21 Response

The updated state homeland security strategies are not due to the Department of Homeland Security's Office for Domestic Preparedness (ODP) until December 31, 2003. Therefore, I don't believe that any states have provided completed, updated strategies to ODP. Completion and submission of an updated strategy is a requirement, though, for states' receiving their Fiscal Year 2004 funding from ODP. This has been clearly communicated to the states, so I imagine they are working to complete their updated strategies by the December 31 deadline.

22. What is ODP's role in supporting development of state homeland security plans and in evaluating those plans?

No. 22 Response

In order to provide information and assistance to the states on the development of their state assessments and strategies, the Office for Domestic Preparedness (ODP) convened six regional conferences. These conferences, which were held across the county earlier this year, allowed ODP to orient and train states on the online data assessment tool. These assessments are now being used by the individual states to develop their updated domestic preparedness strategies.

ODP administers a robust technical assistance program designed to assist states in preparing their needs and vulnerabilities assessments and their statewide domestic preparedness strategies. ODP makes available to states a wide range of technical assistance programs, including a toll-free technical assistance help line and a number of different training sessions that address both the assessment and strategy development process. ODP provides this assistance at no-cost to the requesting state, and can provide this assistance through a number of different venues, including one-on-one advisory sessions, conferences, or training sessions.

Also, ODP provides financial assistance to states as part of the State Homeland Security Grant Program (SHSGP). States are allowed to use a portion of the SHSGP funds to cover expenses related to the state homeland security assessment and strategy process.

It's my understanding that ODP provided direct technical assistance to a number of states in order to assist them in developing their assessments and ensuing strategies.

23. The Homeland Security Act gives ODP the responsibility for assisting and supporting the Secretary "in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments." What role should ODP play in working with states to ensure that their homeland security plans accurately reflect risk to that state, so that both ODP and the recipient states can allocate their homeland security funds most appropriately? [What are the respective roles in this regard of ODP and the Directorate of Information Analysis and Infrastructure Protection, whose Under Secretary is charged with carrying out assessments of the vulnerabilities of key resources and critical infrastructure and the performance of risk assessments?]

No. 23 Response

The development of state assessments and domestic preparedness strategies, as well as the allocation of limited state funds in an effective manner is critical. Therefore, to assist the states, territories, and the District of Columbia in their efforts, the Office for Domestic Preparedness (ODP) administers a comprehensive technical assistance program. In doing so ODP has and will continue to work closely with IAIP on the issue of vulnerability assessments and the best way fund state and local governments to reduce those vulnerabilities.

To assist states develop accurate, comprehensive needs, vulnerabilities, and risk assessments, ODP developed and provided every state, territory, and the District of Columbia comprehensive guidelines and handbooks. Additionally, ODP convened a number of regional conferences to orient and train states on the development of their assessments and strategies.

Also, earlier this year, ODP sent to all state administering agencies (SAAs) an information bulletin outlining the different types of technical assistance available to the states as they undertook the assessment and strategy development process. As part of this effort, ODP supports several technical assistance options, including a Rapid Assistance Team (RAT) and a toll-free help line. The RAT provides telephone and on-site assistance to SAAs in identifying statewide and local equipment needs, developing equipment procurement plans, preparing grant application documents, and other related support.

A primary role of ODP is, and should continue to be, the provision of technical assistance and guidance to the states in the development of their statewide domestic preparedness strategies.

24. How does the development of state homeland security plans fit within the assessment and protection activities envisioned by the National Strategy for Homeland Security and the National Strategy for the Physical Protection of Critical Infrastructures and Key Assets? What actions are being taken, for example, to ensure that the critical infrastructure identified in state plans is consistent with that identified at the national level and that duplicative asset inventories are not being conducted?

No. 24 Response

The Office for Domestic Preparedness' (ODP) original assessment and strategy process provided vital information to the states, ODP, and the national leadership critical to evaluating the needs of emergency responders. This information contributed to, and is reflected in, the President's National Strategy for Homeland Security. The updated SHSAS process, and the subsequent information that it provides, will not only serve as a planning tool for states and localities, but it will further assist the Administration in better allocating federal resources for homeland security. The completion target of the SHSAS process is December 31, 2003, and states are required to provide these updated strategies in order to receive FY 2004 funding.

From first-hand knowledge, I can tell you that the assessment and strategy process is aligned with and focuses on the six critical missions defined by the National Strategy, including: intelligence and warning, border and transportation security, domestic counterterrorism, protecting critical infrastructure, defending against catastrophic terrorism, and emergency preparedness and response.

25. The CFR report recommends that states develop a prioritized list of homeland security requirements in order to ensure that federal funding is allocated most effectively. Do you support this recommendation? If so, what steps should ODP take to ensure that such prioritized lists for allocation of grant is in place either as part of the state's homeland security plan or in some other form?

No. 25 Response

As I stated previously, it is essential that states conduct comprehensive needs and vulnerabilities assessments, and from these develop of statewide domestic preparedness strategy. The assessment and strategy process allows states to determine where there are preparedness deficiencies and subsequently where critical resources and funds need to be allocated. The Office for Domestic Preparedness' (ODP) original assessment and strategy process provided the states invaluable planning and budgetary information. I fully expect that ODP's updated assessment and strategy process will provide further invaluable information. Moreover, ODP will require states to have completed assessment and strategies in order to apply for and receive their Fiscal Year 2004 funds. I strongly support this requirement.

26. How does DHS determine what homeland security responsibilities should be financed primarily by the federal government and what responsibilities should be financed by states and localities? In other words what is the federal role in financing homeland security capacity that is not the responsibility of states and localities? What is ODP's role in this assessment and determination?

No. 26 Response

I believe the federal government and state and local governments have a shared responsibility with respect to homeland security efforts. State and local governments should take responsibility to directly fund a portion of the costs associated with domestic preparedness, including personnel

costs. The federal government's role should largely be geared to capacity building at the state and local level. While the federal government should provide funds for the purchase of specialized equipment, it should not be expected to be the sole source of a state's overall equipment acquisition budget. Additionally, the federal government should also be responsible for providing funds to the states to undertake exercises and attend training courses and develop a training capacity. On of the most important federal roles, however, is to provide guidance, subject matter expertise, and technical assistance. The Office for Domestic Preparedness (ODP) provides comprehensive guidance to the states for the development of state assessments and state homeland security strategies.

27. What are your views about the proper burden-sharing among the federal government and state and local governments with respect to the costs of equipping and training first responders and preventers?

No. 27 Response

I believe the federal government and state and local governments have a shared responsibility with respect to homeland security efforts. State and local governments should take responsibility to directly fund a portion of the costs associated with domestic preparedness, including personnel costs. The federal government's role should largely be geared to capacity building at the state and local level. While the federal government should provide funds for the purchase of specialized equipment, it should not be expected to be the sole source of a state's overall equipment acquisition budget. Additionally, the federal government should also be responsible for providing funds to the states to undertake exercises and attend training courses and develop a training capacity. On of the most important federal roles, however, is to provide guidance, subject matter expertise, and technical assistance. The Office for Domestic Preparedness (ODP) provides comprehensive guidance to the states for the development of state assessments and state homeland security strategies.

28. Do you believe that ODP, as it does now, should administer the Department's principal grant program that provides funds to states, localities, and first responders? If so, why do you believe that ODP is better equipped than FEMA and other Department components to administer this program?

No. 28 Response

Yes, I think that the Office for Domestic Preparedness should serve as the principal federal agency to provide support and assistance to the nation's emergency responder community. ODP has a long history of working with and advising state and local emergency responders. This familiarity has allowed ODP to establish close partnerships with state and local officials, which have proven extremely beneficial to federal officials and state and local officials charged with preparing the nation against any future terrorist attacks. Additionally, ODP has been assisting and working with our nation's emergency responders longer than any other federal agency. Now that ODP and FEMA are part of one Department, DHS, it will be easier for the two agencies to

improve upon their coordination of programs, which both administer on behalf of the first responder community.

29. There are many more demands for emergency response assistance than can be funded. How is DHS setting funding priorities among competing demands? How will DHS ensure that large investments of taxpayer dollars are wisely applied by state and local governments? How is ODP working to assure that clear priorities are set and funds used to effectively and efficiently implement those priorities?

No. 29 Response

The Office for Domestic Preparedness (ODP) recently initiated the updated State Homeland Security Assessment and Strategy Process (SHSAS). This is an updated assessment and strategy development process, which was originally conducted in 1999. ODP coordinated the revision, development, and implementation of the SHSAS with federal agencies, including the FBI, Centers for Disease Control and Prevention, Department of Agriculture, and the Transportation Security Administration, as well as state and local representatives, and state and local associations. This coordination has ensured that the updated assessment and strategy process is aligned with and focuses on the six critical missions defined by the National Strategy, including: intelligence and warning, border and transportation security, domestic counterterrorism, protecting critical infrastructure, defending against catastrophic terrorism, and emergency preparedness and response. The assessment and strategy process will allow states to determine how best to allocate their funds, and will provide the federal government information essential to making homeland security budgetary and policy decisions.

30. How will DHS balance the needs of its state and local partners in providing both additional resources and more flexibility while maintaining adequate focus on and accountability for the national goal of attaining the highest level of preparedness?

No. 30 Response

Balancing the needs of States and localities with the overarching needs of the nation has often been characterized as a difficult task. Actually I do not believe this to be as difficult as many believe. Secretary Ridge has often stated, defending the homeland begins with defending the hometown. If we remember the Secretary's guidance, the needs of states and localities and the needs of the nation are not that different. The key to ensuring that these sets of needs continue to compliment each other is to maintain ongoing communication between all jurisdictions and agencies involved.

31. The CFR report on first responders recommends that homeland security grants be made on a multi-year basis to facilitate long-term planning and training. Do you believe that ODP should make multi-year grants?

No. 31 Response

Multi-year grants are certainly an option. However I am hesitant to endorse this type of change without being able to further study the option and discuss this in more detail with DHS staff, as well as with State and local officials.

32. Do you believe the Office for Domestic Preparedness State Homeland Security Grant funding is sufficiently flexible? Would you support expanding eligible program areas beyond exercises, planning, equipment, and training?

No. 32 Response

The grant programs administered by the Office for Domestic Preparedness (ODP) are best characterized as being both flexible and focused. ODP's funds are focused in that they are very specifically targeted to assisting the States and localities prevent, prepare for and respond to acts of terrorism. This focus is appropriate given ODP's mission and the purposes for which its funds are appropriated. At the same time these funds are flexible in that ODP provides the States and localities latitude in meeting their own specific needs and requirements. And, ODP remains committed to working with the States and localities to ensure these funds continue to meet their needs and requirements.

33. Would you support giving the Secretary and your office new authority to approve applications, on a case-by-case basis, to use funding for overtime costs associated with training and a heightened state of alert?

No. 33 Response

The use of ODP funds to pay for overtime, the conditions under which such use should be authorized, and for whom such overtime payments should be authorized, are questions that should be approached with some caution. I know that during the past year DHS has allowed the use of ODP funds for overtime when the federal government has raised the national threat level from "Yellow" to "Orange." I also know that ODP does allow the use of its funds for overtime costs associated with attending ODP approved training courses.

34. Would you support giving the Secretary and your office new authority to approve applications, on a case-by-case basis, to use funding for salaries, where a state or locality has needed to hire additional first responders in order to adequately meet its homeland security needs?

No. 34 Response

ODP's grant programs should not become emergency personnel hiring programs. If this occurs, ODP's overall mission will suffer. First and foremost, hiring programs are extremely expensive.

It is doubtful that ODP could continue to assist the States and localities in terms of training, equipment, exercises and other assistance if funds were being dedicated to hiring personnel. Further, ODP's provision of training, equipment, exercises, and other support, by improving the overall capabilities of States and local jurisdictions, provides a greater federal dollar-for-dollar benefit to the overall preparedness of these jurisdictions than additional personnel.

35. What has ODP done to assess the amount of funding states and local governments are spending on overtime related to training in comparison with the total amount of funding provided by ODP? What is the result of this assessment?

No. 35 Response

My understanding is that ODP will be looking at this issue over the next several months. Many within the Department are anxious to review this material and I know that the Department will be sharing the information with the Congress at the earliest opportunity.

36. What specific steps is ODP taking, or will it take, to ensure that the application process for homeland security grants is not unduly burdensome and that grant applications are processed quickly and efficiently? What specific assistance is being provided to applicants for homeland security grants in navigating the process? What is the average time it has taken from the initial receipt of an application until the disbursement of funds?

No. 36 Response

Although I can not speak to other states and their experience as applicants under ODP's programs, I can say that as an applicant, my experience, Colorado's experience, with ODP's application process has been very positive. ODP's electronic application system has been user friendly and ODP's technical support, including training and a toll-free hotline, has made the application process easy to access and use. In terms of Colorado's experience during Fiscal Year 2003, we received our first award under ODP's State Homeland Security Grant program 17 days after ODP received our application. Similarly we received our second award – the supplemental funds – under ODP's State Homeland Security Grant Program 14 days after ODP received our application.

37. With what Federal grant programs do you believe the ODP state grant program overlaps?

No. 37 Response

From my perspective as the head of a state preparedness agency, I do not believe there is any overlap. If anything, ODP's programs compliment other federal efforts, they do not duplicate other federal efforts. ODP's activities are very clearly focused on assisting state and local jurisdictions prevent, prepare for, and respond to terrorist events. ODP's funds, training, exercise, and technical assistance efforts, are focused on that singular mission. Further, my

understanding is that ODP closely coordinates with other DHS elements, such as FEMA, and other federal agencies such as the Department of Health and Human Services to ensure that the various programs administered by these agencies compliment and do not duplicate each other.

38. GAO has identified at least 16 federal grants that can be used by first responders, states, local governments, and fire and law enforcement officials, to buy equipment, train, run exercises, and conduct preparedness planning. (GAO testimony: GAO-03-718T). GAO testified in April 2003 that multiple fragmented grant programs can create a confusing and administratively burdensome process for state and local officials seeking to use federal resources for pressing homeland security needs. Problems arise, particularly, because, while different grant funds are designed to be used for the same purposes, the types of recipients, allocation methods, and grant requirements differ, thus making it difficult for state and local agencies to be flexible in their use of federal resources. How is the Department currently working to reduce the paperwork burden on state and local governments by simplify and streamline planning, application, reporting, and administrative requirements?

No. 38 Response

I understand the concerns raised by the General Accounting Office GAO) and I know that the Department is familiar with the report. If confirmed as ODP Director, I will work with other Department officials and ODP staff to assess, and address as appropriate, GAO's concerns.

39. What would be your strategy for establishing consistency across federal grant programs, especially those programs administered by different agencies/offices, to make it easier for states, communities, and first responders to apply for homeland security grants?

No. 39 Response

If confirmed as ODP Director I will meet with other DHS officials and my counterparts at other agencies to assess, and address as appropriate these issues.

40. Senator Collins' legislation, S.1245, would move Office for Domestic Preparedness from the Border and Transportation Security Directorate to the Office for State and Local Government Coordination in the Secretary's office. Elevating ODP's stature will begin the process of establishing a centralized location to help support our first responders. Do you support this proposal?

No. 40 Response

I have not had the opportunity to study Senator Collin' proprosal in detail, but I understand the Department has endorsed moving ODP into the Office of State and Local Coordination. If confirmed I would like to have the opportunity to further review the proposal in more detail.

41. What specific steps has the Department taken or should it take -- to establish "one-stop-shopping" for state and local authorities seeking homeland security grant funding?

No. 41 Response

First and foremost I know form my own experience in Colorado that Secretary Ridge and the entire Department is committed to assisting States and local jurisdictions whenever possible. This is a commitment the Department takes very seriously, and one that I share. If confirmed, I will work with other DHS officials, as well as state and local officials to determine how best to accommodate state and local needs.

42. There are a number of metropolitan areas -- for example, Washington, DC, New York City, Cincinnati -- whose population encompasses multiple jurisdictions and in some cases, such as these, more than one state. In what way is DHS and ODP encouraging and assisting the adoption of a regional approach to emergency response capabilities and training in these areas?

No. 42 Response

My experience in working with ODP is that DHS has consistently encouraged multi-jurisdictional and even regional approaches to preventing, preparing for, and responding to terrorist events. The clear lessons of September 11th are that no one jurisdiction can, or should, act alone. Jurisdictions must partner with neighboring jurisdictions to maximize their resources and better protect their citizens. How this is done must be driven by local requirements. ODP however has clearly encouraged states and localities to look and work beyond their own jurisdictional lines. One example is the Urban Areas Security Initiative, which targets funding to a specific region based upon population/population density, presence of critical infrastructure, and credible threats, and then requires the relevant cities, counties and the state to work together to develop an Urban Areas Security Strategy before the funds can be spent. This was done for the Denver Metropolitan Area in Colorado.

43. How will DHS monitor the use of grant funds to determine if the funds are being used to enhance state and local first responder capabilities rather than simply replacing or supplanting local funding?

No. 43 Response

As the administrator of ODP funds in Colorado, I know that ODP clearly prohibits using grant funds to supplant local funding. This non- supplanting requirement is a clear condition of the ODP awards. As a recipient of these funds I am familiar with ODP's rigorous grant monitoring efforts, which include detailed reporting requirements and site visits by ODP program and financial monitoring staff. ODP's monitoring efforts are very thorough and I expect that these efforts will continue.

44. Do you think ODP should be sponsoring research and development activities, or should the office focus solely on distributing assistance to state and local governments?

No. 44 Response

The decision as to whether the Office for Domestic Preparedness (ODP) will take an active and central role in research and development efforts is one that must be considered by the leadership of the Department of Homeland Security. I believe, however, that ODP is not simply an agency that distributes funds and assistance to state and local governments. While providing grant funds and technical assistance is a key role of ODP, I believe that ODP's more crucial role is that of a preparedness agency. ODP provides funds to states to purchase specialized equipment, but it also provides states the ability to prepare themselves to detect, prevent, and respond to any future acts of terrorism. Because of this, I believe that ODP is much more than a grant-making agency.

45. The Administration's fiscal year 2004 budget proposed to consolidate the FIRE Act within the Office for Domestic Preparedness. If the consolidation were to happen as proposed in the President's budget, how would this affect a) the peer-review process of considering grant applications as well as other existing aspects of how the program is administered; b) whether grants would continue to go directly to fire departments and whether any additional authorization from state or local officials would be required.

No. 45 Response

I do not have specific information to address the question, but I believe that the Office for Domestic Preparedness (ODP) will always strive to provide assistance to our nation's emergency response community in the most efficient and effective manner. It is also my understanding that preliminary planning between ODP and FEMA has concluded the Fire Act should be administered as it has in the past. If I am confirmed by the Senate, I will make every effort to ensure that ODP continues to work effectively with our nation's emergency responders.

46. The President's budget proposes to eliminate line item funding for the Emergency Management Performance Grant (EMPG), and consolidate this program into ODP's State Homeland Security Block Grant Program. How do you view this program as overlapping with ODP's emergency preparedness planning efforts? Do you support consolidating this program? If so, what is the rationale for eliminating this program as it is currently administered and consolidating it within ODP's state homeland security grant program?

What do you anticipate would be the impact of eliminating this program on the ability of states to staff their emergency management infrastructure?

No. 46 Response

As I understand it, DHS is very much committed to the EMPG program. The purpose of rolling it into the State Homeland Security Grant Program is to reduce the number of places state must

go to apply for and receive grant funding, but the Program would remain a vital part of the homeland security grant program.

47. In order to receive ODP grants, states have traditionally been required to contribute a certain amount in matching funds. Where such matching funds are required, what specific types of state spending or other activities do you believe should count toward the matching requirement?

No. 47 Response

The Office for Domestic Preparedness does not, and never has required a contribution or match from any state or local jurisdiction for any of its grant programs.

48. Under what circumstances do you believe homeland security grants should be provided to reimburse states and localities for training, equipment and other expenses they have already incurred and under what circumstances should grants be provided to states and localities up-front to purchase these items?

No. 48 Response

The grant programs of the Office for Domestic Preparedness (ODP) are designed to be flexible with few strings attached in order to give states the ability to fund their homeland security needs and priorities. ODP's State Homeland Security Grant Program provides funds for every aspect of a state's homeland security strategy: equipment allocation, exercise support, training, and planning and administration. Moreover, ODP gives states wide latitude in how they spend and distribute their homeland security funds.

Unspent State Homeland Security Grant Funds

49. As of July 1, 2003, how much state homeland security grant funding remained unexpended by ODP or states? Please provide an annualized amount from fiscal year 1999 to fiscal year 2003.

No. 49 Response

As I understand from the Office for Domestic Preparedness (ODP), as of July 1, 2003, there were not unspent homeland security grant funds. Since that time, ODP has also awarded all funds under the State Homeland Security Grant Program, Part I and II.

50. Why has ODP yet to expend appropriated homeland security funding that has been obligated for specific states?

No. 50 Response

Please see previous response. There are currently no unspent funds.

51. What steps will you take to ensure that, in the future, ODP promptly expends the money appropriated to it for state homeland security funding?

No. 51 Response

Having come from a State agency, I have a strong understanding of the grant application and award process. I am familiar with the grant solicitation and application process, as well as the award process. I believe this familiarity would serve me well should I be confirmed by the United States Senate. I will work hard and make every effort to streamline the grant application and award process.

I understand that Congress provided language in both the FY 2003 Omnibus Appropriations Act and the FY 2003 Emergency Wartime Supplemental Appropriations Act to facilitate the speedy deliver of grant funds. I strongly supported that language that directed states to apply for funds within 30 days of the grant announcement and required ODP to make awards within 30 days of receipt of a state's application.

Over the years, I know that ODP has strived to create a grant application process that is efficient and without red tape, and places few burdens on applicants. One major step in that direction was the automation of ODP's grant applications. This has greatly facilitated the award process since applications can be submitted, received, and reviewed quickly. I look forward to working with this Committee and Congress to consider more efficient and timely ways to provide resources and assistance to the field.

52. What steps will you take to ensure that, in the future, states promptly expend the grants ODP provides to them?

No. 52 Response

During Fiscal Year (FY) 2003, the Department of Homeland Security's (DHS) Office for Domestic Preparedness (ODP) has provided $2 billion to the states through the State Homeland Security Grant Program. A concern that I have heard in the past from local emergency response officials is that they had to wait several months to receive domestic preparedness funds from their State Administering Agency. Homeland security funds cannot make a difference if they are not getting to the local communities in a timely manner. Therefore, I strongly supported Congress language in the FY 2003 Omnibus Appropriations Act and the Emergency Wartime Supplemental Appropriations Act that required states to distribute funds to localities within 45 days of receipt of their award from DHS. I recognize that the federal government has a tough responsibility when it comes to awarding grants. It must balance its oversight role with expeditiously awarding funds. Nevertheless, if confirmed as ODP Director I will work to ensure that ODP reviews and awards funds quickly while maintaining its fundamental obligation of managerial oversight.

53. Senator Collins legislation, S.1245, proposes to allow States to free up this funding by receiving a waiver from the Secretary for resources that have been appropriated, but remain unspent. Would you support such a provision and what steps are you going to take to free up these resources?

No. 53 Response

I have not had the opportunity to study S. 1245 in detail, but look forward to reviewing the bill more closely and working with the Senate Governmental Affairs Committee on homeland security issues.

Passing Through Homeland Security Grants to Local Governments

54. In the FY03 supplemental appropriations bill, state grant recipients were required to pass through 80% of the funds they received to local governments within 45 days. Do you favor continuing to impose a 45-day time limit for distribution of funds to localities? If not, why not and what alternative time limit, if any, would you recommend instead?

No. 54 Response

I strongly supported Congress language in the FY 2003 Omnibus Appropriations Act and the Emergency Wartime Supplemental Appropriations Act that required states to distribute funds to localities within 45 days of receipt of their award from DHS. I would add, however, that I would like to hear from the field – those actually on the front line in the war against terrorism – to determine if there is a more effective method to ensure that funds are quickly and responsibly provided from the states to local emergency response agencies.

55. What steps will you take to ensure that states transfer ODP funds promptly to localities? What steps will you take to monitor whether states are passing through to localities the required portions of the grant funds and doing so within the statutorily provided timeframe?

No. 55 Response

In order for localities to receive funds more quickly, the program office must take appropriate steps to streamline the application and review process. To this end, the Office for Domestic Preparedness (ODP) worked hard to automate all of its applications. Further, I understand ODP instituted internal time frames to facilitate the speedy review and award of grant funds. For instance, to facilitate the states' receipt of funds, ODP committed to reviewing all State Homeland Security Grant Program, Part I and II, grant applications within seven days of receipt of the application. I believe this improved, streamlined system showed excellent results in ODP's awarding of the State Homeland Security Grant Program funds. To ensure that these funds are being allocated to localities within 45 days, ODP requires that the states provide obligation certifications. Moreover, ODP's grant monitoring process will determine if the funds

are being transferred to units of local government. If confirmed, I will work with ODP program managers to ensure that states receive their allocated funds in a timely manner and that states provide funds to localities in an equally timely fashion.

Direct Funding to Local Governments

56. ODP provides the vast majority of its homeland security grants, including funds ultimately intended for localities, to state governments. Do you believe local governments, in particular, major urban areas and/or areas facing significant homeland security threats, should be permitted to apply to ODP for homeland security funds? Why or why not?

No. 56 Response

This is an issue I believe that the Department must look at very carefully. My general impression however, is that direct funding for localities may be harmful in the long run in that it provides little incentive for state wide, multi jurisdictional, or regional planning. By providing funds through the States, we can continue to encourage state wide and regional planning efforts, and have the means to fund these efforts through the various state agencies. This also ensures that funds follow a state wide plan or strategy. If we provide direct funding to localities, we may run the risk of fragmenting our preparedness efforts.

57. If you do favor allowing governments to apply directly to ODP, what percentage of grant funds should be used for direct-to-localities assistance? What factors do you believe should go into determining this percentage? Under what circumstances should local governments able to apply for ODP grants?

No. 57 Response

These are details that not only require very thorough analysis and study, but are at this point, premature. Frankly we need to more fully assess the entire issue of direct funding to localities before we begin examining the details of that funding.

Past Experience

58. How has your experience with the Federal Bureau of Investigations and the Colorado Department of Public Safety prepared you for the position of the Director of the Office for Domestic Preparedness?

No. 58 Response

Combining the federal investigative aspect of terrorism, both international and domestic in the FBI, with the perspective of the training, planning and equipment needs of a state as the Executive Director of Public Safety, offers me a unique view of the gamut of issues and concerns

facing the nation today on the subject of assessing the needs and providing for those needs to combat and plan for a terrorism event.

59. According to an April 22, 2003 Associated Press report, as Executive Director of Colorado's Department of Public Safety, you decided not to release the details of the state homeland security plan because, according to an assistant attorney general cited in the article, it put the public at risk. Please describe more precisely your reasons for not releasing the plan, the specific information that you determined was inappropriate to release, and any portion of the plan or any information about the plan that you did make available to the public.

No. 59 Response

It is extremely important that the general public be kept informed as to what the threats are to the security of the nation and what measures have been taken to ensure their safety. Certainly, any information that would describe the vulnerabilities of the community should not be made public. What has been released to the public in detail by the Governor is the plan of how the state will organize its resources.

The plan details how Colorado has divided the state into regions and assesses the needs of those regions concerning equipment, training and planning. The Governor has also released Colorado's Strategy for Homeland Security. This document details the planning principles currently being utilized in Colorado.

I am committed to providing as much information to the public as possible, within the limits of federal or state law and the national security. However, information concerning specific areas within the state of Colorado that may be vulnerable to terrorist threats and how Colorado law enforcement and first responders are responding to these potential vulnerabilities should not be publicly released. It would not be prudent to make public information that might give potential terrorists specific targets or clearly define the response capabilities or modus operandi.

As a general matter, Colorado is an open records state. However, state statute specifically exempts certain information from the open records requirement. In the case of information compiled by the Office of Preparedness, Security and Fire Safety, state law mandates that records received by the Office, from any source, in connection with the performance of the duties of the Office shall be considered specialized details of security arrangements or investigations and shall not be released.

Furthermore, Colorado law gives law enforcement discretion concerning the release of some records held by law enforcement agencies. Known a criminal justice records, Colorado statute allows the custodian to deny access to records of investigations, any records of the intelligence information or security procedures, or any investigatory files compiled for any other law enforcement purposes.

For these reason, the Governor, the Attorney General's Office and I decided not to release the requested records.

60. We certainly appreciate the need to make sure certain homeland security information does not fall into the wrong hands, but we must ensure proper Congressional oversight of the Department. What efforts would you undertake to increase the availability of ODP information to Congress? Specifically, do you have suggestions for ways that ODP could provide more useful information on the distribution of grants to state and local governments?

No. 60 Response

Pursuant to a letter sent by Secretary Ridge shortly after the formation of the Department, the Governor of each state had the opportunity to designate his or her own State Administrative Agency. While for most instances this became the Homeland Security Director, some state opted for a different course. I believe this front-end management from the beginning created an environment conducive to effective grant management. It would be my intention to make any obligation or allocation information requested by Congress available to the appropriate parties. Since its beginning in 1998, ODP has always provided outstanding and very concise guidance in the administration of their grants and other programs. It is really up to each individual state or locality, however, to spend their funds in accordance with their Three-Year Homeland Security Strategic Assessment.

61. According to a November 16, 2000 article in the Denver Post, you are quoted defending the refusal of local police and sheriff's departments to release to the press certain information the article indicates are public records under Colorado law. Please explain more fully the context and rationale for your position at the time and the overall approach you will take to providing the public with access to information about the activities of your office.

No. 61 Response

My statement was not actually defending the refusal of several of the law enforcement agencies to provide immediate access to records. What I said was, " It's a tightrope that law enforcement has always walked," "It's a dilemma, Everyone wants to give the public as much information as possible, because they deserve that, but you also need to protect people, if possible." I believe that if information does not in any way endanger the life of citizens or put them at greater risk, then it should be released.

Also, as stated above, Colorado law gives law enforcement discretion to refuse release of records that pertain to criminal investigations and intelligence or security measures. Taken in context of the report, many of the requests by the media for information from law enforcement may have come under these exemptions. The decision by the individual departments to release or not release was not done in consultation with me or anyone from my office.

62. In late November of 2002, you stated in an interview with Rocky Mountain News that it was too early to understand how the creation of the Department of Homeland Security would affect Colorado. Based on your experience with the Colorado Department of Public Safety,

how would you evaluate the Department's progress? How could the Department improve its relationship and support of state and local governments?

No. 62 Response

The Department of Homeland Security has done an exceptional job of informing the states as to the progress of initiatives undertaken by DHS and also, and more importantly, solicited input from all the states and territories concerning pending initiatives and programs. By means of biweekly conference calls, frequent e-mails and face to face meetings of all the homeland security points of contacts in Washington, D.C. and regional meetings, the Department has conveyed concerns, announced threat levels and sought information from all the states and territories.

Governor Ridge has himself been on many conference calls with the Homeland Security points of contacts to inform them directly of breaking news or new initiatives. There is always a question and answer period at the end of every call. Individuals from the Office of State and Local Coordination have made themselves available as well to assist with any questions. The efforts of the Office for Domestic Preparedness have been extraordinary. They have made onsite visits and assisted and responded to our grant managers' every question.

63. As Executive Director of Colorado's Department of Public Safety, you stressed that terrorism is not just a threat in large urban areas, or an "East Coast problem." Since each state faces its own unique homeland security challenges, do you believe each state, large and small, should receive a baseline level of homeland security funding? If so, what do you believe is the minimum level of funding each state should get? Do you think that Congress should revisit the formula it now uses, borrowed from the Patriot Act?

No. 63 Response

The issue of baseline funding is complicated because of the very diverse country in which we live. This past year, Congress and ODP has made strides toward leveling the playing field between size and critical need. The most effective approach, I believe, would be a combination between a base-plus-population allocation and a separate allocation for areas of high population density, presence of critical infrastructure, and credible threat. In actuality, this is what Congress and DHS have worked together this past year to create in the State Homeland Security Grant Program to the states, and the Urban Area Security Initiative for specific major metropolitan areas across the Country. This provides both a baseline level of capacity for all the citizens of a given state as well as those urban areas. I look forward to the possible opportunity to work with you and the Secretary on this issue should I have the honor of serving in this position.

64. According to May 27, June 9 and June 10, 2003 articles in the Denver Post , Denver officials have estimated that the city needs $9 million in homeland security funding but has been provided with only a small fraction of that amount in federal funding thus far. As Executive Director of the Colorado Department of Public Safety, do you believe that Denver's assessment

of its homeland security needs is accurate? Why or why not? Do you believe that Denver's needs are typical of the homeland security needs of other cities? Do you believe that the city and state should contribute toward satisfying Denver's needs, or that the federal government should foot the entire bill?

No. 64 Response

Since 1996, beginning with the Nunn Lugar Domenici funding, Denver and the Denver metropolitan area has already or will receive over $17 million dollars in grant monies. These funds came from FEMA, DOJ, Metropolitan Medical Response System and DHS grants. This is more than just a small fraction of the grant monies. Denver has received more money than any other community or entity in Colorado. Denver will continue to receive money from the DHS 2004 grant monies. Denver has needs that surpass some rural areas, and have received funding commensurate with those needs. There are still areas of concern to the Denver metropolitan area that will be addressed by future money. Unfortunately, the budget difficulties that exist across the nation are also apparent in Denver, so financially contributing to this effort would undoubtedly be difficult. The city and the state should commit to joint efforts with the federal government that would enhance the security of the state as a whole, such as interoperability.

IV. Relations with Congress

1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

No. 1 Response

Yes

2. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

No. 2 Response

Yes

V. Assistance

1. Are these answers your own? Have you consulted with ODP, DHS or any interested parties? If so, please indicate which entities.

In an effort to be responsive to the Committee's questions, I have consulted with individuals within the Department of Homeland Security, including individuals within the Department's Office of Legislative Affairs, Office for State and Local Government Coordination, and Office for Domestic Preparedness.

AFFIDAVIT

I, C. Suzanne Mencer, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

C. Suzanne Mencer

Subscribed and sworn before me this 11 day of September, 2003.

Notary Public

Michelle D. Parrish
Notary Public, District of Columbia
My Commission Expires 11-14-2007

Pre-Hearing Questions Submitted By Senator Lieberman
For C. Suzanne Mencer
Nominee To Be Director, Office for Domestic Preparedness
Department of Homeland Security

1. A special task force of the Council on Foreign Relations recently warned that the nation has dramatic vulnerabilities in its homeland defenses and is not yet on track to repair those security weaknesses. The report, titled "Drastically Underfunded, Dangerously Unprepared," found, for example, that on average, fire departments in the United States have only enough radios to equip half the firefighters on a shift; that only 10% of fire departments have the personnel and equpment to respond to a building collapse; that policies departments in cities across the country do not have the protective gear to safely secure a site following an attack using weapons of mass destruction; and that most states' public health labs lack basic equpment and expertise to respond adequately to a chemical or biological attack. The report concluded that current levels of assistance to state and local governments may provide as little on one-third of the amount needed to achieve an adequate national homeland security capability and that government needs to invest an additional $98.4 billion over five years to equip and train the nation's first responders.

   Please comment on the CFR report on first responders. Do you agree with their assessment of the pressing needs of the first responder community? If not, why not? Please be as specific as possible with respect to funding needs, in particular with respect to the report's estimate of funds needed for interoperable equipment, firefighter services, urban search and rescue teams and public health and hospital preparedness.

Response:

The Council on Foreign Relations Independent Task Force report raised some salient issues, particularly with respect to the needs of state and local emergency responders. I believe the Administration and the Department of Homeland Security (DHS) are working to provide additional funds and assistance to states and localities in an effective, efficient, and speedy manner. Since its creation, DHS has provided more than $4 billion to states and localities to improve the nation's security. It has also provided training to thousands of emergency responders, and exercise support to cities and localities across the country. I believe the President's Fiscal Year 2004 budget request clearly demonstrates the Administration's commitment to assisting states and localities prevent, prepare for, and respond to terrorist events.

Overall, though, I believe the federal government and state and local governments have a shared responsibility with respect to homeland security efforts. State and local governments should take responsibility to directly fund a portion of the costs associated with domestic preparedness, including personnel costs. The federal government's role should largely be geared to capacity building at the state and local level. While the federal government should provide funds for the purchase of specialized equipment, it should not be expected to be the sole source of a state's overall equipment acquisition budget. Additionally, the federal government should also be responsible for providing funds to the states to undertake exercises and attend training courses

and develop a training capacity. On of the most important federal roles, however, is to provide guidance, subject matter expertise, and technical assistance.

I believe the Department of Homeland Security, through the Office for Domestic Preparedness (ODP), is providing significant assistance to our emergency response community. Additionally, DHS and ODP are providing comprehensive guidance to the states for the development of state assessments and state homeland security strategies, which allow states to determine funding priorities. This is essential since neither the federal government or the state governments have unlimited resources.

2. In distributing grants under the USA Patriot Act, the Office for Domestic Preparedness (ODP) allocated money beyond state minimums by a formula based on state population. Do you believe this is the best approach or should allocations be based also on factors other than population? If you would base allocations on factors other than population, what specific factors do you believe should be taken into account?

Response:

As he has stated publicly on several occasions, Secretary Ridge realizes the shortcomings of ODP's current formula. I believe the Congress, including Members of this Committee, has also seen these shortcomings. This is evident in the Department's Fiscal Year 2003 Omnibus Appropriations Act, which provided funds for high-threat urban areas. This was also the case with provision of funds for high-threat urban areas from the ODP formula grants in the Fiscal Year 2003 Emergency Wartime Supplemental Appropriations Act.

These are certainly good first steps, however, and I believe we need to address the cause behind the need for them. It's my understanding that the Administration is currently working to develop an updated formula for use in Fiscal Year 2004 that better takes into account threats, population density and the presence of critical infrastructure. I believe that this is essential in ensuring that the substantial monies administered by the Office for Domestic Preparedness (ODP) are distributed for absolutely maximum security benefit to the nation.

If confirmed as Director of ODP, I look forward to working closely with Congress and our nation's state and local first responders and stakeholder communities to ensure that effective and equitable funding is provided.

3. If you would base allocations in whole or in part on the threat level an area faces, how do you intend to assess and quantify the threat level consistently across widely differing areas? Do you intend to use a formula to determine the relative threat level of an area, will you evaluate each state or locality on a case-by-case basis, or will you take some other approach?

Response:

It's my understanding that the Administration is currently working to develop an updated formula for use in Fiscal Year 2004 that better takes into account threats, population density and the presence of critical infrastructure. I believe that this is essential in ensuring that the substantial monies administered by the Office for Domestic Preparedness (ODP) are distributed for absolutely maximum security benefit to the nation.

If confirmed as Director of the Office for Domestic Preparedness, I look forward to working with the Congress and the Secretary on this important issue.

3. Where grants funds are provided to states with the requirement that those funds be passed through to local governments, what steps should ODP take to ensure that the state governments distribute the funds in an effective manner so that, for example, localities with high threat levels receive proportionate and adequate funding?

Response:

Prior to issuing applications and guidelines for its State Homeland Security Grant Program, ODP convened a number of regional conferences. These conferences were held earlier this year for the purpose of gaining feedback from the field on different homeland security issues and concerns. It's my understanding that this information was used by ODP to formulate the SHSGP, Part I and II program. Additionally, ODP convened a number of regional briefings prior to the initiation of the Urban Areas Security Initiative Program. Like the SHSGP conferences, these allowed for direct interaction between ODP and state and local officials.

State strategies should reflect the input of local governments within the state. In addition to direct outreach to local governments, ODP is reviewing various means to ensure that state strategies adequately address the needs and concerns of local governments and first responders. One example is the Urban Areas Security Initiative, which targets funding to a specific region based upon population/population density, presence of critical infrastructure, and credible threats, and then requires the relevant cities, counties and the state to work together to develop an Urban Areas Security Strategy before the funds can be spent. This was done for the Denver Metropolitan Area in Colorado.

AFFIDAVIT

I, C. Suzanne Mencer being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

C. Suzanne Mencer

Subscribed and sworn before me this 11 day of September 2003.

Linda Jacobs
Notary Public, District of Columbia
My Commission Expires 07-14-2006

Notary Public

QUESTIONS SUBMITTED BY SENATOR LEVIN
FOR SUZANNE MENCER
NOMINEE TO BE DIRECTOR, OFFICE OF DOMESTIC PREPAREDNESS

ODP GRANTS

1) **State Minimum Grant Amounts.** Maintaining an adequate level of funding for first responders and streamlining the first responder grant process at the Department of Homeland Security are critical to protecting our country from potential terrorist attacks. On June 17th, the Governmental Affairs Committee reported to the full Senate, S. 1245, the *Homeland Security Grant Enhancement Act*. While this legislation contains many useful provisions to help accomplish these goals, the bill includes a state minimum funding formula of 0.75%, taken from the USA Patriot Act, which is unusually high and disadvantages more populous states. Congress enacted the USA Patriot Act in an expeditious manner, without debating the inclusion of this formula which apparently is the first in a federal grant program to provide such a high state minimum. A leading organization that analyzes federal grants, the Federal Funds Information for States (FFIS), has stated: "The structure of the 0.75% minimum as a base represents a departure from traditional small state minimums, which are typically 0.50% or less." The result is that states with smaller populations receive far more, per capita, than more populated states. For example, in the FY2003 Office of Domestic Preparedness grants program, Texas received $5.17 per capita, whereas Wyoming received $35.67. The result is that while Texas has 42 times the population of Wyoming, Texas received 1/6 of the per capita rate that Wyoming received. Allocating scarce federal dollars to states with the fewest persons, and often less risk, is not an effective or fair use of federal homeland security grant funds.

The Administration opposes the 0.75% formula for imposing an excessive state minimum and reducing its ability to target federal dollars where most needed. In testimony before this Committee on May 1st, Secretary Ridge stated that he had "come to recognize the shortcomings of our current [ODP grant allocation] formula." He also referred to efforts by the Department "to develop an updated formula for use in fiscal year 2004 that better takes into account threats, population density and the presence of critical infrastructure."

A) Does the current 0.75% state minimum, which currently determines allocation of almost 40 percent of ODP grant funding, limit the Department's ability to meet Secretary Ridge's stated goal of "ensuring that the substantial monies [provided through ODP programs] are distributed for absolutely maximum security benefit to the nation?"

As he has stated publicly on several occasions, Secretary Ridge realizes the shortcomings of ODP's current formula. I believe the Congress, including Members of this Committee, has also seen these shortcomings. This is evident in the Department's Fiscal Year 2003 Omnibus Appropriations Act, which provided funds for high-threat urban areas. This was also the case with provision of funds for high-threat urban areas from the ODP formula grants in the Fiscal Year 2003 Emergency Wartime Supplemental Appropriations Act.

These are certainly good first steps, however, and I believe we need to address the cause behind the need for them. It's my understanding that the Administration is currently working to develop

an updated formula that better takes into account threats, population density and the presence of critical infrastructure. I believe that this is essential in ensuring that the substantial monies administered by the Office for Domestic Preparedness (ODP) are distributed for absolutely maximum security benefit to the nation.

If confirmed as Director of ODP, I look forward to working closely with Congress and our nation's state and local first responders and stakeholder communities to ensure that effective and equitable funding is provided.

B) Does HSD support the high state minimum funding level of 0.75%? Does the Office of Domestic Preparedness? What is your personal view on this matter?

As I stated previously, it's my understanding that the Administration is currently working to develop an updated formula that better takes into account threats, population density and the presence of critical infrastructure. I believe that this is essential in ensuring that the substantial monies administered by the Office for Domestic Preparedness (ODP) are distributed for absolutely maximum security benefit to the nation.

C) Does HSD support changing the state minimum funding level by lowering it to 0.25% or 0.50%, or by limiting the per capita difference among states so none receives more than twice as much, on a per capita basis, than any other state? Does ODP? What is your personal view on these possible changes to the current state minimum in the ODP grant program?

It's my understanding that the Administration is currently working to develop an updated formula that better takes into account threats, population density and the presence of critical infrastructure. At this point, though, I am not prepared to offer a specific figure for a minimum funding level. It is an extremely important issue; one which I will fully explore should I have the honor of serving in this position.

D) At this time, can you please provide the Committee with an update on ODP's efforts to address shortcomings identified in the current ODP funding allocation formula?

Again, I believe the Administration is working on an updated formula that better takes into account threats, population density and the presence of critical infrastructure. At this point, though, I do not have specific details on the Administration's efforts.

2) **High Threat Area Grants.** Currently, there is no required set aside of ODP grant funding for areas facing the greatest risk of terrorist attack. S. 1245 proposes enacting a mandatory set aside of 10% of available grant funds for these high risk areas, many of which are urban areas with dense populations. For example, the 9-11 attacks targeted New York City and Washington, D.C., and Attorney General Ashcroft recently announced the detention of a man who allegedly admitted to plotting with Al Qaeda to destroy New York City's Brooklyn Bridge and derail trains in our nation's capitol. All Americans suffer when terrorists attack a major U.S.

city. In addition, S. 1245 proposes allocating the funds set aside for high threat areas prior the application of the state minimum funding formula to the remaining funds.

A) Does HSD support enacting a mandatory set aside for high threat areas that would apply prior to application of a state minimum formula? Does ODP? What is your personal view on this matter?

Response:

This is an issue I believe that the Department must look at very carefully. My general impression is that direct funding for localities may be harmful in the long run in that it provides little incentive for state wide, multi jurisdictional, or regional planning. By providing funds through the States, while at the same time requiring the states in certain cases to distribute those funds to a high threat area or region, we can continue to encourage state wide and regional planning efforts, and have the means to fund these efforts through the various state agencies. This was the method used for the approximately $15 million the Denver Region received under the Urban Areas Security Initiative II program. This approach also ensures that funds follow a state wide plan or strategy. If we provide direct funding to specific localities, we may run the risk of fragmenting our preparedness efforts.

It should be noted that Congress appropriated funds for high threat urban areas, and that the Office for Domestic Preparedness developed the Urban Areas Security Initiative to address the unique security issues of high threat and high density urban areas.

B) S. 1245 would allocate 10% of the available grant funds to high threat areas, but it is clear that additional funding is needed to enable these areas to counter terrorist threats. Would HSD support increasing the bill's set aside for high threat areas from 10% to 25%? Would ODP? What is your personal view on this matter?

Response:

I have not had the opportunity to study S. 1245 in great detail, but look forward to reviewing the bill more closely and working with the Senate Governmental Affairs Committee on homeland security issues.

ONE-STOP GRANT OFFICE

1) Many members of this Committee have requested that the Department set up a one-stop shop that would house all grant information so that state and local officials would have one place to call in order to find out about grants. Although Secretary Ridge has promised that a one-stop shop will be forthcoming, S. 1245 statutorily establishes it.

Could you provide an update on the agency's efforts to create a one-stop shop for grant programs?

Response:

It's my understanding that in the near future Secretary Ridge will send Congress a proposal detailing the Department of Homeland Security's plan to better coordinate Department's preparedness grants by establishing a one stop shop for our state and local partners. I believe that it is Secretary Ridge's goal and intention to provide state and local authorities a single point of contact for terrorism and emergency preparedness efforts – one access point to obtain critical grant funding. I strongly support this effort and believe that this represents a critical first step toward streamlining and improving DHS grant programs.

AFFIDAVIT

I, C. Suzanne Mencer being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

C. Suzanne Mencer

Subscribed and sworn before me this 10th day of September 2003.

Linda Jacobs
Notary Public

Linda Jacobs
Notary Public, District of Columbia
My Commission Expires 07-14-2006

QUESTIONS OF SENATOR FRANK R. LAUTENBERG
For the Record
NOMINATION HEARING FOR SUZANNE MENCER
TO BE
DIRECTOR, OFFICE OF DOMESTIC PREPAREDNESS
Tuesday, September 16, 2003

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QUESTION ONE ON THREAT ASSESSMENT:

Can you estimate the costs approximately on average to State governments of raising the current alert level from yellow to orange, as has been done four times in the past year?

Response:

At this point, the Office for Domestic Preparedness (ODP) does not have figures that specifically address your question. As you know, though, the State Homeland Security Grant Program, Part II, included $200 million to cover costs associated with protecting critical infrastructure during the period of hostilities with Iraq (Operation Liberty Shield) and future periods of heightened threat.

Based on the formula included in the Homeland Security Act of 2002 and the USA Patriot Act, ODP allocated these funds to the states, territories, District of Columbia, and Puerto Rico. The state allocations could be used for three separate critical infrastructure protection purposes: public safety agency overtime costs, contract security personnel costs, and state-ordered National Guard deployments required to augment security.

Preliminary figures from 34 states from which ODP has received information indicate that $54.5 million (or 27 percent) of the $200 million has been obligated by the states for critical infrastructure protection costs associated with Operation Liberty Shield. Based on this information, the states have obligated on average more than $1.6 million for critical infrastructure costs associated with Operation Liberty Shield. It should be noted that states were given the discretion to set-aside these funds for future periods of heightened threat. Based on ODP's contact with the states, most states have indicated their preference to set-aside of majority of these funds for future periods of heightened threat.

QUESTION TWO ON THREAT ASSESSMENT:

Background

A CRS report prompted by the passage of YOUR "Accuracy in Threat Assessment Amendment" in July criticized the current Homeland Security Advisory System on four major fronts. Two of the critiques – that the color-coded warning system is too vague and too costly –

were hardly surprising. But the report's two other conclusions will directly affect your work at ODP if you are confirmed. These two conclusions stated that first, the DHS advisory system lacked a method of clearly communicating the nature of the terrorist threat to State and Local First Responders and second, consequently, there was a lack of guidance to these local officials about what to do.

Response:

The purpose of the Department of Homeland Security's Threat Advisory System is to alert the public generally that the likelihood of an attack is higher. Based on credible intelligence information, the threat level is periodically raised or lowered. Similarly, the system provides alerts to law enforcement and security personnel around the country that they need to enhance security at certain venues around the country, at certain bridges, at certain tunnels, at certain chemical plants.

It's my understanding that nearly every governor from every state and territory has adopted the threat advisory system, and we look forward to working with you in the months ahead trying to make improvements. I need to remind my colleagues in public service, however, that there is enough flexibility in this system, as it presently exists, to give very specific warnings to a city, a state, a region, a sector of the economy, if the information we receive is specific enough to generate that kind of warning.

I realize many questions have been raised regarding the current system and, if confirmed, this is an area in which I would focus.

QUESTION THREE:

DHS policy as we've seen it -- and granted it is still evolving – has been to only provide a set of general protective measures for federal agencies on how to respond to each of the five threat levels, but not to recommend specified protective measures for states, localities, the public, or the private sector.

Do you agree with this current DHS policy and if not, how would you change it if you are confirmed?

I strongly support the Department's use of a threat advisory system to provide information and guidance to states and localities when the Federal government receives credible threat information.

I also believe that the state governors support the system, nearly every governor from every state and territory has adopted the threat advisory system. Nevertheless, DHS is always striving to work more effectively and efficiently to provide resources and information to our state and local partners. If confirmed, I look forward to working with you in the months ahead trying to make improvements.

QUESTION FOUR ON GRANT FUNDING:

You mentioned in the staff interview two important factors contributing to the vulnerability of a certain region to terrorist attacks: The population density of that state, city or region and whether terrorists have previously attacked this area.

Could you expand on this a bit further and describe whether you plan on changing ODP's current grant funding process to take into account these factors that you indicated are necessary to threat assessments?

Response:

As you know, the Secretary has noted that the current formula for distributing the State Homeland Security Grant Program funds needs to be revised. It's my understanding that the Department of Homeland Security is working with Congress to formulate a modified formula that more effectively takes into account state and local threat assessments and other factors, including population.

Overall, the issue of finding an equitable balance between a threat-based and a population-based formula is complicated. This past year, Congress and ODP has made strides toward leveling the playing field between size and critical need. The most effective approach, I believe, would be a combination between a base-plus-population allocation and a separate allocation for areas of high population density, presence of critical infrastructure, and credible threat. In actuality, this is what Congress and DHS have worked together this past year to create in the State Homeland Security Grant Program to the states, and the Urban Area Security Initiative for specific major metropolitan areas across the Country. This provides both a baseline level of capacity for all the citizens of a given state as well as those urban areas.

I look forward to the possible opportunity to work with you and the Secretary on this issue should I have the honor of serving in this position.

QUESTION FIVE ON SHARING INFORMATION WITH STATE AND LOCAL GOVERNMENTS

Background

Despite a great deal of rhetoric on the part of the Administration since 9/11, I don't believe that local and state officials feel that significant improvement have been made in information sharing between federal, state and local entities since the 9/11 attack.

Response:

The Department of Homeland Security is actively engaged in sharing information on a regular basis with State and local governments. The Office of State and Local Government

Coordination (SLGC), in conjunction with the Department's Information Analysis and Infrastructure Protection Directorate has a number of protocols in place for sharing information.

Most consistently, the SLGC through the Department's Homeland Security Operations Center, provides daily terrorism situational awareness information via e-mail to State Homeland Security Advisors, which I currently receive. The SLGC also conducts bi-weekly conference calls with all State Homeland Security Advisors, providing an opportunity to relay relevant homeland security-related information to our counterparts as well as to receive information, thoughts, concerns, and ideas. I am a regular participant on those calls.

The SLGC is also actively engaged in communicating with State and local governments via electronic mail, sending copies of informational material that may be of benefit; these include threat advisories, press releases, and other information as deemed appropriate. Electronic mail communication typically takes place at least two to three times per week.

Through its desk within the DHS Operations Center the SLGC serves as a focal point for State and local governments to contact DHS with questions, concerns, ideas, and requests. Calls are relayed throughout DHS as deemed appropriate and ensure that our State and local counterparts are able to speak to or receive information from the appropriate personnel within DHS in a timely and accurate manner.

The SLGC is also working closely with other Department entities that have established relationships with State and local governments. These relationships help to ensure that DHS is aware of what each entity is doing as it relates to State and local government interactions.

The Department of Homeland Security, in collaboration with the rest of the Intelligence Community, is committed to producing unclassified tear-line reporting whenever possible, to convey threat and vulnerability information to State & local officials. DHS has taken major steps forward to support the sharing of classified information, when necessary, by clearing many of the State Homeland Security Advisors, and processing the paperwork of those who are not yet cleared, and by ensuring that all of the Governors now have a secure phone in their office and each has signed a non-disclosure agreement, allowing the receipt of information up to the Top Secret classification level. I have received both classified and unclassified threat information from the Department. I also understand that DHS is in the process of clearing an additional five people from each state, as designated by the Governor.

QUESTION SIX:

We have talked a lot today about what the federal government and DHS need to provide the locals; but often the local agencies and law enforcement officials have collected information that would be very useful to intelligence and other agencies on the federal level.

Based on your work in the FBI and on the state level in Colorado, how would you ensure that all information from the local level reaches first state and then national agencies?

Response:

The Department of Homeland Security, in collaboration with the rest of the Intelligence Community, is committed to producing unclassified tear-line reporting whenever possible, to convey threat and vulnerability information to State and local officials.

I believe that DHS has taken major steps forward to support the sharing of classified information, when necessary, by clearing many of the State Homeland Security Advisors, and processing the paperwork of those who are not yet cleared, and by ensuring that all of the Governors now have a secure phone in their office and each has signed a non-disclosure agreement, allowing the receipt of information up to the Top Secret classification level. I have received both classified and unclassified threat information from the Department.

I also understand that DHS is in the process of clearing an additional five people from each state, as designated by the Governor. This should enhance the Department's ability to communicate with state homeland security officials, which will allow states to more effectively make resource allocation determinations and preparedness decisions.

Questions for the Record
Senator Daniel K. Akaka
Committee on Governmental Affairs
Nomination Hearing for C. Suzanne Mencer
Director, Office of Domestic Preparedness
Department of Homeland Security
September 16, 2003

1. As you stressed in your testimony, communities should engage in a regional approach to improving their homeland security by working together to combine resources across state lines. However, unlike all states but Alaska, external assistance from the U.S. mainland is not immediately available to Hawaii. The state's geographic location makes mutual aid from the mainland or from other Pacific jurisdictions unfeasible. As a result, Hawaii's State Civil Defense estimates that each of the state's four counties needs the capability to sustain an effective response to any Weapons of Mass Destruction attack for up to 72 hours.

As Director of the Office of Domestic Preparedness (ODP), how would you ensure that Hawaii's homeland security needs are met using a regional approach?

Response:

ODP understands and recognizes Hawaii's unique homeland security challenges. Due to geographic location and distance from the U.S. mainland, rapid mutual aid and out-of-state assistance would be greatly hampered in the event of a terrorist attack. Given Hawaii's geographic isolation, and in the absence of immediate support from other states, Hawaiian state and local responders understand the need to sustain themselves for up to 72 hours following an attack. As a result, ODP has worked closely with Hawaii state and local officials to enhance statewide homeland security preparedness. First responders throughout the state have been equipped, trained, and exercised in prevention, preparedness, and response to weapons of mass destruction (WMD) incidents.

Mutual aid agreements among the four counties are also particularly important to ensure that assistance is available across the state. ODP has worked with state and local officials to enhance joint response plans and procure standardized equipment to support interoperability during mutual aid response. The state can therefore respond more quickly and effectively to an incident in any region of the state.

ODP will continue to aid the State of Hawaii in advancing their homeland security strategy. Through planning, equipment, training, and exercises, Hawaii will be prepared to respond to and mitigate the effects of WMD incidents while external support is initiated from the U.S. mainland. Additionally, as Hawaii seeks to further mutual aid and other support compacts with mainland states, ODP would be eager to support such efforts by facilitating conferences and/or meetings, and providing technical assistance.

2. Currently, the Department of Homeland Security is developing a plan to revise the homeland security grant allocation process. As you know, grants are currently based

on population data from the U.S. Census Bureau. With respect to Hawaii, the high military and tourist populations in the state are not counted for grant allocation purposes. As a result, Hawaii does not receive full funding for the entire population the state must protect. In fact, Hawaii has the largest per capita population of military service members of any state.

As Director of ODP, what role do you expect to play in revising the grant allocation process? How do you believe a state's military and tourist populations should be addressed in first responder grant formulas?

Response:

As you know, the Secretary has noted that the current formula for distributing the State Homeland Security Grant Program funds needs to be revised. It's my understanding that the Department of Homeland Security is working with Congress to formulate a modified formula that more effectively takes into account state and local threat assessments and other factors, including population, population density, and the presence of critical infrastructure of national significance.

Overall, the issue of finding an equitable balance between a threat-based and a population-based formula is complicated. This past year, Congress and ODP have made strides toward leveling the playing field between size and critical need. A feasible approach, I believe, would be a combination between a base-plus-population allocation and a separate allocation for areas of high population density, presence of critical infrastructure, and credible threat. In actuality, this is what Congress and DHS have worked together this past year to create in the State Homeland Security Grant Program to the states, and the Urban Area Security Initiative for specific major metropolitan areas across the Country. This provides both a baseline level of capacity for all the citizens of a given state as well as those urban areas. I look forward to the possible opportunity to work with you and the Secretary on this issue should I have the honor of serving in this position.

3. ODP is the lead federal agency for terrorism preparedness and the source of grants for state and local first responders. Grant funding is necessary to augment states' weakened budgets. To be effective, states must have the flexibility to use grant funding to meet their specific homeland security needs.

As Director of ODP, how would you ensure that states have the flexibility to use ODP grant funding to meet their specific homeland security needs?

Response:

Based on my experience as the director of a state homeland security agency, I believe that the Office for Domestic Preparedness has worked hard to create and administer a program that allows states and localities to determine their own priorities for funding. Through the State Homeland Security Assessment Process, states are provided the tools and guidance to complete comprehensive needs, vulnerabilities, threats, and capabilities assessment that determine how they will distribute their funds. I strongly support this process, and firmly believe that it not only provides states invaluable information but also the Federal government.

The grant programs of the Office for Domestic Preparedness (ODP) are designed to be flexible with few strings attached in order to give states the ability to fund their homeland security needs and priorities. However, it is clearly understand that ODP funds should be used to supplement, not supplant, state funds. Indeed, ODP grants carry with them a non-supplanting certification requirement. ODP's State Homeland Security Grant Program provides funds for every aspect of a state's homeland security strategy: equipment allocation, exercise support, training, and planning and administration. Moreover, ODP gives states wide latitude in how they spend and distribute their homeland security funds.

4. Elevated threat levels have resulted in higher personnel costs for states, especially overtime costs for emergency personnel. Do you support federal assistance to cover these overtime costs for state and local officials? If not, why?

Response:

As I noted in my earlier responses to the Committee, the use of ODP funds to pay for overtime, the conditions under which such use should be authorized, and for whom such overtime payments should be authorized, are questions that should be approached with some caution. I know that during the past year DHS has allowed the use of war supplemental funds (State Homeland Security Grant Program, Part II and Urban Areas Security Initiative, Part II) for overtime when the federal government has raised the national threat level from "Yellow" to "Orange." I also know that ODP does allow the use of its funds for overtime costs associated with attending ODP approved training courses.

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