



# THE CIP REPORT

CRITICAL INFRASTRUCTURE PROTECTION PROGRAM

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This month's issue of *The CIP Report* focuses on transportation, a sector that has seen a lot of activity in the first few months of this year. With the release of \$445 million for Transportation Security Grants, the start of the Western Hemisphere Travel Initiative, and the Congressional debate over collective bargaining rights of Transportation Security Administration (TSA) employees, a variety of issues have brought attention to this diverse sector.

Originally defined by Presidential Decision Directive 63 (PDD-63) in 1998, the transportation sector includes aviation, highways (including trucking), mass transit, pipelines, rail and waterborne commerce, with the Department of Transportation designated as lead agency. Following the issuing of Homeland Security Presidential Directive 7 in 2003, the lead agency of many sectors, including Transportation, was changed to reflect the role of the Department of Homeland Security (DHS). Another critical component of this sector, the Transportation Security Administration, was created immediately following the September 11<sup>th</sup> attacks and serves as a component of DHS responsible for overseeing the security of highways, railroads, buses, mass transit systems, ports and over 450 airports.

This issue includes an overview of the FY 2007 grant programs for state, local and private industry infrastructure protection initiatives, a write up of the recent Memorandum of Cooperation between the Federal Railroad Administration and leaders from the private sector to promote rail safety and security, a summary of the new Western Hemisphere Travel Initiative, which went into effect in January, and a Legal Insights column focusing on the transportation of hazardous materials by rail. In addition to these pieces, we also have provided an overview of the post-Katrina Emergency Management Reform Act, which has led to a reorganization of DHS, and the President's budget for Homeland Security and its prioritization of protecting critical infrastructure. Finally, we include updates of ongoing CIP Program activities, such as information on our forthcoming Pandemic Monograph, and wrap-ups of two recent events, the Homeland Defense and Security Summit (hosted by the CIP Program and the Naval Postgraduate School in late February) and the Cyber Workshop, hosted by the National Defense University.



School of Law  
CRITICAL INFRASTRUCTURE  
PROTECTION PROGRAM

John A. McCarthy  
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## \$445 Million for FY 2007 Transportation Security Grants

In January, the Department of Homeland Security (DHS) released fiscal year 2007 grant guidance and application kits for five grant programs that will total roughly \$445 million in funding for state, local and private industry infrastructure protection initiatives. These five programs comprise the Infrastructure Protection Program (IPP), which to date have provided more than \$1.5 billion in grants to strengthen security at critical facilities ranging from chemical plants to mass transit systems and seaports.

“We’re investing resources where risk is greatest and where the funds will have the most significant impact,” said Homeland Security Secretary Michael Chertoff. “This year’s grants reflect a rigorous, disciplined approach that places risk first, driven by hard analysis from the intelligence community and supported by common sense.”

IPP fiscal year 2007 funding totals have increased by \$46 million over last year. Specific totals include:

- Port Security Grant Program: \$201.2 million
- Transit Security Grant Program: \$171.8 million
- Buffer Zone Protection Program: \$48.5 million

The Transit Security Grant Program (TSGP) provides grant funding to the nation’s key high-threat urban areas to enhance security measures for their critical transit infrastructure including bus, rail and ferry systems. This year, the TSGP will also provide funding to Amtrak for continued security enhancements for their intercity rail operations between key, high-risk urban areas throughout the United States.

- Intercity Bus Security Grant Program: \$11.6 million
- Trucking Security Grant Program: \$11.6 million

### Port Security Grants

Eight port areas qualify for Tier I, or highest risk status, in fiscal year 2007. They will receive a combined total of \$120 million, or roughly 60 percent of total Port Security Grant Program funding this year. The remaining U.S. ports are included within three additional risk tiers, and will compete for the additional 40 percent of available funds. Grant funding priorities include training, exercises, activities to mitigate the risk of improvised explosive devices, and employee credentials and access controls.

Tier I Port Security Grant Program areas are:

- New York-New Jersey: \$27.1 million
- New Orleans: \$17.3 million
- Houston-Galveston: \$15.7 million
- Los Angeles-Long Beach: \$14.7 million
- Puget Sound (Seattle-Tacoma area): \$12.2 million
- Delaware Bay (Philadelphia, Wilmington, Del., and South-

The Port Security Grant Program (PSGP) provides grant funding to port areas for the protection of critical port infrastructure from terrorism. PSGP funds are primarily intended to assist ports in enhancing risk management capabilities, enhanced domain awareness, capabilities to prevent, detect, respond to and recover from attacks involving improvised explosive devices (IEDs) and other nonconventional weapons, as well as training and exercises.

- San Francisco Bay: \$11.2 million
- Sabine-Neches River (Port Arthur-Beaumont, Texas): \$10.9 million
- New York-New Jersey: \$11.3 million

### Transit Security Grants

Eight major urban areas qualify for Tier I, or highest risk status, in fiscal year 2007. They will receive a combined total of \$141 million, or roughly 90 percent of total Transit Security Grant funding available for rail and bus systems this year. Grant funding priorities include securing underground and underwater systems, reducing the risks of improvised explosive devices and radiological, chemical and biological weapons, as well as training, exercises and public awareness campaigns.

Transit Security Tier I major urban areas are:

*(Continued on Page 14)*

## Transportation Workforce Issues

*This is a transcript of the prepared statement of Administrator Kip Hawley, Assistant Secretary of the Transportation Security Administration before the U.S. Senate Committee on Homeland Security and Governmental Affairs on March 5, 2007.*

There will be a serious negative security impact if the labor provision adopted by the Committee, or the alternative pending amendment, becomes law.

Both proposals would dismantle the innovative human capital authorities given to TSA by the Congress after 9/11 and replace it with a 1970's-era personnel system that is unsuited to TSA's real-time security mission.

Therefore, the President's senior advisors will recommend a veto if these or similar provisions are presented in the final bill.

While the human capital issues are significant, the security issues are urgent and must be addressed first.

TSA operates in real-time, high-intensity environment where seconds matter and the stakes could not be higher. We count on our Transpor-

tation Security Officers (TSOs), among other things, to deter and stop an attack that may be in preparation or in progress.

Our people face these scenarios at over 400 airports across the nation everyday.

In this world, the so-called dots referred to by the 9/11 Commission are not obvious and connecting them in time is not assured.

When the safety of the public is on the line, taking an old, rejected solution and putting a new cover on it and then making it law without full examination can have alarming unintended consequences in the real world.

That is the case with these provisions and why I must speak out clearly about the uncomfortable reality of increased risk brought on by them. I briefed Senators last week on classified specifics of these concerns.

In a bill that uses the name of the 9/11 Commission, security must come first.

Security does come first at TSA, and all of the improvements we  
*(Continued on Page 4)*

**“When the safety of the public is on the line, taking an old, rejected solution and putting a new cover on it and then making it law without full examination can have alarming unintended consequences in the real world.”**

In a department that has experienced problems from its earliest days relating to the strategic use of human capital and the myriad complications of integrating numerous, disparate divisions, one large issue continues to surface concerning equal collective bargaining rights afforded to DHS employees. Again these past weeks, as the Senate debated the impacts of providing TSA airport security screeners with collective bargaining rights, questions surfaced regarding the discrepancies between these and other DHS employees, which are afforded greater protections.

These rights would have included:

- The ability to negotiate overtime and temporary transfers, but not the right to strike or negotiate wages.
- The right to appeal firings and disciplinary actions to the Merit Systems Protection Board.
- The ability to seek mediation of disputes from the Federal Labor Relations Authority.
- Protections for whistleblowers, minorities and disabled workers.  
*(Source- American Federation of Government Employees)*

While Susan Collins (R-Me) attempted a compromise to the language of the amendment under debate, which would have provided TSA employees some worker protections, but not collective bargaining rights, this compromise failed to garner enough support to pass. Instead, an amendment by Claire McCaskill (D-Mo) was passed by a 47-52 vote, allowing the collective bargaining provision, but enabling TSA to take any necessary actions required to fulfill agency mission during emergency situations and further specifying that TSA screeners would not be able to bargain over pay or strike.

The testimony of TSA Director Kip Hawley provided here further explains the perceived impacts of this workforce issue on the transportation infrastructure.

## Federal Railroad Administration Joins Forces with Private Sector to Promote Rail Safety and Security

In a move designed to aid in the development of new federal design standards for stronger and safer hazardous materials tank cars, the Federal Railroad Administration (FRA) is joining forces with rail and chemical industry leaders to create the tank car of the future.

The FRA has signed a Memorandum of Cooperation (MOC) with Dow Chemical Company, Union Pacific Railroad and the Union Tank Car Company to participate in their Next Generation Rail Tank Car Project. The agreement provides for extensive information sharing and cooperation between ongoing FRA and industry research programs to improve the safety of rail shipments of hazardous commodities such as toxic inhalation hazards and high-risk gases and liquids.

The industry partners have a goal of developing and implementing a new rail tank car design for the transportation of highly hazardous chemicals by 2017, achieving a significant

**“Our goal is to jump beyond incremental design changes. We and our partners are looking to apply the latest research and advanced technology to provide increased safety for rail shipments posing the greatest safety risk.”**

**Joseph Boardman, Administrator, Federal Railroad Administration**

increase in the safe and secure performance over existing fleets.

FRA Administrator, Joseph Boardman, stated that the FRA is focusing on strengthening the structural integrity of the tank car including the type of material and thickness of the outer shell and the type and design of the insulation material located between the outer shell and the inner tank that contains the hazardous material. This is intended to reduce the probability that a collision, such as a side impact, will result in release of the hazardous commodity. In addition, FRA is evaluating technology such as push-back couplers, energy absorbers, and anti-climbing devices designed to prevent a derailment of the tank car by keeping it upright and on the

tracks after an accident.

“Both [Union Pacific Railroad and The Dow Chemical Company] serve as strategic links in the chemical supply chain that is critical to homeland security, public health, safety and welfare and to our nation’s economy,” said Jim Young, chairman and CEO, Union Pacific. “Our mutual commitments give us a stronger framework for working together by building on new and existing elements of safety and security.”

The Memorandum of Cooperation also supports FRA’s National Rail Safety Action Plan and its emphasis on promising research which has the potential to mitigate the greatest risks. ❖

**Workforce Issues** (*Cont. from Page 3*) have implemented in the last 18 months for our workforce acknowledge the capability we already have in our TSOs and seeks to prepare and engage them as security professionals.

TSOs reported for work on August 10<sup>th</sup> and, without prior notice, trained for, and implemented the

most extensive security changes rolled-out since 9/11 – and TSOs did it in real-time, literally live on TV.

Proponents of collective bargaining for TSOs point out that any labor agreement would include provisions for emergencies. But it is not just about emergencies, it is about what they do every day.

TSA’s mission requires that its officers be pro-active, that TSOs constantly change what they do and where they do it. They are required to flex to different places in the airport to meet suddenly changing security and operating needs.

A system that sets up outside arbitrators to review these constant  
(Continued on Page 12)

## Western Hemisphere Travel Initiative in Effect

The Western Hemisphere Travel Initiative (WHTI) requires all citizens of the United States, Canada, Mexico, and Bermuda to have a passport or other accepted document that establishes the bearer's identity and nationality to enter or re-enter the United States from within the Western Hemisphere.

The travel document requirements comprise the Department of State and Department of Homeland Security's Western Hemisphere Travel Initiative. This change in travel document requirements is the result of recommendations made by the 9/11 Commission, which Congress subsequently passed into law in the Intelligence Reform and

Terrorism Prevention Act of 2004.

This travel initiative is being implemented in two phases. The first phase will be for air travel, and the second for land/sea travel. As of January 23, 2007, U.S. citizens and citizens of Canada, Mexico and Bermuda traveling by air between the U.S. and Canada, Mexico, Central and South America, the Caribbean, and Bermuda are now required to present a valid passport to enter (or re-enter) the U.S.

As early as January 1, 2008, U.S. citizens traveling between the U.S. and Canada, Mexico, the Caribbean, and Bermuda by land or sea (including ferries), could be required to present a valid U.S. passport or other

documents as determined by the Department of Homeland Security in a forthcoming separate rule.

While recent legislative changes permit a later deadline, the Departments of State and Homeland Security are working to meet all requirements as soon as possible.

For the general public, people who apply for entry but do not have appropriate documentation will likely be referred for secondary screening at the port. In secondary, Customs and Border Protection (CBP) officers will evaluate any evidence of citizenship or identity the individual may have and will verify all information against available databases. ❖

### Travel Industry Association Study:

#### U.S. Lost \$94 billion in Revenues from Foreign Travelers Since 2001

In a study released on January 24, 2007 by the Travel Industry Association based on a survey of 2,011 non-U.S. resident international travel, the U.S. was ranked as the most unfriendly travel destination for foreign travelers, by a greater than 2:1 margin. The impact of this unwelcoming entry process runs to the tune of \$94 billion and 194,000 lost jobs, asserts the study, which was released as part of a forthcoming Discover America Partnership report focused on ways to increase the U.S. share of the \$6 trillion world travel market.

The key findings of the report indicated that this entry process has "created a climate of fear and frustration that is turning away foreign business and leisure travelers and hurting America's image abroad." To remedy this situation, the Discover America Partnership has outlined a series of strategies to address these problems, which include:

- Issuing a 10-point plan to improve the U.S. entry process
- Analyzing the U.S. Visa process
- Developing a communication strategy
- Maximizing Private Sector knowledge
- Developing a comprehensive blueprint to compete for visitors

To see the full list of recommendations, as well as the survey results and full economic impact figures of the study, please visit <http://www.poweroftravel.org/release-11-20-06.aspx>.

## Post-Katrina Emergency Management Reform Act leads to major DHS reorganization

On October 4, 2006, the President signed into law the Post-Katrina Emergency Reform Act. That Act establishes new leadership positions within the Department of Homeland Security (DHS), brings additional functions into the Federal Emergency Management Agency (FEMA), creates and reallocates functions to other components within the Department, and amends the Homeland Security Act, in ways that directly and indirectly affect the organization and functions of various entities within DHS. The Department's changes will be effective on March 31, 2007.

### Transfers Mandated By the Post-Katrina Emergency Management Reform Act

The Post-Katrina Emergency Management Reform Act transfers, with the exception of certain offices listed in the Act, functions of the Preparedness Directorate to the new FEMA. This transfer includes:

- The United States Fire Administration (USFA)
- The Office of Grants and Training (G&T)
- The Chemical Stockpile Emergency Preparedness Division (CSEP)
- The Radiological Emergency Preparedness Program (REPP)
- The Office of National Capital Region Coordination (NCRC)

### The New FEMA

FEMA will continue to be headed by R. David Paulison, and he will take on the new title of Administrator. The Administrator will be supported by two Deputy Administrators. One will be the Deputy Administrator and Chief Operating Officer. This will be the principal deputy, with overall operational responsibilities at FEMA. Harvey Johnson, currently the Deputy Director and Chief Operating Officer of FEMA, will continue in this role. The other will be a Deputy Administrator for National Preparedness, a new division within FEMA.

*National Preparedness* will include existing FEMA programs and several legacy Preparedness Directorate programs. It will focus on policy, contingency planning, exercise coordination and evaluation, emergency management training and hazard mitigation with respect to the Chemical Stockpile Emergency Preparedness (CSEP) and Radiological Emergency Preparedness Program (REPP). National Preparedness will oversee two divisions: Readiness, Prevention and Planning (RPP), and the National Integration Center (NIC). Readiness, Prevention and Planning will be the central office within FEMA handling preparedness policy and planning functions. The National Integration Center will maintain the National Incident Management System (NIMS), the National Response Plan (NRP), and will

coordinate activities with the U.S. Fire Administration.

*The Office of Grants and Training* will be moved to the new FEMA

and renamed the "Office of Grant Programs." The Training and Systems Support Divisions of the Office of Grants and Training will be transferred to the National Integration Center (NIC). The Office of the Citizen Corps within the Office of Grants and Training will be transferred into the FEMA Office of Readiness, Prevention and Planning.

Additional headquarters positions created at FEMA by the Post-Katrina Act include a Disability Coordinator, residing in the FEMA Office of Equal Rights, a Small State and Rural Advocate, a Law Enforcement Advisor to the Administrator and a National Advisory Council.

### The National Protection and Programs Directorate

The Act specifically excluded certain elements of the Preparedness Directorate from transfer to FEMA. The legacy Preparedness Directorate will

*(Continued on Page 15)*



R. David Paulison will take on the new title of Administrator of FEMA

## LEGAL INSIGHTS

## Transporting hazardous materials on rails

Randall Jackson

Senior Legal Research Associate , CIP Program

The responsibility for the safety and security of hazardous material transported by railroad is held by two agencies, the Transportation Security Administration (TSA) within the Department of Homeland Security (DHS), and the Pipeline and Hazardous Materials Safety Administration (PHMSA) within the Department of Transportation (DOT). Broadly speaking, the division of labor reflects different requirements needed in providing safety and providing security.

Since the Homeland Security Act of 2002 (Pub. L. No. 107-296), DHS has been the lead federal agency for the protection of hazardous materials being transported via railroad. This fits with DHS's mandate to protect United States territory against terrorist attacks, including attacks on infrastructure and the weaponization of airplanes, rail cars, semi-trailers, etc. However, threats to the public can also be realized through non-terrorist, non-deliberate accidents involving, in this case, rail cars carrying toxic chemicals. The recent derailment in Brooks, KY, of a rail car led to a massive fire and the spewing of toxic smoke. People living in the Louisville area were forced to leave their homes and schools, and businesses had to be shut down.

The underlying structural potential

of an event like this happening is not remote. According to a report in USA Today (see [http://www.usatoday.com/news/washington/2007-01-21-rail-cargo\\_x.htm](http://www.usatoday.com/news/washington/2007-01-21-rail-cargo_x.htm)), the U.S. Naval Research Lab predicts that 100,000 could be killed by a railroad attack or catastrophic accident. Each year, rail cars carry 105,000 loads of toxic chemicals and 1.6 million loads of explosives, radioactive material and other dangerous materials.

The realization of this vulnerability has led to a number of actions, including bills to enhance railroad security across the board. Commerce Committee Chairman Daniel Inouye (D-HI) has been joined by Ted Stevens (R-AK), Vice Chairman of the Senate Commerce, Science and Transportation Committee, in introducing a comprehensive bill concerning railroad, bus/truck and pipeline security. Regarding railroads, the bill would require TSA to conduct a railroad sector threat assessment and submit prioritized recommendations for improving rail security; and it calls for the TSA and the DOT to clarify respective roles for rail security. For hazardous shipments, the legislation creates a rail security research and development program through DOT and encourages the deployment of rail car tracking equipment for high-hazard materi-

als rail shipments. The bill also requires railroads shipping high-hazard materials to create threat mitigation plans.

TSA and DOT (through PHMSA) have already begun to clarify their respective roles on the safety and security of the transport of dangerous materials via railroad. In August of 2006, TSA and PHMSA signed an agreement that delineates specific roles for each to play. The safety-security matrix, mentioned above, seems to play a key role in this delineation. For example, PHMSA is responsible for writing and enforcing a national HAZMAT safety program. PHMSA has agreed, however, to provide TSA with compliance data gathered during security inspections. This data will help TSA to develop or review security plans. Generally speaking, TSA will look to protect the system from attack, while PHMSA will continue to develop approaches aimed at preventing accidents throughout the system. Additionally, TSA and PHMSA agreed to coordinate information sharing during emergencies; collaborate on inspection, enforcement and rule-writing activities; present a coordinated position on transportation security funding matters; and review research in order to coordinate activity. Finally, *(Continued on Page 8)*

**Legal Insights** (*Continued from Page 7*) a working group will develop a multi-year action plan by February 2007, that will include timelines to implement commitments. The group will then meet on a regular basis to evaluate compliance.

More recently, both PHMSA and TSA have announced new initiatives to improve the overall safety and security of the system. In consultation with each other, on December 21, 2006, both agencies published notices of proposed rulemaking. PHMSA proposes to require rail carriers transporting certain types of hazardous materials to use the data they compile on commodities they transport to analyze the safety and security risks for the transportation routes used and one possible alternative route to the one used. Rail carriers would be required to utilize these analyses to transport these materials over the safest and most secure commercially practicable routes.

They further propose to require rail carriers to specifically address the security risks associated with shipments delayed in transit or temporarily stored in transit as part of their security plans and to require rail carriers transporting certain types of hazardous materials to notify consignees if there is a significant unplanned delay affecting the delivery of the hazardous material. The proposal includes a requirement that rail carriers work with shippers and consignees to minimize the time a rail car containing certain types of hazardous materials is placed on a track awaiting pick-up or delivery or transfer from one carrier to another.



Photo by Aiken County HazMat Team, [www.hazmatteam.com](http://www.hazmatteam.com).

Train derailment involving chlorine tank cars at Graniteville, SC, January 6, 2005.

Finally, the proposal requires rail carriers to notify storage facilities and consignees when rail cars containing certain types of hazardous materials are delivered to a storage or consignee facility. It further requires rail carriers to conduct security visual inspections at ground level of rail cars containing hazardous materials to inspect for signs of tampering or the introduction of an improvised explosive device (IED). Public meetings were held February 1, 2007, in Washington DC and February 9, 2007, in Dallas, TX.

The TSA proposal, also made public on December 21, 2006, proposes security requirements for freight railroad carriers; intercity, commuter, and short-haul passenger train service providers; rail transit systems; and rail operations at certain, fixed-site facilities that ship or receive specified hazardous materials by rail. The rule proposes to codify the scope of TSA's existing inspection program and to require regulated parties to allow TSA and DHS officials to enter, inspect, and test

property, facilities, and records relevant to rail security. The rule also proposes that regulated parties designate rail security coordinators and report significant security concerns to DHS.

TSA further proposes that freight railroad carriers and certain facilities handling certain categories and quantities of hazardous materials ensure a positive and secure chain of custody for those shipments that may transit a high threat urban area and that these carriers and facilities be equipped to report car location and shipping information to TSA upon request. Finally, TSA proposes to clarify and extend the sensitive security information (SSI) protections to cover certain information associated with rail transportation. A public meeting was held February 2, 2007, in Arlington, VA.

The need to upgrade and frequently inspect rail cars carrying hazardous materials is also reflected in a bill drawn up by Sen. Charles Schumer (*Continued on Page 13*)



## GMU Hosts Homeland Defense and Security Education Summit Feb. 27-28, 2007

For two days last month, the George Mason University campus in Fairfax, Virginia, hosted a conference for educators involved in the fields of Homeland Defense and Homeland Security. The Education Summit was organized by the Naval Postgraduate School Center for Homeland Defense and Security, the Homeland Security/Defense Education Consortium, the Department of Homeland Security (Office of Grants and Training, and Office of the Chief Learning Officer), and the Critical Infrastructure Protection (CIP) Program.

The estimated 200 participants represented colleges, universities, military academies, and training programs; Federal, state, and local government and law enforcement offices; and private sector organizations. The participants gathered to:

- Discuss and debate the current state of Homeland Security and

- Defense Education;
- Provide researchers with an opportunity to present their work in these fields;
- Provide academic institutions the opportunity to share, by academic level (associates, bachelors and graduate) highlights of their programs, issues, and challenges;
- Evaluate current responsiveness to the practitioner communities' academic requirements;
- Hear the views from top policy authorities on the future direction of Homeland Defense and Security; and
- Discuss research and accreditation issues.

The Education Summit featured several keynote addresses. On the opening day, the keynote speech was presented by Rear Admiral Jay Cohen (Ret.), Under Secretary for Science and Technology at DHS. Cohen discussed the role of education in homeland security and in helping to develop a culture of preparedness. Other DHS personnel spoke about internal DHS programs and opportunities for homeland security training and education.

On the second day, the keynote address was presented by Hon. Peter Verga, Acting Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs. Verga discussed the security environment (threats and hazards); the role of the Office of the Assistant Secretary of Defense; education and training within DoD; the importance of

interagency education; educational needs of the future DoD workforce; and a proposal for a National Security Education Consortium.

In addition to the various speeches, the conference also included break-out sessions, workshops, and panels, including one moderated by John McCarthy, Director of the CIP Program. Throughout the Education Summit, participants shared their opinions regarding the idea of Homeland Security as an educational discipline (and the related cross-disciplinary demands of the subject matter). When asked to identify core competencies of a homeland security professional, the educators included National Security, Infrastructure Protection, Intelligence, and Emergency Management, among others.

The end of the conference featured a keynote address from Rear Admiral Daniel B. Lloyd, Military Liaison to the Secretary, DHS. Lloyd spoke about the need for a common homeland security/defense lexicon among law enforcement and military organizations that provide civilian support functions. Lloyd also discussed the importance of interagency cooperation and the need for common metrics to measure the success of U.S. deterrence, preparedness, response, and recovery activities.

In addition to the substantive debates, one of the conference organizers took the opportunity to an-  
*(Continued on Page 13)*



Under Secretary for Science and Technology Jay Cohen delivers keynote address

## Pandemic: Still a Threat?

Colleen Hardy, Senior Research Associate, CIP Program

While extensive media coverage about the threat of a pandemic has greatly diminished, members of Congress stated the threat continues to be real.

On January 24<sup>th</sup>, medical experts testified before the Senate about their efforts to prevent and mitigate a pandemic outbreak. Medical experts indicated that while new technology has been developed to help mitigate the effects of a pandemic outbreak, they need more funding to continue their efforts. The Senate recognized the media's decreased attention to pandemics and surrounding issues and voiced their concern that the threat remained real and thus more needed to be done to prepare for this threat.

According to one news report, Julie L. Gerberding, the Director of the Center for Disease Control, stated an outbreak of a flu pandemic is inevitable but no one can predict when it will actually occur.

Senator Tom Harkin, D-Iowa, proposed a plan for Congress to consider. His plan includes providing all Americans with free annual

flu vaccines which, in his opinion, would increase the production of the seasonal vaccine and therefore improve the capacity. Moreover, Senator Harkin's plan would establish the necessary infrastructure and response plans should a pandemic outbreak occur. Senator Harkin stated, "You train a whole cadre of people in this country who know how to give a shot. And if this hits, you have a setup." Finally, he believes the estimated cost for his plan would be less than a billion dollars a year.

Academics are also actively examining the threat of a pandemic. For example, Indiana University recently published a study on the spread of pandemics and examined whether travel restrictions would decrease the range of the outbreak. They conducted this study because should a flu pandemic occur, it would take at least six to eight months to develop the appropriate vaccine for the flu strain. Therefore, the report emphasized the need for supplemental strategy plans that address the first few months of the outbreak, which include travel restrictions and the

use of antiviral drugs. The researchers examined data on worldwide air travel and survey data from urban centers located near airports and integrated them into a mathematical model. The researchers concluded that implementing travel restrictions would not significantly impair the pandemic from spreading and thus the better and more effective response is to distribute antiviral drugs. Finally, their model indicated that it is essential for nations to cooperate and share antiviral drugs to combat the emerging influenza pandemic and proposed the World Health Organization could organize international distribution.

Additionally, as previously noted in our December issue, the CIP Program is excited about our upcoming monograph on pandemics. We invited several scholars to address preparedness issues surrounding the threat of a flu pandemic, including the prioritization and technical issues regarding the distribution of vaccines (e.g., determining the best place for vaccination distributions). The monograph will be released in the next few weeks. ❖

## President's Budget for Homeland Security

On February 5, 2007 President Bush released his total budget request for 2008, with a call for a funding increase of 8% over the FY 2007 level for the Department of Homeland Security (DHS). In the budget justification released by DHS, the request would focus on five target areas critical to the mission of the Department. As outlined in the fact sheet, these five areas include:

**Protect the Nation from Dangerous People** “Protecting our nation from dangerous people continues by strengthening border security; developing fraud resistant identification and biometric tools; creating an interoperable architecture for the Transportation Worker Identification Credential (TWIC) program, the Western Hemisphere Travel Initiative (WHTI), and Real ID requirements; and achieving full database interoperability between DHS, the FBI, and the Department of State.” Specifically:

- \$1 Billion for SBInet program deployment
- \$778 Million for an additional 3,000 Border Patrol Agents
- \$252 Million for the implementation of the Western Hemisphere Travel Initiative (WHTI)
- \$142.2 Million for the Unique Identity initiative
- \$224.2 Million to support the Transportation Security Administration's screening operations
- \$38 Million to support development and initial operating capability for the Secure Flight system
- \$28.7 Million for the ICE Criminal Alien Program
- \$16.5 Million for the Transportation Worker Identification Credential (TWIC)
- \$788.1 Million for the Coast Guard's Integrated Deepwater System
- \$30 Million for the Employment Eligibility Verification (EEV)

**Protect the Nation from Dangerous Goods** “We are aggressively working to improve maritime cargo security, including enhancing domestic and overseas container scanning. In addition, the Department is dedicating funding to improve technology and reduce costs to the BioWatch program, a key element in its comprehensive strategy for countering terrorism.” Specifically-

- \$178 Million for the procurement and development of radiation portal monitors, including next generation Advanced Spectroscopic Portal (ASP) systems
- \$15 Million for the Secure Freight Initiative
- \$47.4 Million for the Acceleration of Next-Generation Research and Development program

**Protect Critical Infrastructure** “Central to the Department's mission is supporting effective critical infrastructure security investments at the federal, State, and local levels. The President's Budget requests funding for initiatives that continue to support strengthening national chemical plant security; protecting high risk rail shipments; and cultivating mutually beneficial partnerships with industry owners and operators.” Specifically:

- \$30 Million for the Securing the Cities Implementation initiative
- \$21.9 Million for the Science and Technology (S&T) Office of Innovation
- \$15 Million to improve Chemical Security
- \$3.5 Million to expand TSA's National Explosive Detection Canine Team program
- \$35.6 Million for the Presidential Campaign Secret Service

**Building a Nimble and Effective Emergency Response System and Culture of Preparedness-** “Remaining in a state of readiness is crucial to the Department's ability to deter and respond to acts of terror or other disasters.” Specifically:

- \$100 Million for FEMA's Vision Initiatives

*(Continued on Page 12)*

**President's Budget** *(Continued from Page 11)*

- \$3.2 Billion for State and local preparedness
- \$132.7 Million to establish a Deployable Operations Group
- \$48 Million for FEMA's Cadre of On-Call Response Employee (CORE)
- \$12 Million for the Nationwide Automatic Identification System

**Strengthen and Unify DHS Operations and Management** "DHS is continuing to strengthen departmental operations to improve mission success. A variety of critical investments will help us accomplish this goal." Specifically:

- \$139 million in premium processing fees to transform and improve USCIS Business processes and out dated information technology systems
- \$17 Million within ICE and CBP to improve internal oversight of personnel
- \$120 Million for DHS Consolidated Headquarters Project
- \$9.6 Million for the Office of the Chief Procurement Officer for establishing staffing requirements
- \$99.1 Million to support the Inspector General activities

**Workforce Issues** *(Cont. from Page 4)*  
changes after the fact – without the benefit of classified information that explains the rationale – sets up a morass of wasted time that detracts from the focus on security.

Today, if a TSO is not making the grade, that individual can be taken off the checkpoint immediately.

Under collective bargaining, that person could be screening passengers for months before the process finally runs its course.

TSOs are tested frequently on their bomb-detection skills and those who do better, get paid better.

We all know that incentives drive performance.

It doesn't make sense to drop that for a system that carves out our front-line TSOs and then eliminates their incentive to excel.

**"Going backwards to a system that adds bargaining, barriers and bureaucracy to an agency on whom travelers depend for their security can be characterized as many things, but it does not improve security."**

How does it benefit passenger security to make the TSO not accountable for the security outcome?

We all wish 9/11 never happened. We all wish the threat of terror would go away. We all wish we could go back and jump on airplanes the way we used to.

But 9/11 happened, and we know it did not start in 2001, nor will it end there, nor in our lifetimes.

That is the uncomfortable truth.

\* We know of terrorist interest in attacking the U.S. aviation system,

\* We know of attack planning, we know of attack training, and

\* We know of terrorist movement, including in our direction.

That is the uncomfortable truth.

Taking our TSO's, who today flex and adjust to meet real-time needs, and force-fitting them into a creaky old system, would have far-reaching negative security consequences.

That is the uncomfortable truth.

Going backwards to a system that adds bargaining, barriers and bureaucracy to an agency on whom travelers depend for their security can be characterized as many things, but it does not improve security.

And that is the uncomfortable truth. ❖

**Legal Insights** (*Continued from Page 8*) (D-NY) which he intends to introduce in the 110<sup>th</sup> Congress. Sen. Schumer's legislation was partly in reaction to a rail incident in Selkirk, NY, on January 4, 2007. In this incident, 28,000 gallons of methanol caught fire, leading to the evacuation of more than 50 homes in the area surrounding the rail yard. Senator Schumer's bill calls for, among other things, stringent inspection of those cars carrying hazardous materials, and for such cars to be upgraded every 15 years. All cars currently more than 15 years old would have a year to be brought up to federal code level.

Another possible way to address concerns over rail cars carrying toxic materials is that of re-routing around population centers. Washington, D.C. has been among the first to address this issue through a local re-routing exclusion law. On February 1, 2005, the D.C. Council passed (and on February 15, 2005, Mayor Anthony Williams signed) an Act

called the Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (Act). The Act prohibits the shipment by rail or truck of hazardous materials in specified categories, including explosives, flammable gases, poisonous gases and other poisonous materials, within 2.2 miles of the United States Capitol Building (Capitol Exclusion Zone) without a permit from the D.C. Department of Transportation. The idea behind the legislation is that with Washington, D.C.'s capitol area a key terrorist target, re-routing dangerous rail cars away from the target diminished both the incentive as well as the threat. Because it was emergency legislation, the Act did not have to be reviewed by Congress. Then on March 1, 2005, the D.C. Council passed the Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005, which is substantively identical to the Act but is not emergency legislation. Mayor Williams signed the Terrorism Prevention in Hazardous Materials Transportation Tempo-

rary Act of 2005 on March 17, 2005 and it was transmitted to Congress for review.

The Act was immediately challenged in court by CSX Transportation, Inc., a major operator of rail cars, including those transporting dangerous materials through Washington, D.C. and other metropolitan areas. CSX argued, inter alia, that the D.C. law was preempted by federal legislation addressing the same issue, the Federal Railroad Safety Act and sought an injunction against the Act's enforcement. The Washington, D.C. District Court denied the injunction, but upon appeal to the United States Court of Appeals for the District of Columbia, the injunction was upheld.

The final outcome of the case against the Act will be closely watched around the country as more states and cities consider ways to address the threat of hazardous materials moving through their area on the nation's railroads. ❖

**Education Summit** (*Cont. from Page 9*)  
 announce a change in its organization. The Homeland Security/Defense Education Consortium (HSDEC) announced that it would soon be changing its management structure, to shift from a military-led organization to a nonprofit, civilian-led organization. The new HSDEC structure expects to be fully operational by October of 2007, and

its future events include holding meetings to define curricula / core competencies for homeland security and defense educational programs. The HSDEC website will make this information publicly available, and will also provide an opportunity to hold Q&A with various subject matter experts. The HSDEC website is found at <http://www.hsdec.org/>. ❖



Summit attendees discuss homeland security education.

The Intercity Bus Security Grant Program (IBSGP) provides funding to create a sustainable program for the protection of intercity bus systems and the traveling public from terrorism. The FY07 IBSGP seeks to assist owners and operators of fixed-route intercity and charter bus services in obtaining the resources required to support security measures such as enhanced planning, facility security upgrades, and vehicle and driver protection.

**IPP Grants** *(Cont. from Page 2)*

- New York-Connecticut-New Jersey: \$61 million
- National Capital Region: \$18.2 million
- Boston: \$15.3 million
- San Francisco Bay Area: \$13.8 million
- Chicago: \$12.8 million
- Philadelphia: \$9.7 million
- Greater Los Angeles: \$7 million
- Atlanta: \$3.4 million

In addition, Amtrak will receive \$8 million under the Transit Security Grants Program to enhance intercity passenger rail security initiatives and to coordinate efforts with local

The Trucking Security Program (TSP) provides funding for the Highway Watch® Program in order to continue a sustainable national program to enhance security and overall preparedness on our Nation's highways.

and regional transit systems.

For the first time, Transit Security Grants will provide award recipients the flexibility to decide where they can better focus their resources. In the past, these awards were allocated in specific amounts for rail and separate amounts for bus.

Transit Security Grants will further fund enhanced security for 19 ferry systems in 14 regions. Those systems and eligible award amounts are:

- Seattle: \$2,400,603
- New York-New Jersey: \$1,532,903
- Houston: \$599,793
- San Francisco Bay Area: \$586,714
- North Carolina: \$429,685
- Connecticut-New York: \$414,350
- Boston: \$400,960
- Alaska-Washington: \$352,040
- New Orleans: \$325,000
- Martha's Vineyard, Mass.:

\$274,120

- Jamestown, Va.: \$235,444
- Delaware-New Jersey: \$155,807
- Greater Los Angeles: \$122,581

IPP grant guidance was also recently announced for the Intercity Bus Security Grant Program, \$11.6 million; the Trucking Security Grant Program, \$11.6 million; and the Buffer Zone Protection Program, \$48.5 million; supporting effective critical infrastructure security investments at the state and local level.

DHS has refined its grants programs over the past year to increase transparency and provide a more streamlined and interactive application process. The department expects to award IPP grants in spring 2007. ❖

The Buffer Zone Protection Program (BZPP) provides grant funding to build security and risk-management capabilities at the State and local level to secure pre-designated Tier I and Tier II critical infrastructure sites, including chemical facilities, financial institutions, nuclear and electric power plants, dams, stadiums, and other high-risk/high-consequence facilities.

**DHS Reorg** (*Continued from Page 6*) be renamed the National Protection and Programs Directorate (NPPD). NPPD will continue to be led by Under Secretary George Foresman. This Directorate will include the following offices:

- Office of the Under Secretary
- Office of Infrastructure Protection
- Office of Cyber Security and Communications
- Office of Risk Management and Analysis
- Office of Intergovernmental Programs
- US-VISIT

*The Office of Infrastructure Protection* will identify risks, threats and vulnerabilities to critical infrastructure, and develop methods to mitigate them. The office will continue to help strengthen the first line of defense against attacks on our Nation's critical infrastructure and provide robust real-time monitoring and response to incidents of national significance.

*The Office of Cyber Security and Communications* (CS&C) combines the Office of Cyber Security and Telecommunications and the Office of the Manager of the National Communications System with the new Office of Emergency Communications. CS&C will focus both on cybersecurity and on emergency and interoperable

communications, identifying cyber vulnerabilities and threats, and helps protect against and respond to cyber-based attacks, including performing analysis on the potential consequences of a successful attack.

*The Office of Risk Management and Analysis*, formerly within the Office of Infrastructure Protection, will directly report to the Under Secretary and will expand its focus from physical critical infrastructure to cybersecurity and other risk analysis arenas. This expanded mission will broaden the Office's efforts to address risk issues for the overall protection, prevention, and mitigation of homeland security risks.

*The Office of Intergovernmental Programs* will provide the Department-level focal point for coordinating related communications and policies with departmental leadership, and ensuring consistent and coordinated component level interactions. This office will provide a clear pathway for communications with departmental leadership.

*US-VISIT* will maintain its current role, but will be administratively relocated to the National Protection and Programs Directorate.

### Office of Health Affairs

*The Office of Health Affairs* (OHA) will be led by the Chief Medical

Officer, who will now have the title of Assistant Secretary for Health Affairs and Chief Medical Officer.

The Office of Health Affairs will have three main divisions: Weapons of

Mass Destruction (WMD) and Biodefense; Medical Readiness; and Component Services. The WMD and Biodefense division, which will be led by a Deputy Assistant Secretary, will lead the Department's biodefense activities, including the Bioshield and BioWatch programs (transferring to OHA from S&T) and the National Biosurveillance Integration System (transferring to OHA from Infrastructure Protection). Medical Readiness will oversee contingency planning, readiness of medical first responders, WMD incident management support, and medical preparedness grant coordination. Component Services will provide policy, standards, requirements and metrics for the Department's occupational health and safety programs and provide protective and operational medical services within the Department. ❖



The National Protection and Programs Directorate will continue to be led by Under Secretary George Foresman

## Cyber Workshops at the National Defense University

James T. Creel, Project Associate, CIP Program

The National War College at the National Defense University (NDU), located at Fort McNair in Washington D.C. held a “Theory of Cyberpower: Cyberspace Institutional Issues” workshop on February 7<sup>th</sup>. The objective of the workshop was to provide the framework to identify and structure cyberspace issues while developing the methods of cyber policy analysis. The workshop was the fourth in a series, with a fifth expected in the spring of 2007.

Given the extensive scope of the IT industry and its impact on other critical infrastructures, cyberspace governance and legal issues helped

facilitate the discussion between military personnel and industry experts from both the public and private sectors. John McCarthy was an invited guest-speaker to discuss critical infrastructure protection.

Promoting CIP awareness has been the topic of conversation within private and public circles for most of the last decade. One of the underlying themes at NDU, however, was the need for CIP to move past the awareness phase and onto the next phase of developing an overarching CIP framework.

For instance, communication

between regulated and unregulated industries alike varies across all sectors. Public and private sector security partners need more clearly defined strategies and information sharing mechanisms moving forward to enhance protection and resiliency of our nation’s CI/KR. NDU’s cyber workshops offer public and private industry experts an open forum to voice concerns and offer strategies as CIP continues to progress in the coming years.

For more information on NDU’s “Theory of Cyberpower” workshops, please contact Tim Lo at 202-685-3046 or [lot@ndu.edu](mailto:lot@ndu.edu). ❖

The CIP Program is directed by John A. McCarthy, a member of the faculty at George Mason University School of Law. The CIP Program works in conjunction with James Madison University and seeks to fully integrate the disciplines of law, policy, and technology for enhancing the security of cyber-networks, physical systems and economic processes supporting the nation’s critical infrastructure. The CIP Program is funded by a grant from The National Institute of Standards and Technology (NIST).

*The CIP Report* is published by Zeichner Risk Analytics, LLC (ZRA) on behalf of the CIP Program. ZRA is the leading provider of risk and security governance knowledge for senior business and government professionals. ZRA’s vision is to be a consistent and reliable source of strategic and operational intelligence to support core business processes, functions, and assurance goals.

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