

NOMINATION OF HON. JANET A. NAPOLITANO

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

OF THE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

NOMINATION OF HON. JANET A. NAPOLITANO TO BE SECRETARY, U.S.
DEPARTMENT OF HOMELAND SECURITY

JANUARY 15, 2009

Available via <http://www.gpoaccess.gov/congress/index.html>

Printed for the use of the
Committee on Homeland Security and Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE

49-487 PDF

WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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NOMINATION OF HON. JANET A. NAPOLITANO

THURSDAY, JANUARY 15, 2009

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Levin, Akaka, Carper, Landrieu, McCaskill, Tester, Collins, McCain, and Voinovich.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

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

Governor, I welcome you today. I want to say that the fact that you have asked not just Senator Kyl but Senator McCain to introduce you today is just another sign of your personal confidence and courage. [Laughter.]

It is a great pleasure to welcome our dear friends John McCain and Jon Kyl. It obviously speaks well of what Arizona thinks about you as you assume this new responsibility.

I personally believe that Governor Napolitano is a superb choice to lead our Nation's domestic security agency and help in its ongoing transition from a start-up operation to a mature agency whose component parts work together so well that the whole is much greater than the sum of those parts. This nomination has received support from an assortment of different groups and individuals whose names I will put into the record.¹

Let me just say a few words by way of setting the scene.

The Department of Homeland Security (DHS) was created 6 years ago, its origins coming out of this Committee, which was then the Governmental Affairs Committee. It was created, obviously, in direct response to the Islamist terrorist attacks against the United States on September 11, 2001.

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

¹The letters of support for Governor Napolitano appear in the Appendix on page 217.

200,000 employees—all with different cultures and missions—into a single Department with a singular mission, which is to protect the safety of the American people.

Now, Governor, as the Department goes through its first Presidential transition, we have confidence that you will build on the work of your predecessors.

To help advance this transition, Senator Collins and I intend to bring before this Committee a comprehensive authorization bill for the Department of Homeland Security that outlines key areas of improvement we think can make the Department more efficient and effective in its various missions, and we will also recommend levels of funding for the Department in that authorization bill. We hope that this can become an annual exercise in which we will work with you to both become advocates and authorizers for a sufficient level of funding for this critical Department, but also to use the authorization bill as a way to improve the authority and functioning of the Department.

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

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

I believe that is exactly the wrong way to go. It makes no sense. It would take us back to where we were, after all, on September 11, 2001, when the terrorists exploited our national vulnerability, caused by the balkanization of our many homeland security agencies, to attack and kill 3,000 people.

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

I am going to include the rest of my statement in the record. I want to simply say for the record—and I will be asking questions about this—we have some priorities and unfinished business that we have discussed with you, and we want to work together with you on those priorities. One is, though we have dramatically improved the security of aviation transportation post-September 11, 2001, we have not done as well in non-aviation transportation—rail

and transit. That is unfinished business which we want to work on together.

Our preparedness to both deter and, God forbid, respond to an attack with weapons of mass destruction (WMD), particularly biological weapons—we have raised our guard, but we are not where we need to be. We want to work with you on that. The same is true of chemical security where the existing legislation needs to be reauthorized in the year ahead.

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

Bottom line, we welcome you. We look forward to a good exchange of ideas here today. We are going to work very hard to get this nomination of yours to a point where it can be confirmed by the Senate as soon after the President-elect is inaugurated next Tuesday as possible. I think we all on this Committee, and I hope people generally, feel that getting you into the office of Secretary of Homeland Security today is as important as seating the Secretary of Defense to the security of our country.

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

I will now call on the Ranking Member, Senator Susan Collins.

PREPARED STATEMENT OF SENATOR LIEBERMAN

Good morning and welcome to this hearing to consider the nomination of Arizona Governor Janet Napolitano to become the Nation's third Secretary of Homeland Security.

Welcome Governor. And I also want to welcome my good friends and colleagues—and your home State Senators, John McCain and Jon Kyl—who are here this morning to speak on your behalf.

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

Governor Napolitano brings the management experience that comes from being the chief executive of a fast-growing State.

She knows how to work with officials and first responders at all levels of government—a crucial qualification for this job where success is impossible without cooperation across the Nation at the Federal, State and local levels.

Governor Napolitano also comes from a border State—Arizona sharing a border of more than 370 miles with Mexico. That has given the governor front-line experience on some of the challenges facing her department, like illegal immigration and border security.

As a former Attorney General of Arizona as well as a former U.S. Attorney, Governor Napolitano also brings hands-on law enforcement experience to the job.

I believe these skills will serve the Governor well in her demanding new job—as do the International Association of Fire Fighters, the International Association of Fire Chiefs, the International Association of Chiefs of Police, the Major City Chiefs, the National Emergency Management Association, the International Association of Emergency Managers, and 31 State Attorneys General.

I commend President-elect Obama for his excellent choice.

I also have a letter from House Homeland Security Committee Chairman Benny Thompson, endorsing your nomination, and I will make that part of the record.

The Department of Homeland Security was created 6 years ago in response to the attacks of September 11, 2001.

Former Homeland Security Secretaries, Tom Ridge and Michael Chertoff, did great work in leading the department through the growing pains of its early years and made progress in turning this initial amalgam of 22 agencies and 200,000 em-

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

Now, Governor, as the department goes through its first presidential transition, we have confidence you will build on the work of your predecessors.

To advance this transition, this Committee intends to introduce a comprehensive authorization bill for the Department of Homeland Security that outlines key areas of improvement we think can make DHS more efficient and effective in its various missions, and recommend levels of funding for the Department.

Senator Collins and I first introduced a DHS authorization bill in the final days of the 110th Congress and will make it a priority of this committee in the 111th Congress. We look forward to working closely with you as we move to get a bill in front of the full Senate this year.

An important milestone in DHS history was reached recently when the National Capital Planning Commission gave its final approval for a new DHS Headquarters on the St. Elizabeths campus.

Nonetheless, 6 years into the Department's mission, and in spite of its significant improvements in its performance, there are still those who believe DHS should be chopped up and its parts shipped off to other agencies.

I believe that is exactly the wrong way to go. It makes no sense. It would take us back to where we were on September 11, 2001, when the terrorists exploited the vulnerability caused by the separation and balkanization of our many homeland security agencies to attack and kill 3,000 people.

Some have proposed removing FEMA from DHS and making it a free-standing agency. I will do all I can to stop such disintegration.

When Congress passed the Post-Katrina Emergency Management Reform Act in 2006, we built a new, stronger FEMA, giving it a renewed mission and greater stature and resources.

Moving it out now would weaken FEMA, since the agency would no longer have the same ready access to the resources and expertise of the rest of DHS—and it would make it more, not less, difficult to coordinate in a disaster.

In the new session of Congress, this Committee will also act on the recommendations of the Commission on the Prevention of WMD Proliferation and Terrorism.

That report, released in December, opened with this chilling warning: "Unless the world community acts decisively and with great urgency, it is more likely than not that a weapon of mass destruction will be used in a terrorist attack somewhere in the world by the end of 2013."

The commission found that it would be far easier for terrorists to get their hands on biological weapons than nuclear weapons and easier also to use them to attack us.

Much legitimate biological research takes place in very poorly secured or totally unsecured facilities and, while this work can lead to medical and scientific breakthroughs, the same knowledge and expertise can also be used to build weapons of mass bio-terror that literally threaten millions of lives.

We need to craft a strong homeland and global response to protect us from this growing danger.

Governor Napolitano, as Secretary of Homeland Security, you will have a key role to play in working with other agencies—the Departments of Health and Human Services (HHS), Defense (DOD), Justice (DOJ), Treasury, and Agriculture (USDA), and others who still have significant responsibilities for key aspects of homeland security.

In the Homeland Security Act, Congress established the Homeland Security Council to facilitate that critical coordination. Today, there is legitimate concern about how well that process is working, especially regarding the respective roles of the Homeland Security Council (HSC) and the National Security Council (NSC).

Yours will be an important voice in determining how improvements are to be made, and I look forward to working with you and other members of the President's national security team to make sure that homeland security receives the attention it needs amidst several challenges to our Nation's overall security.

I fully support your nomination and look forward to working with you in the years ahead.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

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

statement, if that would be helpful to them. I still want to give my statement, of course. [Laughter.]

But having them proceed I am sure would help them.

Chairman LIEBERMAN. That is very gracious of you. Do our colleagues accept the offer? Senator McCain, welcome.

OPENING STATEMENT OF SENATOR MCCAIN

Senator McCAIN. Thank you, Mr. Chairman, and thank you, Senator Collins, for your usual gracious consideration. I welcome the opportunity, and with great pleasure, to introduce along with my friend and colleague, Senator Kyl, Governor Janet Napolitano, to the Committee.

Janet Napolitano has served Arizona as a U.S. Attorney, Attorney General, and currently as the State's 21st Governor. In 2005, she was voted one of America's top five governors by *Time Magazine*, which stated, "Positioning herself as a no-nonsense, pro-business centrist, she has worked outside party lines since coming to office."

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

Not only does Janet Napolitano possess a no-nonsense attitude, she also possesses remarkable stamina and unlimited energy. She has hiked the Himalayas, climbed Mount Kilimanjaro, and battled cancer. She will need this same energy to lead a Department that was created 5 years ago through the merger of 22 agencies. After some time on the job, she may find climbing Mount Kilimanjaro far easier than navigating the halls of the Department.

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

Governor Napolitano explained her experience far more eloquently than I could when she testified before the House last April. She said, "Unlike many in Washington, I have actually walked, flown by helicopter, and even ridden a horse over much of the border's rough, rugged desert and mountainous terrain."

She went on to say, "I have toured the drug tunnels where cocaine and marijuana enter our country by the ton. I have seen the sewers where children who are crossing the border alone sleep at night. And I have seen the campsites strewn with abandoned clothing, human waste, and refuse."

As the U.S. Attorney for the District of Arizona, she went on to say, "I have supervised the prosecution of more than 6,000 immigration felonies and broken up drug-trafficking, human-smuggling, and money-laundering rings. As governor, I have sought to continue to provide for the vital health care, education, and infrastructural needs of the Nation's fastest growing State, all while shouldering the disproportionate burden of the Federal Govern-

ment's inability to control the borders and provide a meaningful plan for immigration reform."

Clearly, Arizona's loss is the Nation's gain. We are very fortunate to have such a dedicated, capable person in public service. I thank you, Governor Napolitano.

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

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

Senator Kyl, welcome. Good to see you.

**TESTIMONY OF HON. JON KYL, A U.S. SENATOR FROM THE
STATE OF ARIZONA**

Senator KYL. Thank you, Mr. Chairman, Members of the Committee. I, too, am pleased to join my colleague Senator McCain in introducing Arizona's Governor, Janet Napolitano, to be the next Secretary of the Homeland Security Department. She will bring a wealth of experience to the Department, particularly having served as governor of a border State which is dealing, as Senator McCain said, with the critical problem of illegal immigration.

Governor Napolitano's distinguished career well prepares her for this unique position. Elected as governor of Arizona in 2002 and re-elected in 2006, she has important executive experience. She is Arizona's third female governor, the first woman to be re-elected to the post, and the first in the country to succeed another elected female governor. She became the first Arizonan to chair the National Governors Association (NGA) after having served as Chair of the Western Governors Association.

Prior to her service as governor, she was appointed by President William Clinton to serve as the U.S. Attorney for the District of Arizona. In that capacity, she supervised the prosecution of more than 6,000 immigration cases, of course among many others. She subsequently served as Attorney General of the State of Arizona from 1998 until her election as governor in 2002.

And as Senator McCain emphasized, Governor Napolitano will bring an important perspective to the Department as she understands what communities along the border must deal with every day as a result of the continuing flow of illegal immigrants across our borders. It is a local perspective that too often has not been well represented in Federal agencies in Washington. In fact, in 2005, she spoke to her fellow Arizonans and said this: "While we here in Arizona will do our jobs, we need to insist that the people in Washington do theirs. The Federal Government has a long and nearly unbroken record of misunderstanding our region and our State. When it comes to homeland security, we read a lot of bold talk in the newspapers. But when it comes to resources, Federal policy is nothing less than timid."

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

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

Chairman LIEBERMAN. Thank you very much, Senator Kyl.

Governor Napolitano, your State and its Senators are clearly strongly behind you.

We appreciate that both of you are here, and obviously understand that you have to go on to other work now. Have a good day. Thank you.

Now, Senator Collins and I both agreed in response to the statement that Arizona was a very progressive State since it has already had three women governors, and with that, I will call on my Ranking Member, Senator Collins of Maine.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

I join our Chairman in welcoming Governor Napolitano to our Committee. Two great national traumas—the terrorist attacks of September 11, 2001, and Hurricane Katrina—tragically demonstrated the loss and suffering that occur when our Nation's guard is down and we are unprepared.

As the Department of Homeland Security nears its sixth anniversary, those of us who advocated for its creation can salute its accomplishments while still recognizing that it remains very much a work in progress. The men and women at DHS have helped to deter and protect our Nation from terrorist attacks. Our Nation's ability to prepare for and respond to disasters has also improved dramatically with the reforms that this Committee made to FEMA. Nevertheless, constantly evolving terrorist threats and the forces of nature require further improvements at the Department. And its vital mission demands a strong, skilled leader at its helm.

I recently met with the governor to discuss a wide range of issues, including security at our borders and seaports, cooperation with State and local law enforcement, and the myriad tests that DHS will confront in the coming years. I was impressed with the governor's background and knowledge of homeland security issues.

Her experience as a border State governor, in particular, is most welcome to those of us who represent border States with extensive cross-border travel and trade. Residents of our border communities work, shop, worship, and visit family on both sides of the border, complicating the challenge of border security. Governor Napolitano understands that we have to let our friends in, while keeping our enemies out, enforcing border regulations in a practical manner as we seek to protect the American people.

Among the significant emerging challenges that the new Secretary will face is the need to enhance security at our Nation's biological laboratories. The Commission on Weapons of Mass Destruction has predicted a terrorist attack using a biological weapon within the next 5 years. The Commission pointed to lax security at biological labs as one of the bases for that chilling assessment.

Another threat that the Department must address is the security of our Nation's cyber infrastructure. Our Federal systems require an empowered coordinator that understands the cyber threat and who can establish and enforce best practices across the Executive

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

Another area where the next Secretary must forge a partnership with the private sector is the security of our Nation's critical infrastructure. With more than 85 percent of those assets in private hands, this is a daunting task. Seaports and chemical facilities are two categories of infrastructure that we have made more secure through legislation that this Committee authored. During the 111th Congress, I look forward to working with the next Secretary to authorize these programs while continuing to strengthen the framework embodied in the National Infrastructure Protection Plan.

In the last 6 years, the Department has helped improve our all-hazards preparedness and response capabilities. Homeland security grant funding for our State and local first responders has certainly played a critical role in that effort. But, consistently, funding levels have been under attack by the Executive Branch, and DHS has not yet fully complied with the requirement to establish an all-hazards risk formula. Since every State is at risk for terrorist attacks—especially if terrorists see gaps in our defenses—it is critical that we maintain strong funding for these programs and continue to support a baseline of capabilities for each and every State.

It is the Federal Emergency Management Agency that forms the core of the Department's ability to perform its preparedness, response, and recovery missions. After Hurricane Katrina, as the Chairman has indicated, this Committee launched an intensive bipartisan investigation and wrote the law that has resulted in vital reforms of FEMA. If you look at FEMA's handling of disasters since then, whether it is wildfires, tornadoes, or severe storms and floods, you see a new FEMA with improved capabilities, bolstered by increased coordination with State and local governments and military resources.

FEMA's documented improvements and the logical combination of all-hazards prevention, preparedness, response, and recovery in a single Department underscore the need to keep FEMA within DHS. Detaching FEMA in the vain hope of recapturing some mythical FEMA of long past days would weaken its effectiveness, reduce the ability of DHS to carry out its all-hazards planning mandate, cause needless duplication of effort, and cause confusion among State and local first responders. And that is why I am confident that the governor, in reviewing this issue in more depth, will listen not only to the Chairman and to me, but to our Nation's firefighters and other first responders who have taken a very clear position on this important issue.

As a relatively new department, DHS still suffers from some significant integration and management challenges. That is to be expected. With a Department that has over 200,000 employees and combined more than 22 agencies, there are going to be management challenges. But we have seen great progress in the last nearly 6 years. From the program management and resource allocations to the basic need for a consolidated headquarters, the next Secretary, however, will need to focus intently to remove the remaining obstacles to effective integration and improved performance.

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

Thank you, Mr. Chairman.

PREPARED STATEMENT OF SENATOR COLLINS

I join our Chairman in welcoming Governor Napolitano to our Committee. Two great national traumas—the terrorist attacks of September 11, 2001, and Hurricane Katrina—tragically demonstrated the loss and suffering that occur when our Nation's guard is down and we are unprepared.

As the Department of Homeland Security nears its sixth anniversary, those of us who advocated its creation can salute its accomplishments while still recognizing that it remains very much a work in progress. The men and women at DHS have helped deter and protect our nation from terrorist attacks. Our Nation's ability to prepare for and respond to all disasters has also improved dramatically with the reforms this Committee made to FEMA.

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

I recently met with Governor Napolitano to discuss a wide range of issues, including security at our borders and seaports, cooperation with State and local law enforcement, and the myriad tests that DHS will confront in the coming years. I am impressed with the Governor's background and knowledge of homeland security issues.

Her experience as a border State governor is particularly welcome to those of us who represent border States with extensive cross-border trade and travel. Residents of border communities work, shop, worship, and visit family on both sides of the border, complicating the challenge of border security. Governor Napolitano understands that we have to let our friends in, while keeping our enemies out, enforcing border regulations in a practical manner as we seek to protect the American people.

Among the significant emerging challenges that the new Secretary will face is the need to enhance security at the Nation's biological laboratories. The Commission on Weapons of Mass Destruction has predicted a terrorist attack with a biological weapon within the next 5 years. The Commission pointed to lax security at biological labs as one of the bases for that chilling assessment.

Another threat that the Department must address is the security of our Nation's cyber infrastructure. Our Federal systems require an empowered coordinator that understands the cyber threat and can establish and enforce best practices across the Executive Branch. We must also redouble our efforts to work with the private sector on cyber security.

The next Secretary must also continue to focus on the security of our Nation's critical infrastructure. With more than 85 percent of those assets in private hands, this is a daunting task. Seaports and chemical facilities are two categories of infrastructure that we have made more secure through legislation that I co-authored. During the 111th Congress, I look forward to working with the next Secretary to reauthorize these programs while continuing to strengthen the framework embodied in the National Infrastructure Protection Plan.

In the last 6 years, DHS has helped improve our all-hazards preparedness and response capabilities. Homeland security grant funding for our State and local first responders has certainly played a key role in that effort. Funding levels, however, have been under attack from the Executive Branch, and DHS has not yet fully complied with the requirement to establish an all-hazards risk formula. Since every State is at risk for terrorist attacks—especially if terrorists see gaps in our defenses—it is critical that we maintain strong funding for these programs and continue to support a baseline of capabilities in every State.

It is the Federal Emergency Management Agency that forms the core of the Department's ability to perform its preparedness, response, and recovery missions. After Hurricane Katrina, this Committee wrote into law vital reforms of FEMA. Subsequent disasters like wildfires, tornadoes, and severe storms and floods have demonstrated FEMA's new and improved capabilities, bolstered by increased coordination with State and local governments and military resources.

FEMA's documented improvements and the logical combination of all-hazards prevention, preparedness, response, and recovery in a single department underscore the need to keep FEMA within DHS. Detaching FEMA in the vain hope of recapturing mythical halcyon days would weaken its effectiveness, reduce the ability of DHS to carry out its all-hazards planning mandate, cause needless duplication of effort, and

foment confusion among State and local first responders during a disaster. As she explores this issue in more depth, it is my expectation that Governor Napolitano will eventually share this view, particularly given the strong views of our Nation's firefighters and other first responders.

As a relatively new department, DHS still suffers from significant integration and management challenges. The effective operation of the Department's 22 legacy agencies requires a strong departmental culture, close collaboration between the Department's components, and effective cooperation with other Federal, State, local, tribal, and private-sector partners. From the Department's program management and resource allocations, to the basic need for a consolidated headquarters, the next Secretary must focus intently on removing obstacles to effective integration and improved performance.

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

Thank you, Mr. Chairman.

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

I mentioned in my opening statement that there were many groups that had welcomed President-elect Obama's nomination of Governor Napolitano. There may be many in the room. I note in the first row and I want to welcome Harold Schaitberger, head of the International Association of Fire Fighters, and I also saw here in a different sense, but very important to the whole history of the Department, Mary Fetchet, who is a founding Director of the Voices of September 11th, which has continued to be involved in the ongoing work of protecting the security of the American people so that no other families would experience the loss that the Fetchets did, certainly, the loss of a son on September 11, 2001.

Governor Napolitano has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had her financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record, with the exception of the financial data, which, as is our custom, will be on file and available for public inspection in the Committee's offices.

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

Governor NAPOLITANO. I do.

Chairman LIEBERMAN. Thank you, and please be seated.

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

**TESTIMONY OF HON. JANET A. NAPOLITANO,¹ TO BE
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Governor NAPOLITANO. Well, thank you, Mr. Chairman, and good morning. Good morning, Ranking Member Collins and Members of the Committee. It is a privilege and honor to be seated before you today in nomination to serve as the Secretary of the Department of Homeland Security. And it is humbling because, as you know better than anyone, the urgent mission of this important agency is

¹The prepared statement of Governor Napolitano appears in the Appendix on page 45.

critical to the lives and security of every citizen of the United States.

Mr. Chairman and Senator Collins, I want to particular note and commend your foresight and leadership with respect to this agency. After the tragedy of September 11, 2001, you understood the need for a more organized, systematic approach to domestic terrorism, to homeland security, and you held the vision to forge a new Department.

I also would like to commend the first two Secretaries of the Department of Homeland Security—Secretary Ridge and Secretary Chertoff—for their work in building this Department, and particularly Secretary Chertoff for his work on the transition, which has been extensive and very thoughtful, not just by him but by a number of members of the Department. The Department has come a long way. But there is a ways to go, as you have noted, and I look forward to helping the Department become even better as time goes on.

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

This is a mission of paramount importance to the Obama Administration, to this Committee, and to me. And as we seek to meet that responsibility, I seek to bring to this Committee several things. One is a close working relationship with this Committee and with the Congress. I recognize this Committee's unusual expertise with respect to the subject matter here, and I will cooperate fully with its oversight and investigative functions as we work together to keep building the Department.

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

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

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

The Kinder-Morgan pipeline that brings basically all the gasoline into the Phoenix area ruptured, and it was there that I recognized not only the criticality of infrastructure but how fragile it is and how necessary it is to have a working relationship with the private sector, which controls much of that physical infrastructure. It only

takes one hot Sunday afternoon in August in Phoenix where people cannot get gasoline for a governor to recognize how critical that infrastructure is.

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

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

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

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

There are many issues with the Department of Homeland Security, and I look forward to working with the Committee on them. We must work to make sure the Department continues to merge as a whole and has a unified vision for homeland security. We must work to streamline communications. We must work to recruit, train, and retain the best and the brightest amongst our employees. We must continue to work on Federal relationships with other agencies, and I will share with this Committee that during the course of the transition, President-elect Obama has held a number of exercises with the national security team. And then, indeed, this week on Tuesday, there was one with President-elect Obama's security team and President Bush's current security team. And all of those exercises have illustrated the central role now that the Department of Homeland Security plays. And as we strengthen these Federal links, we must recognize the important partnerships we have with State and local enforcement and first responders. The Federal Government cannot do the homeland security function alone. Amongst all the departments, it is as essential as anything to make sure that we have linked in, planned with, and exercised with our State and local partners, and that is something that I hope to spend a great deal of effort on.

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

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

Chairman LIEBERMAN. Thanks very much, Governor Napolitano.

Let me start questioning with the standard questions that we ask of all nominees.

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

Governor NAPOLITANO. No.

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

Governor NAPOLITANO. No.

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

Governor NAPOLITANO. Yes.

Chairman LIEBERMAN. Thank you. You are doing very well so far. [Laughter.]

We are going to start our first round of questions limited to 7 minutes each. I had not planned this as my first question, but you said something that leads me to say this: From you and others that I have talked to, President Bush and his Administration have really been quite remarkable and proactive in this transition, and as far as I can remember, it is one of the best ever made, maybe the best.

I appreciate that you thanked Secretary Chertoff for what he has done to get you ready to assume these jobs. This is obviously way beyond anything that is political and certainly not partisan. We are talking here about homeland security. But you said something that I had not known about, and if you are comfortable just saying a little more, you have actually gone through some exercises. I presume you mean exercises in responding to an imagined national security crisis alongside the Bush Administration team. Can you say a little more about that?

Governor NAPOLITANO. Yes, Mr. Chairman. On Tuesday, in the Old Executive Office Building, there was an exercise with the current President Bush team and the incoming nominees to walk through in sort of a tabletop fashion a scenario that is one that could happen. There is no firm intelligence that it would, but it is a scenario of multiple improvised explosive devices (IEDs) going off in different places over a period of time, and how that information would be received, processed, what different departments would begin to do. And that followed on the heels of several sessions that President-elect Obama has had with the incoming nominees on the security side to really not forget that national security team. That has been ongoing over the last several months as well.

Chairman LIEBERMAN. Well, that is very reassuring on both counts and obviously should encourage the American people that next Tuesday, when the new Administration takes over, you are going to be ready. Also, I will say from the point of view of this Committee that I am grateful and proud that you were right there in the middle of it because the Secretary of Homeland Security needs to be in the middle of it. It happens to be the newest Department of our government, but I will tell you that, in my opinion—and I hope everybody else's—it ranks in importance with the very

first departments created by our government in its history. So I thank you for your answer to that question.

There have been many positive things said about you in response to your nomination. Perhaps the only critique that I have heard—and I want to give you a chance to respond to it—is that, yes, you have had extraordinarily law enforcement experience, you have had the management experience, and all the substantive experience that comes with being a governor, indeed a border State governor, managing response to disasters and crises, as you mentioned. But the criticism has been that you have had no specific involvement in counterterrorism, as it were. And I wanted to give you a chance at the outset to respond to that.

Governor NAPOLITANO. Yes, thank you, Mr. Chairman. I think my direct experience with counterterrorism began when I was U.S. Attorney for Arizona in 1995, when our office handled a large segment of the investigation of the Oklahoma City bombing case. As you may recall, the planning for that crime occurred within Arizona, and we were responsible for setting up the command center and all of the investigative measures that were taken in connection with that matter.

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

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

Chairman LIEBERMAN. I appreciate that, and obviously, you bring, as you said in your opening statement—and as Senator McCain and Senator Kyl said—the unique management experience of a governor, regardless of the particular threat that you are responding to.

Let me ask you one of those questions we always ask, and it is interesting but never definitive as you start up. Based on what you know now and the briefings you have had, give us a sense of what your two priorities will be as you go in as Secretary of Homeland Security.

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

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

the best and the brightest to move into those leadership roles. And that will be an immediate priority.

The third thing is in a way to complete the work of transition. I have had hours of initial briefings. Indeed, the Secretary was kind enough to send teams to Arizona so I could do briefings there while I continued to serve as governor. But should I assume the role as Secretary, should I be confirmed, there will be a whole other level I will want to get at, and we will go methodically through that.

Some of the areas of the Department I have a lot of day-to-day experience with, some not so much. We will want to get those things equivalent.

Chairman LIEBERMAN. Thank you. That is a good beginning. My time is up. Senator Collins.

Senator COLLINS. Thank you.

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

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

What did you find to be the obstacles that prevented you on the State level from fully implementing a plan that you announced 6 years ago?

Governor NAPOLITANO. I am glad you asked that question, Senator. I think it will not surprise you when I say I don't think the newspaper story was entirely accurate. Indeed, it even misspelled the name of the Homeland Security Director in Arizona.

Be that as it may, we had 10 action items in our Homeland Security Plan. Eight were fully effectuated. Two were not. One was to computerize all criminal records within the State of Arizona. We are well on our way to doing that. The records that have not yet been totally computerized come from the more rural parts of the State. The major urban areas, the urban areas that cover 90 percent or so of the State's population, now have been unified and computerized. So there is easy access for officers on the street. And the rest, should I have stayed as governor, would have been completed during the remainder of my term.

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

That being said, and given the true fiscal issues involved there, what we did in Arizona was we purchased a series of what I would call patch trucks—trucks that can be moved into different areas at different times to provide a connect between different types of radio systems. So, for example, if you have a forest fire in one area and you have a number of different responders working there, you send up the trucks to help make sure you have interoperability. If you have flooding in the Nogales wash at the border, you send the trucks down to make sure you have got some functional interoper-

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

Senator COLLINS. Well, this is an area that the Chairman and I have worked a great deal on. We were appalled when Hurricane Katrina struck to find the same inability of first responders to communicate with one another that marked the attacks on our country on September 11, 2001. And that lack of interoperability truly cost lives. It is something that the Chairman and I have created a special funding program to assist States in this area.

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

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

One of the things I am concerned about, having dealt with this for the last 5 years, is I am not sure we have the right people talking with the right people about how this actually gets done. So it is a money issue, but I also want to make sure that from a technology standpoint we are really getting at it.

Senator COLLINS. In your response to Senator Lieberman's question about priorities, you talked mainly about management issues. I would like to hear from you more about your priorities in the area of terrorism and counterterrorism.

This Committee has attempted over the years to identify emerging threats, vulnerabilities such as our seaports, our chemical plants, and to enact legislation in this area. We have undertaken a major investigation into homegrown terrorism, which is not solved by better border security, for example. We are looking at the vulnerabilities of biological labs and of cyber security.

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

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

But, in my view, two areas that this Department ought to focus on are transportation security from a prevention and protection standpoint, not just aviation but surface transportation as well. To pick up Senator Lieberman's comment, that is a work in progress. We haven't done as much there as we have done on the aviation; but also work with the private sector on the private infrastructure, and that is chemical.

On the issue of biological materials, now you get into, in part, the academic sector because many of those facilities are at universities, which do not necessarily view themselves as a security risk the same way, say, a nuclear plant might.

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

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks very much, Senator Collins.

We will go in the normal Committee custom, which is in order of arrival here. Senator Voinovich, welcome. You are next.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you.

First of all, I really appreciated the opportunity that I had to spend some time in my office with you, and there is no question that you have the management qualifications to be Secretary of the Department. You have mentioned some experiences that you have had as governor that are relevant to the operation of the office. I am impressed with the grasp that you have of the Department, even though you have not been there. One of the things that I am interested in that I think would be very helpful to this Committee is that once you have had a chance to get in the saddle, come back with some of the priorities that you think are the most important and share with us ways that we can be of help. Maybe it is legislation, or maybe it is getting involved with the Administration to get some things done, like questioning whether you have the flexibility to hire, retain, and reward people that you are going to need in order to get the job done, and having the budget that you need to get the job done.

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

One of the things that has been of real concern to me—and I know that some other Members of this Committee have been concerned about it—is that the 9/11 Commission Report made a recommendation to provide better and more streamlined oversight of the Department of Homeland Security. But I remember when the sense of the Senate that was accepted during this Committee's markup of the 9/11 Commission bill, calling on the Senate to reorganize itself, was removed from the bill before floor consideration.

That is one of the big things that we have not done, and I think for the record you should know and the American people should know that we have 86 committees and subcommittees in the House and Senate overseeing DHS—and last year DHS was subjected to 375 visits to the Hill. That does not include the meetings that many Senators and Congressmen may have had with top people in DHS.

Now, I think that is absolutely unacceptable. As a Committee, we should do what we can to try to respond to this recommendation of the 9/11 Commission so that the Secretary can get her job done and the people that are working for her can get it done, without having to come up here so many times to respond to Congress. I think that is something that I would like you to look at, and I would like the President perhaps to even explain that it is time that we enforce that provision of the 9/11 Commission Report.

The other thing that you and I talked about was the Visa Waiver Program. I got very much involved in that in the last Congress, and I was pleased that the State Department and the Department of Homeland Security came together with a new system for expanding the program. That system, I think, is one that we should all be happy about. It not only improves the sharing of information from countries that are now part of the Visa Waiver Program, but it also has responded to a major public diplomacy problem that we had where many of these nations that have come into the North Atlantic Treaty Organization (NATO), and are our friends, were kept out of that program. I know there is going to be some heat that you are going to experience because of the program, and I would like you to tell me whether or not you are familiar with the recommendations that the Government Accountability Office (GAO) has made to improve the program, which I think are objective. And just where do you stand in regard to this issue?

Governor NAPOLITANO. Well, thank you, Senator, and to your first comments, thank you for those comments.

With respect to Visa Waiver, I have looked generally at the GAO. I have not drilled down on the recommendations themselves. There is a balance, obviously, to be struck between the security issues implicated in Visa Waiver and the public diplomacy elements associated with Visa Waiver.

So I look forward to working with you and the Committee on those recommendations and with the State Department, which has a very important role to play. But I am very cognizant of the very important balance that needs to be struck.

Senator VOINOVICH. Well, I know I mentioned to a member of the State Department that if we were to overnight try and yank Visa Waiver privileges from the 35 countries that now have them, it could be a disaster in terms of public diplomacy, and I think we ought to be able to handle that in a more diplomatic way and get them to do some things we want them to do.

The other issue I want to raise is the relationship that we have with Canada, and you are familiar with those problems because you have been a governor and Chairman of the NGA. One of the things that we have been promoting is to allow the passport card to be used—which today can be used for land and sea travel—for air travel. We would like you to look into that. You are probably going to be seeing some legislation to make that happen. I really think it is important that we calm the fears of our friends from Canada, that some of the security measures we are implementing may interfere with this wonderful relationship that we have with them.

There are many other issues we talked about, but today I will mention the interoperability issue. I have visited four Ohio communities and spent several hours in each one of them discussing interoperability. Most of them are not where they are supposed to be. We have a really great program in Columbus. Ohio is lucky because when I was governor we instituted the Multi-Agency Radio Communications System (MARCS), which is one of the best in the country in terms of State-wide communication. But the real problem that most communities are having is they don't have the wherewithal to get the equipment that they need. I think you kind

of alluded to the issue of technology and kinds of technology and looking at the issue of whether everybody is using the same thing and is there a problem with that.

And then the other issue, of course, is interoperability between States. For example, Ohio has been working with the State of Michigan to try and make sure there is some interoperability there.

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

Governor NAPOLITANO. Thank you, Senator. And it is a resource issue. It is a regional issue. It is a State issue. But we have to get this done, and I think it is something that, given my own experience in Arizona and working with other governors, the Department really should take a leadership role on now.

Senator VOINOVICH. And I am glad you understand that Emergency Management Performance Grants (EMPGs) are very important to making that happen. Thank you.

Chairman LIEBERMAN. Thanks, Senator Voinovich.

I just want to say a word about the very strong point that Senator Voinovich made, about the 9/11 Commission recommendation that we reduce the number of committees to which the Secretary of Homeland Security reports. We actually tried, but when we brought that up on the floor, we got overwhelmed. You would be surprised to hear that there is a certain protection of turf that occurs here. Some consider subcommittee and committee chairmanships to be the beginning of policies of manifest destiny. So it is hard to resist.

It is really not a good situation. I don't know that we can offer you the prospect of legislative help on this. But I would urge you at least to try to cut back on it by seeing if you can establish a rule of your own that you are only going to testify at the full Committee level. I think if you start getting picked away by subcommittees, except in circumstances when there is something really critical going on, it is going to be very hard for you to do the rest of what we want you to do. Thanks, Senator Voinovich, for bringing that up.

Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you, Mr. Chairman.

Let me start by making a comment. As I watched this hearing unfold this morning and Chairman Lieberman gavel us in and Senators McCain and Kyl introduce you, the thought kept running through my mind: Our democracy is a class act. And I want to say that I don't think there is anybody that could be more thrilled to have you sitting there than I am. And I want to welcome you and congratulate you. And I know you know this because we have talked about it. I think you are taking on one of the biggest and maybe one of the most difficult jobs in our country in terms of government. So enjoy today. [Laughter.]

Because it is all going to be warm and fuzzy today, and that is probably going to be it.

Let me talk a little bit about immigration enforcement. As you and I have discussed, I am a firm believer that enforcement on the

employer side is the only way we are going to get true immigration reform in this country.

Americans are not willing to support comprehensive immigration reform right now because they believe that we are looking the other way on enforcement. And, by the way, I don't think it is enforcement of the immigrants. You and I have talked about that these people are not coming to this country for a vacation. They are coming for a job. And I believe the Federal Government has hid behind the notion these cases are too difficult to make against employers.

I believe the previous Administration purposefully looked the other way as it related to employers. E-verify or no E-verify, the idea that the head of Immigration and Customs Enforcement (ICE) in this country in early September 2007 had no idea how many employers had received criminal sanctions was symptomatic of this attitude. And it took interns in my office, taking hours to go through records, to figure out how many employers had enforcement actions against them.

We now know because the head of ICE then undertook the effort of determining how many employers had been sanctioned. We now know that both in fiscal year 2007 and fiscal year 2008, it was around 10 percent of the total. That is not enough because, frankly, everyone in this room knows—and there were only 22 entities that were fined in the whole country. You could find 22 in Missouri if you halfway decided to concentrate on it.

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

Governor NAPOLITANO. Well, thank you, Senator, and I will try to remember the warm and fuzzy feeling later on, so thank you for mentioning that.

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

But you also have to deal with what is drawing people illegally across the border, and particularly with respect to the Southern border, to make that very tortuous and dangerous journey. And it is the prospect of a job. And we do have employers who use the lack of enforcement as a way to exploit the illegal labor market, to depress wages, to exploit workers on some cases, and that requires enforcement.

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

I signed the Nation's strongest employer sanctions bill when I was governor, in part because of my belief that you have to get at the employer side as well as the employee side. But you have to do it in the right way. You have got to do it in a smart way. And you have to target appropriately, and we have to have appropriate agreements with the Department of Justice and the U.S. Attorneys' Offices that they are going to bring actual cases.

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

Senator McCASKILL. Also, as we talked about, I think there is an opportunity. We have some unfortunate enforcement efforts, I think, that are going on at the State and local level. But I think with some leadership from your office, that talent and those resources could be channeled more effectively as we do a comprehensive enforcement strategy by utilizing local prosecutors. And that is why I think your experience, as a governor you know what it feels like when Washington isn't doing it right. And I know that you won't forget what it feels like when Washington is not doing it right. So I think that is a great plus.

The other thing I want to bring up with you is, we used to say when I was a prosecutor that we were doing all the serious felonies, and the rapes and the murders, but the face of the criminal justice system is municipal court because that is where most people were coming in to pay traffic tickets and that is how people got their impression of how we were running the system of enforcing the law in my community. And I think the same thing is true on airport screenings as it relates to homeland security.

I have to tell you, a whole lot of it has appeared ad hoc to the general public. The best example—and I have talked about it in this hearing before—is mascara. I mean, women across America were going, “Huh?” “What is it about my mascara that is so threatening?” And I never got a good answer to that question. By the way, they have quit worrying about mascara, quietly. Mascara is now OK for the women of America. You can take your mascara and not worry about it being taken from you. But they changed that without even really telling anybody.

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

Now, I don't recall ever on this Committee us even being given any information about them changing pat-downs. And so if you are not a U.S. Senator and these changes are going on, you say, Well, what is going on? Why are they doing this? And it gives you a sense of unease that the people who are in charge have no idea what they are doing. And I would like you to speak to that.

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

But you can't take advantage of that good will, and one of the things that we will be working on at the Department of Homeland Security is explaining when there is a change in procedure or why we are doing certain things the way we are. We also need to make

sure that if we are going to enact something that is going to inconvenience 53 percent of the traveling public, there is a good databased reason for that change and the change is explained and carried out uniformly. Because another critique I have received in the course of the transition is inconsistency at different places for the same action.

First of all, there are a lot of wonderful men and women working at the Transportation Security Administration (TSA), and they are doing a wonderful job. But we can work to make it even better and then explain it better to the American traveling public.

Senator McCASKILL. Thank you.

Mr. Chairman, let me just say I do not want anyone to misinterpret. I am not anxious for the pat-downs to come back. I do not miss the extra love pats. So do not misinterpret my comment as saying I want there to be some good reason to reinstate the pats. So, thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator McCaskill. You left me speechless there for a moment. [Laughter.]

Now we go to Senator Akaka. I was thinking about the membership of the Committee, that this Committee really is very geographically diverse—in addition to the extraordinary capabilities on it—really from sea to sea and coast to coast. And you mentioned earlier about the Northern border. Senator Tester has been a particular advocate for the security concerns of the Northern border. Obviously, Senator Akaka, who I am going to call on next, takes us all the way to Hawaii. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman, for holding this hearing. For me it has been exciting to see the high-quality people President Obama is nominating for key posts.

Governor Napolitano, I want to thank you for taking the time to be with us this morning, and I just want to repeat again that I am very impressed with you, your background, your experience, and also your performance prior to moving into the Cabinet position. And, therefore, you have really heightened my confidence in what is ahead for this Administration and this country with your service as Secretary of this Department.

The Department of Homeland Security represents perhaps the most serious management challenge in the Federal Government today. At the beginning of a new Administration, the focus often is on new policy objectives. I urge you to focus closely on improving the Department's management functions as well.

At Secretary Chertoff's nomination hearing 4 years ago, I stated—and I believe it is worth highlighting again—that the price of security should never erode our constitutional freedoms. There is an urgent need to review and revise policies at DHS that infringe on privacy and civil liberties. And I look forward to working with you on those issues.

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

Chairman LIEBERMAN. Thanks, Senator Akaka. Without objection, so ordered.

Senator AKAKA. Thank you very much.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

Governor Napolitano, welcome and please accept my congratulations on your nomination to be Secretary for the Department of Homeland Security (DHS).

The new Secretary of Homeland Security will face enormous challenges. As I have stated before, I believe DHS represents the most serious management challenge in the Federal Government today. The Department of Homeland Security has been on the Government Accountability Office's "High-Risk List" since 2003. Reforming the Department to be more efficient and effective will require dedication and innovative solutions.

I urge you to focus closely on the Department's management functions, if you are confirmed. A key strategy for improving management will be to empower the Under Secretary for Management with the authority and resources to further develop coordination between DHS's numerous agencies and directorates.

I am particularly concerned about the Department's acquisition management. There continues to be poor planning and oversight of major contracts at DHS, most notably the U.S. Customs and Border Protection's Secure Border Initiative (SBI) virtual fence. The Department needs to act aggressively to recruit more acquisition professionals to develop and oversee contracts at DHS.

Additionally, DHS must invest in its workforce in order to achieve better results. The Department continues to struggle with poor morale, as well as recruiting and retaining employees. DHS Headquarters was ranked 216 out of 220 agencies on the Partnership for Public Services' 2008 *Best Places to Work in the Federal Government* survey. To improve this situation, the Department should make better use of hiring flexibilities and invest in the workforce through more robust student loan repayment, professional development, and mentorship programs.

To be an employer of choice, DHS also must ensure that employees have input in management decisions and workplace protections, including collective bargaining rights. For example, the lack of basic worker protections, including collective bargaining rights. For example, the lack of basic worker protections has contributed to the Transportation Security Administration having one of the highest levels of attrition, discrimination complaints, and workers' compensation claims in the Federal Government. Continually losing trained and talented employees may jeopardize our security.

Finally, as I stated during Secretary Chertoff's nomination hearing 4 years ago, the price of security should never erode our constitutional freedoms. There is an urgent need to review and revise policies at DHS that infringe on privacy and civil liberties. For example, DHS's policy on searches of laptops and other electronic equipment at the border raises privacy concerns and should be reviewed.

Likewise, the REAL ID Act poses privacy and other concerns. The REAL ID Act does not contain adequate protections for personal information that will be contained on REAL ID cards and in linked State databases. Furthermore, as you are well aware, REAL ID imposes large costs on the States. Numerous States, including Arizona, have passed legislation rejecting REAL ID. Air travel could be greatly disrupted if the problems with REAL ID are not resolved by the end of 2009, when the current extensions for REAL ID compliance expire. This would particularly harm Hawaii, as our economy is heavily dependent on tourism and most people arrive by air. It is time to repeal REAL ID and replace it with a solution that has State support and privacy protections.

Governor Napolitano, I want to thank you for your dedication to public service—as a U.S. Attorney, as a Attorney General, as Governor of Arizona, and, I anticipate, as Secretary of Homeland Security. I look forward to working closely with you to protect our country and implementing reform.

Thank you, Mr. Chairman.

Senator AKAKA. Governor Napolitano, you signed Arizona legislation rejecting REAL ID because of inadequate Federal funding. As you may know, I support more secure drivers' licenses, but I believe that REAL ID is deeply flawed. I have advocated repealing and replacing REAL ID with a more workable solution to increase State buy-in and improve privacy protections.

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

Governor NAPOLITANO. Senator, I did sign a bill, and we were one of a number of States that said we would not participate in REAL ID, not out of a philosophical objection to the goal of having a secure driver's license that could be relied upon in our country, but because it is a huge fiscal burden and it costs a lot of money to do it.

I also think that we did not have enough consultation and collaboration with States, which, after all, is where motor vehicle divisions are run and have the whole mechanism by which the REAL ID would be accomplished.

So in response to your question, what I intend to do is to sit back down with a group of governors—the National Governors Association has formed a bipartisan task force here—and get the sense of their recommendations and where we need to go with respect to REAL ID. And if it is a matter that needs to be taken up again legislatively, I hope to work with this Committee on the necessary improvements, because as it stands right now, we really have a patchwork of States of what they are doing, and particularly with the condition of the States fiscally, I don't think we can reasonably anticipate that they have money available now to put into an enhanced driver's license program.

So we need to rethink, revisit, reconsult, and then, if necessary, come back to this Committee.

Senator AKAKA. As you know, at this moment half of the States have passed laws rejecting REAL ID.

DHS has struggled through poor morale, high turnover, and high vacancies due in part to the Department's efforts to alter collective bargaining rights and to implement a pay-for-performance system. These proposals were resisted by the employees and their representatives, and ultimately were blocked by the courts and Congress because of fairness concerns. DHS must improve its ability to recruit, train, motivate, and retain skilled employees in order to meet its mission.

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

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

And so we start with that. We start with the premise that the men and women of this Department want to work to keep America safe. That is why they are here. That is their mission. And so we start with the good will.

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

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

Senator AKAKA. Governor, only one large U.S.-flagged cruise ship remains operating in Hawaii. Rapid growth in foreign-flagged ships has forced domestic ships out of business by avoiding U.S. tax, labor, and employment laws. The Passenger Vessels Services Act (PVSA) restricts foreign-flagged ships from operating in U.S. ports, but it has not been enforced. Customs and Border Protection issued an interpretive rule on the PVSA clarifying the scope of the law, but the Office of Management and Budget returned that rule for further consideration.

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

Governor NAPOLITANO. Senator, yes, I will be happy to look into that rule and its particular application to the Hawaii situation.

Senator AKAKA. Thank you very much. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Akaka. Senator Tester.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. Thank you, Mr. Chairman. I appreciated the opportunity to visit with Governor Napolitano. And I just might add as a sidebar, Mr. Chairman, I don't think you are the first guy that Claire McCaskill has left speechless. [Laughter.]

But that aside, I want to say welcome to the governor, and I appreciated the opportunity to visit with you yesterday. I think we have a lot of work to do. But as we have these Committee hearings with nominees, I would just say that I think, as Senator McCaskill said, you have a real opportunity to make a difference in the security of this country and the efficiency of how the Department works and how tax dollars are spent. And so I think that there is some real opportunity with those challenges as they come forward.

I appreciate your willingness, as I do with everybody, to serve this country. Thank you for what you have done, and thank you for what you are about to do. I think you will be confirmed, and I hope it is done quickly.

We have tried to move the discussion, as the Chairman has said, to the Northern border, how we use those resources, and making sure we use those resources well. As we go up there, we see Border Patrol with new stations and plenty of personnel. We see a lot of the ports on the Northern border where there are too few Customs inspectors. They are cramped and insufficient for dealing with the work that they have to do up there from my perspective. And I think it is bad for security, and I think it is bad for commerce.

DHS does not appear to have an integrated, coherent strategy for the Northern border security that matches up well with the public identified threat. In the Implementing the 9/11 Commission Recommendations Act, I included an amendment to do a study to look at the vulnerabilities on the Northern border and how DHS was going to plan to address them. Unfortunately, the document from my perspective was almost useless. There was no strategic plan for dealing with the border. There was nothing that indicated that there was any real thought given to the Northern border at all. And this is more than 7 years after September 11, 2001.

What actions as Secretary would you take to ensure that we have sufficient and appropriate use of resources along the Northern border?

Governor NAPOLITANO. Well, Senator, I think one of the first things I want to do is go to the Northern border physically, get a sense of the area, see the facilities that are there, talk to members of the communities in those border towns—the mayors and sheriffs. I want to talk to the employees who work in those Border Patrol stations. I want to see what work has been done to having a Northern border strategy, and then really drill down on it to make sure that it is a cohesive strategy that makes sense for the geography that we are talking about.

Senator TESTER. You mentioned local law enforcement, visiting with them. What role do you see in your duration in this office local law enforcement playing in regard to border security?

Governor NAPOLITANO. Well, I think it is at least twofold, Senator. One is through programs like Operation Stonegarden augmenting overtime. They can help augment law enforcement interdiction, apprehension, and prosecution. But they also can and should be extra eyes and ears on the ground, and that doesn't necessarily require a formal financial relationship. My experience is that law enforcement is law enforcement. And if they are asked to keep an eye out for X and know that information is welcome and will be acted on—and also if information that the Federal Government has is shared with them—that is the kind of ongoing partnership with law enforcement that we want to build.

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

As we talked about yesterday, we have a reservation, a significant Indian community, that butts up against Canada in the northwest part of the State, and there are some issues dealing with the sovereignty of that tribe in particular and our goals. And I do not think the goals are any different, but the sovereignty issue makes it a little different play.

You have a Shadow Wolves Program in Arizona, I believe. First of all, does that work pretty well? And, second of all, do you think that is something that could work in other areas of the country when you are dealing in Indian country?

Governor NAPOLITANO. Senator, I cannot respond. I haven't looked at the Shadow Wolves program for a while. But I can say this: I am very sensitive to the sovereignty and jurisdiction issues that Indian country presents. Actually, in Arizona we have an Indian reservation. The Tohono O'odham reservation actually crosses the border into Mexico, and so we work with tribal leaders there in terms of what measures would be taken along that stretch of border, and it requires direct consultation and a realization that there are tribal jurisdictions involved in the homeland security picture, and there are differences there we need to appreciate.

Senator TESTER. Good. I want to associate myself with Senator Akaka's comments on REAL ID. I am not going to get into it, not because I don't think it is important; I think it is very important. But time is limited, and I think he hit on a lot of very good points

that I absolutely agree with when you talk about freedom versus civil liberties.

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

There are a lot of good ideas out there in small businesses that could really help border security from what I have seen, and I am sure you will get an opportunity to see some of that down the line. But would you make a commitment to really take a look at the small businesses and give them an opportunity to be a part of our security future as far as contracting goes?

Governor NAPOLITANO. Senator, yes, I will take a look at that whole issue of contracting, small versus large; also, the phenomenon of big contractors subcontracting and how that is working within the Department.

Senator TESTER. I would certainly appreciate that.

Once again, governor, I look forward to working with you on this Committee. I look forward to you not having to come up and testify in front of all these committees, as Senator Voinovich said, because we will know you will be doing the right thing, and we do not need to bring you up every other day to quiz you.

Thank you very much.

Governor NAPOLITANO. Thank you, Senator.

Chairman LIEBERMAN. Thanks you, Senator Tester. Senator Landrieu, good morning.

OPENING STATEMENT OF SENATOR LANDRIEU

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

Chairman LIEBERMAN. Yes.

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

Chairman LIEBERMAN. I had the same reaction myself. [Laughter.]

Senator LANDRIEU. Yes, I know you enjoy keeping yours.

Chairman LIEBERMAN. Indeed.

Senator LANDRIEU. But also, more seriously, I want to associate myself with the remarks of our Ranking Member on the issue of interoperability, and thank her again and the Chairman for their relentless work in this area. And although we have made progress, we have obviously a great deal more to go. I would only refer to one comment that will forever stick in my mind when I was doing a CNN interview within a day or two of Hurricane Katrina and I happened to be interviewed with the National Guard general from Alabama, who I could not see but I could hear because we were both being interviewed. And the question was posed to him, "General, what is the communications system that you are using now?" And I am going to paraphrase, but his response was generally: "I hate to report, but we are basically using the technology that I imagine we used during the Civil War when we were sending run-

ners,” he said to the reporter. So I commented that was basically the same thing happening in Louisiana.

So when I say on behalf of the people that I represent and the 1,900 people that lost their lives in those days after this catastrophe, I just can’t impress upon you, should you be confirmed as Secretary—and you will, in fact, have my vote because of your outstanding credentials—the importance of getting this right.

As I look at the firefighters on the front row, we don’t have to go too deep within ourselves to remember the horrifying days in New York. And it is not fixed. This Committee has done a tremendous amount of work in trying to fix it, but without the right leadership pushing with us, it is impossible. So I look forward to working with you on interoperability, but I have two questions.

Madam Governor, in President Bush’s last press conference, which was just a few days ago, he was quoted as saying, “People say, ‘Oh, well, the Federal response was slow.’ Don’t tell me the Federal response was slow when there were 3,000 people pulled off the roofs right after the storm passed.” He was referring to Hurricane Katrina, prompted by a question by a reporter. “It’s a pretty quick response.”

Apparently, the President has a lot on his mind the last 2 weeks of his Administration, and I can appreciate that. But a cursory review of the historic record will reflect that although the storm hit on Monday morning early in the morning when hurricane force winds, Category 3 to 4, hit the metropolitan area, it was not until Friday that the first official military airplane or vehicle showed up.

Now, the Louisiana Department of Wildlife and Fisheries was there, the National Guard was called out under Governor Blanco’s direction, and the Coast Guard, God bless them, acted on their own standing authority to rescue those people. But when the real investigation is ever completed, if it ever is, I think the record will probably indicate that more people saved themselves by giving up and swimming or floating off their roofs to safety than actually who was rescued.

Now, I don’t know because there has been no real investigation that thorough. However, having said that, no one, except maybe the outgoing President, would say in the entire world that the response was quick.

Can you briefly talk about your philosophy now as the incoming Secretary of Homeland Security, and with your experience as governor, how would you change the response? Do you recognize the significant role that the Federal Government must play in a catastrophic disaster, whether manmade or naturally occurring? Which in our case was both.

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

I think that there have been a number of changes in FEMA post-Katrina in response to this Committee and others, strong and le-

gitimate criticisms of what did not occur there on a timely basis. But there still is work to be done as well. And we want to make sure that, from my standpoint, FEMA plays a key role in our Nation's homeland security, not just in mitigating disasters before they occur and working to identify measures that can be undertaken, but also in quick response, recovery, and demonstrating the incredible resiliency of this country by getting people back in their homes, back to work, and communities re-established as quickly as possible. And those are all areas that FEMA has expertise in. They must be marshalled and then recognize that FEMA, like so many other areas of this Department, has to work in cooperation with State and local authorities, because so much of emergency preparation and response initially is done at the State and local level, because that is where the personnel are.

But there has to be training, education, communication—all of those things that knit together an emergency response framework that really works. It can be done. It has been done in other situations. So it is not as if it has been a record of uniform total historical failure. But it also can be improved.

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

The State of Louisiana—and I am sure Mississippi and Texas are in this position as well; I don't have their specific numbers—has appealed approximately 1,200 public assistance projects, work order sheets, which you as a governor are very familiar with. Over \$1 billion are in dispute. But the actual number is about 4,000 that basically FEMA and the State can't come to grips with, so these projects are stalled, our recovery is stalled, and jobs are being lost because of this.

We would like to get this fixed in the stimulus package because the benefit is it doesn't cost any more money; we have already appropriated it. If we could fix it, we could get the recovery done and create jobs which would, I think, meet the President's objectives.

But I just wanted to say for the record, in closing, and then ask for a brief response, auditors hired by the State of Louisiana, one of them in particular was RSMeans, which is a construction cost standard firm that basically trains the FEMA personnel. They were our auditors who said that the amount of money that FEMA owed was X. Despite that independent record of auditors that they obviously think well of because they trained FEMA, they still will not pay the money that the State believes it is owed.

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

Governor NAPOLITANO. Senator, I will take a serious look at that, and also I look forward to working with you and this Committee. I think all of us share the desire to work with Louisiana and try to begin getting some closure on some of these things.

Senator LANDRIEU. Thank you. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Landrieu.

I do want to mention, as Senator Landrieu indicated, that there was one great agency that performed heroically, Federal agency,

post-Katrina and right away, and that is the U.S. Coast Guard. And you are going to have the pleasure and honor of working with them because, obviously, they are now part of the Department. I say to those separationists, the Coast Guard, which in some ways might be said to have a real strong claim to be separate, seems to be very happy with the interaction in the Department, which speaks to the integrity of the Department, and also particularly of their connection in the Department to FEMA because they are so much a part of rescue. But they really were heroes.

Senator Levin, welcome. Glad you could come by.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you so much, Mr. Chairman. Welcome, governor. You are a great appointment. We look forward to your service.

I talked to you on the phone about a number of questions, and I want to raise them here just very quickly. I know you have been asked about the number of Border Patrol agents that need to be hired, the additional ones, and the requirement in law that 20 percent of the additional increase in agents be assigned to the Northern border. The Northern border has been shortchanged severely in terms of the number of agents. I think at least one of my colleagues has already gone into that issue with you.

Are you aware of the requirement that 20 percent of the increase in Border Patrol agents be assigned to the Northern border? Is that something you are familiar with?

Governor NAPOLITANO. Yes, I am generally familiar with it, Senator.

Senator LEVIN. All right. Will you take steps to see that the requirement is met? So far it has not been. Only 6 percent of the increase from 2006 to 2008 has been along the Northern border. Will you take that on?

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

Senator LEVIN. Thank you. I think you have also commented on interoperability issues. It is the No. 1 request we get from all law enforcement, an increased focus on interoperability, the ability to communicate with each other at all levels of government. Six of the demonstration grants are supposed to be in border States because of the needs that we have, not just to communicate with each other but also to communicate with Mexico and Canada.

Is that something that you will look at and take seriously?

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

Senator LEVIN. Thank you. The Permanent Subcommittee on Investigations (PSI) of this Committee, which I chair, has looked into foreign corruption and the ability of corrupt foreign officials to receive financial safe haven here in the United States. In August 2006, President Bush announced the national strategy against

kleptocracy, the use by corrupt foreign officials of our financial system to hide money which is improperly in their hands.

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

Governor NAPOLITANO. Senator, I think this is one of those areas where the Department of Homeland Security has a relationship with the Treasury Department and the Department of Justice. All would have a role here, but, again, drawing on my own experience, one of the ways you get at terrorism and counterterrorism is through the money-laundering and the money aspect channel. And I have a lot of experience in terms of damming warrants and other things with respect to interrupting the whole money aspect of not only terrorism, but human trafficking and drug trafficking.

Senator LEVIN. At a time, governor, when demand for fire grant funding appears to be increasing, the Administration has continued to propose significant cuts in firefighter assistance in our budgets. Given the need and increase in demand for fire grants, to what extent do you believe the corresponding increases in firefighter assistance is warranted?

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

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

Senator LEVIN. Mr. Chairman, I am going to have to return to the Armed Services Committee where we have four nominees before us. I thank you and the Ranking Member for holding this hearing and for prompt consideration of the governor's nomination. I look forward to her confirmation. I do have additional questions for the record. If we could get those answered promptly, I would appreciate it.

Chairman LIEBERMAN. Thanks, Senator Levin. Thanks for making the extra effort to come over. Give our regards, Senator Collins' and mine, to our Committee Members on the Armed Services Committee.

Senator LEVIN. I have explained your absence already.

Chairman LIEBERMAN. Thank you.

Governor, we will go to a second round. It looks like the three of us will go forward. I want to thank you for listing in response to Senator Collins' question about substantive priorities, after your understandable management priorities, non-aviation transportation. I appreciate that very much because I think it is urgent, unfinished business. We know that terrorists struck transit systems in Madrid and London—and, in fact, in Mumbai in, I believe it was, 2006 before the urban jihadist attack of last November. The latest number I have seen says that 14 million people use mass

transit systems in the United States every day, so these involve a lot of people.

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

Governor NAPOLITANO. Well, Senator, should I be confirmed, one of the things I want to do—first of all, there is some real expertise in this country, and so I want to solicit their advice. It is not necessary to reinvent the wheel here. Then this is an area, again, where private entities need to be brought to the table, and municipalities, the actual owners and operators of these transportation systems. So we need to figure out a way how do we do that on as expeditious a way as possible.

And then we need to move forward and say what are the easy, common-sense things—what is the low-hanging fruit—that we should do now or within the next 30, 60, or 90 days? What requires a longer-term strategy to accomplish? And really, just as I told Senator Tester, I really want to look at a Northern border strategy and plan, we want to do that for surface transportation. And we don't want to wait for the plan to do what we already know needs to be done, so you do that to get yourself started. But then things should fit into a longer-term strategy.

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

Interestingly, I think I mentioned when we spoke in my office, the Pew Research Center did a poll on various government services a while ago and asked the American people to rate them, favorable or unfavorable. And, interestingly, encouragingly, and probably surprisingly to some people, one of the highest-rated Federal services was the Transportation Security Agency. It was at 70 percent or higher. Unfortunately, one of the lowest rated was border security. I want to come back to that in a minute.

One of the theories given by the organization that did the polling was that maybe more people have contact with TSA and they are generally positive. People are troubled by the controversies around border security. But I know that, being a border security governor, you know that these are real problems that go to the integrity of our immigration law and also, obviously, to our security.

Senator McCaskill asked you about enforcement of some of the laws relating to employing illegal immigrants. And Senator Tester did somewhat with regard to using law enforcement personnel. I want to ask you more broadly, as you come in with some experience in border security, what are your thoughts about how better to secure our border and enforce our immigration laws? We have struggled with this. We have acted on it. We have spent a lot of money so far. Do you think we should attempt to cover the entire Southern border with a fence?

Maybe I will stop there and let you begin to answer.

Governor NAPOLITANO. Well, I think border security requires a system, and a system has several parts to it. It requires boots on the ground. And so one of the things I will be counting as the Secretary, is not just how many agents we have or in training or what

have you, but how many boots on the ground do we have in places at shift time.

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

There is a role for some fencing, particularly around urban areas, because it helps prevent those who are crossing illegally from blending immediately into a town population. But these borders are so vast that the notion that a fence alone is worth the expense to go, say, from San Diego to Brownsville, I don't think I would be giving good advice to the Committee if I said that is the way we are going to protect the border. It needs to be done strategically as part of a border system.

And then you have got to have interior enforcement because once someone has run the gauntlet of the border, if they get through—and we have to anticipate that you are never going to have 100 percent protection against that—you need to have some means of interior enforcement, and that really is where the employer actions come in.

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

Chairman LIEBERMAN. Sure.

Governor NAPOLITANO. To the extent we deploy law enforcement to deal with the illegal immigrant coming to work, we have to do the right thing to make sure that we continue the key focus on those that are coming to do real evil in our country and make sure that we haven't diluted our law enforcement resources to such a degree that we don't really have an adequate focus on those evildoers. And I want to make sure that we are working with State, locals, and other organizations on those borders, Northern and Southern, and that we are creating a good balance.

I have a particular concern right now. Mexico, as you know, is undergoing a very serious issue with violence related to President Calderon's really quite admirable initiative going after the big drug cartels. But it has caused a lot of violence in those border States along the U.S. borders.

Chairman LIEBERMAN. Right.

Governor NAPOLITANO. So we have to be very cognizant of that, in addition to all the other concerns.

Chairman LIEBERMAN. When we spoke in my office, you had some interesting, practical, common-sense things to say about your experience in Arizona with the National Guard in terms of border enforcement. I wonder if you would expand on that a little bit now? Do you think we ought to make use of the National Guard in terms of border security?

Governor NAPOLITANO. Senator, I was one of the first governors to say the National Guard could play a very useful role here to augment Border Patrol, not to substitute for it but to augment it,

so, in essence, you expand the manpower hours that we have. And I look forward to working with Secretary of Defense Robert Gates to see whether there is and can be a continuing role for the National Guard at the borders.

Chairman LIEBERMAN. Am I right that one of your conclusions or feelings was that the presence of the National Guard or even the announcement that the National Guard was involved in border security had a deterrent effect, perhaps particularly on some of those evildoers who are thinking of coming over, like drug dealers and human traffickers?

Governor NAPOLITANO. Yes, Senator, that was my perception. When Operation Jump Start began, which was the name given to the National Guard at the border initiative, there was an awful lot of press in Mexico about it. And I think that press in and of itself was very helpful.

Chairman LIEBERMAN. Well, I agree with that position. I know it has all sorts of sensitivities, but I thank you for your intention stated here to work with Secretary Gates and the Department of Defense on this. And I think it could be done in a thoughtful way that can both assure the enforcement of our laws and also keep out some of the people we want to keep out. Thank you.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Governor, the challenges of border security on the Northern border are very different from the focus on the Southern border. And I have already invited you to come to Maine to learn more about those challenges. But let me just give you a few examples.

In border communities in Maine, Canadian nurses are absolutely essential to the operation of some of the smaller hospitals. They are crossing back and forth every single day.

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

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

There are all sorts of practical realities because, prior to the attacks on our country on September 11, 2001, the border was very integrated in Maine. And it still is in many ways. Many families have relatives on both sides of the border.

We are going to be facing, in June, the full implementation of the Western Hemisphere Travel Initiative, which has caused some concern in the State of Maine about what the impact will be on legitimate travel and trade. I would also point out that Canada is our biggest trading partner in the United States. An astonishing \$1.5 billion of trade occurs every day between the U.S. and Canada.

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

Governor NAPOLITANO. Senator, your question really illustrates how there are two competing interests really in the border area.

One is security and we must continue to work to enforce the law, our immigration laws and our laws to keep evildoers out. But there are border communities all over where people need to go back and forth and have for years, for generations. So how do you accommodate those within an ever-increasing border enforcement strategy?

I think it is going to require some creativity on our part, and without saying today what we are going to do, I do have some ideas in this regard. One may be the kinds of identification that can be used by those who live on the border and must go back and forth regularly versus those that are only episodic travelers, say, for example.

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

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

Governor, there are a couple of Federal programs where you have been critical of the implementation, and now you are going to be in a position to solve all of these problems. I want to talk to you about two of them. One is a series of exercises that the Department of Homeland Security undertakes with State and local governments called the Top Officials (TOPOFF) exercises. I have participated in two of those, and my impression is quite different from yours. I thought they were very well run, very helpful to State and local governments, and focused on real-life scenarios.

By contrast, in October 2007, you participated in a TOPOFF exercise and were very critical in a letter that you sent to Secretary Chertoff in early November 2007,¹ in which you described the process as "too expensive, too protracted, and too removed from a real-world scenario." You also said there wasn't sufficient information sharing, there wasn't a good feedback system.

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

Governor NAPOLITANO. Thank you, Senator. What goes around comes around, I guess is the point there. But one of the key concerns I had was the expense. I think exercises benefit from frequency, and one of the real benefits to be gained is people learning how to work with each other, who to call, who is going to be on the other end of a communique, who is prepared to stand up under what circumstances.

One of the problems with TOPOFF is they are so gigantic and expensive that they really do not permit that.

A second one is that they are too slow to get feedback to the participants. For example, we participated in October 2007. We don't yet have an analysis of what happened, why, and what worked and didn't work. Well, now the top officials who were involved in that, such as myself, many of us have moved on.

¹The letter to Secretary Chertoff referenced by Senator Collins appears in the Appendix on page 213.

So if we are going to be doing these kinds of things—and they are valuable. The underlying philosophy is a good one. But they need to be, in my view, streamlined, and the response in terms of analysis, improvements, and recommendations needs to be much quicker.

Senator COLLINS. Thank you. Mr. Chairman, I will wait to ask my next question until after Senator Carper.

Chairman LIEBERMAN. Good. Then we will do one more quick round.

Senator Carper, thanks for coming. I know you have had a busy morning, but we appreciate seeing you. You are a very steadfast Member of the Committee, but you are always here when there is a governor testifying.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. I come before you as a recovering governor. [Laughter.]

And with a little luck, you will come before us as a recovering governor in the years to come. I want to thank you for your service to the people of Arizona and to say it was a real pleasure to serve with you as a member of the board that you chaired for Jobs for America's Graduates, which is a nonprofit organization that is designed to help reduce dropouts in our schools. Thank you for that. I enjoyed that very much and appreciated your leadership then and as the governor of Arizona, and I look forward to your leadership in the Department of Homeland Security.

I apologize for being late. We are saying good-bye today to two of our colleagues, and one of those is our State's senior Senator, Joe Biden. And for 2 months now, ever since he was elected Vice President-elect, people have been calling me "senior Senator." And people kept coming up to my wife and me at dinner at the national convention after he had been nominated and saying to my wife, "Well, how does it feel? Your husband is going to be a senior Senator." And she would say, "I don't know."

We got back to our hotel room that night, and she said, "I just have one question about this senior Senator stuff." I said, "What is that?" She said, "Does it pay more?" [Laughter.]

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

But Joe Biden is going to be senior Senator for another 5 hours and 2 minutes. Then it is my turn.

Governor NAPOLITANO. There you go.

Senator CARPER. And we will usher him out the door. But we just said good-bye. I have had to follow him on giving speeches in Delaware for 30 years. He is about as good as there is. And I had to follow him again today on the Senate floor as he said good-bye and as we said good-bye to him. And then when we finished that, Hillary Clinton gave her farewell address. It was very moving, very poignant. And so I apologize for being late, but I hope you understand.

Later this weekend, in fact, there is a train coming down from Philadelphia to Washington, DC. They are going to make a stop in Wilmington, and Vice-President-elect Joe Biden and President-elect Barack Obama will make their way down to our Nation's capital,

sort of a modern-day version of the whistle-stop tour, and we are excited about it and looking forward to it.

I know in Arizona you have some trains and other public transit. I come from a part of the country where there is a whole lot more of that, as you know. And we have more people in the tunnels that lead under the river into New York City at any given time than would fill up seven or eight 747s. During the course of a day, I think there are hundreds of thousands of people who are in those tunnels. Every day people are going up and down the Northeast corridor going through the Baltimore tunnel, which is about 150 years old. We have all kinds of bridges in places where people can do mischief to the folks that are using our trains or our transit. But we have been blessed and fortunate that we have not had the kind of terror attacks that they had in London and Madrid where a lot of lives have been lost. But I know others have spoken to you here today about making sure we don't just focus on air travel, but we must also focus on rail. And given the sort of renaissance that is going on with train travel across this country—ridership is up again this year by more than 10 percent. More and more people are taking the rails, not just in the Northeast corridor, but I think throughout densely populated corridors. So I would just ask that you be mindful of that.

I also learned recently that during the altercation where the Russian troops moved into Georgia, it was not just Russian troops that moved in, but they did a pretty good job of really almost eliminating the ability of the Georgian country to operate in a lot of ways simply through cyber attacks. Apparently, they did something on a more modest level with another country, one of the Baltic countries, I think it was Estonia.

Sitting here today, our Nation is under attack. Many of our departments are under attack. And it is not just by kids, it is not just by criminal elements. It is by sovereign nations trying to hack their way into our Department of Defense—trying to steal our weapons system ideas—and any number of other places, not just folks interested in capturing and stealing somebody's identity, but actually putting our Nation at peril and at risk.

I would just ask you to share with us some of your thoughts, and I know this is something you are interested in and know about, but just share with us some of your thoughts as to how we can better address these threats—because my suspicion is those threats will not be diminishing during the time that you lead the Department of Homeland Security. If anything, they are going to be increasing. During the hearings of the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security that Senator Coburn and I have held, it has been suggested that we are not doing all we can do on that front. But I would welcome your comments as to what we might do.

Governor NAPOLITANO. Well, Senator Carper, in earlier comments, I mentioned cyber infrastructure specifically as something that I think we are, in some important respects, at the beginning of attacking the attacks, as it were. And this is, again, one of those areas where the Department of Homeland Security, the Department of Defense, the Nation's intelligence structure, and others all have some kind of cyber aspect. But the Department of Homeland

Security has a key and central role to play. We have the cyber center, but I think it is not heavily staffed; and I think this is an area that I am going to want to plow very deeply, very quickly, because I know that President-elect Obama has said several times that this is an area where he wants to get a national strategy and a national coordinated plan going—and using the best and brightest minds that we have in America where the cyber world is concerned, to make sure that we are employing them to help us protect that very valuable infrastructure.

Senator CARPER. I understand. Some of our adversaries are trying to figure out now how to hack into BlackBerrys, particularly BlackBerrys that are possessed by Presidents-elect. And so I say this with tongue in cheek, but the threats are very real.

Another issue that I am sure has been raised with you, I will just ask this one as well, and if you have already addressed it, maybe you can just truncate your response. But there have been a lot of discussions—all the imaginable debate we had when we put together Homeland Security as a Department—as to what should be in, what should be out. Should FEMA report directly to the President? Should it not? How do we put all this together and not end up with what we call in Delaware a “dog’s breakfast”? And I am sure there are days when some people think what we have created is very much that.

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

Governor NAPOLITANO. Well, I think, Senator, my key focus is to make the organization that we have work even better. There have been a number of reorganizations even within the Department’s short life. All of those interrupt, cause delay, and so forth. And I think where I am going to start right now is take the organization we have, and how do we make it even better as opposed to moving a lot of boxes around?

Senator CARPER. I think we once had a Defense Secretary who said about our war in Iraq that you “go with the Army you have been given.” And so you will have a chance to go with the Department that you have been given. We look forward to not only working with you on the issue of cyber attacks and the issues of rail safety, but we look forward to working with you once you have had a chance to settle in and decide what does make sense and, frankly, what does not and to see if there are any changes that should be made.

I have always felt that the most important thing is not necessarily the structure of an organization, although that is important, but even more important, the kind of people that we choose to provide leadership in the various parts of that organization. We did not always do so well in the current Administration picking leadership, especially in areas of first responders. And FEMA is a good example of that and the poster child for that. But we have a responsibility to scrutinize and look closely at the people that the Administration sends to us for confirmation, and I would just encourage you to find people who know how to do the jobs to which they have been nominated.

Thank you again for your willingness to take this on. Hopefully, you will be confirmed, I am pretty sure you are going to be, and if that happens, we just very much look forward to working with you. Thank you.

Governor NAPOLITANO. Thank you, Senator.

Chairman LIEBERMAN. Thanks, Senator Carper. Listening to your telling of the conversation with your wife about being the senior Senator, it struck me that if my late mother were here, she would say to you that the reward you deserve for being the senior Senator from Delaware, you will have to probably wait to receive it until the world to come. And so I hope that gives your wife some encouragement. [Laughter.]

You shouldn't arrive there too soon. But, anyway, we thank you for your service, senior or junior, on this Committee and in the Senate.

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

[The prepared statement of Senator Carper follows:]

PREPARED STATEMENT OF SENATOR CARPER

Thank you, Mr. Chairman. My thanks to you, as well, Governor Napolitano for giving up what I know as a former governor is a great job to take on the challenge of managing the Department of Homeland Security.

Your new job, if you are confirmed, Governor, will certainly come with its share of challenges. I know you're aware of that. But it will also present you with some opportunities.

We've spent a lot of time and money since September 11, 2001, and since the creation of the Department of Homeland Security preparing for certain kinds of attacks. But going on 8 years since those events, we have a chance—and I would argue an obligation—to evaluate what we've done to date, to see what has worked and what has not, and to re-focus our efforts and our scarce resources on the new threats we face. I suspect that at least some of those threats were not even on our radar screens on September 11, 2001, or even a few years ago.

One of these newer threats that we need to work to address is the threat of cyber attack.

Over the past few years, Senator Coburn and I have held several hearings in our Subcommittee on the importance of protecting the Nation's critical infrastructure and sensitive information from cyber attacks. We learned that our economic infrastructure and our military and government operations are at extreme risk of being hindered or, in some cases, shut down altogether as a result of some well-documented and exploitable weaknesses.

Since we began our oversight, the threat has become an increasingly scary reality. Over the past year, we have seen two sovereign nations undergo cyber attack by Russia. In addition, the Departments of Defense, State, and Commerce have had their networks hijacked by China. Utilities and financial institutions have also come under attack. I'm not certain that the Federal Government and the Department of Homeland Security in particular are prepared to address these challenges.

I also question our efforts in the area of transit security, including inter-city passenger rail.

We can all walk into an airport and see the efforts that have been undertaken to make flying safer since September 11, 2001. That is not the case with transit security despite the fact that some of the worst terrorist attacks we've seen since September 11, 2001, have occurred on mass transit in cities like London and Madrid. I'm not advocating that we replicate the security procedures we have in place at airports, at train and bus stations but I do think that we need to do more than we have done to date to protect those of us who rely on Amtrak and transit on a daily basis.

Those issues—cyber security and transit security—are just two of the many that this change in leadership gives us a chance to look at with a fresh set of eyes. I look forward to working with you and your team, Governor, as you take the reins of the department and do just that.

Thank you again, Mr. Chairman.

Chairman LIEBERMAN. I want to come back to some issues related to how people get into the country that are under your jurisdiction as Secretary. I want to mention one that you may not have been briefed on, but I want to try to put it on your radar screen because it has concerned me. It relates to the Visa Waiver Program, which I think is a good program. The intentions are good. And it has both commercial advantage to make it easier for tourists to get in here, and it is also a diplomatic step with regard to certainly countries in the former Soviet Union who have now become our close and very supportive allies.

But it does involve risk when you make it easier for people to come in here, and this risk is not just or even primarily associated with the new countries that have been allowed into the Visa Waiver Program. It is true of the countries that have been in there a long time in Western Europe. After all Zacarias Moussaoui, one of the September 11, 2001, terrorists, came in from France. Richard Reid, the shoe bomber, came in from England.

This Committee was very concerned about this potential vulnerability that was inherent in the Visa Waiver Program, and in the second wave of 9/11 Commission legislation in 2007, we included a provision to secure the Visa Waiver Program, and the goal, to put it simply, was to make sure that any passenger who got on an airline from one of the Visa Waiver countries had to be checked against a terrorist watchlist before they could get onto the airplane.

The Department now has created a mechanism for doing this which they call the Electronic System of Travel Authorization (ESTA). In fact, it went into effect on Monday of this week. But I, as you may know, have made no secret of the fact that while I am a supporter of the Visa Waiver Program, I believe the Department moved much too quickly to certify the Electronic System of Travel Authorization as operational in order to allow the new countries to get into the program. And the fact is that GAO has been critical of ESTA, and even some Department officials have confirmed to our Committee that airlines lack the ability to determine whether travelers from Visa Waiver Program countries have obtained travel authorizations from ESTA.

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

Governor NAPOLITANO. Well, Senator Lieberman, as I responded to Senator Voinovich, the whole visa waiver issue is a balance between the security needs of our country and public diplomacy. In some ways, it is reminiscent of actual enforcement of border security. There is the good and the bad that always need to be looked at.

Secretary Chertoff did brief me on ESTA over the course of the last 6 weeks, but I have not had the opportunity, obviously, to look into what actually has occurred and what is the capacity there that has been operationalized. So I will be happy to look into that and to work with you on that, Senator.

Chairman LIEBERMAN. I appreciate it. A final question from me, a very different kind of question related to how people get into the country, and that is, how we treat those who seek asylum in our country. I have been interested in this for a number of years, particularly after a report of the—I forgot the official name, but it is a commission on religious freedom that was set up by our government that reports periodically. They did a searing report on the way in which people are coming to the United States seeking asylum based on discrimination, and worse, in their home countries because of their religion, and also relates to people seeking political asylum, in the way that they are housed. I understand that this right of asylum can be gamed. We all understand that. That is why we create a filter. But non-criminal aliens here are being housed for very long periods of time in high-security detention facilities and, because there is not enough of them, in local and county jails where they are often denied medical care or basic needs. That is just the finding that the commission and others have had. They are also not permitted to request their release from an immigration judge. So it is just the kind of behavior that we do not want to continue particularly for people who have in mind those moving words on the base of the Statue of Liberty about this being a sanctuary for those seeking freedom, as it has been.

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

Governor NAPOLITANO. Mr. Chairman, you are correct. I have not spent a lot of time working my way through that particular issue. I have been giving some attention to the whole area of detention and the ICE facilities. But I will be more than happy to drill down, look into what is there, what allegations are being made, if they really fact based, and to work with you and your staff on this.

Chairman LIEBERMAN. Good. Thank you. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Governor, in October, you sent a very strong letter to the Federal Government with an invoice calling upon the Federal Government to reimburse Arizona for more than \$500 million for incarcerating criminal aliens.¹ And you say in the letter, “By refusing to fully reimburse Arizona for its SCAAP”—the acronym for the State Criminal Alien Assistance Program—“costs, the Federal Government has unfairly forced Arizona to bear the Federal Government’s costs arising from its failure to adequately secure its borders.”

I suspect maybe in October you were not aware that you might be the Secretary of Homeland Security.

Now you are going to have a role to play not only in border security, but in helping to set priorities in the budget for the new Administration. Do you think this bill should be paid now?

Governor NAPOLITANO. Senator, first of all, the bill went to the Attorney General of the United States, so if the governor—

¹The letter to Attorney General Mukasey referenced by Senator Collins appears in the Appendix on page 215.

Senator COLLINS. Still the Federal Government.

Governor NAPOLITANO [continuing]. Of Arizona sends a bill, I will be happy to give it to the Attorney General. [Laughter.]

But the greater point remains, and that is, I think one of the reasons President-elect Obama asked me to serve in this position is the real-world experience I have had in dealing with an immigration system which, when broken, falls unfairly on border States. Five hundred million for a State like Arizona, where the annual budget is just about \$10 billion, is a lot of money. So I would hope to contribute to the discussions within the Executive Branch and bring to bear that experience and suggest some options that might be proposed.

Senator COLLINS. In all seriousness, it is a significant burden for border States, and I do think given that the law requires the reimbursement and, as you eloquently point out in your letter, the Federal Government is only paying pennies on the dollar, it is an issue that does need to be reviewed. And I think it is very helpful to have a governor in the Cabinet who has been on the other side of unfunded mandates and unfulfilled promises.

A similar one is the REAL ID law. I completely support the goal of having more secure driver's licenses. The 9/11 Commission pointed out that some of the hijackers were able to use their licenses in order to board airplanes. It is unacceptable that people in this country illegally are able to get driver's licenses because it is a gateway card. On the other hand, there is no doubt that it is an expensive process for States to come into compliance.

I do hope that you will work to come up with additional financial assistance to help States comply with the goals of the REAL ID program. Otherwise, we are imposing a very expensive unfunded Federal mandate on the States.

Governor NAPOLITANO. Well, Senator Collins, as I said to Senator Akaka earlier, it is the unfunded mandate aspect of it, but I think getting governors back to the table is important as well because in the end, if it is going to work, the States really are where it is going to be operationalized. And so we are going to have to build that partnership in a much different way than we have had heretofore.

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

I do want to reinforce what the Chairman said about the Coast Guard. It is an absolute gem. It is the one agency at all levels of government that performed extraordinarily well in the wake of Hurricane Katrina. It needs budget help, especially given the new White House directive on the Arctic Region. It is going to have the need for additional ice breakers, and I am going to be submitting some questions to you about that as well.

And, finally, I would be remiss in my capacity as the Ranking Minority Member if I did not supplement the question that the Chairman asked you at the beginning, and that is to ask you, in addition to responding to requests for information from the Chairman or joint requests, will you also be responsive to requests for

data and other information from Minority Members of this Committee?

Governor NAPOLITANO. Yes. And with respect to the Coast Guard, Senator Collins, I would be remiss if I didn't mention that the Admiral in charge, the Commandant of the Coast Guard, is actually from Arizona.

Senator COLLINS. That seafaring State.

Governor NAPOLITANO. There it is. [Laughter.]

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

Chairman LIEBERMAN. Thanks, Senator Collins. Without objection, the questions from our colleagues will be submitted for the record.

We are going to keep the record open until the close of business today for the submission of any written questions or statements for the record. Now, that is very quick, but that is because of the sense of urgency that the Committee has about how important it is to get you confirmed as soon after President-elect Obama becomes our President by taking the oath as soon as possible.

Governor, I thank you for your testimony today. You have been very informed, very helpful. Occasionally, you have been funny. [Laughter.]

And overall you have shown yourself ready to take on the awesome responsibilities that come with being Secretary of Homeland Security. I would be very proud to support your nomination on the floor, and I look forward to working with you, as I know Senator Collins does, in the years ahead.

With that, the hearing is adjourned.

Governor NAPOLITANO. Thank you.

[Whereupon, at 12:19 p.m., the Committee was adjourned.]

A P P E N D I X

**Statement of Governor Janet Napolitano
before the
Senate Homeland Security and Governmental Affairs Committee
on her nomination to serve as
Secretary of the Department of Homeland Security
January 15, 2009**

Good Morning. Mr. Chairman, Ranking Member Collins, Members of the Committee, it is a privilege and an honor to be seated before you today in nomination to serve as Secretary of the Department of Homeland Security. And it is humbling, because as you know better than anyone, the urgent mission of this enormous agency is critical to the lives and the security of every citizen of the United States.

Mr. Chairman, Senator Collins, I particularly note and commend your foresight and leadership with respect to this agency. After the attacks on 9-11, you understood the need for a more organized, systematic approach in response to acts of domestic terrorism, and you held the vision necessary to forge this new department.

Granted, the birth of an agency is not easy – particularly one that involves 22 separate agencies and more than 200,000 employees. But much has been accomplished in a remarkably short period of time. I salute Secretary Chertoff and Congress for what has been done. I also thank Secretary Chertoff for a well-planned and thorough transition process, the first ever for this department.

I suspect, however, that we agree our work here is not finished. I look forward to our discussion this morning about your observations and interests in this complex organization.

The overriding and urgent mission of the United States Department of Homeland Security is contained in the name of the agency itself. To secure the homeland means to protect our nation's borders by finding and killing the roots of terrorism and to stop those

who intend to hurt us; to wisely enforce the rule of law at our borders; to protect our national cyber infrastructure; and to prepare for and respond to natural and man-caused disasters with speed, skill, compassion, and effectiveness.

The Homeland Security mission is of paramount importance to the Obama Administration, to this Committee, and to me. The President-elect and I believe that, in meeting this responsibility, we must deal fairly with all persons and hold firmly to our principles of due process and equal protection under the law.

I also believe that a close working relationship with Congress and with this Committee is essential. I recognize this Committee's expertise, and I will cooperate fully with the Committee and its important oversight functions. I also look forward to the Committee's assistance with and support for identifying ways to make the work of DHS more effective and efficient. After all, we share a common goal: a strong and vigorous Department of Homeland Security.

As Governor of Arizona for the past six years, I have lived at the nexus of a key issue that faces this agency and this nation: that of immigration. I have walked, flown over, and ridden horseback along our southwest border. I appreciate its vastness, as well as the grave consequences of our broken system. I have acted – to the extent a state can – to deal with those realities, and I suspect many of your questions this morning will focus on what we have done and what yet needs to be done. I look forward to becoming as familiar with our northern border as I am the border with Mexico.

I also invite your questions about my work in the myriad of other all-hazard areas which intersect with the mission of DHS. For example, barely a year into my first term as Governor, Arizona saw the Lewis Prison Hostage Crisis – the longest prison standoff in U.S. history, and one of the few that was resolved without loss of life.

The Kinder-Morgan pipeline break was a man-made disaster, a major disruption to a pipeline supplying gasoline to the Phoenix area. Response to the

immediate crisis uncovered critical system deficiencies; as a result, we implemented systemic changes and new procedures to ensure sharing of information between government and the private sector to ensure continuity of critical service.

The effects of drought in the western United States are acutely evident in Arizona, particularly in our forests which now suffer larger and more ferocious wildfires. We fought those fires, and used that experience to forge new, more effective forest management and enhanced fire and disaster response.

Arizona now has an online 2-1-1 system to swiftly deliver information to our citizens in an emergency; our state was among those that mobilized early and effectively to accept and assist evacuees from Hurricane Katrina; and Arizona was one of the first states to create an anti-terrorism law enforcement fusion center that has been cited as a model for other states.

Cyber security and the protection of the technology critical infrastructure have been a top priority in Arizona. As Attorney General, I created the Computer Crimes Unit to train law enforcement in the identification and investigation of cybercrimes; the Unit successfully prosecuted some of the first cybercrime cases in Arizona. As Governor, I created the Statewide Information Security and Privacy Office to ensure adequate controls and safeguards are in place for all State of Arizona government technology systems and business practices.

As Governor, my role is that of Chief Executive Officer and includes all the complexities of management, budget and accountability that are inherent in a multi-faceted organization.

The record of my work in these areas is a public one, and again, I am pleased to answer any questions you may have.

Please allow me to turn now to some of the issues that I know are of concern to you, and that President-Elect Obama has pledged to address.

To effectively secure our homeland, we must make the operations of this agency more effective. The creation of the Department of Homeland Security was essentially the largest re-organization of the federal government since 1947. As you know well, it was formed of 22 once-separate federal agencies and operates out of 70 buildings at 40 different locations in the Washington area. Forty percent of the workforce is contracted out and morale is low.

If you allow me to do this job, we will work to create a unified vision for this agency. In its short existence, we have seen – sometimes too clearly – the consequences of parochial lines and failure to communicate across those lines. We must and will streamline those communications to make certain the right person has the right information at the right time. We will recruit, train and retain the best and the brightest.

We must and we will build up the working relationships with the other federal agencies whose information, skill and expertise is essential to execution of a coordinated, fully functioning homeland security strategy that is deserving of the respect of American citizens.

The federal government cannot do this alone. As we strengthen these federal links to fulfill our mission of securing the homeland, we will also heighten and extend our cooperation with state, local, and tribal governments, and the many expert law enforcement, firefighting, and emergency management professionals. We will improve information sharing, strengthen our enforcement mechanisms and intensify accountability, and we will provide more effective means for the private sector to join us in meeting our goals for the safety and security of our nation.

By uniting, professionalizing and strengthening this department we will mature it, simplify it, clarify it and ultimately place it in a better position to fulfill the many duties

we are asked to carry out.

Before we proceed further, please allow me to thank the current staff of the Department, especially Deputy Secretary Paul Schneider, for their responsiveness to my questions, for their thorough briefings, and for their commitment to making this transition as smooth as possible. Our goal is to have the national security team in place on January 21st and to have a seamless handoff of responsibility. The DHS staff has worked hard to make that a reality and I am grateful.

Again, I am privileged to appear before you today in consideration of serving as Secretary of the Department of Homeland Security. I look forward to working with the leadership and members of this Committee to make the Department as effective and efficient as possible. I am happy to answer any questions you may have.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)
Janet Ann Napolitano
2. **Position to which nominated:**
Secretary, Department of Homeland Security
3. **Date of nomination:**
January 20, 2009
4. **Address:** (List current place of residence and office addresses.)

Office: 1700 West Washington, 9^m Floor, Phoenix, AZ 85007
5. **Date and place of birth:**
November 29, 1957, New York City, New York
6. **Marital status:** (Include maiden name of wife or husband's name.)
Single.
7. **Names and ages of children:**
None.
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

University of Virginia Law School, September 1980 to May 1983, J.D.

Santa Clara University, September 1975 to June 1979. Bachelor of Science.
9. **Employment record:** List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

REDACTED

Governor of Arizona, January 2003 to present
 Attorney General for the State of Arizona, January 1999 to January 2003
 Of Counsel, Lewis & Roca, February 1998 to June 1998
 U.S. Attorney for the District of Arizona, July 1993 to October 1997
 Partner, Lewis & Roca LLP, June 1989 to July 1993, Phoenix, Arizona
 Associate, Lewis & Roca LLP, October 1984 to June 1989, Phoenix, Arizona
 Law Clerk to the Honorable Mary Schroeder, 9th Cir. Court of Appeals, August
 1983 to August 1984, Phoenix, Arizona
 Summer associate at the Pillsbury law firm, June 1982 to August 1982, San
 Francisco, California
 Summer associate at the Rodey, Dickson, Sloan, Akin and Robb firm, June 1981
 to August 1981, Albuquerque, New Mexico
 US Senate Budget Committee Analyst, September 1979 to August 1980,
 Washington, DC

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.
- Attorney General's Advisory Committee of US Attorneys, member 1994-1997 and chair 1994-1995.
 - High Intensity Drug Trafficking Area Board member through my position as US Attorney for Arizona and Attorney General for Arizona
 - Arizona's Board of Technical Registration, board member 1989-1992
 - Through my position as Governor, I am automatically an ex-officio members of certain Arizona State boards: the Arizona Board of Regents, the Arizona Mexico Commission
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.

Governor, State of Arizona, January 2003 to present
 Partner, Lewis & Roca LLP, June 1989 to July 1993
 Board Member, Arizona Board of Regents, Jan. 2003 to present
 Board Member, Translational Genomics Research Institute, Jan. 2003 to present
 Board Member, Arizona Mexico Commission, Jan. 2003 to present
 Chair, National Association of Governors, Aug. 2006 to July 2007
 Honorary Chair, Competitive Edge PAC, Mar. 2007 to December 2008
 Honorary Chair, Innovation America Foundation, 2007 to present

Board Member, American Legacy Foundation, Mar. 2003 to May 2008
 Board Member, James B. Hunt Institute for Educational Leadership, May 2006 to present
 Chair, Jobs for America's Graduates, Jan. 2004 to Dec. 2006
 Board Member, Jobs for America's Graduates, December 2003 to present
 Chair, Western Governor's Association, June 2005 to June 2006
 Executive Committee Member, Democratic Governors Association, 2004 to present

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

Offices/ Memberships

State of Arizona, Governor 1/2003 to present
 State of Arizona, Attorney General 1/1999 to 1/2003
 Arizona Board of Regents, Board member,¹ 1/2003 to present
 Translational Genomics Research Institute, Board member,¹ 1/2003 to present
 Arizona Mexico Commission, Board member,¹ 1/2003 to present
 National Association of Governors, Chair 8/2006 to 7/2007
 National Association of Governors, Member 1/2003 to present
 Competitive Edge PAC, Honorary Chair, 3/2007 to 12/2008
 Innovation America Foundation, Honorary Chair, 2007 to present
 American Legacy Foundation, Board member 3/2003 to 5/2008
 James B. Hunt Institute for Educational Leadership, Board member 5/2006 to present
 Jobs for America's Graduates, Chair 1/2004 to 12/2006
 Jobs for America's Graduates, Board member 12/2003 to present
 Western Governor's Association, Chair 6/2005 to 6/2006
 Western Governor's Association, Member 1/2003 to present
 Democratic Governors Association, Member, 2003 to present
 Democratic Governors Association, Executive Committee 2004 to present
 Border Governors Conference, Member, 2003 to present
 National Association of Attorneys General, Member, 1999-2002
 Lewis & Roca LLP, Partner, 1989 to 1993
 Council on Foreign Relations, Current member
 American Law Institute, Current member

I have also served in a wide range of community and professional legal organizations in the past including:

- Arizona Community Legal Services Corporation (President)
- Arizona Court of Appeals (Judge Pro Tem)

¹ These are automatic appointments as Governor of the State of Arizona.

- Arizona Criminal Justice Commission
- Arizona High Intensity Drug Trafficking Area Committee (Chair)
- Arizona Peace Officers Memorial Board
- Arizona Peace Officer Standards and Training Board
- Arizona Prosecuting Attorneys' Advisory Council
- Arizona State Bar Committee on Minorities in the Law
- Arizona State Bar Civil Practice and Procedure Committee (Chair)
- Center for American Progress National Education Task Force (Co-Chair)
- National Association of Attorneys General Executive Committee
- National Association of Attorneys General Tobacco Bankruptcy Working Group
- National Association of Attorneys General Civil Rights Committee (Co-Chair)
- Sandra Day O'Connor Inn of Court (Barrister)

I am a member of the Arizona Bar Association (currently on inactive status). I am also a member of the Maricopa County Bar Association (currently on inactive status) and the American Bar Association. I am admitted to the bar of the following courts: United States Supreme Court; Fifth Circuit; Seventh Circuit; Eighth Circuit; Ninth Circuit; Tenth Circuit; and the U.S. District Court of Arizona.

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.

Democratic National Committee, 1990-1992
 Arizona Democratic Party, First Vice-Chair, 1990-1992
 Arizona Delegation to the 1992 Democratic National Convention, Chair
 Nucleus Club, Chair, 1989-1991
 Arizona Delegation to the 2000, 2004 and 2008 Democratic National Conventions, Co-Chair

- (b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.

None other than identified above.

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

Listed below are my political contributions for the last five years, if \$50 or more in amount.

3/20/2003	\$250	EMILY's List
3/4/2004	\$250	EMILY's List
1/31/2005	\$250	EMILY's List
4/28/2006	\$250	EMILY's List
12/1/2006	\$100	Arizona List
1/17/2007	\$250	EMILY's List
5/23/2007	\$50	Pima Democratic Party
2/29/2008	\$250	EMILY's List
4/1/2008	\$250	EMILY's List

In addition to these contributions, I served as the Honorary Chair of the Competitive Edge PAC from March 2007 to December 2008.

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.

Honorary Degrees

Honorary Doctorate of Laws, Santa Clara University, 2003

Honorary Doctorate of Humane Letters, Northern Arizona University, 2005

Honorary Doctorate of Laws, The University of Arizona, 2006

Scholarships and Academic Honors

Truman Scholar, 1977

Phi Beta Kappa 1979

Alpha Sigma Nu 1979

Valedictorian (Santa Clara University) 1979

Raven Society 1983

Johnson, Swanson Award (University of Virginia School of Law award for appellate advocacy) 1983

Awards

- Honorary Chair, Camp Fire USA, 1999
- Leader of Distinction Award, Anti-Defamation League, May 6, 2000

- Administrative Professionals, Assistance for Independent Living Award, 2001
- Distinguished Achievement Award, ASU College of Public Programs, 2001
- Human Services Leadership Recognition Award, Department of Economic Security, 2001
- Community Service Award, League of United Latin American Citizens, 2001
- Mental Illness Awareness Coalition Candlelight Vigil Award, Mental Illness Awareness Coalition, 2001
- Honorary Chair, Multiple Sclerosis Society, 2001
- Cesar Chavez Continuing the Legacy Award, Cesar E. Chavez Foundation, 2001
- Honorary Chair, Parents Anonymous Capital Campaign Steering Committee, 2001
- Honorary Member, Phi Alpha Delta Law Fraternity International, Hugo L. Black Chapter, 2001
- State Bar of Arizona President's Award, State Bar of Arizona, June 2002
- Currin Shields Outstanding Consumer Advocate Award, Arizona Consumer Council, September 2002
- Caring Spirit Award, Dr. R. Alice Drought Community Award of Excellence, Area Agency on Aging, October 2002
- National Association of Social Workers, Branch II, Elected Official of the Year, 2002
- Social Justice Award, The Mental Health Association of Arizona, 2002
- Arizona Italian Woman of the Year, National Italian American Foundation (NAIF), May 10, 2003
- Advocate of the Year, Arizona Council of Human Service Providers, July 26, 2004
- Courage for Children Award, Arizona Association for Foster & Adoptive Parents, October, 2004
- Freedom of Information Award, Arizona Newspapers Association, 2004
- Children's Action Alliance, Jacque Steiner Public Leadership Award for Children, October, 2004
- Friend of Arizona's Children Award, Child Crisis Center--East Valley, October, 2004
- Hispanic Leadership Forum Del Suroeste Award, October 25, 2004
- Scottsdale Convention & Visitors Bureau Award, 2004
- Outstanding Alumnae Award, University of Virginia, 2004
- Visionary Leadership Award, Prevent Child Abuse, 2004
- Women Impacting Public Policy Award, Women Impacting Public Policy (WIPP), 2004
- Arizona Small Business Association, "Eagle for Enterprise Award," 2004
- Honorary Member, Women Impacting Public Policy (WIPP), 2004
- Arizona Tourism Advocate of the Year, Arizona Tourism Alliance, February 16, 2005
- 2005 Woman of the Year, Arizona Hispanic Chamber of Commerce, April 23, 2005
- Honorary Bombero, Los Bomberos, May 4, 2005

- Distinguished Legislator Award, The American Legion Department of Arizona, June 16, 2005
- Special Recognition Award, League of Arizona Cities and Towns, September 22, 2005
- Women in Art Awards 2005, Protecting Our Artistic Heritage, Phoenix Art Museum League, September 28, 2005
- Partners for Democracy Award, America-Israel Friendship League, Tucson Chapter, November 6, 2005
- *Time Magazine*, America's Five Best Governors, November 21, 2005
- Citizen of the Year, 2005, Phoenix Association of Realtors, November 28, 2005
- Woodrow Wilson Award for Public Service, January 31, 2006
- Reach out and Read 2005 Early Literacy Leader of the Year, February, 2006 (Award for 2005)
- Arizona Association of Community Health Centers, 2006 Health Care Access Award, February 14, 2006
- Urban League's 42nd Annual Whiney Young Award, March 2, 2006
- Making a Difference Award, National Organization of Parents of Murdered Children, Inc., August 11, 2006
- AZ Chapter, 2006 Partnership Award, American Academy of Pediatrics, September, 2006
- Jeanne Lind Herberger Award, Arizona Women's Education & Employment, Inc., November 2, 2006
- Cable's Leaders in Learning Award, Cable industry and its national education foundation, Cable in the Classroom, June 6, 2007
- Biotechnology Governor of the Year, Biotechnology Industry Organization (BIO), September 2007.
- The Jerry J. Wisotsky Torch of Liberty Award, Anti-Defamation League, Nov. 8, 2007
- Named one of the Top 25 Doers, Dreamers and Drivers, *Government Technology Magazine*, 2007.
- Recognized by the Inter Tribal Council of Arizona and Arizona Indian Gaming Association for Efforts to Strengthen the Governance of Tribes in Arizona. Tuesday, January 22, 2008.
- HADASSAH, Hadassah Valley of the Sun Distinguished Public Service Award, 2008
- The National Congress of American Indians Government Leadership Award, NCAI 10th Annual Leadership Awards Ceremony, March 3, 2008.
- Florence Crittenton HOPE Award, 2008
- 2008 Equality Award from the Human Rights Campaign for outstanding leadership and service to the Lesbian, Gay, Bisexual and Transgender Community.
- William J. Landers Award for Outstanding Commitment to Public Service & Prosecutorial Ethics, presented By Loyola Law School Fidler Institute for Criminal Justice, April 25, 2008.
- Named an Outstanding Leader in the Law by the Southern Arizona Chapter of the Arizona Women Lawyers Association, May 2, 2008. (Name engraved in the

Women Lawyers-Women Leaders Arch in the Women's Plaza of Honor at the University of Arizona.)

- Science of Early Learning Award. Given by New Directions Institute, May 8, 2008
- 2008 Woman of Distinction Award from Arizona Alpha Delta Kappa, and International Honorary Sorority for Women Educators.
- Philanthropist of the Year, 2008 Sleep America Charities Golf Tournament, September 16, 2008
- Leader of the Year in public policy – economic development, Arizona Capitol Times, September 2008
- Sandra Day O'Connor Award, Arizona Foundation for Women (AFW), November 12, 2008
- Honorary Co-Chair, Arizona Mentoring Partnership
- Best Lawyers in America
- Women of Distinction Award, Crohns & Colitis Disease Foundation
- Martindale-Hubbell, AV rating
- Women Making History Award, National Museum of Women's History
- National Network to End Domestic Violence Award
- One Hundred Women & Minority Lawyers Award
- Roots & Wings, Human Betterment Award
- Who's Who In American Law
- Tribute to Women Award, YWCA

15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.

Following is a list of my publications based on my recollection and Westlaw/Lexis searches of materials. Unless otherwise noted, I have provided copies of the publications.

Legal Publications:

June 1989	A Comment on Federal Rules, Local Rules, and State Rules: Uniformity, Divergence, and Emerging Procedural Patterns	University of Pennsylvania Law Review
Spring 1991	Injunctions in the Nineties	American Bar Association
Winter 1994	Showing Your Cards: Litigation in a Mandatory Disclosure Jurisdiction	American Bar Association
Summer 1995	Defense, Discipline, Debtors. Different Legal Worlds	American Bar Association
Fall 1999	Tribute, Judge Mary M. Schroeder: Twenty Years	Arizona State Law Journal

January 2002	Your Future (In Part) is in Your Hands	Arizona Attorney
Summer 2003	Tribute, John P. Frank's Pro Bono Activities	Arizona State Law Journal
Governor's Public Policy Speeches which Sponsors made Available to the Public in Published Form:		
February 27, 2007	Immigration, Border Security	National Press Club
June 19, 2007	Ceasefire! Bridging the Political Divide	Annenberg School
October 8, 2007	Immigration Forum (no transcript available)	Notre Dame University
April 10, 2008	Money in Politics: The Good the Bad and the Ugly	Brennan Center for Justice
April 25, 2008	Award Acceptance Speech: Immigration, Prosecution and Justice	Fidler Institute for Justice, Loyola Law School
August 2008	2008 Platform Speech: Economic Policies	Democratic National Convention
Op Ed Publications:		
February 2, 2004	How to Win My State – For Independent Arizonans, It's About the Details	New York Times
June 1, 2007	Don't Forget the Border	New York Times
June 10, 2007	The Myth of Amnesty – The Senate Immigration Bill vs. a Disastrous Status Quo	Washington Post
April 24, 2008	Stimulus and the States (making the case for Children's Healthcare assistance, Medicaid, SCAAP, REAL-ID)	Wall Street Journal

16. Speeches:

- (a) Provide the Committee with two 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. Provide copies of any testimony to Congress, or to any other legislative or administrative body.

Unless otherwise noted, copies of the following are provided herewith:

2003 – 2008	Governor's State of the State Address	Arizona State Capitol
October 19, 2005	Federalism and Disaster Response: Examining the Roles and	Judiciary

	Responsibilities of Local, State and Federal Agencies	Committee— US House of Reps
January 9, 2007	Ensuring Full Implementation of the 9/11 Commission's Recommendations	US Senate – Committee on Homeland Security and Governmental Affairs
February 7, 2007	Global Economy	US House of Representatives – Committee on Education and Labor
February 27, 2007	Immigration Reform	National Press Club, Washington
May, 2007	Comprehensive Immigration Reform: Impact of Immigration on States and Localities	US House of Representatives – Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law
October 8, 2007	Immigration Forum (Panel Discussion—no transcript available)	Notre Dame University
October 19, 2005	Federalism and Disaster Response: Examining the Roles and Responsibilities of Local, State and Federal Agencies	Judiciary Committee— US House of Reps
April 24, 2008	Immigration Reform	Santa Clara University, Santa Clara, California
April 25, 2008	Award Acceptance Speech: Immigration, Prosecution and Justice	Fidler Institute, Loyola Law School, Los Angeles

- (b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

The last 10 years covers my terms as Attorney General and Governor of the State of Arizona. I have given several thousand speeches of varying degrees of formality in that time. I list below (1) all testimony I have given to legislative bodies; (2) all major and substantive speeches I can recall giving in the last 10 years.

1998-2002	Formal and informal testimony to the Arizona State Legislature's committees from time to time as Attorney General on budget and other issues affecting the Office of the Attorney General. (Transcripts unavailable)	Various committees of the Arizona State Legislature
August 2000	Democratic National Convention Speech: Crime	Democratic National Convention
January 2003, 2004, 2005, 2006, 2007, 2008	Annual State of the State Address	Arizona Legislature
July 22, 2003	Forest Health	U.S. Senate Committee on Energy and Natural Resources
July 28, 2003	Keynote: A New Governor's Vision	Democratic Leadership Conference, Philadelphia
September 26, 2003	Excellent in Public Administration	University of New Mexico, Albuquerque, N.M.
November 13, 2003	Protecting Those Who Need Protection	Domestic Violence and Child Custody Conference, University of Minnesota, Minneapolis, Minn.
February 19, 2004	Unfunded Mandates	Democratic Radio Response
March 29, 2004	Women's Health Issues	Atlanta Women's Foundation, Atlanta
April 15, 2004	America's Energy Policy Shortcomings	North American Energy Summit, Albuquerque, N.M.
July 27, 2004	Health Care	Democratic National Convention, Boston

June 6, 2005 May 25, 2006 Sept. 25, 2007 Sept. 29, 2008	International State of the State Address	Phoenix Committee on Foreign Relations
October 19, 2005	Federalism and Disaster Response: Examining the Roles and Responsibilities of Local, State and Federal Agencies	Judiciary Committee— US House of Reps
October 8, 2005	Education as the Key to Prosperity	American Council on Education, Conference, Phoenix
May 19, 2006	Success in Public-Private Partnerships	United Way National Convention, Denver
July 13, 2006	A Review of the Arizona Medicaid Program: Utilizing a managed Care Approach to Address the Needs of a Growing Senior Population	US Senate—Special Committee on Aging
June 10, 2006	Immigration Panel Panelist (not a speech, but included because of the audience)	Council on Foreign Relations, New York
January 9, 2007	Ensuring Full Implementation of the 9/11 Commission's Recommendations	US Senate – Committee on Homeland Security and Governmental Affairs
February 7, 2007	Global Economy	US House of Representatives – Committee on Education and Labor
February 27, 2007	Immigration Reform	National Press Club, Washington
May, 2007	Comprehensive Immigration Reform: Impact of Immigration on States and Localities	US House of Representatives – Subcommittee on Immigration, Citizenship, Refugees, Border Security, and

		International Law
June 19, 2007	Ceasefire! Bridging the Political Divide	Annenberg School
October 8, 2007	Immigration Forum	Notre Dame University
November 7, 2007	Today and 35 Years Ago	National Women's Law Center 35th Anniversary Banquet, D.C.
November 14, 2007	State Leadership Towards a Low-Carbon Energy Future	US House of Representatives – House Select Committee on Energy Independence and Global Warming
February 17, 2008	Adding Value in Your School District	American Association of School Administrators, Tampa, Fla.
February 26, 2008	State Economic Conditions	US Senate— Finance Committee
April 10, 2008	Full Committee Legislative Hearing on the Federal Land Assistance, Management and Enhancement Act	US House of Representatives— House Natural Resources Committee
April 10, 2008	Money in Politics: The Good the Bad and the Ugly	Brennan Center for Justice
August 19, 2008	Conservation	National Clean Energy Summit, Las Vegas, Nev.
April 24, 2008	Immigration Forum	Santa Clara University, Santa Clara, California

April 25, 2008	Immigration, Prosecution and Justice	Fidler Institute, Loyola Law School, Los Angeles
August 2008	2008 Platform Speech: Economic Policies	Democratic National Convention
September 9, 2008	Fostering Innovation in Government	Ash Institute, D.C.
November 13, 2008	Testimony regarding Economic Stimulus for States	Commerce and Energy Committee- House of Representatives

17. **Selection:**

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

In the words of President-Elect Obama at the National Security Press Conference on December 1, 2008:

“Janet Napolitano offers the experience and executive skill that we need in the next Secretary of Homeland Security. She has spent her career protecting people - as a US Attorney, an Attorney General, and as Governor of Arizona. She understands the need for a Department of Homeland Security that has the capacity to help prevent terrorist attacks and respond to catastrophe - be it manmade or natural.

Janet assumes this critical role having learned the lessons - some of them painful - of the last several years, from 9/11 to Katrina. She insists on competence and accountability. She knows firsthand the need to have a partner in Washington that works well with state and local governments. She understands as well as anyone the danger of an unsecure border. And she will be a leader who can reform a sprawling Department while safeguarding our homeland.”

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

Emergency Response

Arizona has been no stranger to disasters and emergencies since I took office in 2003. During that time, and under my leadership, Arizona has seen:

Lewis Prison Hostage Crisis: It was the longest prison standoff in U.S. history, and one of the few that was resolved without loss of life.

Kinder-Morgan pipeline break: A major disruption to a pipeline supplying gasoline to the Phoenix area ultimately resulted in systemic changes and new procedures to ensure continuity of critical service.

Forest Fires: Like the rest of the Western United States, Arizona faced numerous forest fires during the summer dry seasons, including the dangerous Rodeo-Chediski and Aspen fires, which became the driving force behind new, more effective forest management and enhanced fire and disaster response.

AZ 211 online: The AZ 2-1-1 system allows Arizonans to access critical information in an emergency. The 2-1-1 system is available online at www.az211.gov and has a live dial-in component during emergencies.

Hurricane response: Arizona was one of the states that mobilized quickly to assist in recovery efforts from Hurricane Katrina.

Flood: Much of Arizona is prone to flash flooding. I led Arizona's emergency response to serious floods, including recent floods at Havasupai Canyon and on the international border.

Drought: Arizona is a leader in drought preparedness and action.

Communications: Under my instruction, Arizona has an emergency communication system to enable public safety officials and first responders to communicate with one another during emergencies by using pre-positioned mobile communications vans across the state to address radio interoperability.

US Centers of Disease Control Emergency Preparedness. In February 2008, the US Center for Disease Control measured Arizona's emergency preparedness and determined Arizona meets 21 of the 22 criteria the CDC uses to measure good emergency preparedness. Since the February assessment, Arizona has met all criteria.

Secure Border, Safe Communities

Arizona is the leader among states in tackling the consequences of our broken borders and in employing innovative homeland security measures.

Increased Resources at the Border: I was the first governor to deploy the National Guard at the border at federal expense. I declared a state of emergency along the international border to increase patrols in the most highly trafficked areas and to provide critical assistance to border cities and towns.

Implemented High-tech Tools: Based on my policy initiative to focus on the use of technology to secure our borders, Arizona State police now use state-of-

the-art technology to crack down on border-related crime.

Strengthened the Fraudulent ID Task force: I expanded the task force's duties to include catching criminals who create and use fraudulent documents to facilitate illegal immigration.

Utilized "Damming" Warrants: While I was the Attorney General, I started the lawsuits that made use of this innovative investigative technique has as helped law enforcement crack down on money laundering associated with border crime.

Cracked Down on Drop Houses: I passed a law to catch companies and individuals who lease buildings to be used to hide illegal immigrants in squalid conditions.

Implemented Tougher Penalties on Employers who Engage in Illegal Hiring: I signed an employer sanctions law that punishes businesses from knowingly and intentionally hiring illegal labor by recalling the businesses' state-issued licenses. The law mandated the use of E-Verify to check a potential worker's legal status. I also signed into law changes that provided those who smuggle humans in to the United States with longer sentences.

Secure Ports of Entry and Expedited Legal Commerce: Under my leadership, Arizona redesigned our ports of entry to better detect illegal cross-border activity and to expedite inspection at the border. I also opened new corridors at Arizona's ports of entry to increase security and expedite legal cross-border commerce.

Targeted Law Enforcement: I created the Illegal Immigration Prevention and Apprehension Co-Opt Team (IIMPACT) to dismantle and deter criminal organizations profiting from illegal immigration, and deployed Gang Intelligence and Immigration Team Enforcement Missions (GIITEMs), to deter violent gang- and border-related crimes.

Secured Critical Infrastructure.: I created the first cabinet-level state Department of Homeland Security and the first state-level homeland security strategy in the nation. That state agency created the nationally recognized Arizona Counter-Terrorism Information Center (ACTIC).

Enhanced International Communication and Coordination: Through my diplomatic efforts, law enforcement in Arizona and the Mexican state of Sonora now exchange information about stolen vehicles, warrants, weapons, and amber alerts.

Created a Terrorism Liaison Program: Under my administration, we created

protocols that ensure the flow of information from state, local, county and tribal law enforcement agencies to intelligence and information fusion centers.

Forged Mutual Aid Compacts: I worked with other border state governors to set up agreements to share resources and intelligence to provide mutual aid in our border security efforts.

Prepared for Pandemic Flu: I served as co-lead on a National Governors Association committee to prepare for pandemic and avian flu. In Arizona, my administration led regional and bi-national training exercises on pandemic flu response and preparedness and drew together government, business, community and health leaders for one of the first Pandemic Influenza Preparedness Summits in the nation.

Crime fighting with results: During my six years as Governor of Arizona, crime, as measured by the Arizona Department of Public Safety from 2002 to 2007, is down in nearly every category.

Tougher criminal penalties: As Governor, I signed a "three strikes" criminal sentencing bill intended to keep violent repeat offenders behind bars. I also signed into law a bill that increased by five years the sentence for a felony in association with a criminal street gang and strengthened resources for gang enforcement and intelligence.

New Crime Fighting Technology: Under my administration, Arizona implemented a system that enables police to pinpoint the exact location of calls made from cellular phones, enabling law enforcement to provide help more quickly.

DNA: During my administration, Arizona formally partnered with the FBI to become one of four states nationally to develop a mitochondrial DNA (MtDNA) laboratory to better capture and incarcerate criminal suspects.

Cracking Down on Sex Offenders: As both Attorney General and Governor, I have taken a number of tough, new approaches to dealing with these criminals.

B. 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, or to start employment with any other entity?

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.

6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.

No.

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. In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

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 or execution of law or public policy, other than while in a federal government capacity.

As part of my official duties as Governor, I have engaged in the direct influence of the passage, modification and defeat of laws in the State of Arizona and in federal legislation affecting the State of Arizona. Federal advocacy has included congressional testimony, and letters to members of Congress and the federal government. On a state level, as Governor, I must sign or veto all bills that the legislature passes. I have also publicly endorsed and opposed numerous Arizona ballot initiatives and referenda.

A list of written congressional testimony is included above in response to Section A, Question 16(b) and copies are attached.

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.

I have never been disciplined or cited for a breach of ethics for unprofessional conduct. I have been the subject of complaints to the State Bar of Arizona, none of which resulted in disciplinary action against me.

The State Bar of Arizona receives all complaints from the public against members and dispenses of them in three ways: immediate "dismissal after review" (meaning dismissal without requesting any response from the lawyer who is the subject of the complaint), "dismissal after investigation" (meaning dismissal after requesting and reviewing a response from the lawyer who is the subject to the complaint) and adjudication in a hearing. Every complaint against me was dismissed after review except a 1985 complaint (involving an allegation of improper citation of a case) that was dismissed after investigation.

The State Bar purges complaint files three years after dismissal.

Complaint No.	Date Dismissed	Complainant	Status
85-2094	10/9/1985	Revis, William	File Closed
96-2300	11/25/1996	McDonnell, Curt (inmate # 109318)	File Closed
99-0607	3/31/1999	Buri, Charles	File Closed
99-1403	7/27/1999	Kellogg, Debbie	File Closed
01-2068	10/22/2001	Garciano Hayes, Eva	File Closed
02-0673	4/8/2002	Green, Joan	File Closed

02-1080	6/3/2002	Lehr, Christopher	File Closed
02-1390	7/19/2002	Heidelbach, Rick (inmate #80269)	File Closed
02-2157	11/4/2002	Murnane, John	File Closed

2. 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.

I have been party to hundreds of civil actions in my official capacity as Governor or Attorney General of the State of Arizona in the regular course of business. A list of the cases in which I could confirm I am named as a party in my official capacities is provided as an attachment.

Excluding those cases in which I am named as a party (plaintiff or defendant) in my official capacity, I have been a party to a lawsuit in my individual capacity as a defendant in only one suit, Linder v. Lewis & Roca, LLP et al. The Linders were clients of my law firm, Lewis & Roca. The Linders filed suit against the firm, naming all partners as defendants in the process. I was not otherwise involved in the suit or the underlying claims. During my time as partner, Lewis & Roca was also involved in litigation in the ordinary course of business; none of these claims involved matters I worked on.

4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

See answer to No. 3 above.

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

None.

E. FINANCIAL DATA

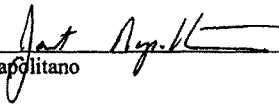
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your

nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

AFFIDAVIT

Janet Napolitano 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.



Janet Napolitano

Subscribed and sworn before me this 2nd day of January,
2009



Notary Public



**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire for the
Nomination of Janet A. Napolitano to be
Secretary of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President-elect intends to nominate you to serve as Secretary of Homeland Security?

I believe President-Elect Obama nominated me for the reasons stated by him at the National Security Press Conference on December 1, 2008:

Janet Napolitano offers the experience and executive skill that we need in the next Secretary of Homeland Security. She has spent her career protecting people - as a US Attorney, an Attorney General, and as Governor of Arizona. She understands the need for a Department of Homeland Security that has the capacity to help prevent terrorist attacks and respond to catastrophe - be it manmade or natural.

Janet assumes this critical role having learned the lessons - some of them painful - of the last several years, from 9/11 to Katrina. She insists on competence and accountability. She knows firsthand the need to have a partner in Washington that works well with state and local governments. She understands as well as anyone the danger of an unsecure border. And she will be a leader who can reform a sprawling Department while safeguarding our homeland.

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

No.

3. What specific background and experience affirmatively qualifies you to be Secretary of Homeland Security?

As Governor of Arizona, I have been responsible for prevention, protection, response and recovery in the state. As Governor of a border state, I am intimately familiar with border security and immigration policy. I have served as Commander of the Arizona National Guard and lead the state's disaster response efforts. Specific experiences include:

Emergency Response

Arizona has been no stranger to disasters and emergencies since I took office in 2003. During

that time, and under my leadership, Arizona has seen:

Lewis Prison Hostage Crisis: *It was the longest prison standoff in U.S. history, and one of the few that was resolved without loss of life.*

Kinder-Morgan pipeline break: *A major disruption to a pipeline supplying gasoline to the Phoenix area ultimately resulted in systemic changes and new procedures to ensure continuity of critical service.*

Forest Fires: *Like the rest of the Western United States, Arizona faced numerous forest fires during the summer dry seasons, including the dangerous Rodeo-Chediski and Aspen fires, which became the driving force behind new, more effective forest management and enhanced fire and disaster response.*

AZ 211 online: *The AZ 2-1-1 system allows Arizonans to access critical information in an emergency. The 2-1-1 system is available online at www.az211.gov and has a live dial-in component during emergencies.*

Hurricane response: *Arizona was one of the states that mobilized quickly to assist in recovery efforts from Hurricane Katrina.*

Flood: *Much of Arizona is prone to flash flooding. I led Arizona's emergency response to serious floods, including recent floods at Havasupai Canyon and on the international border.*

Drought: *Arizona is a leader in drought preparedness and action.*

Communications: *At my direction, Arizona created an emergency communication system to enable public safety officials and first responders to communicate with one another during emergencies by using pre-positioned mobile communications vans across the state to address radio interoperability.*

US Centers of Disease Control Emergency Preparedness. *In February 2008, the US Center for Disease Control measured Arizona's emergency preparedness and determined Arizona meets 21 of the 22 criteria the CDC uses to measure good emergency preparedness. Since the February assessment, Arizona has met all criteria.*

Secure Border, Safe Communities

Arizona is the leader among states in tackling the consequences of our broken borders and in employing innovative homeland security measures.

Increased Resources at the Border: *I was the first governor to deploy the National Guard at the border at federal expense. I declared a state of emergency along the international border to increase patrols in the most highly trafficked areas*

and to provide critical assistance to border cities and towns.

Implemented High-tech Tools: Based on my policy initiative to focus on the use of technology to secure our borders, Arizona State police now use state-of-the-art technology to crack down on border-related crime

Strengthened the Fraudulent ID Task force: I expanded the task force's duties to include catching criminals who create and use fraudulent documents to facilitate illegal immigration.

Utilized "Damming" Warrants: While I was the Attorney General, I started the lawsuits that made use of this innovative investigative technique that has helped law enforcement crack down on money laundering associated with border crime.

Cracked Down on Drop Houses: I passed a law to catch companies and individuals who lease buildings to be used to hide illegal immigrants in squalid conditions.

Implemented Tougher Penalties on Employers who Engage in Illegal Hiring: I signed an employer sanctions law that punishes businesses from knowingly and intentionally hiring illegal labor by recalling the businesses' state-issued licenses. The law mandated the use of E-Verify to check a potential worker's legal status. I also signed into law changes that provided those who smuggle humans in to the United States with longer sentences.

Secure Ports of Entry and Expedited Legal Commerce: Under my leadership, Arizona redesigned our ports of entry to better detect illegal cross-border activity and to expedite inspection at the border. I also opened new corridors at Arizona's ports of entry to increase security and expedite legal cross-border commerce.

Targeted Law Enforcement: I created the Illegal Immigration Prevention and Apprehension Co-Opt Team (IMPACT) to dismantle and deter criminal organizations profiting from illegal immigration, and deployed Gang Intelligence and Immigration Team Enforcement Missions (GIITEMs), to deter violent gang- and border-related crimes.

Secured Critical Infrastructure: I created the first cabinet-level state Department of Homeland Security and the first state-level homeland security strategy in the nation. That state agency created the nationally recognized Arizona Counter-Terrorism Information Center (ACTIC).

Enhanced International Communication and Coordination: At my direction Arizona law enforcement has forged unprecedented partnerships with the Mexican state of Sonora to exchange information about stolen vehicles, warrants, weapons, and amber alerts.

Created a Terrorism Liaison Program: Under my administration, we created protocols that ensure the flow of information from state, local, county and tribal law enforcement agencies to intelligence and information fusion centers

Forged Mutual Aid Compacts: I worked with other border state governors to set up agreements to share resources and intelligence to provide mutual aid in our border security efforts.

Prepared for Pandemic Flu: I served as co-lead on a National Governors Association committee to prepare for pandemic and avian flu. In Arizona, my administration led regional and bi-national training exercises on pandemic flu response and preparedness and drew together government, business, community and health leaders for one of the first Pandemic Influenza Preparedness Summits in the nation.

Crime fighting with results: During my six years as Governor of Arizona, crime, as measured by the Arizona Department of Public Safety from 2002 to 2007, is down in nearly every category.

Tougher criminal penalties: As Governor, I signed a "three strikes" criminal sentencing bill intended to keep violent repeat offenders behind bars. I also signed into law a bill that increased by five years the sentence for a felony in association with a criminal street gang and strengthened resources for gang enforcement and intelligence.

New Crime Fighting Technology: Under my administration, Arizona implemented a system that enables police to pinpoint the exact location of calls made from cellular phones, enabling law enforcement to provide help more quickly.

DNA: During my administration, Arizona formally partnered with the FBI to become one of four states nationally to develop a mitochondrial DNA (MtDNA) laboratory to better capture and incarcerate criminal suspects.

Cracking Down on Sex Offenders: As both Attorney General and Governor, I have taken a number of tough, new approaches to dealing with these criminals.

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

I have committed to President-elect Obama to uphold the law and uphold Congress' intent in creating the Department, while I work with all of my abilities toward the president-elect's goals of protecting the American people from terrorist threats and preparing for any disaster.

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.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department of Homeland Security's designated agency ethic official.

II. Role and Responsibilities of Secretary of Homeland Security

6. A number of the Homeland Security Presidential Directives (HSPDs) issued by President Bush implement or elaborate on the responsibilities given the Secretary of Homeland Security under the Homeland Security Act of 2002.

- a. Have you reviewed the existing HSPDs?

I have been briefed and have undertaken a preliminary review of them. Upon confirmation, I will complete a wider inter-agency review.

- b. Are the roles and responsibilities of the Secretary of Homeland Security described by these HSPDs consistent with your view of the appropriate role of the Secretary of Homeland Security?

I will look at that as part of the review.

- c. What HSPDs, if any, would you recommend be modified or rescinded?

My recommendations will come after the appropriate review.

- d. What additional topics do you believe it would be useful for HSPDs to address?

The immediate challenge is to make sure that the existing HSPDs reflect the right mission priorities and support the needs of the Department and policies of the incoming Obama administration. They will certainly evolve over time, and if confirmed, I would use the outputs of the QHSR and work closely with the Executive Office of the President, the Federal interagency process, and the Department's career Senior Executives to develop and evaluate recommendations, as necessary, for additional topics to address with HSPDs.

7. In many areas, the responsibilities of the Department of Homeland Security (DHS or the Department) intersect with those of other cabinet departments. For example, work on biodefense and threats to public health may have to be coordinated with the Department of Health and Human Services; intelligence analysis may have to be coordinated with other members of the intelligence community; critical infrastructure protection involves working with other agencies that may be leads for particular infrastructure sectors;

disaster response often requires calling on the assets of a range of other agencies; agrosecurity involves coordination with the Department of Agriculture; matters implicating issues of national defense and law enforcement, respectively, may require the involvement of the Departments of Defense and Justice; and the efforts of the Department's Domestic Nuclear Detection Office to prevent a nuclear terrorist attack involves the coordination of the work of several federal agencies.

a. How do you view the role of DHS vis-à-vis other cabinet departments?

The Homeland Security Act of 2002, as amended, and numerous Homeland Security Presidential Directives (HSPDs) define the role of DHS and its Secretary. In sum, the Department was created to lead the national effort to secure the homeland through a risk-based, well-coordinated approach to aviation, border, maritime, and transportation system security, immigration and customs enforcement, emergency management, and the missions of the United States Secret Service.

The Secretary of Homeland Security leads the Federal Government's efforts for a variety of homeland security activities, including domestic incident management, national preparedness, critical infrastructure protection, and national continuity programs, and serves as a primary entity with respect to maritime security, aviation security, biosecurity, and other efforts. In leading these efforts, the Secretary of Homeland Security works with Federal departments and agencies with a role in homeland security to develop strategy, set doctrine, and coordinate activities. The Secretary of Homeland Security serves as the President's agent, leading the efforts of the entire Federal Government while leveraging the strengths and expertise of each Federal department and agency with a role in homeland security. It is important to continue to improve interagency planning as well as build capacity within DHS commensurate with these responsibilities.

The results of the QHSR will give me an opportunity to review the role of DHS vis-à-vis other cabinet departments and to make recommendations to the President if warranted.

- b. As a relatively new agency, DHS faces challenges not only in establishing its own internal cultural identity but also in forging its role externally and defining its place among executive branch agencies. If confirmed, what will you do to ensure that DHS not only carries out its own departmental responsibilities under the Homeland Security Act of 2002, and other statutes, but that it is able both to provide and receive cooperation from other, more established departments and, where appropriate, successfully coordinate efforts across agencies?

If confirmed as Secretary of DHS, I will work with the Executive Office of the President, the Cabinet, Federal departments and agencies with a role in homeland security, and Congress to develop and expand productive working relationships with all of the Department's internal and external stakeholders, and to ensure that DHS

develops and deploys the necessary capabilities and resources in support of its mission.

8. Several recent think tank and commission reports, such as the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism and the Project on National Security Reform, have called for merging the White House Homeland Security and National Security Councils. Advocates for a merger of the National Security Council and Homeland Security Council contend that the separation between them limits the White House's ability to integrate domestic and international counter-terrorism policies and to comprehensively plan for and execute catastrophic incident management, while those opposed to a merger argue that a National Security Advisor would not be able to devote enough time to homeland security issues, and thus, interagency conflicts over counter-terrorism and disaster management programs would remain unresolved and homeland security matters would be underfunded.

- a. Would you recommend that the Homeland Security Council and National Security Council be merged?

We have not made final determinations with respect to the best structure for the Homeland Security Council and its important functions. However, as General Jones has said I believe it is premature to offer a recommendation regarding the Homeland Security Council. However as General Jones has said publicly, "homeland security is national security." Homeland security intersects traditional national security roles in many areas. At the same time there are domestic aspects of homeland security that deserve a singular focus. If confirmed, I look forward to working with the Executive Office of the President and my Cabinet colleagues to determine the appropriate structure for the Administration's homeland security policy development processes.

- b. Were the Homeland Security Council and National Security Council to be merged, what do you believe should be done to ensure that homeland security concerns receive appropriate attention in the White House?

I expect homeland security to be a priority regardless.

9. What are the highest priority items you intend to focus on if confirmed as Secretary of Homeland Security? What do you hope to accomplish during your tenure as Secretary?

If confirmed, my highest priorities as Secretary will be to prevent terrorist attacks on the American people, to prepare and plan for emergencies and natural disasters, and to build strong response and recovery capabilities. At the same time, we must ensure that we allow our economy to thrive, that we continue to be a welcoming nation, and that we protect individual rights.

10. As Governor of Arizona, what do you believe your most significant accomplishments have been in the area of homeland security?

Over the past six years, Arizona has been a national leader in homeland security. We implemented the first state homeland security strategy in the nation and opened the first state counter-terrorism center to keep our communities safe. We've forged unprecedented partnerships among federal, state, local and bi-national law enforcement and first responders and presided over large scale disaster preparedness exercises to ensure that our communities have well-crafted and functional emergency plans.

For more information about specific programs, please refer to question #3.

III. Policy Questions

Integration and Management of the Department

11. One of the daunting challenges that DHS faced at its inception was the integration of some 22 agencies and almost 200,000 people into a single, new, cohesive Department. Five years later, DHS has made progress with the integration of its component agencies and its workforce, but much more must be done. If confirmed as Secretary, what specific steps would you take to improve the integration and cohesiveness of the Department, promote a common culture at DHS, and ensure that component agencies are working together toward common goals?

By all accounts, the creation of the Department of Homeland Security was one of the most significant and challenging mergers to ever be undertaken by our government. In fact, GAO has repeatedly placed the implementation and transformation of the DHS on its list of "high risk" activities for the Federal government. Progress has been made in addressing major management and transformational issues in the past five years. However, more needs to be done. If confirmed, assuring integration to advance the operational capabilities, performance and accountability of DHS will be a major priority. There are a number of initiatives that are underway that could certainly yield results. In particular, I would note the Quadrennial Homeland Security Review, which if I am confirmed, will be a major activity for my first year as Secretary.

Any effective organization must have financial, budgetary, acquisitions, and workforce management processes and systems to promote organizational governance and support efficient operations and accountability. Today, many of the components operate in a nearly autonomous manner when it comes to making decisions about these key management functions. If confirmed, I intend to review the processes in place in these key areas and work to promote integration among and between DHS and the components.

I will work to achieve:

- *Clear accountability, including roles and responsibilities of key personnel leading integrating initiatives within the Department;*
- *Improved execution of management strategic objectives;*

- *Established guidelines and processes for DHS to integrate risk assessment into other management systems, such as program and budget reviews;*
- *Prompt and proper resolution of identified material weaknesses, reportable conditions, and non-conformance conditions;*
- *Assurance that performance plans of DHS officials directly link to and support achieving our mission outcomes and are effective in overcoming challenges to the cohesiveness of the Department; and*
- *Execution of a framework that supports a commitment for continuous improvement and best practice implementation.*

12. One of the challenges facing the head of a Department where more than 95% of the employees and resources reside within the Department's operating components is determining to what degree processes and decision-making should be centrally managed and coordinated. If confirmed, how would you approach the management of DHS to ensure that there are consistent, coherent policies across the Department while avoiding the potential costs of decreased flexibility and additional layers of bureaucracy that excessive centralization can bring?

If confirmed as Secretary, I will work to transform the Department of Homeland Security into a more unified force. This effort requires the effective and efficient use of financial and human resources, enabling technology, strong processes, and good management. I intend to implement a fully integrated strategy throughout the Department. I will ensure the success of this effort by bringing together a team with the right knowledge, skills, and abilities to transform the Department and hold it accountable.

I will manage efforts using a focused approach that does the following:

- *Provides structure to strengthen unified organizational governance and enhance Department-wide communication, decision making, and oversight;*
- *Optimizes processes and systems to integrate functional operations and facilitate cross-component collaboration, and streamline coordination to ensure reliable and efficient support of mission objectives;*
- *Fosters leadership that adheres to the core values and guiding principles of DHS in performing duties, effecting progress, and leading with commitment for the mission; and*
- *Leverages culture and the benefits of commonalities and differences across components to promote cooperative intra and inter-agency networks and implement best practices.*

13. The nation faces a wide range of potential threats and events and DHS has finite resources to address them.
- a. What principles will guide your decision-making regarding the use of risk-analysis and risk-based resource allocation to set priorities within the Department?

I support the Department's efforts to use risk management as a basis for decisionmaking. The fact is that we cannot be everywhere and protect everything at all times. We have to use risk analysis to set priorities and guide resource allocation. We have to continue to develop better tools to suggest how to best reduce threats, close vulnerabilities and mitigate the most serious consequences. My job, if confirmed, is to constantly look at how we can deploy resources more intelligently to get the most security for our investment.

- b. The threats facing the nation vary from higher consequence/lower probability events to lower consequence/higher probability events. How will you prioritize within this range of threats and balance the DHS investment in protecting against and responding to them? How will you determine if some threats or events require enhanced emphasis and investment or have already received sufficient focus?

The 15 national planning scenarios are sufficiently representative of the range of threats we may confront. The challenge is finding the right balance, dealing with "the here and now" as well as risks that will emerge over time. The key is to plan effectively, set clear goals, and establish mechanisms to measure success. It is also important to be honest about limitations in resources and capabilities. For instance, I am greatly concerned about the growing threat to our cyber networks. The United States is now being attacked every day. We need to improve the security of both government and private sector networks. Another serious concern is the potential emergence of a bio-weapon and whether our ability to prevent, detect and respond will keep pace with the advance of scientific knowledge.

14. The Department's headquarters are currently spread throughout 70 buildings and 40 sites across the National Capital Region making communication, coordination, and cooperation among DHS components a significant challenge. To address this problem, DHS plans to begin consolidating the majority of these offices at the St. Elizabeth's Hospital Campus in Washington, DC in 2009. Do you believe consolidating the headquarters of the Department is integral to addressing the integration and management challenges the Department currently faces?

DHS's mission demands an integrated approach to protecting our homeland. The dispersion of the Department's components across the national capital region has the potential to impose significant inefficiencies in operations. Consolidating the headquarters of the Department could be very important to addressing these challenges. I have been briefed on the process of establishing DHS headquarters at the St. Elizabeth's Campus, which seeks to locate together Component leadership, operations coordination, policy, and program management. While it is impossible to locate every agency on the same campus, in any case, reducing the DHS outlying elements could enhance functional integration. I support this process inasmuch as it increases efficiency, enhances communication, and continues to foster a "one-DHS" culture that optimizes the Department's capabilities.

15. Section 2401 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Commission Recommendations Act) established the Quadrennial Homeland Security Review (QHSR), and requires the Department to complete the first QHSR by no later than December 1, 2009. This review is intended to help focus the new Administration's strategic intent with respect to homeland security, and ensure that strategies are clearly linked to plans, mission requirements, and budgeting activities.

- a. What specific homeland security issues do you believe require a close and careful examination in the context of the Quadrennial Homeland Security Review?

The Quadrennial Homeland Security Review (QHSR) is an opportunity for the Department to complete a measured examination of major strategic issues before making key strategic decisions. DHS has developed a proposed four-part Study Plan for the QHSR that links the key areas for review as described in the legislation with specific homeland security issues that require close examination. Currently, the four proposed major study areas are: (1) Strategic Assessment; (2) Capabilities Assessment; (3) DHS Decision Management Structure and Process; and (4) DHS Issue Assessment.

- b. In leading the QHSR process, what would you do to ensure that it does not become simply a paper exercise, but has a meaningful and potentially transformative impact on the Department's strategic direction and operational effectiveness?

As Secretary, one of my primary tasks will be to define the scope of the QHSR, including the issues to be considered and the structure through which the review will be conducted. I will use the work done to date by DHS but also conduct my own initial review of major strategic homeland security issues to ensure appropriate scope and structure. This will need to be a priority both within the Department and across the federal government.

16. The DHS Chief Information Officer's (CIO) annual budget exceeds \$5 billion for its IT programs. A recent DHS Inspector General report highlighted a number of areas of continuing concern, such as staffing shortages, inconsistent component level IT budgetary practices, and a lack of management capability to exclude the new authorities.

- a. What role does the CIO play in the Arizona state government?

The State Chief Information Officer serves in a dual capacity of CIO and Director of the Government Information Technology Agency (GITA). The CIO is responsible for statewide strategic information technology planning, project oversight for 115 state agencies and management of the State web portal. GITA develops the statewide information technology plan, approves and oversees all information technology projects, and develops applications for the az.gov State Web portal. In addition, the CIO oversees the Statewide Information Security and Privacy Office and the Public Safety Interoperable Communications Office for the State. The State CIO is also charged with

advancing executive, enterprise-wide innovation initiatives. Some of the strategic initiatives managed by the State CIO have included the development of:

- Arizona 2-1-1 – The state's official database of health, human service, emergency response and preparedness information
- Arizona Health-e Connection – The State's roadmap and nonprofit governance organization to encourage the development of electronic health records
- Arizona 3D – The statewide visualization platform for geospatial information to be used by public safety organizations

b. As Secretary of DHS, how would you see the role of the DHS CIO?

The Chief Information Officer (CIO) is a key member of the Secretary's Executive Management Team. The DHS CIO has departmental authority over IT Policy, Investments, Acquisitions, and Program Evaluations and Reviews. The CIO's responsibility exists through existing governance boards and processes such as Capital Planning and Investment Control, Enterprise Architecture, the Acquisition Review Board, and the CIO Council. CIO authority is outlined in DHS Management Directive 0007.1. DHS Component CIOs have a solid-line reporting relationship to the Component head and a dotted-line reporting relationship to the DHS CIO. I will modify these processes as I find necessary once I have operated with them.

c. How will you ensure that the CIO has sufficient resources to adequately manage the Department's IT infrastructure?

The information technology infrastructure will be successfully managed through continued collaboration between the Chief Information Officer, the Chief Financial Officer, and the Chief Procurement Officer to ensure that adequate funding and acquisition vehicles are in place through effective governance mechanisms and maintaining consistent priorities. If confirmed, my priorities for this organization will be to improve the Department's information technology infrastructure while developing a strong relationship with Federal partners such as the Office of Management and Budget and Congress. These relationships will be fostered to ensure that departmental information technology infrastructure priorities are adequately resourced to meet mission needs.

17. DHS either has committed or plans to commit itself to major information technology investments which total more than a billion dollars, including United States Citizenship and Immigration Services' (USCIS) business transformation project and the Department-wide financial information technology consolidation. The Government Accountability Office (GAO) has found that USCIS's efforts "have been unfocused, conducted in an ad hoc and decentralized manner, and, in certain instances, duplicative."¹ The Department is

¹ U.S. Government Accountability Office. "USCIS Transformation: Improvements to Performance, Human Capital, and Information Technology Management Needed as Modernization Proceeds," pg.2 (July 17, 2008). <http://www.gao.gov/new.items/d071013r.pdf>

also in the process of entering into a procurement to conduct its Transformation and Systems Consolidation initiative, which is intended to migrate and consolidate the financial systems of all of its components so they are all operating on common platforms using commercially available software. The Department previously attempted this same mission through the eMerge2 project, spending about \$52 million before cancelling the project due to a lack of adequate planning and progress.

- a. If confirmed, will you make these, and other major information technology investments, a priority for the Department?

Yes

- b. How will you oversee all of the Department's major information technology investments?

I will use the policies and processes developed by the Department to oversee all of the Department's major information technology programs. I will modify these processes as I find necessary once I have operated with them.

- c. What steps will you take to ensure that requirements for major information technology investments are set early in the procurement process and that procurement contracts are fixed price to the maximum extent practicable?

The success of the contracting process lies to a large extent in the ability of the agency to set clear, meaningful, and specific requirements for each contract. If confirmed, I intend to emphasize setting requirements early in the acquisition life cycle, well in advance of procurement (contracting) actions and with clarity and specificity. This will allow me to ensure that DHS program requirements are well defined, as well as allowing time for these requirements to be "flowed down" into proper definition of cost, schedule and performance boundaries for program execution, including contract development.

With respect to use of procurement contract types, I appreciate the value of using fixed price contracts to the maximum extent practicable. With that goal in mind, I intend to use the contract type that best serves the American taxpayer for both effectiveness and efficiency.

- d. What steps will you take to ensure that these initiatives stay on time, on budget, and achieve the planned objectives?

As I mentioned above, use of the existing oversight forums will be my primary method for overseeing these initiatives. Metrics on initiatives are key to real-time oversight – I will use the existing Departmental acquisition metrics systems, and improve them if

I find that to be necessary. I will continue to strengthen the Departmental acquisition communities, particularly in program management, systems engineering, logistics, and test and evaluation, to ensure that DHS has knowledgeable personnel in these key acquisition disciplines assigned to major programs across the Department and its Components.

18. DHS has a significant international role and is a key American representative abroad. Currently, DHS has nearly 2,000 staff based in 79 countries, a number exceeded only by the State Department. In addition to these permanent positions, multiple DHS components have hundreds of staff visiting locations abroad. DHS has attempted to coordinate all of these activities through its Office of International Affairs (OIA). However, OIA has had trouble fulfilling its mission. A June 2008 DHS Inspector General report found that OIA was not meeting the majority of its core mission responsibilities. What will you do to strengthen OIA, address the Inspector General's recommendations, and improve coordination of DHS's international mission?

It is my understanding that the Department has invested considerable effort during the past few months to develop the policies, plans, instructions, directives, and processes required to address the recommendations presented in the Inspector General's June 2008 report. While the Department has built strong relationships with key allies around the world, it is not clear if our assets overseas are structured effectively. I plan to review this closely if confirmed.

19. In 2007, the Bush Administration announced the Merida Initiative – a multi-year, multi-billion dollar international counter-drug and judicial-system-building initiative with Mexico and Central American countries. Although the Administration designated the State Department as the lead federal agency, a majority of program responsibilities were assigned to DHS and the Department of Justice (DOJ). In fact, initial program funding allocations show that DHS will be responsible for overseeing the spending of the greatest amount of money under the initiative. As this Committee investigated the Merida Initiative's planning and development, a number of concerns arose: (1) program experts within DHS and DOJ were being left out of the initial planning; (2) the State Department had not made provisions to backfill positions of employees who would be sent to work with officials of the foreign governments, which is critical in order to avoid taxing DHS' limited domestic program resources; (3) and there were no program metrics by which to evaluate the initiative's success. What will you do as Secretary to ensure that these concerns are addressed and that DHS components are not only successful, but equal partners in the Merida Initiative?

As Governor of Arizona, I am keenly aware of the violence drug cartels and other criminal organizations have brought to our border. We cannot be secure if these criminals are allowed to threaten the stability and welfare of our neighbors.

The Merida Initiative is a multi-year program that will provide equipment and training to

support law enforcement operations and technical assistance for long-term reform and oversight of security agencies in Mexico and Central America.

As Secretary, I will work to improve internal DHS program management as well as interagency understanding of and appreciation for DHS's role and concerns, especially with regard to the State Department. .

As to metrics, I am aware of the State Department's efforts to generate them, and I will work to ensure that DHS projects and initiatives bring meaningful results to secure this country and to rid Mexico and our other Central American neighbors of the organized criminal gangs that threaten them.

Federal Emergency Management Agency

20. In the wake of the failed response to Hurricane Katrina, the Committee conducted a far-reaching investigation and issued a resulting report entitled, "Hurricane Katrina: A Nation Still Unprepared." In its investigation, the Committee found that the Federal Emergency Management Agency (FEMA) was unprepared – and never had been prepared – for a catastrophic event. In addition to a lack of basic capabilities and resources at FEMA, the Committee found other key failures by the Department as a whole and its leadership, such as a failure to timely employ the substantial resources of the components of DHS, the lack of effective communication between the Secretary of Homeland Security and the then-Director of FEMA, and the lack of situational awareness both at FEMA and DHS. The Committee recommended replacing FEMA with a new, stronger, more robust federal preparedness and response agency. In September 2006, Congress passed the Post-Katrina Emergency Management Reform Act of 2006 ("the Post-Katrina Act") to do just that.

The Post-Katrina Act, which implemented many of the recommendations from the Committee's investigation, created a new FEMA – with responsibilities, missions, capabilities, and resources far exceeding those of FEMA at the time of Hurricane Katrina. The Post-Katrina Act also requires the President to appoint a qualified individual as FEMA Administrator, clarifies that the FEMA Administrator shall serve as the President's and Homeland Security Secretary's principal advisor on emergency management issues, elevates the FEMA Administrator to the level of Deputy Secretary of the Department, permits the President to elevate the FEMA Administrator to cabinet level status during disasters, and preserves FEMA as a distinct entity within the Department.

In testimony before the Committee in April 2008, DHS Inspector General (IG) Richard Skinner concluded that FEMA was better prepared for a catastrophe now than it was in 2005 and found that in the nine areas reviewed by the IG's Office, FEMA had made moderate progress in five areas, modest progress in three areas, and limited progress in only one area. In a report released on December 8, 2008, GAO similarly found that DHS and FEMA had taken action to implement many of the Post-Katrina Act's requirements, but that there was still significant work to be done in a number of areas. If confirmed,

what will you do to ensure the new, enhanced FEMA, as envisioned by the Post-Katrina Act, continues to be strengthened?

The Post-Katrina Emergency Management Reform Act (PKEMRA) and other Congressional initiatives have provided DHS and FEMA with a valuable roadmap and additional resources to ensure FEMA's future success. As a Governor and a stakeholder, I can assure you that progress made in improving both FEMA's and the Nation's preparedness will be of the highest priority. FEMA is a critical agency in our Nation's ability to prepare for, respond to, and recover from disasters and emergencies and it is important to continue to improve upon its performance and its capabilities.

As the question notes, much improvement has been made over the past two years and I understand that significant investments have been made in funding, personnel, equipment, and business practices. It is important to continue to improve upon all of those areas. It is my goal to strengthen FEMA further and to have a FEMA Administrator who will be by my side in making the additional reforms necessary to make even greater improvements on services to disaster victims, achieve an even greater level of preparedness across the Nation, and mitigate the effects of future disasters. By accomplishing these responsibilities, FEMA provides greater tools to its State and local partners, builds stronger State and local response capacity, and properly places Federal resources where they are needed most in a timely and effective manner. My commitment is to work diligently to continue the efforts to improve FEMA so that our Nation knows that when disasters or emergencies strike, the Federal Government is there.

21. In passing the Post-Katrina Act, Congress decided to strengthen FEMA within the Department of Homeland Security rather than remove it from the Department. The Post-Katrina Act recognizes that the kinds of catastrophic disasters for which the nation must prepare require resources far beyond what FEMA can effectively marshal standing alone, and the federal preparations for and response to Hurricanes Ike and Gustav earlier this year suggests that the Post-Katrina Act's goal of giving FEMA the tools to be able to effectively coordinate DHS's substantial assets has been met: in Ike and Gustav, the new FEMA successfully drew on resources from other components of the Department, such as the U.S. Coast Guard, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection, to support its response. The coordination in Hurricanes Ike and Gustav stands in sharp contrast to the response to Hurricane Katrina in which the Department's considerable law enforcement and communications assets went largely unused in the days leading up to and immediately following landfall.

In addition to the expanded resources that DHS contributes to FEMA's response capabilities, FEMA is an essential part of DHS. Through its new grants authority and preparedness activities as well as through its newly strengthened regional offices, FEMA serves as one of the principal conduits through which the Department interacts with state and local officials. Most significantly, of course, FEMA houses most of the Department's response capabilities, which are integral to the mission of the Department. Indeed, when President-elect Obama introduced you in a press conference on December 1, 2008, as his nominee for Secretary of the Department of Homeland Security, he noted that you

"underst[ood] the need for a Department of Homeland Security that has the capacity to help prevent terrorist attacks and respond to catastrophe be it manmade or natural."

Can you elaborate on this issue, particularly in light of the fact that some have called for FEMA to be removed from DHS?

I understand that there is considerable debate on this subject, with strong advocates on both sides. The advocates on both sides of this debate all share the desire for the nation to have an effective, strong and coordinated preparedness, response and recovery effort whether the disaster is caused by nature or man.

The issue of FEMA's status is not a simple one and does not lend itself to short answers or merely reactive measures. As long as FEMA remains in DHS, I will work to incorporate FEMA within DHS so that it achieves maximum effectiveness.

In the coming months I will review in depth the issues surrounding FEMA's roles and responsibilities as outlined in law, in doctrine and within the Department's management and coordination structures. I recognize that the issues of roles and responsibilities are ones that need to be addressed and I am committed to doing so. I would note that the effectiveness of FEMA and DHS are more closely tied to the qualities of focused leadership, clear roles and responsibilities, and synergies between emergency management and other aspects of homeland security, than they are to organizational charts.

22. The Committee's report into the failed response to Hurricane Katrina found that FEMA lacked the resources needed to accomplish its mission and that resource shortages contributed to FEMA's failures in responding to Katrina. For the past two fiscal years, the Bush Administration has asked for increases in FEMA's budget, but some believe FEMA's budget is still not adequate to accomplish its mission. Do you believe there is a need for additional increases to FEMA's budget? If so, please identify where such increases should be made.

I have reviewed the FEMA budget provided to me by the Department. It appears the increases in funding and staffing have gone a long way toward solving significant problems within FEMA. I wish to take time to review the Department's proposed FY10-14 budget submission and FEMA Vision documents before I can definitively answer this question. It is important that we make the right investments in FEMA and understand the strategic ends we are trying to achieve. All of this needs to be balanced within the ever-tightening requirements that we will face across government as we address the national financial crisis.

23. Although Hurricane Katrina made landfall over three years ago, the recovery and rebuilding process is far from complete and much work remains to be done.
- a. What is your vision of the role of the federal government in the recovery and

rebuilding process in the Gulf Coast and what should the Obama Administration do to support those recovery and rebuilding efforts?

The Federal Government, working together with impacted state and local governments, non-governmental organizations, and the private sector, must continue the recovery and rebuilding process in the Gulf Coast. If I am confirmed as Secretary, I will work with leadership at FEMA as well as elected leadership along the Gulf Coast to assess rebuilding efforts to date and determine what additional steps are necessary to ensure a return to normalcy for the residents of the Gulf Coast.

- b. In your view, what can be done to improve the ability of FEMA and DHS to provide more effective assistance with recovery efforts if and when future catastrophes occur?

Recovery from disaster can and should be continually improved. FEMA and DHS play an important role in coordinating Federal departments and agencies to support state and local governments. FEMA has developed a concept paper addressing future improvements to the disaster recovery process. I look forward to reviewing the work that FEMA has done in this area and to working with FEMA and DHS, other Federal departments and agencies with a role in disaster recovery, and the Department's state, local, tribal, non-governmental, and tribal partners to explore how best to enhance future disaster recovery activities.

24. Providing long-term disaster housing for victims of Hurricanes Katrina and Rita has been difficult. What thoughts do you have on how the federal government should provide long-term disaster housing to disaster victims? What do you believe the role of the Department of Housing and Urban Development should be in providing long-term housing to disaster victims?

There are a number of Federal departments and agencies that have authorities to support disaster-housing efforts when the recovery is beyond the resources of local and state governments. These programs are often delivered in coordination with state and local governments, and for major disasters Congress sometimes provides supplemental appropriations. Federal departments and agencies with significant roles in providing permanent housing include the Department of Housing and Urban Development (HUD), the Department of Agriculture (USDA) and the Small Business Administration (SBA).

HUD provides annual funding to state and local governments through the Community Development Block Grant (CDBG) and HOME Investment Partnership Program. USDA also has a variety of grant and loan programs that can aid recovery of housing, and SBA offers disaster home loans directly to disaster victims for refinancing, rebuilding, mitigation improvements to property, and personal property loss following a disaster.

HUD is the Federal expert on providing permanent housing assistance for low-income families and thus is uniquely positioned to assist those affected by a disaster. HUD is a partner with DHS/FEMA in meeting the housing needs of disaster victim through Emergency Support Function #14 – Long-Term Community Recovery. HUD has a

network of programs and partners nationwide that allow it to provide a wide variety of services to disaster victims.

FEMA, working with HUD and other Federal departments and agencies with a role in disaster recovery, has developed a draft National Disaster Housing Strategy. I look forward to reviewing the work done to date on this Strategy.

25. In the event of a catastrophic incident, the Department of Defense will play a critical role in supporting the national response. However, this past year, the Commission on the National Guard and Reserves criticized DHS for failing to inform the Department of Defense (DoD) of which capabilities it will be expected to provide in response to a catastrophe. How will you better integrate planning to ensure these plans can be executed in a single coordinated effort between DoD and DHS?

DHS and the Department of Defense have undertaken a number of activities to improve coordination and joint planning for more effective use of Defense Department assets in disaster response in support of state, local, and tribal governments. As Secretary, I will examine efforts to date to determine requirements for DOD support to civil authorities for disaster response, ensure that integrated planning as well as exercises and analysis inform the identification and validation of civil support requirements, and enhance the ability of DHS and DOD to execute coordinated disaster response efforts.

26. The National Guard is a critical component of our nation's response to a natural disaster and terrorist attacks. However, the dual nature of the Guard's mission can place significant strain on personnel and resources. How will lessons that you learned as commander of the Arizona National Guard affect DHS-led planning that relies upon the Guard and other DoD components in response to a natural disaster or a terrorist attack?

We are safer as a nation when we all work and plan together. This is really a two-step process. First, there needs to be even greater coordination among the various components in the Federal government. For example, DHS, DoD, the component led by the Assistant Secretary for Homeland Defense, the National Guard Bureau, Northern Command, the Department of Justice, the Department of Health and Human Services, and the Department of Energy--to name just a few--must work in a fully integrated and strategic manner in planning for these type of events. Second, the Federal government needs to increase our efforts to communicate and consult with the relevant Federal, state, local, and tribal entities. The goal should be to create a true partnership that can improve our homeland security.

27. In the wake of Hurricane Katrina, the Committee found that in FEMA's rush to meet the needs of thousands of victims, FEMA often failed to implement or follow basic measures to prevent fraud, waste and abuse. To fix these failures, Congress included several measures in the Post-Katrina Act to control waste, fraud, and abuse, which FEMA is implementing. How will you ensure that FEMA is able to lean forward and meet the needs of victims overwhelmed by disasters while also maintaining appropriate controls to prevent fraud, waste and abuse of taxpayer dollars?

As has been described to me by current FEMA leadership, FEMA's traditional system of controls for waste, fraud and abuse was not up to the challenge of disasters of the magnitude of Hurricanes Katrina and Rita. FEMA identified many shortcomings in its system of controls as a result of those disasters. While work remains to be done, DHS and FEMA have already taken steps to implement new controls to improve FEMA's ability to serve disaster victims while also limiting fraud and abuse. These steps include evaluating and strengthening controls pertaining to identity, residence type, and cross-disaster applicant checking. As Secretary, I will work closely with the FEMA Administrator to evaluate the efficacy of these steps and determine what additional actions are necessary to prevent fraud, waste and abuse while meeting the needs of disaster victims.

Planning

28. Planning for catastrophic events is one of the most important functions of the Department.
- a. What steps will you take to ensure FEMA completes planning for catastrophic events and that the plans incorporate input from across the federal government?

Planning and the planning process are among the most important functions of not only FEMA and DHS but all Federal departments and agencies with a role in homeland security. It is also important that FEMA's state, local, and tribal government partners have the capacity and the tools they need to plan for the hazards they face. FEMA and DHS's Office of Operations Coordination and Planning are currently working on a series of plans for the 15 National Planning Scenarios. FEMA is also engaged in efforts to plan for other specific catastrophic scenarios, and to enhance and improve the Catastrophic Incident Annex and Catastrophic Incident Supplement for general catastrophic preparedness. As Secretary, I will work to ensure that Federal planning activities are effectively integrated with state, local and tribal planning through FEMA's regional offices and review the efficacy to current planning systems and processes. I will also continue efforts between the DOD and DHS to support military integration into catastrophic planning, such as the Task Force for Emergency Response (TFER) program for which I understand Congress is considering legislation to expand TFER to all 50 states.

- b. How can DHS best integrate state, local, and tribal governments into this planning process to ensure that plans among all levels of government are coordinated?

As explained to me by current FEMA leadership, FEMA's regional offices, working closely with the other components of DHS and other Federal departments and agencies with a role in homeland security, are the nexus of planning coordination at the state, local, and tribal levels. Utilizing the tenets of the Integrated Planning System (IPS) and Comprehensive Planning Guide 101 (CPG 101) the FEMA regions will be actively engaged in working with the states to integrate planning based on the

hazards those states face. FEMA has directed grant funds towards state and local planning efforts for the past two years. As Secretary, I will assess these efforts to integrate state, local, and tribal governments into the planning process and take whatever steps are necessary to ensure this integration. As a Governor, I know that state and DHS relations have been strained at times, and I am committed to ensuring that DHS listen and adapt to state needs, while still ensuring integrated and unified planning. I want the whole process to be more user-friendly so that in a time of limited resources, we can focus our efforts without compromising security.

29. What do you believe should be DHS's approach to planning in order to ensure that the nation is prepared for a wide range of catastrophic incidents? How would you prioritize planning efforts?

Planning is indispensable to unity of effort. There is no preparedness without planning. Therefore planning is part of the broad context of incident management and an essential activity of homeland security. I believe that it is important to prioritize planning on the basis of risk, understanding that the risks we face as a nation must be balanced with the specific risks faced by state, local, and tribal governments. As Secretary, I will review DHS's approach to planning and ensure that it meets the nation's requirements to ensure preparedness for a wide range of catastrophic incidents.

30. In an October 2005 hearing before the House Committee on Homeland Security, you stated in testimony that the federal government must work with states to accredit state emergency preparedness plans. As you know, there is a great deal of work underway with regard to federal, state and local preparedness planning, but state and local governments are concerned with the federal government being too heavy handed in working with them during this process. Do you believe that it is possible to develop an effective evaluation, assessment, and accreditation process akin to the federal government "grading" states that still respects the authorities and prerogatives of state governments?

I believe it is possible to effectively evaluate, assess, and accredit elements of preparedness, including plans, while respecting the authorities and prerogatives of state, local, tribal, and territorial officials. The key to such a process is to establish an early and effective consensus process involving all levels of government to determine agreed upon outcomes and objectives. Further, by including state, local, and tribal officials in the development of planning guidance, I understand FEMA can engender buy-in with the basic documents that guide national planning efforts. By obtaining feedback and input into the design of assessment and evaluation tools, FEMA can assess the status of national preparedness while providing feedback that is useful to jurisdictions, without overly burdening state, local, and tribal governments. Finally, by working with existing accreditation bodies – such as the Emergency Management Accreditation Program and the American National Standards Institute, among others – FEMA can leverage these entities to enhance the nation's preparedness. This type of consensus building advances the nation's interest in homeland security while ensuring that the authorities and prerogatives of state, local, and tribal officials are not negatively affected.

31. As you are aware, DHS has developed the Integrated Planning System as a planning guide for federal departments and agencies to conduct homeland security preparedness planning. At the same time, FEMA has revised its Comprehensive Preparedness Guide 101, or CPG-101, to assist state and local governments with the planning process. While the two documents are remarkably similar in certain areas, they do differ in others, leading many to conclude that it will be extremely difficult to develop a truly "national" planning system when different levels of government are using different planning guides.

- a. Do you have any concerns about having two components of DHS – FEMA and the Office of Operations Coordination – engaging in such similar planning efforts?

To my understanding, FEMA and the Office of Operations Coordination and Planning have been working collaboratively on the planning efforts to date. As explained to me by current leadership of both FEMA and the Office of Operations Coordination and Planning, the Integrated Planning System (IPS) is designed to provide a uniform federal planning process to address key significant scenarios that could be catastrophic in nature. CPG 101 is designed to provide state and local governments with the planning tools they need to address the hazards they face. As Secretary, working in conjunction with the FEMA Administrator, I will review both the IPS and CPG 101 and ensure that planning processes and activities at the Federal, state, local, and tribal levels are synchronized and harmonized.

- b. Do you believe it is worthwhile, or even realistic, to develop a single planning guide for use at all levels of government?

No single planning process is likely to serve all levels of government with the varied levels of resources, capabilities and risks they all face. What is possible is to develop a flexible planning process that can synchronize planning across the Federal, state, and local spectrum. As described to me, IPS and its companion document CPG 101 are designed to provide that flexible framework. As Secretary, working in conjunction with the FEMA Administrator, I will review the planning processes currently in use and ensure that they constitute this kind of flexible planning process.

Homeland Security Grants

32. State and local first responders are on the front lines of our national effort to prevent, prepare for, respond to, and recover from acts of terrorism and natural disasters. For this reason, Congress has restored some or all of the funding that the Bush Administration proposed be cut from the budget for DHS's state and local homeland security grants each of the last five years. Do you believe that federal homeland security funding for states and localities should be kept the same, increased, or decreased?

As a Governor, I understand that one of the most critical aspects to building and sustaining state and local, and first responder capabilities is predictability of funding support, whether that be state and local funding or Federal grant support. While the Congress and the prior administration have actively debated the appropriate funding levels, what is needed is a better understanding of what support is needed in order to build necessary capabilities and sustain them over time, and what portion of this burden should be borne by the Federal Government, states, and local governments, respectively. As Secretary, I will review preparedness grant funding to date and support efforts to establish what level of support is necessary to build and sustain necessary capabilities. Until that is done, it would be premature for me to give an opinion on homeland security grant funding.

33. The FIRE Act is due to be reauthorized in 2009. FIRE Act grants are a vitally important resource for thousands of fire departments across the nation. Last year, the Administration attempted to cut this program by hundreds of millions of dollars. The funding that was proposed to be cut was later restored by Congress. As a governor familiar with the ever increasing demands being placed on our nation's firefighters, will you advocate for maintaining sufficient funding for this grant program?

Our Nation's firefighters are an essential front line asset in responding to emergencies and disasters of all kinds. They have my deepest respect and admiration. According to FEMA, the Assistance to Firefighters Grant Program, funded under the FIRE Act, has provided billions in grants to support their needs for equipment, training, planning, prevention and health and safety. I support the program and will work with the committee to continue the program's great work.

34. After years of debate, Congress, as part of the 9/11 Commission Recommendations Act, enacted amendments to the Homeland Security Act governing the distribution of grants under two of the major homeland security grant programs, the State Homeland Security Grant Program (SHSGP) and the Urban Area Security Initiative (UASI). The grant provisions guarantee each state a minimum allocation under SHSGP, but otherwise largely leave to the Secretary's discretion the allocation of grant funds to states and high-risk urban areas based on a jurisdiction's relative threat, vulnerability and consequences faced from acts of terrorism and on the anticipated effectiveness of the proposed use of the grant, provided that certain basic risk factors are taken into account.

To help it allocate grants and for other purposes, DHS has developed (or contracted with others to develop) a terrorism risk model. Reflecting the difficulties in determining the true risk of terrorism, however, the model in past years has been incomplete, depended on subjective weighting and has been difficult if not impossible to externally validate. Given the uncertainties inherent in measuring the risk of terrorism, how, if confirmed, would you approach the issue of risk analysis and what criteria would you use to evaluate whether a proposed method for allocating grants is appropriate and adequately reflects the likely risk of terrorism?

I strongly support the idea that homeland security grants must be allocated in a manner informed by risk. I understand that there are inherent uncertainties in measuring terrorism risk and in comparing risks across a variety of naturally occurring and human-caused threats. As Secretary, I will evaluate the Department's current methodology for applying risk to homeland security grant allocations and will ensure that the Department allocates grants in a manner best suited to addressing the homeland security-related risks faced by the nation.

35. The RAND Corporation noted in a 2004 report, "When Terrorism Hits Home: How Prepared are State and Local Law Enforcement," that "[h]omeland-security experts and first-responders have cautioned against an overemphasis on improving the preparedness of large cities to the exclusion of smaller communities or rural areas, noting that much of our critical infrastructure and some potential high value targets (nuclear power plants, military installations, agriculture facilities, etc.) are located in less-populated areas." Moreover, we know that al Qaeda attackers lived, trained, transited, hid, and otherwise used smaller communities and rural areas as a staging ground for the September 11, 2001 attacks. What steps will you take to ensure that smaller communities and rural states and localities receive adequate federal assistance to prevent, prepare for, respond to, and recover from terrorist attacks?

It is important that DHS balance its investments based on risk, and provide adequate support to address those risks. Small and rural areas have risks, and select DHS grant programs, including SHSGP, the Emergency Management Performance Grant program, and the Assistance to Firefighters Grant program, have elements which provide funding to support the efforts of smaller communities. However, DHS must also be aware of the need to maintain our focused efforts in our higher risk areas with large populations and significant critical infrastructure. DHS currently provides training, planning and exercise resources to support both large communities and small and rural communities. This support is on-line, through training academies and partners. As Secretary, working with the FEMA Administrator, I will examine these efforts and determine what additional actions are necessary.

36. The Department was created to prevent, prepare for, respond to, and recover from terrorist attacks and natural disasters – what is commonly referred to as all hazards – and the 9/11 Commission Recommendations Act that we authored required the Department to develop an all-hazards risk formula for awarding certain grants, such as the Interoperable Emergency Communications Grant Program (IECGP). The Department, however, has not fully embraced this task. For example, the current formula used for IECGP is simply a modified version of the same terrorism-based formula used for the State Homeland Security Grant Program. This modified formula fails to take into account any readily available data regarding natural-disaster risk. It disadvantages many states that routinely experiences significant and damaging natural disasters. What steps will you take to ensure that the Department complies with the law and develops an all-hazards risk formula?

I strongly support the idea of all-hazards preparedness as advanced by this Committee in

the Post-Katrina Emergency Management Reform Act, which acknowledges that certain capabilities are applicable across a range of potential hazards, while others are specific to particular threats and risks. As Secretary, I will examine the Department's methodologies for allocation grant funding, and make adjustments as necessary to protect the American public while meeting the intent of the Department's governing statutes. One of my earliest deadlines will be to examine the guidance for grants for FY2010.

37. The Post-Katrina Emergency Management and Reform Act of 2006 and amendments made by the 9/11 Commission Recommendations Act require that DHS report annually on the extent to which the homeland security grants administered by the Department have assisted states and localities in achieving target capabilities for preparedness and led to a reduction in the risks faced from natural disasters, acts of terrorism and other man-made disasters. Yet DHS is still in the process of developing systems that can effectively track and analyze how such grant funds have been used.

- a. If confirmed, what steps will you take to improve the Department's systems for monitoring and evaluating state and local use of homeland security grants?

As explained to me by current Department leadership, DHS has improved its oversight for its grant programs through annual monitoring visits on both the financial and programmatic aspects of the grants. In addition to this oversight, the Department has developed several new initiatives designed to measure the effectiveness of the grant dollars. The Department is also continuing its work to move towards a consolidated grants management platform, which should streamline the application and reporting processes for all Departmental grants. If confirmed, I will review these programs.

- b. As Governor, what measures, if any, did you use to track homeland security grant funds to localities within the State and to ensure that those funds were being used effectively?

The Arizona Department of Homeland Security (AZDOHS) has implemented a variety of measures to track grant funding and improve accountability and transparency of the policies, programs and procedures associated with the federal homeland security grant programs.

Such measures include:

- *Utilizing the Grant Information Management System (GIMS) computer software application to better manage the accounts payable process. This system was recently further refined to automate and integrate a very cumbersome, difficult paper grant application process.*

- *Ensuring expenditures mirror the federal Authorized Equipment List (AEL). Only those items explicitly outlined in this federally approved list are even considered by AZDOHS for grant projects.*
- *Eliminating verbal approval for contract changes. There is a strict, documented policy for all requests to approved projects that requires written documentation from more than one person.*

From involving stakeholders and subject matter experts to surveying the strengths and needs of the State, AZDOHS makes a continued and concerted effort to further refine processes to ensure that grant funds are maximized.

Community Preparedness

38. What do you see as DHS's role in promoting individual and community preparedness for all hazards? Do you believe that DHS's Ready campaign has been effective? If not, how would you change it?

Individual and community preparedness is a necessary pre-condition for national preparedness. As a result, DHS must play a major role in promoting individual and community preparedness through development of relevant national policy and funding sources that support individual and community preparedness and research on individual and community preparedness issues. DHS should provide a national voice on the importance of individual and community preparedness, and should partner with other Federal agencies, non-profits, the private sector, faith-based organizations, and state, local and tribal governments. The Department also collaborates with other Federal agencies and non-profits on community safety and disaster response volunteer programs, to include Fire Corps, Medical Reserve Corps (MRC), Neighborhood Watch, and Volunteers in Police Service (VIPS). As Secretary, I will review these efforts, as well as DHS's Ready campaign, to ensure that DHS's citizen and community preparedness efforts are as effective as possible.

39. In the event of a major natural disaster or terrorist attack, effective public communication will be critical to saving lives. However, in a May 2008 hearing before the Committee on the nation's preparedness to respond to a terrorist nuclear detonation in a major American city, witnesses raised concerns that it was not clear which – if any – DHS official was responsible for planning the communications response to a catastrophic incident, and as a result, there were not adequate communications plans for these incidents.
- a. If confirmed, what will you do to develop an effective public communications strategy to be used in the event of a terrorist attack or natural disaster?

Crisis communications are an essential element of any response, providing information that fosters trust and credibility and empowering the public to make the

best decisions about their wellbeing. As described to me by current DHS and FEMA officials. DHS and FEMA utilize the National Response Framework's Emergency Support Function 15 construct to execute the Department's crisis communications effort. As Secretary, I will review the current communications approach, and I will ensure that this strategy effectively provides incident communications in a clear and concise manner to the public.

- b. Will you designate a specific office within the Department to lead this effort?

I am concerned by even the perception that DHS does not have a single crises communication lead. I will examine the understandings between the offices and make changes if necessary.

Communications Interoperability

40. Communications interoperability problems often create chaos when different units and levels of governments simultaneously respond to a crisis. Over the past several years, Congress has enacted legislation intended to strengthen DHS's leadership role in solving these problems. In 2006, Congress established the Office of Emergency Communications to coordinate DHS's responsibilities on interoperability, develop a National Emergency Communications Plan, and conduct national outreach to foster interoperability among State, local, regional, and tribal governments. In 2007, Congress established the Interoperable Emergency Communications Grant Program. While DHS has met certain milestones, including the issuance of the National Emergency Communications Plan, DHS has been slow to stand up the Office of Emergency Communications, and the Bush Administration requested no funds for the grant program in its first two years of existence.
- a. Based on your experience as a Governor, in what ways do you think DHS can most effectively provide leadership to assist State and local governments in achieving interoperability?
1. *Technical Assistance Awards and Policy Academies to states (see details below) from DHS OEC are valuable and should be expanded, coordinated and continued.*
 2. *Template or model policies, standards and procedures, memoranda of understanding (MOUs), standard operating procedures (SOPs), operational governance structures, best practice recommendations and performance measures should be provided by OEC to the states.*
 3. *Interoperable Emergency Communications Grant Program (IECGP) should be continued and funding should be increased. [Note: For non-equipment grants,*

limitations on staffing costs should be re-calibrated as governance, planning and related activities require a high level of staffing and more senior personnel.]

4. *Future interoperability grants for equipment should require that:*
 - a. *State Interoperability Standards are developed and will be complied with in regard to the projects to be awarded equipment funding.*
 - b. *DHS should confer with Statewide Interoperability Coordinators regarding funding decisions before they are made.*
5. *Infrastructure investments in interoperability should be considered as part of the stimulus package to states and also as a way to address increasing levels of unemployment.*
 - b. *Are there specific experiences in addressing interoperability at the State level that will influence how you view this issue? If so, please explain.*

1. *Technical Assistance Awards and Policy Academies*

OEC recently approved three of Arizona's Technical Assistance requests as part of the Interoperable Communications Technical Assistance Program (ICTAP). Technical Assistance is to be provided to Arizona in 2009 in the areas of Governance, Statewide SOP Development and Training.

The National Governor's Association Center for Best Practices recently issued, "Interoperability: Focus on Governance Policy Academy" to States. The project is being supported by DHS' OEC and the Office for Interoperability and Compatibility (OIC). Arizona was one of six recipients of this grant. The Academy will take place in early January 2009. The concept behind the grant program and the Academy is to support States to improve their governance structures that oversee statewide communications interoperability planning and implementation is sorely needed.

2. *Templates and models*

As part of the National Governor's Association Center for Best Practices Interoperability: Focus on Governance Policy Academy, participants will receive a governance toolkit with template and model documents. Such guidance is essential to states not re-inventing the wheel.

3. *Interoperable Emergency Communications Grant Program (IECGP)*

Arizona and other States have received small IECGP grants. This grant program is essential to realizing the promise of interoperability and must be continued and expanded. One of the goals of this grant is to align State SCIPs with the NECP, which is an essential next step.

4. *Conditions on Future Interoperability Grants*

In developing Arizona's Statewide Communications Interoperability Plan (SCIP) in 2008, it became evident that making production of an actionable SCIP plan by states a condition of federal funding was an excellent strategy to focus state efforts and support them in moving forward. Providing technical assistance and grant support to states in essential areas of need and then requiring progress in the funded areas in future grants is an essential strategy for supporting states in moving forward.

5. *Interoperability an Essential Infrastructure Project*

I support President-elect Obama's plans for infrastructure projects. Based on my experience in Arizona and the experience of my NGA colleagues in other states, it is clear that communications interoperability is an area ripe for such federal investments.

- c. The Integrated Wireless Network (IWN) project began in 2003 to create a nationwide, consolidated, interoperable wireless communications system for employees of DHS, the Department of Justice, and the Treasury Department. Despite the hundreds of millions of dollars spent, a December 2008 GAO report found that the program had failed due to a lack of leadership within the participating agencies. What are your plans for pursuing interagency coordination to ensure that employees of federal agencies are able to communicate with each other during a disaster?

If confirmed as Secretary, I will examine the history of the IWN program and the circumstances described in the December 2008 GAO report and take whatever actions are necessary and appropriate to ensure that employees of Federal agencies are able to communicate with each other during a disaster, consistent with DHS's statutory and regulatory authorities.

Intelligence and Information Sharing

41. The DHS Office of Intelligence and Analysis is a critical part of DHS, serving as the Department's primary interface with the broader Intelligence Community, supporting state and local fusion centers, and integrating the intelligence-related activities of the DHS component agencies.
- a. What would be your key near-term priorities to improve the effectiveness of the Office of Intelligence and Analysis?

If confirmed as Secretary, I intend to strengthen I&A's cadre of all-source analysts. These analysts are needed to focus on the homeland security mission and to support I&A's customers within DHS, in the Intelligence Community, and at state, local, and tribal levels. I also intend to be vigilant to protect civil rights, civil liberties, and privacy of U.S. citizens in all of DHS's intelligence-related activities.

I would also work with my Under Secretary of Intelligence and Analysis and my team to understand the information needs of our many partners to ensure that the right information, tailored as necessary, gets where it needs to be, when it is needed. I will also work to educate DHS's partners on the kinds of information that DHS needs for its mission.

- b. The fusion center in the state of Arizona, ACTIC, has won praise from the National Governors Association and the Council of State Governments. What experiences from the development of ACTIC might inform your efforts at DHS to improve Departmental support to state and local fusion centers?

The Arizona Counter Terrorism Center (ACTIC) is a first-of-its kind state-level, 24/7 intelligence fusion center, staffed with more than 157 detectives, special agents, and analysts representing more than 44 state, local and federal agencies. ACTIC programs promote interaction, training, and communication among multi-agency, multi-discipline teams to maximize efficiency among existing programs.

ACTIC and fusion centers like it across the country provide an important opportunity to share intelligence and resources between national, state and local law enforcement, but are often dependent on limited local resources to function. To be a true federal/ state partnership, strong federal support and comprehensive information sharing must be prioritized.

DHS recently permitted states to start spending SHSGP grant money on personnel at places like fusion centers. This is a step in the right direction to ensure that a state's fiscal situation does not deplete critical human capital these fusion centers are built upon.

- c. As a governor, what is your perspective on the importance of fusion centers in ensuring state and local cooperation with DHS and other federal agencies?

Fusion centers play an important role in ensuring the right information reaches the right level in time for it to be useful in protecting Americans. Fusion centers need an appropriate level of resources to make sure they can carry out this mission, given the strains on state, local, and tribal budgets in the present environment.

42. One program within the Office of Intelligence and Analysis is the National Applications Office (NAO), which is intended to facilitate the use of intelligence community technical assets for domestic civil, homeland security, and law enforcement purposes, including by state and local customers. The NAO is not yet fully operational due at least in part, to privacy, civil liberties, and legal concerns, and Congress has reduced its funding for FY2009. As Secretary, what approach will you take to address these privacy, civil liberties, and legal concerns, but still ensure that domestic customers are able to

appropriately utilize intelligence community technical assets?

If confirmed as Secretary, I will be vigilant in protecting the civil rights, civil liberties, and privacy of all American citizens.

It is my understanding that the National Applications Office (NAO) was established as the successor to the Civil Applications Committee to provide an integrated, multi-agency approach to facilitate access to Intelligence Community capabilities by civil agencies. The NAO charter requires it to comply with all existing laws, including privacy and civil liberties standards. In the DHS Appropriations Act of 2009, Congress put limits on the funding for NAO until the Secretary of Homeland Security certifies that NAO programs comply with all existing laws, including applicable privacy and civil liberties standards, and that clear definitions all proposed domains in which NAO will operate are established and auditable. The Comptroller General must then notify the House and Senate Committees on Appropriations that the Comptroller has reviewed this certification, and the Secretary of Homeland Security notifies the Committees on Appropriations of any funds to be expended to support the NAO. If confirmed as Secretary, I intend to follow these procedures.

43. The Homeland Security Act of 2002, the Intelligence Reform and Terrorism Prevention Act of 2004, and the 9/11 Commission Recommendations Act all included provisions directed at improving homeland security information sharing by the federal government among federal agencies and with state and local officials. Although there has been marked improvement in many areas, the creation of this new culture of information sharing is a work in progress that requires close attention.
- a. As a governor, what do you believe are the primary impediments to effective information sharing among DHS, other federal agencies, and state and local officials?

The 9/11 Commission concluded that a failure to "connect the dots" contributed to the devastating attacks on our nation over seven years ago. Section 201(d)(1) of the Homeland Security Act of 2002 makes it clear that DHS is the agency that is supposed to connect the dots when it comes to Federal, state, local, and tribal law enforcement and other information that might help prevent the next attack. There are several key impediments to more effective DHS information sharing with its partners at all levels of government.

DHS needs to understand the intelligence and other information needs of police and sheriffs' officers nationwide -- our nation's "first preventers" in the field who know their communities best and consequently are among the best-positioned to stop a terrorist plot in its tracks. What these partners need are intelligence products that "speak their language." Specifically, those products must provide law enforcement officers with situational awareness about evolving terrorist activities, threats and techniques -- and, importantly, the kinds of crimes that terrorists commit in support of their nefarious plans. Armed with that information on a consistent basis, patrol

officers on the beat would be able to connect the "intelligence dots" when they notice things out of place and take appropriate action to save lives and protect property. In so doing, they could finally become the homeland security "force multipliers" that we need to make America safer.

DHS accordingly would benefit by bringing into its Office of Intelligence and Analysis seasoned state, local and tribal law enforcement executives with intelligence experience to direct the office's information collection, analysis, and intelligence production. With this kind of on-site expertise, DHS would be in an improved position to create a new kind of "homeland security intelligence" that would meet the needs of these critical stakeholders.

With regard to information sharing with its Federal partners, much remains to be done to ensure the best possible flow of information. I intend to prioritize this critical effort.

- b. Please describe Arizona's experience with information sharing with DHS and other federal agencies during your tenure as governor

Since its inception, DHS has been moving forward with intelligence sharing with state partners. While we have seen progress in Arizona, improvements are needed to ensure state and local partners are receiving intelligence information in a timely manner. As a result of the current DHS intelligence process, Homeland Security in Arizona has had to look to other federal partners such as the FBI and DEA for direct intelligence sharing.

- c. If confirmed, what steps would you take to improve the two-way flow of information between DHS and state and local officials and first responders?

If confirmed, I would strengthen the Department's efforts to facilitate the two-way flow of information between DHS and state and local stakeholders by supporting (and, if necessary, enhancing) a number of ongoing efforts. I would also engage state and local leaders and first responders to solicit their views on how fusion centers can be made more effective. DHS is able to serve state and local fusion centers by providing them access to unclassified and classified information, and is best positioned to listen and to act upon the needs of state, local and tribal law enforcement officials and first responders.

- d. What, if anything, do you believe should be done to improve information sharing with private sector entities?

Sharing information with the private sector is a particularly important aspect of the Department's efforts. Much of the work of securing the homeland depends on the cooperation of private sector partners such as industries that own or maintain critical infrastructure or the travel industry. I am aware that DHS has several existing

initiatives for sharing information with private sector entities. If confirmed, my Department will continue efforts to foster relationships with private sector stakeholders, including non-governmental organizations, private companies, industry representatives, and industry-related associations. I would work to ensure that private sector entities are an integral part of our efforts to secure the homeland through enhanced information and intelligence sharing as permitted by law.

DHS's Relationship with State and Local Governments

44. The Homeland Security Act of 2002 expressly gives the Secretary of Homeland Security responsibility for coordinating with state, local, and tribal governments on a wide range of matters including information sharing and preparedness activities. How would you assess the current relationship between DHS and state, local, and tribal governments? If confirmed, what specific steps would you take to improve the relationship between the Department and state, local, and tribal officials?

The Department of Homeland Security has perhaps the broadest stakeholder base of any Federal department or agency. The Department manages its responsibility to coordinate with state, local, and tribal governments in a number of ways. For example, DHS maintains an Office of Intergovernmental Programs, which is led by an Assistant Secretary, to ensure coordination with state, local, and tribal chief executives and homeland security advisors. The DHS Office of Intelligence & Analysis administers the National Fusion Center network, which ensures information sharing with state, local, and tribal governments. FEMA and its network of regional offices ensure coordination with state, local, and tribal governments for preparedness activities. The U.S. Coast Guard coordinates with state, local, and tribal governments engaged in port administration and security activities through its Captains of the Port, Sector and District offices, and the Area Maritime Security Councils.

DHS also maintains a number of external advisory committees for the express purpose of coordinating with external stakeholders, including the Homeland Security Advisory Council and its senior advisory committees, the FEMA National Advisory Council, the Critical Infrastructure Protection Advisory Council administered by the Office of Infrastructure Protection, and the Commercial Operations Advisory Council administered by U.S. Customs and Border Protection.

As Secretary, I would consult with each of the offices within DHS responsible for coordinating with the Department's state, local, and tribal government partners as well as DHS's external advisory committees. I would also consult with Governors and Mayors, as well as associations such as the National Governor's Association, U.S. Conference of Mayors, National Congress of American Indians, and other associations representing state, local, and tribal governments, in order to determine where and how the Department's coordination with state, local, and tribal government partners can be improved.

Finally, I would also work with the DHS Inspector General and the Government Accountability Office to ensure that DHS is addressing their respective concerns.

Border Security

45. In a February 2007 address to the National Press Club, you said that "border enforcement designed to stop drugs and other contraband should not hinder the flow of legitimate travel and commerce," and that more can and should be done to ensure that trade and goods travel quickly and safely through our land border ports of entry.
- a. What more should be done to better facilitate legitimate travel and commerce without reducing the ability of border security personnel to stem the flow of illegal drugs into the United States?

CBP has put in place a number of programs designed to facilitate the flow of legitimate trade and travel through the land border ports of entry, while ensuring that border security efforts are not compromised.

My experience as Governor of Arizona, however, indicates that inadequate infrastructure of our land border ports of entry and the roads leading to them continue to pose significant challenges to border operations and the surrounding border communities. Some land ports of entry are more than 70 years old and are unable to meet today's volume of cross-border traffic – much less that of the future. About 57 percent of the land port of entry sites are functioning over capacity with configurations that constrict traffic flow or limit the ability to deploy optimal inspection technology. In addition, roughly 67 percent of land port of entry buildings are staffed over capacity, with outdated configurations, and require replacement or renovation.

If confirmed as Secretary, I look forward to working with Congress, GSA, Customs and Border Protection, the border states, and my counterparts in Mexico and Canada to develop a plan and funding stream for better funding and coordination of land border port of entry modernization projects.

- b. Customs and Border Protection (CBP) is responsible for the dual missions of safeguarding borders against the illegal entry of goods and people and regulating and facilitating legitimate international trade and foreign travel. These missions frequently conflict. What do you see as the major challenge(s) with CBP's dual role?

Both aspects of CBP's dual role are critical to our nation's security and failure in carrying out either role could have devastating effects on the safety and economic viability of our country's citizens and industries. As such, CBP's greatest challenge is striking the appropriate balance between preventing the entry of persons and goods that could harm our citizens and critical infrastructure while facilitating the flow of legitimate trade and travel across our borders that is essential to our economic stability and a hallmark of our nation's welcoming spirit. Meeting this challenge is intensified by the massive volume of trade and travelers that CBP must process annually – almost 400

million travelers; more than 120 million cars, trucks, buses, trains, vessels and aircraft; and more than 25 million truck, rail and sea containers. CBP has been using an approach that includes the use of several tools: overseas screening, advanced information, targeting, trusted traveler programs, and partnerships with industry and foreign governments. It is my sense that, overall, this is a good approach and one that I would build upon if confirmed as Secretary.

46. As Governor of Arizona you confronted directly the security challenges on our southwestern border. At various times, you called for the deployment and maintenance of National Guard troops on the border, a substantial increase in the number of Border Patrol agents, and the more effective utilization of technology along the border. You also questioned the effectiveness of the Department's plans to construct fencing and vehicle barriers along the border.

- a. Looking forward, what do you believe to be the most effective mix of personnel, infrastructure, technology, and other strategies to secure our land borders?

DHS utilizes a mix of personnel, infrastructure, technology and other strategies to secure our nation's border. For instance, the Border Patrol has implemented a standardized national planning process that assesses the control level of every mile of the border, and directly links its resource requests (BP agents, air support, fencing, radars, cameras, ground sensors, etc.) with the operational requirements needed to ultimately gain control of the border.

The deployment of resources must be based on the operational assessments of the threats and vulnerabilities to the Nation's border. As Secretary, I would consult with the operational experts to identify requirements and ensure funding is allocated to the highest priority needs. With respect to determining the most effective mix of resources to address law enforcement operational needs, many factors need to be taken into account, including threat, terrain, waterways, cultural sites, cost, migration patterns, and other important geographical and environmental concerns. Balancing operational priorities with local interests, I will ensure that DHS also obtains input from stakeholders, including landowners, residents, state and local officials, tribal communities, and the private sector.

- b. Please discuss your understanding of any shortfalls within DHS that hinder its ability to effectively secure our land borders against illegal entry. How would you address any such shortfalls and gaps?

I believe it is only in the last several years that we have, as a federal government, become serious about a problem that has been decades in the making and for the first time are making the serious investments required to make our land borders more secure. In Arizona, I have witnessed first hand the consequences of both decades of neglected border security and the lack of a workable immigration policy. There is a large gap between the resources necessary to secure the border and those currently deployed.

There is also an understanding gap on the issue of immigration. There are no simple or inexpensive solutions. If confirmed, part of my role will be to develop and implement a comprehensive policy on border security and immigration.

- c. In recent years the hiring of Border Patrol agents has increased substantially – whereas the number of CBP officers has increased less rapidly. Do you believe additional hiring of Border Patrol agents and CBP officers is necessary?

I believe that DHS does need additional focus on, and more resources for, our nation's ports of entry. The growth in Border Patrol agents has been important in gaining additional control of the border between our ports of entry. CBP Officers and Agriculture Specialists have a very difficult job of facilitating hundreds of millions of legal entries of people and commerce while finding amongst those legitimate travelers and shipments the small percentage that would do us harm. If confirmed, I will work with the Commissioner of CBP to assess resources and develop a staffing plan. I support additional resources at the Ports of Entry to include staffing and improved facilities, because resources at the ports of entry have not kept pace with the growth in volume. I will also work with the Commissioner to assess how the deployment of additional technology will impact Border Patrol agent and CBP officer staffing requirements.

- d. According to a recent DHS report required by Section 2(c) of the Secure Fence Act, in October 2005, the U.S. Border Patrol had 11,264 agents. As of September 2008, the Border Patrol had 17,499 agents, which represents a 55 percent increase in a period of three years. With this unprecedented growth, the experience level in the ranks of Border Patrol Agents is rapidly decreasing. How do you plan to retain experienced agents and what specific steps do you think are needed to maintain the standards for background checks, academy training, post-academy training and continuing on-the-job training for these new, inexperienced agents?

Retaining experienced employees is important in every area. If confirmed, I will consult with the Commissioner of Customs and Border Protection and the Chief of the Border Patrol regarding their thoughts on what measures would be most appropriate to retain experienced Agents. DHS is better off in terms of border security with more Agents, rather than fewer. But DHS also needs to ensure they are getting the best post-academy training that can be provided, including mentoring from seasoned Agents. I am aware Members of Congress have looked at various incentives to retain agents including improving benefits and altering the status of agents, and I look forward to hearing from Congress any insights on what may be the best solutions.

- e. The National Guard just ended a two-year deployment on the southern border to support the U.S. Border Patrol. Known as Operation Jump Start, the deployment provided a short-term bridge to supplement the Border Patrol with National Guard personnel while CBP hired more Border Patrol agents. In that time period, the Border Patrol hired close to 4,700 additional agents, many of whom have been or will be deployed to the southern border. With the increase of agents, do you see a need for another National Guard deployment to the southern border?

I have continued to believe in the use of the National Guard in its support capacity to secure the border. In fact, I proposed their use prior to the announcement of Operation Jump Start. Since the end of Operation Jump Start, the National Guard has continued to support the Border Patrol in a limited way through counter-drug missions and participation in annual training projects. However, if confirmed as Secretary, I will consult with the Commissioner of Customs and Border Protection to determine whether there is a need for expanded National Guard support to the Border Patrol in the areas of surveillance, engineering, administrative or mechanical support. If there is such a continuing need, I will advocate for their deployment with the Secretary of Defense and the President.

- f. The communications infrastructure available to CBP officers and Border Patrol agents in the field is severely outdated and, in many areas of the border, there is no radio coverage at all. This is a serious officer safety issue. To address the problem, CBP has drafted plans by which all Border Patrol sectors could be upgraded by 2017. Will you commit to making the improvement of CBP tactical communications a priority with appropriate budget requests?

I fully recognize the need for reliable communications among law enforcement personnel. If confirmed, I will discuss CBP's plan for upgrading all sectors by 2017 with the Commissioner of U.S. Customs and Border Protection and determine the best path forward in meeting this priority operational requirement.

- g. Given the serious problems encountered in the Department's development of the SBInet program, do you believe current initiatives to deploy virtual technologies at the border should be re-assessed?

CBP has had significant challenges in the development of the SBInet program. I believe that the appropriate deployment of technology along the border enhances Border Patrol agents' ability to secure our borders and that the development of such tools is an important priority. It must, however, be done in a manner that is responsible and yields demonstrable benefits. If confirmed as Secretary, I will ensure the continued assessment of the effectiveness of SBInet as a part of CBP's overall investment in border security technology. Where these assessments indicate adjustments are prudent, I will be prepared to make the appropriate changes to the program.

47. There are vast stretches of northern border that are guarded by few Border Patrol agents and portions of the Great Lakes that have a limited maritime border security presence. The 9/11 Commission Recommendations Act required the Secretary of Homeland Security to submit a report to Congress identifying vulnerabilities along the northern border and providing recommendations to address them. A recent GAO report on Northern Border Security (GAO-09-093 DHS's Report Could Better Inform Congress by Identifying Actions, Resources, and Time Frames Needed to Address Vulnerabilities) recommended that the Secretary provide more specific information in future reports on the actions and resources needed to achieve northern border security, and in what time frame they are needed. DHS continues to lack an over-arching northern border strategy

that incorporates all of its components' resources, threat analyses, and capabilities. The Department has focused most of its technological efforts on the southern border, with only a few "pilot projects" planned for the northern border.

- a. What actions would you take to provide technology, infrastructure, and personnel where needed to the northern border in a timely manner and, if confirmed, when will you provide to Congress a northern border strategy?

As the sitting Governor of a southwestern border state, I am particularly sensitive to the need to leverage people, tactical infrastructure and technology as part of a coordinated border security strategy. I am also sensitive to the intrinsic differences in length, topography, climate, immigration, and trade issues between the United States' northern and southern borders. I am told the DHS Deputy Secretary recently directed a small task force of DHS, US Government, and Canadian representatives to develop a technological baseline that is to become part of a more comprehensive northern border security strategy that builds upon not only the Department's capabilities and resources, but also those of other US Government and Canadian partners. I support such a collaborative approach, and if confirmed as Secretary, I will reinforce the need to work across all components of the Department, throughout the Federal interagency, and with our Canadian partners to guide the design, development and deployment of the people, technology and tactical infrastructure required to gain operational control of the Northern border. In doing so, I will endeavor to use a risk-based, intelligence-driven approach that leverages the resources and capabilities of all involved without creating unnecessary redundancies. I look forward to sharing the resulting northern border strategy with the Congress as soon as it is available.

- b. Because of the lack of technology on the northern border, DHS relies heavily on intelligence and partnerships with state and local agencies within the U.S. and Canada, including the Royal Canadian Mounted Police, provincial and city police, and Canadian border agencies. Integrated Border Enforcement Teams (IBETs), which have participants from both Canada and the U.S., are an integral part of this international partnership. Would you consider enhancing and expanding IBETs if confirmed?

If confirmed as Secretary, I will look forward to working with the Department's senior leaders, our Canadian partners, and Congress to determine the optimal role, resource requirements, and staffing plans for Integrated Border Enforcement Teams.

- c. The Department has had some difficulty increasing the number of Border Patrol agents along the northern border. One tool that the Border Patrol has successfully used to increase the number of Border Patrol agents along the northern border is the voluntary relocation program (VRP), which allows agents to receive an estimated lump-sum payment to cover moving expenses and to pay for the move themselves, rather than having the government plan and pay for their relocation. This Committee authored the legislation that authorizes this program in 2006. During 2007-2008, CBP used the program extensively by moving over 700 agents with a cost savings of

approximately \$57.2 million. DHS continues to utilize VRP as a cost saving mechanism to move agents around the country. Do you support a continuing authorization for the VRP, which will otherwise expire at the end of 2009?

Though I understand the voluntary relocation program (VRP) remains the subject of ongoing negotiations between the Border Patrol union and CBP, I am also told the Department has generally found the VRP to be an efficient and effective tool to increase the number of Border Patrol agents along the Northern Border. If confirmed, I look forward to working with the Commissioner of CBP, the Chief of the Border Patrol and other interested parties to determine how best to continue providing them with the resources required to sustain their missions.

48. Recently, prompted by a congressional mandate, the Department has committed to building 670 miles of pedestrian and vehicle fencing along the southern border by the end of 2008. Opinions on the construction of border fencing and vehicle barriers have varied widely. Proponents argue that fencing already introduced in some of the larger cities on the southwest border have proven effective in reducing illegal entry. However some border communities have protested that they were not properly consulted about fencing placement decisions, and landowners have complained about the effects of fencing that cuts through their properties. Environmentalists have expressed concerns about threatened species and habitat affected by the construction, and Secretary Chertoff has exercised his statutory authority to waive a variety of environmental protection and other laws in order to facilitate fence construction.
- a. How should border fencing and vehicle barriers be used as part of a border security strategy, and how would you modify existing plans to construct primary border fence and vehicle barriers, if at all?

Pedestrian and vehicle fencing play a key role in Border Patrol's strategy for securing our land borders between the Ports of Entry in that they provide a persistent capability to delay or impede illegal incursions across our border. In more remote areas, where Border Patrol has more time to respond to border incursions, fencing is not always necessary or appropriate. In those areas, technological tools, such as radars, video surveillance cameras, underground sensors, and aircraft, are more critical to detect, classify and track border incursions leading to a successful apprehension.

It is my understanding that the significant majority of priority fencing projects have been completed or are already under construction. Going forward, any future plans for additional fencing should continue to be based on an analysis of the operational needs of the Border Patrol, and also take into account other enforcement resources, input from stakeholders and landowners, and environmental and engineering considerations. Fencing, by itself, provides little protection. Our strategy must be multi-pronged to focus on manpower and technology.

- b. What modifications, if any, to current law would you seek?

The current language provides the Secretary with the discretion to determine the "other mileage where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain entry into the United States." I will work with the Commissioner of Customs and Border Protection to determine where operational assessments indicate that fencing may still be needed to accomplish our goal of securing the border. I will also insure that the Department continues to consult with Congress as well as state, local and tribal stakeholders and with other federal agencies, pursuant to current law, during the development of any fencing plans.

- c. How should the Department take into account the concerns of affected communities and land-owners, and possible adverse impacts on the environment, in making decisions about fence and vehicle barrier construction?

Stakeholder input and environmental impacts should continue to be assessed as part of the planning process for any future fencing projects. However, stakeholder input should continue to be only one element of the decision-making process and consultation should not mean stakeholders will have veto power over operational assessments.

I also believe the Department should pursue a comprehensive effort to address potential environmental impacts associated with fencing along the southwest border. The Department should continue to use a transparent environmental assessment and planning process and should continue to coordinate closely with Federal and state resource agencies, tribes, and other stakeholders.

- d. Under what circumstances would you exercise the Secretary's authority to waive laws to expedite fence construction?

As you know, the state of Arizona has seen more fence constructed along its border than any other state, most of it on federal lands. I fully recognize the significance of the very broad authority, set out in Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act, as amended, for the Secretary of Homeland Security to waive any legal requirement necessary to ensure expeditious construction of border barriers and roads. I also recognize the Congressional intent behind that grant of authority. In general, I believe the authority should be used judiciously and it should be absolutely necessary for the security of a particular area of our borders. I would plan to make any such decision based on the specific circumstances on a case-by-case basis. I firmly believe that even where this authority is exercised, the Department has a responsibility to be a good steward of the environment and our cultural heritage.

49. The Department has encountered serious challenges in developing and deploying two travel security systems mandated by Congress. The Department has announced that foreign nationals traveling to the U.S. under the Visa Waiver Program (VWP) will be required to use the Electronic System for Travel Authorization as of mid-January, but Department officials have acknowledged that they will not require the airlines by that time to revise their computer systems to confirm that a traveler has obtained an electronic authorization. In addition, the Department is required to implement a biometric exit

system for travelers departing the U.S. from airports, but an initial proposal to require airlines to collect fingerprints has been controversial, prompting Congress to delay the rule's implementation. The Department is also required to secure agreements from VWP countries to share information on their citizens who may pose a threat to the United States. However, the Department has reached agreements with only a few program countries to share this important information.

- a. What approach would you take to reviewing and deploying these programs?

I understand the Visa Waiver Program has raised concerns with Members of Congress. The Department has established several measures to increase security checks and the exchange of information with its VWP partners, and it will soon deploy three pilot projects to test different methods for capturing biometric information on foreign citizens leaving the United States by air. If confirmed, I would work closely with the Executive Office of the President, with other agency and Department heads, with Congress, and with the Department's senior officials and other interested parties, public and private, to review the Visa Waiver, ESTA, and biometric airport exit programs.

- b. What specific plans, if any, do you have for improving or modifying the programs?

If confirmed, I look forward to working with the Executive Office of the President with other agency and Department heads, Congress, and with the Department's senior officials and other interested parties, public and private, to determine what, if any, modifications are required for these programs.

- c. Secretary Chertoff and some terrorism experts, pointing to the plot that originated in the United Kingdom to destroy U.S. airlines over the Atlantic Ocean, have raised concerns about the risks posed by travelers from European countries. Almost all of these travelers would be eligible for the Visa Waiver Program. As Secretary, how would you address the tension between legitimate travel and security within the VWP?

As Secretary, I will continue to work with our international partners to ensure that an appropriate balance is achieved between security and facilitation of legitimate travel. I will also work with the travel industry to ensure that ESTA and biometric exit are implemented in a way that improves security but does not unnecessarily impede travel or place undue burdens on the traveling public or industry. I will reach out to Congress to discuss what lessons can be learned from previous years and the recent expansion of the program. Finally, I will ensure that DHS has appropriate outreach and education programs to prepare the travel industry and potential travelers for changes in the VWP Program and for implementation of ESTA.

50. Congress has directed agencies to coordinate with each other and through the National Counterterrorism Center to develop and implement strategies to track and disrupt terrorist travel. Many of the Department's programs and agencies focus on preventing terrorists

from entering the country, but it is not as clear that the Department has formulated a coherent terrorist travel program and strategy, as required by Congress. What steps should the Department take in this area?

DHS has worked to support the overall U.S. Government strategy to combat terrorist travel by focusing on three elements: (1) who is traveling to the United States; (2) identifying which travelers present higher risk; and (3) confirming travelers' identities. DHS carries out a number of programs in support of this strategy, including collecting and analyzing Advance Passenger Information and Passenger Name Record data and operating Visa Security Units in key embassies such as Riyadh, Saudi Arabia. DHS also operates the US-VISIT program, the Student and Exchange Visitor Information System, and the Western Hemisphere Travel Initiative. Efforts have been made to improve the security of identity documents, including establishing the Electronic System for Travel Authorization to screen travelers from countries enrolled in the Visa Waiver Program. The Department is also involved in a number of classified programs to track and disrupt terrorist travel. That said, we need to do this at a reduced "cost" – that is, with fewer false positives and with as little friction at ports of entry as possible.

51. The FY2009 Operation Stonegarden Grant Program provides funding to designated localities to enhance cooperation and coordination between federal, state, local, and tribal law enforcement agencies in a joint mission to secure U.S. borders, including international water borders. This is the first fiscal year that the Department has allowed states and territories with international water boundaries to participate in the program. As a result, Stonegarden eligibility has increased from 15 to 38 states and territories – with no concomitant increase in funding. How will you address the expanded scope of the program while still ensuring that there are adequate resources for existing state participants, including states with a history of successful partnerships between the Border Patrol and local law enforcement?

As the former Chair of the National Governors Association (NGA) and chair of the NGA Homeland Security group, I understand the challenges associated with distributing limited funds amongst the states. The increase in potential grant recipients for Stonegarden will require that the Department focus its funding on those areas with the highest priority for border security need based on risk, threat and vulnerability.

As Secretary, I would work with the Commissioner of Customs and Border Protection to ensure that the Department and states are prioritizing needs based on an assessment of the most critical risks and where the funding can be most effectively utilized. I would also work with FEMA to ensure that we are using the correct methods to evaluate risk and assess the feasibility of requested operations.

52. CBP and the U.S. Coast Guard (USCG) are the two components of DHS primarily responsible for border security. CBP is the nation's single unified border agency that protects our borders from terrorism, human and drug smuggling, illegal migration, and agricultural pests while simultaneously facilitating the flow of legitimate travel and trade.

The USCG is the lead federal agency for maritime law enforcement. These components have some overlapping and conflicting responsibilities. What steps would you take to promote synergy between these components and maximize the use of available resources?

Bringing together CBP and USCG under DHS provides the Secretary of Homeland Security, together with the leadership of CBP and USCG, the opportunity to promote synergy between these two operating components and other elements of the Department to maximize the use of available resources. Border security includes securing both the land and maritime borders of the United States, each with its own unique operational challenge, and must also be coordinated with the work of ICE for interior enforcement of our immigration and customs laws. CBP and USCG currently cooperate at the leadership and field level, for both planning and joint operations. The Department's Office of Operations Coordination and Planning attempts to promote operational synergy among DHS Components, including CBP and USCG, for multi-component, non-routine operations. The Department's strategic planning process attempts to promote cross-Departmental synergies in areas of shared responsibility across DHS, and the Program Review and Acquisition Review processes seek to maximize the use of available resources while helping to eliminate any redundancy or overlap in budgeting and acquisition. As Secretary, I will review the Department's efforts to date to promote synergy between CBP and USCG, as well as work undertaken directly by CBP and USCG to enhance coordination, in order to ensure the most effective use of resources in areas of shared responsibility.

53. The current DHS border security strategy calls for an effective interior enforcement strategy to identify and remove aliens not lawfully present in the U.S. What should the nexus between border enforcement and interior enforcement be? How should the Department balance the two in terms of priority and resources?

As a border state Governor, I appreciate the complicated nature of the DHS border security and interior enforcement missions. Effective border security and immigration management require coordinated strategies that make the most effective use of both border and interior control efforts, including measures directed at unlawful hiring, at fraudulent benefit applications, and coordinated sharing of intelligence and law enforcement information relevant to DHS immigration enforcement responsibilities. If confirmed I will work to make sure that DHS leverages all these tools. I will work closely with the Assistant Secretary for Immigration and Customs Enforcement (ICE), the Commissioner of Customs and Border Protection (CBP), and the director of US Citizenship and Immigration Enforcement (USCIS) to do just that.

54. The Western Hemisphere Travel Initiative (WHTI) will be implemented at land and sea ports of entry on June 1, 2009. At that time, only passports or WHTI-compliant documents will be acceptable for entering the United States. This requirement could cause back-ups at the ports of entry, resulting in delays for those crossing the border.

- a. How would you make sure that WHTI is implemented in a fair and reasonable manner?

I understand the Department has committed considerable time and resources to make WHTI effective and fair. If confirmed, I will work with the Executive Office of the President, with other agency and Department heads, with Members of Congress, with state and local officials, and with the Department's senior officials and other interested parties (such as the Canadian and Mexican governments) to ensure that WHTI is implemented in a fair and reasonable manner.

- b. What steps would you take to prevent WHTI implementation from causing delays at the border?

If confirmed, I will work closely with the Commissioner of CBP to review contingency planning and procedures, including surge staffing, so that we make every effort to ensure that WHTI does not cause unreasonable delays at the border.

- c. How would you ensure that there is adequate staffing to handle the enforcement of this requirement at the ports of entry?

If confirmed, I will work closely with the Commissioner of CBP to review contingency planning and procedures, including surge staffing, so that we make every effort to ensure that WHTI does not cause unreasonable delays at the border.

- d. To what extent should CBP officers in the field have discretion in admitting border crossers who do not have WHTI documents, but do not present a security threat, in order to avoid delays at the border?

If confirmed, I look forward to working with the Executive Office of the President, with other agency and Department heads, and with the Commissioner of CBP to determine the appropriate amount of discretion that should be granted to CBP officers in admitting border crossers who lack WHTI documents.

- e. What would you do to improve public awareness about WHTI requirements in the U.S. and Mexico and Canada?

I am concerned about the level of the public's awareness of the new WHTI requirements. As Secretary, I would continue and, as appropriate, expand DHS efforts to inform the public of the new requirements and efforts to work with the State Department, the Canadian government, the Mexican government, and the individual states on developing new, lower-cost travel documents that could meet the facilitation requirements of WHTI. In addition I welcome input from Members of Congress about additional steps that should be taken.

- f. Less than a million Passport Cards have been issued. Will you consider the temporary deployment of mobile enrollment teams of DHS employees to border communities to assist residents in applying for Passport Cards, where the usual \$25 execution fee is waived?

As the Governor of a border state I understand how the free flow across the border of legitimate trade and travel is essential to our economy and well-being. If confirmed as Secretary, I will work with the Executive Office of the President, other agency and Department heads, and the Commissioner of Customs and Border Protection (CBP) to consider additional enrollment measures and to provide the appropriate resources to ensure successful implementation of WHTI.

Immigration

55. How would you ensure coordination among DHS components, including Immigration and Customs Enforcement (ICE), USCIS, and CBP so that immigration priorities are identified, agreed upon, and consistently implemented?

DHS's three major immigration components – CBP, ICE, and USCIS – each have unique expertise, responsibilities, and operational concerns. CBP secures the borders and makes final decisions regarding entry into the country. ICE is responsible for immigration laws in the interior of the country, and USCIS is the primary grantor of immigration benefits. Various DHS headquarters components with broad perspectives, such as the offices of Intelligence & Analysis, Policy, General Counsel, and Management, as well as the offices of the Secretary and Deputy Secretary, also bear responsibility for developing a consistent set of priorities and ensuring uniform implementation.

If I am confirmed, one of my primary goals will be improving the coordination among these components of both immigration policy development and effective implementation. Changes toward this end require thorough review, and I will give close attention to the best methods for accomplishing those goals.

56. U.S. immigration policy and border security was a highly contentious issue in both the 109th and 110th Congresses. There is a broad consensus that the U.S. immigration system is broken. This consensus erodes, however, as soon as options to reform the U.S. immigration system are debated. You have been an advocate for immigration reform. In a June 2007 *Washington Post* op-ed, you wrote “I implore lawmakers to go back to the table, iron out their differences and give us an immigration system that is enforceable, and the resources to enforce it.”² As a Senator and during the Presidential campaign, President-elect Obama supported comprehensive immigration reform that included: a path to legalization and citizenship for undocumented aliens who meet certain criteria

² Napolitano, Janet, “The Myth of Amnesty,” *The Washington Post*, June 10, 2007, B07.
<http://www.washingtonpost.com/wp-dyn/content/article/2007/06/08/AR2007060802399.html>

(i.e., passing background checks, remaining employed, learning English and paying fines); reducing backlogs of applications for family-based and employer-based visas; establishing a temporary work visa program for unskilled workers and providing the temporary workers the opportunity to eventually petition for legal permanent residency; improving border security and immigration enforcement through a variety of measures; and establishing an employment eligibility verification system.

- a. How have your experiences as Governor and as U.S. Attorney shaped your perspective on how to reform the immigration system?

Serving as U.S. Attorney for the District of Arizona, Arizona Attorney General and Governor of Arizona has put me in a position to address the challenges of the border head-on for the past 16 years. This experience has given me intimate, detailed knowledge on which policies work and which policies don't in specific areas of border policy, but has also shaped my broader perspective. For one, dealing with the costs of broken borders day in and day out has given me the clear view of the cost of inaction on these issues – how a broken system hurts real people on both sides of the border, and how important it is that these issues be addressed with level-headedness and innovation. My experience has also given me a view of the complex ramifications of immigration and border policy – the need to crack down on illegal border crossings, while at the same time facilitating the legal cross-border commerce vital to our nation's economic health, and creating a system of legal immigration that addresses America's many labor needs. Serving as a prosecutor in, and the governor of, a border state like Arizona has also made clear to me that there are no quick or easy fixes to the shortcomings of current policies. The situation is very complex, and only a balanced, comprehensive approach to immigration and border security can ensure America's security, build our economy, uphold the rule of law, and continue America's tradition as a welcoming nation.

- b. What elements do you believe are essential to effectively reform our immigration system?

As I said in a speech before the National Press Club in 2007, comprehensive immigration reform must consider the following elements, but the exact mix and timing should be given careful review in light of our current economic situation: the development of innovative, technology-driven border control between ports of entry; reform of our visa programs; well-designed revisions to our system for legal immigration, in order to meet our labor needs and to promote family unification; providing a tough but fair opportunity for those currently in America illegally to earn the ability to stay in the country legally; the implementation of interior enforcement, focusing on employers who break the law; modernization of border infrastructure to facilitate the flow of legal commerce; and the engagement of the "source nations" of illegal immigrants.

- c. One of the largest challenges in passing immigration reform is the status of 12 million undocumented aliens currently residing in the United States. What are your recommendations for handling this situation?

In many previous statements on this issue, I have said that we must pursue a realistic policy regarding those currently in the country illegally, and provide them with a tough but fair opportunity for them to earn the privilege to stay legally. The solutions on each extreme – blanket amnesty and mass deportation – are both unrealistic and would be obvious mistakes. Especially considering that many families are of mixed legal status, a tough, fair, realistic approach is needed to reach a resolution on this population within the U.S.

- d. One element of immigration reform legislation considered by the Senate in 2007 proposed changes in the criteria for awarding Legal Permanent Residency (LPR) status. The proposal would have provided points for employment, education, and English skills and reduced the significance of family ties in the U.S. What is your opinion of this proposal?

It is premature for me to comment on specific legislative proposals, but I understand that a reformed system must support families, meet the legitimate needs of U.S. businesses, and fulfill the nation's proud tradition of protecting refugees.

- e. What is your opinion on creating a new non-seasonal guest worker program?

I have supported a temporary worker program as part of overall immigration reform. The design of such a program, however, requires further analysis in conjunction with many of the stakeholders in immigration and labor.

- f. Do you believe that there are actions that the Executive Branch could take without legislation? If so, what are they?

If confirmed, I intend to engage in a comprehensive review of the administrative authority at DHS in immigration law to determine what changes could be made to improve the effectiveness of our current system.

- g. What is your view on making immigration reform measures contingent upon the implementation of specific border security measures?

As indicated above, border security must proceed. It can only reach full effectiveness, however, if it is accompanied by overall immigration reform.

57. In recent years, there has been a strong push to increase the visa caps for both the H-1B and the H-2B temporary worker programs. Each year the cap is met quickly, leaving many employers without needed workers. Some argue that these caps unnecessarily restrict the ability of American employers to hire and maintain a knowledgeable workforce, thereby hindering the U.S. in the battle to bring the best and brightest into the country. However, many oppose increasing the caps on these programs because of concerns about fraud and abuse and the alleged absence of evidence of a labor shortage.
- a. What is your opinion of expanding the visa caps of the H-1B program and H-2B

programs?

Consideration of expanding the caps on the H-1B and H-2B programs must take place in the context of an overall assessment of our economic needs and of the possibilities for comprehensive immigration reform. Any changes must ensure that employers are not utilizing the temporary worker programs to keep wages down or to bypass recruitment efforts directed toward American workers.

- b. In light of allegations of fraud and abuse within both programs, if confirmed, what steps do you plan to take to establish confidence in these programs?

One of my priorities will be preventing, detecting, and deterring fraud and abuse in all programs under the purview of DHS. Any increase in benefits, such as an expansion in these visas, must be coupled with assurance that thorough procedures to deter and detect fraud are in place. If confirmed, I will also be committed to ensuring that DHS has an effective partnership with the Department of Labor to monitor the program and enforce its requirements.

58. In recent years, there has been a substantial increase in ICE's operations to identify, apprehend, and remove undocumented aliens from the United States, and a corresponding increase in the number of undocumented aliens removed. Immigration enforcement raids, however, have engendered criticism from some in Congress, both because of claims of harsh treatment of apprehended immigrants, and also because many of those apprehended were not wanted as criminals or absconders from final deportation orders.

- a. What is your view of the enforcement operations conducted by ICE?

Reducing the magnet of illegal employment is a critical component of a workable immigration system. Toward that end, ICE will continue its worksite enforcement efforts to ensure that employers hire only legally authorized workers. If confirmed, I will take a close look at the design and operation of worksite enforcement actions to ensure that the focus is on unscrupulous employers, subjecting violators to appropriate criminal punishment, deterring future violations, and encouraging employers to work with ICE to establish sound compliance programs that prevent unlawful hiring, avoid burdening legitimate new hires, and preclude discriminatory practices.

- b. If confirmed, what changes, if any, would you implement?

I will consider a broad range of changes with respect to immigration enforcement matters, but I expect to increase the focus on ensuring that employers of unlawful workers are prosecuted for their violations.

59. Several thousand criminal aliens illegally in the United States have been ordered removed, but cannot be because their countries of origin refuse to accept them. Many other aliens cannot be removed because their countries of origin lack a functioning government, and therefore cannot affirmatively accept them. As a result, the aliens are

either held for long periods of time or released into the community. The Immigration and Nationality Act permits the State Department, upon being notified by the Secretary of DHS, to discontinue granting visas to citizens of countries that refuse to accept aliens ordered removed to their countries of origin. What would be your policy regarding the use of this tool in response to the refusal of foreign countries to accept the return of their citizens, subjects, or residents?

Discontinuing the issuance of visas to any foreign country is a powerful tool with major foreign policy implications. Before considering discontinuance, I would consult extensively with the Secretary of State to determine whether there are other tools that could overcome repatriation problems more effectively.

60. Congress is divided on whether to permanently authorize E-Verify; some critics of the program argue that the system is still subject to an unacceptably high error rate, and the Chamber of Commerce and other representatives of industry claim it imposes an undue burden on employers. Supporters contend that E-Verify is an effective tool to create a verification program that will help to dissuade unlawful employment. As Governor of Arizona, you signed into law a requirement that all employers in Arizona use E-Verify to check the work eligibility of newly hired employees.
- a. Almost a year after implementation, how would you rate the success or failure of E-Verify?

E-Verify holds promise for verifying work eligibility. I understand that USCIS has made regular technical improvements as difficulties have come to light. Nonetheless, I take seriously the reports of ongoing problems in the implementation of E-Verify, and will work hard to assess those problems and devise effective solutions.

- b. Has the Arizona's deployment of the system revealed any flaws or concerns that should be addressed?

Arizona users of E-Verify, like other users around the country, want to ensure that the program provides the highest possible rate of instant verification, which reduces administrative burdens. Users also want to ensure that false positives and false negatives are minimized. I am informed that recent improvements have resulted in increased rates of instant verification and reduced rates of false positives and false negatives, though problems remain with the current system. I will work to ensure that improvements continue.

- c. Do you believe E-Verify should be permanently authorized or made mandatory for a larger number of employers? Do you think the system in its current state can be effectively scaled to cover all employers?

In the context of immigration reform, and with sufficient system improvements to guard against false negatives and false positives, I would be open to proposals to require the

use of E-Verify by employers throughout the United States. I am informed that E-Verify has the capacity to make such expansion technologically feasible but would of course look closely at the system's capacity in connection with future changes as we work to build a reliable system ensuring that employers hire legal workers.

- d. What other initiatives would you consider to identify and pursue employers who knowingly hire undocumented aliens?

I will seek to work closely with the Department of Justice to assure prosecution of serious violators.

61. In October 2008, DHS issued additional regulations on what actions an employer should take when they receive a no-match letter from the Social Security Administration (SSA) notifying them of mismatches between names and social security numbers provided by their employees and the information in SSA's database. This rule is currently being challenged in court. Do you support the no-match regime outlined by DHS in its regulations? If not, explain how you would modify the policy.

Because the no-match rule is the subject of ongoing litigation, I believe it is inappropriate to comment on it at this time. If confirmed as Secretary, I will take a close look at the no-match rule in the context of our overall efforts to develop effective strategies to reduce the job magnet and achieve comprehensive immigration reform without unduly burdening American citizens or other authorized workers.

62. The role of state and local law enforcement entities in the enforcement of immigration laws has received a significant amount of attention in recent years. As the Governor of Arizona, you have been at the center of this debate.

- a. In your opinion, what is the appropriate role of state and local law enforcement in enforcing civil immigration laws?

It is important for federal and state governments work together to facilitate effective immigration enforcement and to reinforce the rule of law. These are legitimate concerns for both jurisdictions. If confirmed, I look forward to working with the Executive Office of the President, other departments and agencies, the Department's senior leaders, the Congress, local and state elected officials, and law enforcement officials to develop and implement an appropriate division of labor toward these ends, recognizing that immigration enforcement is predominantly a federal responsibility. All such efforts must assure that the legitimate rights of citizens and visitors are fully respected.

- b. You were the first governor to enter in to an agreement with ICE for participation in the 287(g) program, but you also vetoed legislation that would have required all police and sheriffs' departments to enroll in the program.
- i. Please detail Arizona's experiences with the 287(g) program while you have been Governor.

As Governor of Arizona, I have supported the 287(g) program and found it to be a useful and effective tool in the enforcement of immigration laws, when appropriately focused and limited, and when implemented with sufficient training and federal oversight. 287(g) is particularly useful to speed the deportation of criminal aliens in our jails and state prisons.

- ii. How do you believe the 287(g) program could best be utilized, and do you think the program should be modified and/or expanded?

As Governor of Arizona, I have supported the concept and use of 287(g) programs. If confirmed, I look forward to working with the Executive Office of the President, my Cabinet colleagues, senior officials in the Department, Congress, state and local officials, and other interested parties to determine whether modification or expansion of the 287(g) program would be appropriate.

- iii. There has been concern with ICE's management, supervision, and participation in the 287(g) program, as well as local law enforcement's detention space, completeness of paperwork, and discretion used to screen individuals in jail facilities. If confirmed, what steps do you plan to take to ensure proper oversight of this program?

If confirmed, I will work with the Executive Office of the President, my Cabinet colleagues, senior officials in the Department, Congress, state and local officials, and other interested parties to ensure the 287(g) program has appropriate oversight.

63. The immigration detention system has expanded substantially over recent years. Recent reports have focused attention on the conditions immigrants face while detained by ICE. Among other things, the reports describe overcrowding, inadequate medical care, inappropriate use of force, lack of access to telephone services, and transfers that disrupted access to legal counsel. There is concern about a lack of an appropriate environment for families and asylum seekers.
- a. What steps do you plan to correct these and any other problems with detention facilities and the treatment of aliens who are detained by ICE?

DHS recently published performance-based detention standards that all detention facilities must meet. I will continue to work with stakeholder groups and will encourage continued emphasis on adherence to these standards, with periodic evaluations to look for improvements and to determine whether any of the standards should be changed. I will also give attention to the Department's compliance and monitoring mechanisms, to assure timely action to correct deficiencies or to suspend or terminate the use of seriously deficient facilities

- b. Would you support modifications to the Department's parole policies and the availability of alternatives to detention, so that individuals who have been determined

to pose no risk to public safety and are not deemed significant flight risks are provided with greater opportunities for release while their immigration proceedings are pending?

I will consider modifications to DHS's parole policies, including alternatives to detention, where appropriate. I would make changes after consulting broadly inside and outside government.

Coast Guard

64. Because the Coast Guard has been tasked with additional homeland security responsibilities, some worry that there has been a corresponding decrease in the service's focus on its traditional missions.

- a. What steps would you take to ensure that the Coast Guard's homeland security missions do not undermine its ability to perform its non-homeland security missions?

Many of DHS' agencies have important missions that extend beyond homeland security missions. If confirmed as Secretary, I look forward to working with the Commandant of the U.S. Coast Guard to ensure these missions receive appropriate emphasis.

- b. Do you believe the Coast Guard currently has sufficient personnel and resources to complete its various missions, and would you support additional personnel for the Coast Guard?

The Coast Guard's roles, responsibilities, and demands have grown significantly over the last 30 years. Workforce size has remained relatively constant with the exception of a dip in the 1990's for streamlining and some targeted growth since the September 11, 2001 attacks. To meet these increasing demands for service, the Coast Guard estimates its workforce must grow by approximately 10,000 over the next five to seven years. The Coast Guard believes they are capable of growing at a rate of 1,200 to 1,700 per year. If confirmed, I am committed to reviewing drivers of demand for USCG services as the Department contemplates the appropriate end strength for all of the operating Components.

65. Deepwater is a collection of more than a dozen Coast Guard acquisition programs for replacing and modernizing the service's aging fleet of deepwater-capable ships and aircraft. It includes plans for, among other things, 91 new cutters, 124 new small boats, and 247 new or modernized airplanes, helicopters, and unmanned aerial vehicles (UAVs). The success of Deepwater is critical to the future of the Coast Guard, and the program must be carefully monitored to ensure that taxpayer dollars are being spent effectively. The Commandant of the Coast Guard has reformed the service's acquisition structure to correct past problems with Deepwater. How will you help ensure Deepwater's success?

The Coast Guard has a mid-sized (\$1.5B to \$2.0B per year) acquisition organization that is becoming more disciplined, and establishing documented processes. As the acquisition decision authority for the Coast Guard's Deepwater projects, DHS has established roles for oversight, technical authorities, project sponsors, independent review, and Navy partnerships. If confirmed as Secretary, I will continue to work with the Coast Guard's Acquisition Directorate to ensure the continued success of the Coast Guard's important Deepwater program.

66. The Coast Guard is in danger of losing its polar icebreaking capability. Both of the Coast Guard's heavy polar ice breakers are nearing the end of their service life. One of the two, POLAR STAR, is in a non-operational "caretaker" status, tied up at its pier in Seattle. Further, no long-term contingency plan exists to provide U.S. polar icebreaking capacity in the future.
- a. What actions do you support to restore the Coast Guard's capacity to maintain a U.S. presence in the resource-rich and increasingly strategic polar regions?

U.S. Coast Guard polar icebreakers are the only United States Government surface assets capable of projecting and fulfilling interagency objectives year round in the region. The Coast Guard operates three polar icebreakers: USCGC HEALY, USCGC POLAR SEA, and USCGC POLAR STAR. With the exception of USCGC HEALY, the polar icebreaker fleet has reached or is approaching the end of its service life. Except for the \$30 million appropriated in FY 2009 to re-activate the Polar Star, the Coast Guard is not directly funded to operate or maintain its polar icebreakers. All operating and maintenance funds are appropriated to, and controlled by, the National Science Foundation. If confirmed, I will work with the Executive Office of the President, OMB, other Executive Agencies, and the Coast Guard to determine the appropriate U.S. polar icebreaking capacity.

- b. Would you support the purchase of two new polar ice breakers (approx \$1 billion each) in the proposed stimulus package or in future appropriations requests?

If confirmed, I will work with the Executive Office of President, OMB, the Department's Chief Financial Officer, Operating Components, and the Congress to determine the appropriate funding levels for all Department projects, programs, and initiatives.

Maritime and Transportation Security

67. After September 11th, the federal government moved quickly to improve the security of commercial aviation. In response to concerns that seaports and cargo supply chains were vulnerable to smuggling of people and WMDs, Congress and DHS acted to build or strengthen maritime security programs. Following terrorist attacks on rail and transit systems in Madrid, London, and Mumbai, Congress included a number of provisions in the 9/11 Commission Recommendations Act to address perceived vulnerabilities affecting domestic rail and transit systems. However, some security experts and members

of Congress have expressed concern that DHS still has not sufficiently emphasized surface transportation security. What are your priorities for strengthening surface transportation security?

Given the federal responsibilities outlined in the Aviation Transportation Security Act (ATSA) of 2001, aviation security is going to continue to be the dominant focus of the Transportation Security Administration (TSA). But I agree, given the attacks in London and Madrid, we cannot afford to overlook surface transportation. They are very different challenges and much of the responsibility to secure our freight rail, transit and highway systems will fall to state and local authorities and the private sector. If confirmed, I plan to look closely at this to ensure that TSA is devoting the attention to surface transportation commensurate with its responsibilities. That may not be the case today.

68. Since 2001, CBP and the USCG have enhanced the security measures applied to cargo containers, primarily utilizing a risk-based approach to maritime security. These layers of security include the inspection of all high-risk containers through the Container Security Initiative, partnering with the private sector to secure their supply chains through the Customs-Trade Partnership Against Terrorism, deploying radiation portal monitors at all large U.S. ports to scan 98% of incoming cargo, and inspecting high-risk vessels and crews before they enter U.S. seaports. However, the 9/11 Commission Recommendations Act included a provision to require all cargo containers be scanned by 2012.

a. What approach would you take to enhance maritime security?

Maritime security challenges are significant as the U.S. maritime border encompasses millions of square miles of port, coastal, and offshore waters. I agree with the basic approach to maritime border security, to "push out the border" by identifying and intercepting threats long before they pose a risk to the United States. Customs and Border Protection now knows significantly more about in-bound shipments and passengers approaching our maritime ports of entry. I will insure that they are doing what can be done with existing technologies without inhibiting the flow of cargo and passengers through our ports. The Coast Guard, which is the lead Federal agency for maritime security, works collaboratively with other agencies to carry out maritime border security. The security of maritime facilities and vessels has been improved. The next piece of the maritime security puzzle involves small vessels. This is a very large and complex challenge and we have to develop an intelligent and sustainable approach to it.

b. Do you think a 100% scanning requirement is consistent with a risk-based approach to maritime container security with multiple layers of protection?

The more we know about the millions of containers that either flow through our maritime ports or cross through our land borders, the better we can make informed risk-based judgments and deploy our resources accordingly. My understanding of the current efforts under the Secure Freight Initiative (SFI) is that container screening is a valuable security tool, but there are limits to what can be done at the port facility itself without severely

disrupting port operations. I know that the Department is facing a 2012 deadline and that it is going to be difficult to achieve based on what we know today. Container security is about securing global supply chains, not just securing ports. If confirmed, I plan to look closely at where we are, what is possible and useful and pledge to come back to the Congress with a clear path forward.

69. The Department recently released its second six-month status report on the Secure Freight Initiative (SFI) pilot program to Congress, which requires that all containers at certain foreign ports be scanned for radiation and x-rayed. Though the reports found that some progress has been made, and that 100% scanning may currently work in low volume ports, they also note that significant challenges remain, primarily with foreign government cooperation, equipment costs and reliability, port infrastructure constraints, and the significant difficulties scanning and x-raying transshipped cargo.

- a. How would you address the issues raised in the SFI reports to Congress?

I understand that CBP in its June 2008 report outlined many legal, logistical, and technical challenges facing SFI. The report outlined the general success of the SFI deployments in Pakistan, Honduras, and Southampton, indicating that scanning all US-bound maritime containers in a foreign port is possible in limited volume ports and on a contained scale. However, the deployments have also highlighted some of the significant challenges to implementing 100 percent scanning in the more than 700 ports that ship to the U.S. In these first three ports, DHS benefited from considerable host nation cooperation, low transshipment rates, and technology and infrastructure costs covered primarily by the United States Government; accommodating and supportive conditions that do not exist in all ports that ship to the United States. If confirmed, I would carefully review the issues raised by CBP in the most recent SFI report to Congress and work with domestic and international partners to coordinate an appropriate future course for the Secure Freight Initiative pilot program

- b. The 9/11 Commission Recommendations Act requires that all maritime containers heading to the U.S. be scanned at a foreign port in the same manner as those in the SFI by 2012. The most recent DHS report estimated that expansion of the SFI to all foreign ports shipping to the U.S. would cost at least \$16.8 billion for the initial equipment purchases. Though this is a cost that could be borne by the U.S. government, foreign governments, the private sector, or some mix, it does not account for personnel costs for reviewing images and resolving false alarms, as well as any costs associated with delays. Have you determined who you think should bear the cost for purchasing and installing scanning equipment, and if so, how did you come to that conclusion? How would you determine the costs to DHS for reviewing images and resolving alarms?

Obviously, whatever the Obama administration and the Congress decide to do regarding container scanning must be achievable and affordable. There are potentially significant costs associated with this. I am not in a position at this point to comment on specific costs and who would ultimately bear those costs. It is clearly a

critical issue. Whatever we decide to do must be realistic and sustainable.

- c. Given the concerns about the impact on the flow of commerce, port infrastructure constraints, and the lack of systems to scan transshipments, would you use the waiver authority provided to the Secretary by Section 1701 of the 9/11 Commission Recommendations Act to extend the deadline for scanning 100% of containers? If you did believe a waiver needed to be granted, how much notice do you think would be necessary or appropriate?

If confirmed, I will review the Department's efforts to date and determine whether it would be appropriate and necessary to exercise this authority. However, based on what I know today, exercising the extension authority provided in section 1701 of the 9/11 Commission Recommendations Act must be seriously considered. In accordance with the law, any decision to use such authority will be made in close consultation with Congress.

- d. The Department has announced that it plans to continue to expand the SFI to strategic trade corridors overseas. Do you agree with this approach to expand the SFI based on risk to strategic locations?

Again, it appears that SFI is a valuable program and it makes sense to expand the program to strategic trade corridors as we learn how to effectively integrate scanning technology at overseas ports. As we move ahead, it is important to recognize both its potential and its limitations.

Infrastructure Protection

70. Ensuring the security of the nation's most critical infrastructure and key resources is a key mission of the Department. Homeland Security Presidential Directive 7 (Critical Infrastructure Identification, Prioritization, and Protection) directed the Secretary of Homeland Security to develop the National Infrastructure Protection Plan (NIPP) and encouraged the Department and sector-specific agencies to develop voluntary private-public structures, such as the private sector and government coordinating councils, to set national priorities for, and provide a coordinated approach to, critical infrastructure and key resources protection.

- a. What is your view of the NIPP and the sector-specific plans developed in association with the NIPP?

The NIPP sets forth a process to engage and work in a collaborative manner with the private sector. I understand the importance of working with the private sector, given that over 85 percent of our Nation's critical infrastructure is owned and operated by the private sector. I believe it is important to continue to build on existing structures and lessons learned but make sure these structures are used to drive measurable improvements in security. As Secretary, I will continue to review progress made

under the NIPP process and make adjustments as necessary in consultation with the Department's governmental and private sector partners.

- b. What is your view on voluntary private-public partnerships as a tool to ensure the security of our nation's critical infrastructure and key resources?

Voluntary private-public partnerships are an important tool for the Department of Homeland Security to use when interfacing with the private sector, given that the private sector owns much of the Nation's critical infrastructure. As Secretary, I will continue to work to ensure the security of the Nation's critical infrastructure by working collaboratively with the private sector to deliver measured improvements through not only voluntary partnerships but also using other means such as training, grants, personnel exchanges, and regulation when necessary.

- c. As Governor of Arizona, what steps did you take to work with your state's private sector owners and operators of critical infrastructure and key resources, local government institutions, and the federal government to protect such sites?

To strengthen information sharing, we created Partners for Arizona's Safety and Security (P.A.S.S.), a partnership among Arizona Division Emergency Management, the Arizona Counter Terrorism Information Center (ACTIC), Arizona Department of Homeland Security, US Department of Homeland Security, Arizona Department of Health Services, InfraGard, and representatives from entities that maintain critical infrastructure/key resources from 18 identified critical sectors

Arizona also has a very active Terrorism Liaison Officer (TLO) Program where officers conduct threat and vulnerability assessments at private sector critical infrastructure and key resource sites. Arizona's TLO program provides another opportunity for information sharing among first responder community and the private sector security, and has been used as a model by other fusion centers nationwide.

In addition, through the Buffer Zone Protection Program (BZPP), Arizona has solicited and obtained federal grant funds for target hardening of critical infrastructure and key resource sites.

- d. What actions as Secretary would you take to develop and improve voluntary public-private programs?

As Secretary, I would first meet with the appropriate DHS Components, determine where gaps may exist in current DHS programs, and work with the private sector to fill these gaps. Second, I would meet with key private sector stakeholder groups and the advisory bodies available to me as Secretary. A priority will be understanding what is happening within the private sector regarding security efforts and spending given the current economic situation.

71. The Department initially focused its activities on protecting rather than ensuring the

resiliency of our nation's critical infrastructure and key resources. In a recently issued report, the Homeland Security Advisory Council recommended refocusing the Department's critical infrastructure and key resources protection activities on resiliency as a top priority for the next Secretary because "we cannot protect everything, against all things, at all times, and at all costs." Some experts have also argued that the private sector is more open to the concept of resiliency because the business case for investing in resiliency is more compelling.

- a. What role do you believe resiliency should have in the Department's critical infrastructure and key resources activities?

DHS defines resilience as "the ability to recover from, or adjust to, adversity or change." This is fully consistent with the objectives of the National Infrastructure Protection Plan (NIPP), to deter the threat, mitigate vulnerabilities, or minimize consequences associated with a terrorist attack or other incident. The critical infrastructure protection mission includes actions to mitigate the overall risk to assets, systems, networks, functions, or their interconnecting links resulting from exposure, injury, destruction, incapacitation, or exploitation. Resiliency must be an important value, given that the consensus is the Nation cannot harden every asset everywhere.

- b. What are your views regarding the appropriate balance between protection and resiliency?

Protection and resiliency are both important. Work has been done at the Department of Homeland Security to prioritize assets and tier critical infrastructure in order to determine if an event impacting a particular piece of critical infrastructure may affect one more than the other. As has been described to me, the Department looks at critical infrastructure in a holistic way because both the Department and owners and operators of the critical infrastructure want to minimize any losses.

At the same time, as we learned from 9/11 and other events, the Nation must have back up measures and understand interdependencies of individual assets and make sure the whole system has resiliency. As you point out in your question, there is a balance between protection and resiliency and, as Secretary, I would continue to look at this question to ensure we are achieving the proper balance.

- c. How would you encourage resiliency through existing voluntary public-private partnerships, such as the sector and government coordinating councils?

I understand DHS has many existing avenues to continue to encourage resiliency through public-private partnerships. The Department uses the NIPP process as the overarching framework for this activity.

72. The Department's Office for Bombing Prevention leads the Department's efforts to deter, detect, prevent, protect against, and respond to terrorist improvised explosive device

(IED) threats. In November 2007, the Committee approved legislation, the National Bombing Prevention Act of 2007 (S. 2292), to strengthen the authority and budget of this critical office.

- a. Do you support this legislation?

If confirmed, I will review this legislation, and work with the Executive Office of the President, senior officials in the Department, and the Congress.

- b. In FY2007, the Department of Homeland Security Appropriations Act and HSPD-19 required a National Strategy for Bombing Prevention. The Strategy was completed and delivered to Congress in 2008; however, the implementation plan, as required by HSPD-19, has not yet been finalized. Do you intend to continue these efforts, and if so, will you deliver the implementation plan to Congress when it is completed?

It is my understanding that the Department is working with the Department of Justice to finalize the implementation plan. Once approved, DHS will provide briefs to Members of Congress and deliver the implementation plan.

73. The Department's Protective Security Advisors (PSAs) are critical infrastructure protection specialists deployed across the nation to partner with state, local, tribal and territorial governments and the private sector to assist with local efforts to protect critical infrastructure and key resources. The PSAs also support FEMA by serving as infrastructure experts during disasters.

- a. What is your experience with the PSA program?

Arizona works closely with the Protective Security Advisor (PSA) assigned to our state conducting vulnerability assessments and determining needs for target hardening of critical infrastructure. Our PSA has been instrumental in the assessment process as well as identifying new sites.

- b. Do you believe every state should have its own PSA?

Yes, if the state's vulnerability and number of critical infrastructure or key resources warrant the need. The PSA assigned to Arizona has been valuable in helping our state bolster its security measures.

74. The nation depends on electricity. As such, the security and reliability of the electric grid is critical to the homeland security mission.

- a. What steps will you take as Secretary to help secure the electric grid?

DHS shares a responsibility for the security and reliability of the nation's electric grid with the Department of Energy (DOE). In accordance with the National Infrastructure Protection Plan (NIPP) and the Energy Sector Specific Plan, DHS works closely with DOE and the owners and operators of the nation's electric

generation, transmission, and distribution assets to ensure and enhance both their physical and cyber security. DHS and DOE collaborate on a broad range of energy-related initiatives, including the timely sharing of threats and incident information, infrastructure assessments and site-assistance visits, and cyber security guidance and protective measures.

As Secretary, I will continue to oversee this work and monitor the personnel and financial investment we have made in this area and continue to drive for measurable performance.

- b. Often infrastructure protection is most effective if it is built into the system or asset as opposed to being applied as an afterthought. What role do you believe the Department should play in electric grid modernization efforts being led by the Department of Energy?

If confirmed, I will ensure the Department continues to support DOE's ongoing electric grid modernization activities. Equally important are a range of critical infrastructure security and reliability programs and projects that the Department's Science and Technology Directorate have developed in conjunction with both DOE and the nation's electricity sector.

Chemical Security

75. Numerous homeland security experts have identified the nation's many chemical facilities as an extremely dangerous vulnerability. These facilities make or use hazardous chemicals that are highly toxic if detonated or released. Because many such facilities are located close to population centers, they represent, in the words of one expert, "pre-positioned weapons of mass destruction." In the fall of 2006, Congress directed DHS to identify, assess and ensure effective security at or near our nation's high-risk chemical facilities. The Department subsequently released the Chemical Facility Anti-Terrorism Standards (CFATS), an interim final rule that establishes risk-based performance standards for such facilities. Under CFATS, covered chemical facilities are required to prepare Security Vulnerability Assessments and Site Security Plans that identify the measures that will be used to minimize any identified vulnerabilities. Although the Department has made considerable progress in implementing CFATS, authorization for the program will expire in the fall of 2009.
- a. Please discuss your familiarity with CFATS and how you would guide this program forward if confirmed. Do you believe DHS needs additional regulatory authority in this area?

I have been briefed on the Chemical Facility Anti-Terrorism Standards and recognize that the Department is in the middle of a key implementation phase of the program. I am aware that the existing CFATS regulatory authorities expire in 2009. It will be important to maintain momentum in this area. During the campaign, the President-elect repeatedly highlighted the importance of securing chemical facilities, and I pledge as Secretary to

work constructively with the Congress on follow-on legislation. I believe the current authorities can be strengthened.

- b. Do you believe that regulatory authority similar to that currently exercised to regulate the chemical sector should be used to protect other critical infrastructure and key resources sectors?

The chemical sector is quite varied. It includes a wide range of industries, including industrial chemicals, petro-chemicals, drinking water, wastewater, energy and agriculture. It includes the manufacture, transportation and use of these chemicals. It includes facilities across the country, in major population centers and at ports. It is important that we take both an inclusive approach to chemical security and a consistent approach across a variety of infrastructure sectors. This should be a key aspect in any follow-on legislation.

Cyber Security

76. For years there have been significant vulnerabilities in our cyber networks. These vulnerabilities have led to massive identity theft, monetary loss, and leaks of classified information, and have had an effect on all levels of government and throughout industry. Additionally, cyber threats to Supervisory Control and Data Acquisition (SCADA) systems – which control industrial processes – have the potential to cause devastating impacts on critical infrastructure, including the electric grid and the water supply.

- a. Please discuss your familiarity and experience with cyber security issues.

Cyber security and the protection of the technology critical infrastructure has been a top priority in Arizona. As Attorney General, we created the Computer Crimes Unit, which trained law enforcement in the identification and investigation of cybercrimes and has successfully prosecuted some of the first cybercrime cases in Arizona. We also drafted and passed the Computer Crimes Act of 2000, which puts Arizona in the forefront of the battle against cybercrime.

As Governor, we created the Statewide Information Security and Privacy Office to ensure adequate controls and safeguards are in place for all State of Arizona government technology systems and business practices. The Office completes annual reviews of all security capabilities and reports back to impacted and/or affected entities. In January 2008, I signed an Executive Order directing all cabinet agencies to implement basic processes and procedures to heighten the security of technology systems. The office is also establishing an incident response and reporting system that will create important communication capabilities in the event of a breach or cyber security event.

- b. If confirmed, what steps do you intend to take to improve the nation's cyber security, both with respect to the government and private networks?

Cyber security is one of the most serious challenges we face. Information networks are vital to our economic and national security. I intend to take a close look at the

Department's role in this area and how we work with the White House, other federal agencies, state governments and the private sector. I understand that several steps have been undertaken under the Comprehensive National Cyber Initiative and that the department plays a key role in its implementation. If confirmed, I will initiate an urgent review of the Department's role in the initiative, in particular the Department's role in helping secure the .gov domain used by federal executive branch agencies.

As the department moves forward collaboration with the private sector will be essential in several areas: information sharing, situational awareness, and research and development.

- c. Do you believe additional federal regulation or enhanced private sector cooperation is needed to ensure that private sector companies act to protect critical cyber infrastructure?

It would be premature for me to say regulation is necessary until I have a better understanding of the problem and the Department's role.

77. In January 2008, President Bush signed National Security Presidential Directive 54 / Homeland Security Presidential Directive 23 -- a multi-agency, multi-year plan that laid out twelve steps to securing the federal government's cyber networks. Also known as the Comprehensive National Cyber security Initiative (CNCI), this plan represented a fundamental shift in how the federal government approached cyber security and gave DHS new responsibilities as well as a significant increase in funding and staffing to carry out these responsibilities. Specifically, the CNCI gave DHS the role of coordinating cyber security across all civilian federal agencies. However, the CNCI does not give DHS any authority to compel coordination or compliance across the federal government.

- a. What authorities do you believe DHS needs to effectively secure our federal government networks against ongoing cyber attacks?

I am told the Department is increasing its capabilities to protect the federal networks. As the Department builds these capabilities and executes on strategies to build the dot-gov defense, DHS must also continue its collaboration and engagement with the private sector on solutions and standards. As Secretary, I will continue to evaluate whether DHS has the proper authority in place to execute its federal government cyber security mission.

- b. What resources do you believe DHS needs to accomplish this mission?

The Department has significant cyber security roles and responsibilities. As Secretary, I will carefully evaluate the cyber program and budget to determine if we have the appropriate resources allocated to this mission.

- c. The CNCI was developed with little input from the private sector even though the private sector owns most of the cyber infrastructure, even in the context of federal

information technology networks. What steps will you take to ensure that the private sector is adequately involved in the development of policies and protocols for federal cyber security?

I recognize the importance of effectively engaging and working cooperatively with the private sector. As Secretary, I will seek to build upon existing collaboration and communication on cyber security efforts, with a particular emphasis on engaging the private sector as appropriate.

Weapons of Mass Destruction

78. The recently released report of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism concluded that "it is more likely than not that a weapon of mass destruction will be used in a terrorist attack somewhere in the world" in the next five years, probably in the form of a biological weapon. The Commission found that the threat is growing, not lessening. The Commissioners state that we need to develop operational response plans for WMD threats. DHS, however, is still building up its planning capabilities, and has not yet completed supporting operational plans for the National Response Framework. In addition, GAO has identified among its list of pressing transition issues a number of relevant concerns, including that DHS has yet to clearly define working relationships with other agencies during a disease outbreak.
- a. What actions do you believe DHS can take to lessen the threat and impact of a WMD attack, including a biological attack?

DHS, in conjunction with other government agencies and private partners, has been involved in a variety of activities to reduce the threat and the potential impact of nuclear, chemical, and biological attacks. I am told these include better intelligence and awareness, improved oversight of the BioWatch program, shoring up the security of biosafety labs, improved detection through advanced technologies at our borders and international chokepoints, strengthened response capabilities and research to increase forensic capabilities. As Secretary, I intend to accelerate these efforts while examining other potential actions DHS can take to lessen the threat and impact of a WMD attack.

- b. Given the Commission's finding that the terrorist WMD threat in the next five years will most likely be a biological attack, DHS must enhance its ability to conduct biosurveillance and improve its coordination of the response to a biological or mass casualty attack. All of DHS's activity in this area is premised on the biannual Biological Threat Risk Assessment (BTRA). The BTRA allows the federal government to determine what biological agents pose the greatest risk and how the federal government should prioritize its investments in light of those risks. It has the potential to shape decisions not just about which technology to develop for biosurveillance but also how we should train our agricultural specialists for inspecting goods crossing the border and for which types of biological scenarios we should prepare, train and exercise. In September, the National Academies Institute of Medicine released a draft report criticizing the methodology DHS used for the BTRA.

How will you ensure that the BTRA is appropriately designed and accepted by the interagency community so that we make wise investment decisions in biodefense areas?

If confirmed, I look forward to more closely evaluating the current model, as well as considering potential improvements for the future that would provide an equally rigorous and defensible basis for applying limited resources in a risk-based manner.

- c. Many of the response assets and responsibilities for countering biological incidents reside in other departments, such as the Department of Health and Human Services and the Department of Agriculture. Yet examples such as the failure of other departments to commit data sources and personnel to the National Biosurveillance Integration Center at DHS suggest there is not always adequate interagency cooperation in this area. How will you encourage greater involvement of needed federal partners in developing biological and other WMD defense capabilities?

Our nation's capacity to prevent and respond to biological threats and incidents undoubtedly depends on strong interagency cooperation. Success in that regard starts at the top, and I, if confirmed, intend to consult and collaborate early and often with the Secretaries of Health and Human Services, Defense, and Agriculture, as well as with the Director of National Intelligence, the Attorney General, and the Director of the FBI, among others. I would also endeavor to work with Congress to ensure that it has the visibility required for effective oversight.

79. The Report of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism raises concerns about the regulatory framework for high containment biological labs, namely those operating at biosafety level 3 or the maximum level of 4 (BSL3 and BSL-4 labs). If a BSL-3 or BSL-4 lab is working with a dangerous pathogen on the Select Agent list, its activities are regulated by the Select Agent Program. BSL-4 labs are always regulated by the Select Agent Program since almost by definition they are working with the most dangerous pathogens. In contrast, BSL-3 labs come under government scrutiny only if they are government funded or if they are working with a pathogen on the Select Agent List. The Commission also notes that there has not been a substantial review of the Select Agent Program to evaluate its effectiveness, impact on domestic and international biological research, or to identify needed improvements. The Commission recommends that we revisit and update the Select Agent Program.
- a. Do you agree with these recommendations of the Commission for improving the security of high containment biological labs and reviewing the Select Agent Program?

I am aware that the Commission raised concern about the regulation of high containment biological labs, especially those working with pathogen(s) on the Select Agent list. I also understand that the Department shares some of the Commission's concerns. If

confirmed. I look forward to evaluating the Department's current posture on biosafety laboratory protection and security.

b. What role should DHS have, if any, in the security of biosafety labs?

If confirmed, I look forward to working with the Executive Office of the President, my Cabinet colleagues, the Department's senior officials and other interested parties to determine the appropriate role for DHS in biosafety lab security.

c. We are currently developing legislation to address the vulnerability posed by inadequate monitoring of these labs. Will you commit to working with us on this important legislation?

I look forward to the opportunity to work with the Congress on all legislation related to the Department's efforts to secure the homeland against all hazards.

80. Although no reliable metrics exist to determine precisely how much the Federal government is spending on biodefense, many experts argue that DHS should promote increased biodefense capabilities, including countermeasure research and procurement for potential bioterror attacks. If confirmed, what approach will the Department take toward biodefense funding, and what should its biodefense priorities be?

I understand DHS consults experts inside and outside the government to ensure a consistent set of U.S. bio-defense priorities and investments that are made according to relative risks. If confirmed I will continue to emphasize general preparedness and response capabilities, including medical countermeasure distribution mechanisms. I will also work closely with the Secretary of Health and Human Services (HHS), the Director of National Intelligence and other partner agencies to ensure a risk-based investment strategy.

Domestic Nuclear Detection Office

81. Coordinating federal efforts to prevent a nuclear terrorist attack against the civilian population of this nation is among the most important and complex challenges that the Department faces. Federal agencies in various departments spend approximately \$3 billion a year on more than 70 programs that contribute to our defenses against nuclear terrorism.

DHS's Domestic Nuclear Detection Office (DNDO) is charged with coordinating these federal efforts and developing an overall architecture to keep radiological and nuclear materials from entering the country. DNDO, however, must rely on implementation by other agencies and does not have the authority over the budgets of these agencies or the ability to ensure that they spend their money effectively. DNDO also faces a number of other management and technological challenges; the problems that have plagued the effort to develop and deploy the Advanced Spectroscopic Portal radiation monitor represent one of the more prominent reminders of these difficulties.

If confirmed, how would you address the challenges faced by DNDO and enhance its ability to help prevent nuclear terrorism?

I understand that DNDO has participated in the development of a roadmap to guide all U.S. Government-led nuclear defense research development, which may enable DNDO to exercise government-wide leadership. I look forward to reviewing and acting upon that roadmap and to working cooperatively with the many agencies whose expertise, resources, and commitments are needed to guard against a nuclear attack.

82. Both DNDO and the Science and Technology (S&T) Directorate make significant investments in homeland security research and development, but DNDO is responsible for developing technologies against one threat (nuclear), while the S&T Directorate is responsible for all other homeland security threats. How would you balance funds and efforts between these two components? Is the current balance of funds and efforts optimal?

DNDO investments in homeland security research and development address nuclear and radiological threats, while the Science and Technology Directorate investments reduce risks from a wide range of other potential threats. I understand that the Department tries to use the annual budget process to ensure sound risk management principles guide its allocation decisions.

As Secretary, I would envision further robust review of such investments, ensuring that the Department remains able to respond to changing threats while most effectively allocating scarce resources. The Quadrennial Review, described earlier, will be useful in conducting this analysis.

83. The establishment of DNDO was a recognition of the significance of the mission of preventing nuclear terrorism and the detection of illicit nuclear and radiological material. The 109th Congress gave its support to this critical mission by codifying the office into law in the SAFE Port Act of 2006. Do you believe DNDO should continue to be an autonomous component that reports directly to the Secretary of DHS?

I recognize the success of the DNDO mission is crucial to homeland security, and as I gain first-hand experience with DNDO and review the work of the QHSR will consider whether organizational changes would be beneficial.

Science and Technology Directorate

84. We know that harnessing the nation's research and development prowess is essential to hardening our domestic defenses against chemical, biological, radiological and nuclear weapons of mass destruction. DHS's Science and Technology (S&T) Directorate has been given the responsibility for directing research and development efforts and priorities in support of the Department's mission. The S&T Directorate must think strategically about where to invest its limited research and development funding to help ensure that

these investments make the nation safer from terrorism and other catastrophic events.

What is your vision of the role that the S&T Directorate can play in the development of advanced technologies and their successful use to carry out challenging homeland security missions?

I understand that the S&T Directorate has attempted to become a customer-oriented component dedicated to providing the Department's operators with the tools and technologies they need to fulfill their missions. I am told S&T uses a requirements-driven process to identify components' technology needs, execute scientifically rigorous research, development, testing and evaluation of solutions for those needs, and deliver to the components those technologies that are sufficiently technologically developed for field deployment.

If confirmed, I look forward to working with Department's senior officials and the Under Secretary for Science and Technology to review the Directorate's structure and priorities, and, as necessary, identify strategies to pursue, development and application of advanced technologies to meet the homeland security mission.

85. What is your assessment of the current structure of the S&T Directorate and what, if any, changes would you propose?

As a service-oriented office within DHS, I am told that S&T, in partnership with the private sector, national laboratories, universities, and other government agencies, helps drive the development and the use of high technology in support of homeland security. If confirmed, I will work with the Department's senior leaders, the Under Secretary for Science and Technology and other interested parties to assess the Directorate's structure, and, as necessary, develop proposals for structural changes.

86. Homeland security research and development occurs in many agencies across the federal government. Congress has authorized DHS to coordinate this research and development, but DHS has encountered difficulties in doing so.

- a. How will you improve coordination of government-wide homeland security research and development?

If confirmed, I will work with the Under Secretary for Science and Technology to continue to enhance the process in a manner that will most effectively meet the Department's mission to ensure the safety of the Nation.

- b. What new or additional authorities might aid you in this process?

If confirmed, I will review, in conjunction with the Under Secretary for Science and Technology, the coordination efforts undertaken by S&T and work with Congress on any additional authorities that might aid the Department in the government-wide homeland security research and development process.

87. The Department of Defense maintains separate entities to develop systems and perform test and evaluation activities. In DHS, the individual component agencies that develop systems perform their own test and evaluation activities. DHS has a test and evaluation executive to coordinate and review the test and evaluation activities of the individual component agencies. In your view, how well does the current DHS test and evaluation structure meet the Department's needs and where might it be improved? How would you refine DHS test and evaluation structure to best meet the Department's needs?

I look forward to working with the Under Secretary of Science and Technology to further examine, and, as necessary, refine the processes and structure to the benefit of DHS.

REAL ID

88. The Department is responsible for the implementation of the REAL ID secure driver's licenses program mandated by the REAL ID Act of 2005. As Governor, you signed a measure barring Arizona's compliance with REAL ID and stated, "My support of the REAL ID Act is, and always has been, contingent upon adequate federal funding."
- a. What level of funding do you consider adequate to support state efforts to implement REAL ID?

As the Governor of Arizona, I recognize the need for secure identification in the United States. I would, if confirmed, begin with a detailed assessment of options for, and develop recommendations regarding, the issuance of state-issued secure identification. I know that funding remains a significant concern to the nation's governors.

- b. Do you consider the State Homeland Security Grant Program grants to be an acceptable source of this funding?

As indicated above, if confirmed, I would endeavor to conduct a detailed assessment of options and develop recommendations regarding the issuance of secure identification. Based on those recommendations, I would develop cost estimates, determine funding requirements, and then seek to identify sources for such funding.

- c. Privacy advocates have argued that REAL ID will compromise Americans' privacy and make them more vulnerable to identity theft. Do you share these concerns?

If confirmed, I will work closely with the Executive Office of the President, my Cabinet colleagues, the Department's senior leaders, the Congress, state, local, and tribal officials, and all interested parties, to determine how best to fulfill the need for secure identification in the United States while effectively protecting privacy interests. I believe that privacy and security are consistent and complementary efforts and that if we are open about what we are doing and why, the American public may have fewer concerns.

- d. If confirmed, do you intend to pursue any changes to the REAL ID Act or the final rule implementing REAL ID (as issued by DHS on January 29, 2008)?

Based on my experience as Governor of Arizona, I believe that REAL ID should be restructured so that states can issue secure licenses but in a manner that all states can support and maintain. As I stated previously, I will, if confirmed, work closely with the Executive Office of the President, my Cabinet colleagues, the Department's senior leaders, state, local and tribal officials, and all interested parties to determine what changes to existing legislation or regulation may be appropriate.

- e. What other steps, if any, will you take to secure state-issued identification cards such as driver's licenses, as recommended by the 9/11 Commission?

Similar to the approach I've outlined above, I will, if confirmed, work closely with the Executive Office of the President, my Cabinet colleagues, the Department's senior leaders, Congress, state, local and tribal officials, and all interested parties to assess all aspects of, and develop recommendations for, the issuance of state-issued secure identification.

- f. How will you respond if states refuse to comply with REAL ID?

As Secretary, I will consult with Governors (as well as associations such as the National Governors Association and the American Association of Motor Vehicle Administrators) to assess all aspects and develop recommendations for the issuance of secure identification.

Privacy and Civil Liberties

89. Actions to increase homeland security may have the potential to implicate privacy and civil liberties concerns. As Secretary, you will frequently be required to evaluate programs to determine how best to protect the homeland while at the same time protecting individuals' privacy, civil rights, and civil liberties. What basic principles do you believe should guide such evaluations?

I believe that protecting our homeland and securing our privacy and civil liberties are not antithetical goals. Rather, security measures and programs will be most effective and sustainable when they are crafted and carried out in a manner that respects privacy and civil liberties. As Secretary, I would approach every program or initiative with an awareness of the need to fully consider the potential privacy and civil liberties implications of our activities. In particular, I would ensure that privacy and civil liberties concerns are first considered at the inception of any proposed activity or program, rather than at the implementation phase or beyond. I would also ensure that the Department's activities are subject to an appropriate level of oversight and monitoring to ensure compliance with privacy and civil rights laws and policies. In achieving these goals, I would consult regularly with the DHS General Counsel, Officer

for Civil Rights and Civil Liberties and with the Chief Privacy Officer to ensure that the Department's policies sustain and do not erode the rights and liberties of individuals.

90. Secure Flight is one example of a DHS initiative that had to be substantially restructured when a privacy assessment revealed significant privacy and civil liberties issues raised by the initial design of the program. Early and active involvement by the DHS Privacy Office in the development of such initiatives might have avoided costly mistakes by building privacy protections into the program from the ground up. How will you ensure that privacy and civil liberties concerns are considered early on and throughout the development of new programs and policies?

If confirmed, I would ensure that these concerns are addressed by supporting and engaging the DHS Privacy Office and the Office for Civil Rights and Civil Liberties, making sure that they are an integral part of the policymaking process from the beginning. Further, I will also work with the Office of General Counsel and other Department leadership to encourage a Departmental culture of adherence to legal restrictions and respect for privacy and civil liberties.

91. To ensure that privacy and civil liberties concerns are appropriately addressed at the highest levels of the Department, Congress created both a Privacy Officer and an Officer for Civil Rights and Civil Liberties and mandated that these positions report directly to the Secretary. If confirmed, how will you support the missions of these offices?

The missions of these offices are integral parts of the way we need to think about our policies and about how we lead this nation in the future. America's greatest success story is that because we are a nation that respects freedoms and diversity, we have integrated so many people, from so many backgrounds, and given them an opportunity to live the American dream. These offices should be integral parts of policy and legal discussions and serve in an advisory role to me. In addition to supporting the work of these two officials in the ways described above, I would work to ensure that they play an integral and vigorous role in other Departmental activities that fall within their statutory responsibility. For example, I will consult regularly with the Chief Privacy Officer to determine how best to support and enhance the Privacy Office's work overseeing DHS compliance with the Freedom of Information Act, its reporting and handling of inquiries regarding alleged violations of privacy, and its efforts to work with DHS's international partners to promote awareness of privacy concerns. I would similarly consult with the Officer for Civil Rights and Civil Liberties to determine how best to support and enhance the Office's work in support of disability and special needs communities, its efforts to provide guidance and standards for Equal Employment Opportunity programs, and its work to investigate and resolve complaints from the public involving alleged violations of civil rights.

92. U.S. intelligence and law enforcement officials have indicated that the violent Islamist threat to the homeland has evolved and expanded, particularly with regard to homegrown threats. Over the past several years, the Department's Office of Civil Rights and Civil Liberties has led the federal government's outreach efforts to American-Muslim

communities around the country. These outreach efforts have proved critical to addressing issues of concern to those communities and minimizing the influence of the ideology that gives rise to Islamist terrorism around the world.

- a. As Secretary, would you commit to continuing the Office of Civil Rights and Civil Liberties' outreach efforts to American-Muslim communities?

Yes. The engagement work undertaken by the Office for Civil Rights and Civil Liberties with American Muslims has included youth engagement, cultural competency training and discussions, international outreach, calls with community leaders in the wake of terror attacks and other incidents of concern, and a National Security Internship Program for students with language skills in Arabic and other critical languages. As Secretary, I would support the Office's continued work in this area.

- b. What role do you see the Department playing in the effort to detect and counter the radicalization of violent Islamist extremists?

I understand that several offices within DHS, including the Office of Intelligence and Analysis, the Office for Civil Rights and Civil Liberties, the Office of Policy, the Science and Technology Directorate, and the Office of Operations Coordination and Planning, play a role in countering violent radicalization within the United States. If confirmed, I will consult with the staff of these offices, as well as with the Executive Office of the President, my counterparts in the Cabinet, and the Department's state, local, tribal, non-governmental, and private sector partners to determine the best role for DHS to play in detecting and countering violent radicalization.

Acquisitions and Contractors

93. What major acquisitions have you been involved in, and what is the appropriate role for department-level oversight of its major investments?

The State of Arizona is a \$28 billion a year enterprise that engages any number of major acquisitions and investments as a matter of routine business. As Governor, I have directed state agencies on procurement and management policies in accordance with the state's budget needs and policy goals. I have also prepared an Executive Budget every year I have been in office, have signed into law a balanced state budget every year, and undertaken executive budget-management actions between legislative sessions to match expenditures to revenues.

I support a robust Department-level oversight role for DHS's major investments. Department-level oversight ensures that DHS is able to mitigate program risks before they occur, manage its acquisition portfolio in a manner that closes capability gaps and avoids unnecessary duplication, and demonstrate sound stewardship of homeland security funds. If confirmed, I will review the work done to date to enhance DHS Department-level investment oversight and determine if additional efforts are necessary to strengthen Department-level oversight for major investments.

94. DHS's Secure Border Initiative Net (SBInet) program is intended to develop and install technology and infrastructure along the southwest border aimed at reducing illegal entries. DHS has calculated the total cost of implementing SBInet to be \$8 billion, but the DHS Inspector General in November 2006 projected that the cost could be as much as \$30 billion. GAO has issued a number of reports critical of SBInet's expenditure plan, reporting that it "lacked specificity on such things as planned activities and milestones, anticipated costs and staffing levels, and expected mission outcomes." As a result, GAO warned that SBInet was at risk of not delivering promised capabilities on time and within budget. One of the contributing factors in this is the structure of SBInet contract, a single award Indefinite Delivery Indefinite Quantity (IDIQ) contract, a type of contract since prohibited by Congress except for certain limited circumstances (Sec. 843, FY 2008 Defense Authorization Act). Under this contractual arrangement, all subsequent task orders under the contract would be awarded without any further competitive pressure. Therefore, this single award IDIQ contract, while providing certain administrative benefits and expediency, may result in significant cost overruns.

- a. What steps will you take to ensure that DHS is effectively managing this large border security contract in order to avoid cost overruns and deliver solutions that effectively meet CBP's needs?

If confirmed, I will continue to work closely with Customs and Border Protection and the SBInet Program Office to tightly manage SBInet execution in the remaining border sectors. Proactive management and rigorous procurement oversight of the SBInet program is the key to deploying a meaningful system to the end users and avoiding further cost overruns.

- b. Should DHS pursue future projects, for either the southern or northern borders, by competing and executing these projects under separate contracts instead of exclusively using the existing SBInet contract?

If confirmed, I intend to evaluate contracting options for future border projects and will select those I find to be best suited to the specifics of those projects.

95. A GAO report in October 2007 on the Department's progress five years after its establishment noted concerns about the government's increasing reliance on contractors and raised serious questions about how to ensure that the government retains the core capabilities needed to perform its mission, that contractors do not perform functions that properly should be performed only by government employees, and that contractors are used in a cost-effective way. The Committee, GAO, and many outside observers recognized the need for DHS's heavy reliance on contractors during its early days, given the need for DHS to attain specific expertise quickly. More than five years later, many offices remain heavily staffed by contractors who perform a variety of tasks at the core of DHS's operations, including policy planning, the drafting of regulations, intelligence analysis, preparation of budget requests, and human resource management. While the private sector is an important source for innovative technologies and expertise, the extent

to which DHS relies on contractors raises a risk that the Department is controlled by, rather than in control of, contractor decisions. It also weakens DHS's own ability to assess contractor performance and to identify contractor conflicts of interest.

While contracting out can be an effective means of fulfilling some responsibilities of government, it is critical that the Department have sufficient staff on board with the necessary skills to establish policy, maintain a strong institutional memory and effectively manage acquisitions and contract oversight in order to ensure quality, economy, and timeliness.

- a. Contractors are prohibited by law from performing so-called "inherently governmental functions." However various sources define inherently governmental differently and in any event, it is not unusual for contractors at DHS to provide services that, even if they do not technically meet the definition, closely support inherently governmental functions. What will you do to strengthen DHS's own ability to perform those tasks at the core of its operations, whether inherently governmental or closely supportive of inherently governmental functions?

I think that the Department needs to continue to develop the ability to perform the inherently governmental functions with which it has been tasked. As Secretary, I will emphasize the Department's ability to recruit, retain and grow its own leadership and workforce, especially in those functional specialties where there is a recognized shortage of talent not only within DHS but government-wide. If I am confirmed, I will work with the Department's Chief Human Capital Officer and other senior officials to ensure that DHS is limiting its dependence on contractors and increasing the capacity of the Department's workforce to perform its core functions.

- b. Based on your experience and given the Department's extensive reliance on contractors, what would you suggest are the key considerations in determining the appropriate role for contractors in supporting DHS (particularly, in the areas that border on inherently governmental functions, such as rulemaking and awarding contracts)?

If confirmed, I will follow the applicable laws in this regard, and I will similarly work to ensure that DHS Federal employees maintain responsibility and accountability for contractor duties and activities at all times. As a rule, I will require that the Department manage the inherent risks associated with the use of contracted services – and simultaneously continue to make every effort to reduce over-reliance on contractors. In addition, as Secretary, I will ensure that all appropriate conflict of interest safeguards are in place – both at the organizational and individual contractor employee levels. Finally, I will require the Department to continue emphasizing the importance of ethical practices to Federal and contractor employees alike through required annual ethics training programs.

- c. DHS contractor employees often work side-by-side with DHS employees, and also perform the same or similar functions as their government counterparts. As

Governor, have you had any experiences managing such augmented workforce and what are your views on ensuring that DHS provides appropriate safeguards to prevent conflicts of interest by DHS contractor employees?

I believe training of the Federal workforce is a cornerstone to ensuring that in the blended DHS workforce environment, conflicts of interest are avoided and mitigated and that the highest standards of ethics are practiced by all of those supporting the Department. If confirmed, I will support the Department's efforts to ensure that fully trained Contracting Officer's Technical Representatives (COTRs) are in place to accept and monitor contractor services and monitor the services following all contract awards.

96. DHS has established an investment review process, which calls for executive decision making at key points in an investment's life cycle, including program authorization. However, GAO reported in November 2008 that the process has not provided the oversight needed to identify and address cost, schedule, and performance problems in its major investments. Specifically, GAO reported that the process has been poorly implemented and, in fact, 45 of DHS's 48 major investments requiring milestone and annual reviews did not adhere to the Department's investment review policy. Billions of dollars have been invested in these major programs, which, according to GAO, lack appropriate oversight. The Department's Under Secretary for Management recently issued an interim management directive to try to enhance the investment review process.

- a. In your view, what role does an investment review process have in making major agency investment decisions and, if confirmed, how would you ensure effective implementation of the new policy?

If confirmed, I will review DHS's investment review process and work with the Under Secretary for Management to make any necessary adjustments to this process. I will strongly champion policy and process improvements by ensuring that my executives within headquarters and the components are formally accountable for rapid implementation of the policy.

- b. Poor acquisition planning, and in particular, poor definition of requirements for procurements, can lead to a number of problems during the acquisition cycle. How do you plan to ensure that DHS has an appropriate requirements development process in place so that DHS components have a clear understanding of what they need to buy before they embark on a major procurement?

DHS' Office of Policy has developed a Strategic Requirements Planning Process (SRPP) that is developing the strategic requirements set for DHS. Individual programmatic requirements will then be benchmarked against this strategic requirements set to determine how the program requirements support achieving the desired strategic capability. If confirmed, I will work to define and mature the DHS requirements process that is already underway.

97. The need to strengthen the acquisition workforce remains a major management challenge

for DHS. A recent GAO report (GAO-09-30) found that while DHS has made significant strides in increasing the number of contract specialists within DHS, there is still a shortage of these specialists in many DHS components. Nearly one-third of DHS contract specialists will be eligible to retire by the end of 2012. Moreover, DHS needs to develop a long-term strategy for bringing in a broader range of skilled employees needed to plan and oversee contracts, such as program managers, systems engineers, and financial managers. What steps will you take to address the long-term challenge of bringing these skills to DHS?

I concur with the need to have adequate numbers of talented individuals to plan and oversee all aspects of contracting. If confirmed, I will ensure current efforts to achieve those goal, as well as related efforts, continue, focusing first on the most significant programs and the most urgent needs until all acquisition programs are properly coded and classified in the DHS and Component personnel systems.

Human Capital

98. What do you consider to be the principal challenges in the area of human capital management at the Department of Homeland Security and upcoming challenges in the next four years? If confirmed, how do you intend to address these challenges?

When DHS was established, it was not simply the merger of 22 separate organizations; it was the bringing together of committed Federal employees who had a track record of not only compassionate emergency management but also of protecting our borders, skies, and waterways as well as our agricultural and economic concerns. They are, quite possibly, DHS's single biggest strength.

The men and women of DHS deserve a responsive management structure that respects their dedication and service. One key way of making this happen is to put a management team in place that possesses the right knowledge, skills, and attitude, and that will foster a positive work environment, hire, train, and retain a talented and diverse workforce.

I will also work to improve diversity within the Department. Expanding diversity such as gender, geographic, economic, ethnic, racial, severely disabled veteran representation, and all other aspects of diversity of this workforce will increase the variety of available skills and knowledge that can be employed in pursuit of the Department's success, thereby bringing greater benefit to the American public. As President-elect Obama has stated, "there is no contradiction between diversity and excellence." By reflecting America's diversity, our employee workforce will provide the widest range of solutions, ideas, and decisions to protect America. I am committed to achieving a diverse DHS workforce at all levels, especially our executive cadre through partnerships and outreach; some of which has already begun at the Department.

99. The Department has consistently received low ratings on employee attitude surveys. The 2007 Best Places to Work in the Federal Government survey, conducted by the Partnership for Public Service, ranked DHS 29 out of the 30 large agencies. According to

the 2007 DHS Annual Employee Survey results, decision-making involvement, satisfaction with pay, and the ability of the workforce to accomplish goals continue to be challenges for the Department.

- a. If confirmed, how would you assess the nature and causes of morale problems at the Department and how would you determine what steps are needed to address them?

I am familiar with the Department's previous rankings in various surveys and am troubled by DHS' ratings. As Secretary, I will have the opportunity to review the most recent Human Capital employee survey and will set as a high priority for my leadership team to implement initiatives, best practices and policies targeted at improving morale. If confirmed, I will work to better communicate to the Department's workforce how their efforts contribute to DHS's ability to effectively perform all its missions.

- b. Many believe that effective human resources management requires that rank and file employees be included in making day-to-day decisions that affect their working lives. Do you agree that involving employees in such decisions is critical to the successful operations of DHS?

Yes.

100. What is your general approach to managing personnel at all levels? What is your general approach to labor relations? What past experiences do you believe best demonstrate your approach and style in personnel management?

I believe it is important for managers to motivate personnel behind a compelling vision for their agency and for personnel at all levels to have the ability to contribute to the goals of their agency and to the work environment. As Governor, I have engaged employees in the operation of state government, a process which leads to greater efficiencies, as well as greater effectiveness in the performance of an agency's task. I believe that the insights of all levels of staff are valuable to running an efficient and effective enterprise, and that good management recognizes this value.

101. The Homeland Security Act of 2002 gave DHS the authority to waive a number of provisions in the government-wide civil service law, in the areas of pay, performance management, and labor relations, to create a new human capital management system. The Department tried to implement its own pay-for-performance system, known as Max-HR, which ultimately failed. What has been your experience working with pay-for-performance personnel systems in government agencies, and what has been your experience with systems under which pay is less flexibly tied to performance? What conclusions have you drawn from these experiences?

Arizona has a pay-for-performance system that applies to employees in the leadership levels of state agencies and has stood since before my term as Governor. If confirmed as

Secretary, I will review the systems currently in place and develop applications of the pay-for-performance concept where appropriate.

102. The human resource system applicable to Transportation Security Officers (TSOs), who perform security screening at airports for the Transportation Security Administration (TSA), does not allow collective bargaining, but does include certain employee rights and protections, similar but not identical to those generally available to federal employees. TSA also has established a pay-for-performance system for TSOs. If confirmed, will you reconsider TSA's current workforce system and, in so doing, what criteria will you apply?

I am concerned about employee morale throughout the department. Investigating and remedying any problems with the TSA workforce will be an important component of improving overall morale. If confirmed, I pledge to work with the Assistant Secretary of TSA, the Department's Chief Human Capital Officer, and other interested parties to understand fully the TSA's detailed operational requirements and the specific employment issues unique to the TSA's operating environment. Having established such a baseline understanding, I would then engage all involved stakeholders to determine the appropriate balance between the mission of the TSA and adequate employee rights and protections for Transportation Security Officers.

103. In an April 2008 joint hearing held by the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia and the House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, GAO testified that DHS ranked 23rd out of 25 agencies surveyed with respect to the percentage of minorities in its SES ranks (13.2%) and 20th out of 25 agencies with respect to the percentage of women in the SES (26.2%) (see GAO-08-609T). The following month, at a hearing held by the House Homeland Security Committee, GAO testified that data from both 2003 and 2007 showed that the representation of women at DHS serving as career employees was below the government-wide level. (See GAO-08-815T). What is your reaction to these findings, and, if confirmed, what would you do in response?

I recognize the need to achieve a qualified diverse workforce, particularly in the senior executive service appointments. Expanding diversity such as gender, geographic, economic, ethnic, veteran representation, and all other aspects of diversity of this workforce will increase the variety of available skills and knowledge that can be employed in pursuit of the Department's success, thereby bringing greater benefit to the American public.

As the Secretary, I will work to improve the range of skills and expertise that can be put into action in support of the Department's mission and identify best practices that would integrate attention to diversity in our current processes. I will also review from an internal approach our initiatives to identify, train, and promote high-performing employees and couple it with wide-reaching external efforts to attract, recruit, and hire diverse applicants and potential leaders. This strategy incorporates a multifaceted approach to recruitment, training and development, and retention of

high-performing employees. It is my aim that these efforts will bring diversity to the forefront of organizational development.

I plan to reach out to external stakeholders who are experienced and established in the areas of diversity to assist and advise us on our outreach, recruitment, and retention efforts. Finally, the success of any organization is tied to its ability to attract, hire, promote, and retain the best human resources and I am committed to making sure DHS does that.

Cooperation with Oversight Entities

104. As Governor, please describe your relationship with state oversight entities, including the Efficiency Review Initiative, which you established and tasked with improving the performance and efficiency of state government by working with state agencies to reduce costs, cut bureaucracy, eliminate duplication, and improve customer service.

As Governor, I have occasionally established oversight entities in order to coordinate action among state agencies around a specific purpose, notably the Efficiency Review Initiative. In the past six years, Efficiency Review has identified measures resulting in more than \$1 billion in savings or cost avoidances for state agencies, ranging from efficiency measures (saving water, paper, electricity, etc) to more complex initiatives involving procurement. Additionally, Efficiency Review has improved customer service by reducing bureaucracy and making forms and processes used by the general public more user-friendly.

105. What is your view of the role of the Department of Homeland Security Inspector General? Please describe what you think the relationship between the Secretary and the Department's Inspector General should be. If confirmed, what steps would you take as Secretary to establish a working relationship with the Inspector General?

The Secretary and the Inspector General should work cooperatively to improve the effectiveness and efficiency of DHS programs. To that end, the Secretary should ensure that the IG is able to carry out his or her statutory mission. The Inspector General should be a valued partner at an early stage during the review of departmental programs and activities. In addition, the Department should ensure that there is full cooperation between the OIG and DHS employees.

If confirmed, I intend to work further on establishing, and maintaining, a solid and cooperative working relationship with the Inspector General. I would work to ensure that Department employees understand the importance of the role of the Inspector General and that all employees support the OIG in work that they do.

106. An April 2008 memo from Secretary Chertoff issued to all DHS employees outlined their responsibilities with respect to interactions with the Office of Inspector General. The memo stated that all employees should fully cooperate with the Inspector General's Office and that Department employees should provide prompt access to requested

materials and information. The memorandum states that the vast majority of the materials may be produced to the Inspector General's Office directly and immediately upon request, and that employees should consult the Office of General Counsel when the requested documents are classified, deliberative, or otherwise sensitive. Do you agree with this memo's approach to Inspector General access? If confirmed, what would be your approach to providing access to the Inspector General?

Secretary Chertoff's April 2008 memo lays out some key and fundamental principles with respect to employee coordination and cooperation with the Office of the Inspector General. If confirmed, I would work with the IG to determine if any additional measures are necessary and would be guided by the same types of principles, such as cooperation, prompt and complete production of requested materials, and timely responsiveness to requests for interviews.

107. GAO has struggled to conduct its vital oversight of the Department in the face of cumbersome policies and procedures that inhibit GAO's access to necessary interviews and documents. Department officials have pledged to improve the situation. In July 2008 the Department's General Counsel issued guidance for providing documentation to GAO. The guidance requires more formality between the Department and GAO than GAO usually faces in interacting with other agencies, including the Department of Defense. The process requires GAO to put all its requests in writing and the Department employees to funnel all the requests through its liaison at both the component and headquarters levels. It also requires the Department to track GAO requests and the completion of those requests. This process has continued to prove overly complicated and time consuming and hampers GAO's efforts to conduct necessary oversight. If confirmed as the new Secretary, will you establish a more streamlined process that allows GAO complete access to information in a timely manner?

If confirmed as Secretary, I will explore the need for further revision to the Department's process for responding to GAO requests.

108. If confirmed as Secretary, would you have any concerns about allowing program officials to provide GAO with routine, nonsensitive documents without a formal request so that information can be provided in a more timely manner?

As Secretary, I would be willing to discuss any concerns over these procedures or GAO access to information generally.

109. If confirmed as Secretary, are there categories of information including "pre-decisional information" that you believe the Department is not required to provide to the Department's Inspector General and GAO?

I believe that both the Office of the Inspector General (OIG) and the GAO are entitled to departmental documents and information. Those broad rights of access are reflected in existing departmental guidance relating to the OIG and GAO. With that framework in mind, there are long-standing principles governing executive branch sensitivities and

separation of powers, as well as ethical and statutory obligations to accord certain types of confidential information with appropriate protection.

110. GAO has identified two metrics by which it will determine whether DHS is sufficiently providing access to information in a timely manner: (1) whether GAO receives documents within 20 calendar days of requesting the information and (2) whether the Department schedules meetings within 7 days of meeting requests. GAO has indicated that the Department does not meet these metrics often. If confirmed, will you commit to working with GAO in a timely and constructive manner to meet the deadlines and to generally address the oversight and other needs of the Congress, and will you encourage others within the Department to do so?

Yes. I believe it is important for the Department to be responsive to the Government Accountability Office (GAO), and if confirmed, I would strongly encourage department leadership to be responsive to GAO requests in a timely and constructive manner. Furthermore, I would work to facilitate speedy responses to congressional requests..

111. In the 9/11 Commission Recommendations Act, this Committee reorganized the Privacy and Civil Liberties Oversight Board as a bipartisan, independent body designed to review the nation's efforts to combat terrorism and consider their effects on individual liberties. The statutory language requires that "[t]he head of the department... shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions." Will you commit to responding fully and promptly to requests for information from the Privacy and Civil Liberties Oversight Board once it is reconstituted?

I will respond fully and promptly to requests for information from the Privacy and Civil Liberties Oversight Board, once reconstituted.

IV. Relations with Congress

112. 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?

Yes.

113. 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?

Yes.

114. Misconceptions and misunderstandings can undermine the effectiveness of a new initiative when a lack of information leads to the belief that security is inadequate or liberty is threatened. How will you improve communications with the public and with Congress to ensure that information is provided in a timely manner so that DHS

initiatives are better understood?

Effective communications with the public and Congress requires a coordinated outreach effort. This is accomplished internally within the Department through close coordination among the Offices of Policy, Legislative Affairs, International Affairs, Public Affairs, Intergovernmental Affairs, and the Private Sector Office. This coordinated effort allows the Department to reach out with a common voice to Federal, state, local, international, private sector, and congressional partners.

The Secretary also has the responsibility to ensure the public is informed during national incidents. Planning, mobilization, coordination, and execution of Federal interagency incident (crisis) communications are a critical part of an effective response to urgent events. Timely public information can save lives by assuring that the public is informed during major incidents.

As Governor, I have met face-to-face with Americans whose lives have been shaken by crisis. I deeply understand the critical need to keep the public informed in the event of a disaster. If confirmed, I will work so the Department communicates effectively across the spectrum of Federal, state, local, international, private sector, and congressional partners, as well as members of the American public.

115. The 9/11 Commission Report recommended that Congress create “a single, principal point of oversight and review for homeland security.” What challenges do you foresee for a Secretary taking over a department that had direct engagement with, by some estimates, as many as 108 committees and subcommittees in the 110th Congress? How will you deal with this issue?

If confirmed, I would strongly support the 9/11 Commission’s recommendation to “create a single, principal point of oversight and review for homeland security.” by supporting congressional efforts to consolidate committee oversight of the Department. However, it is the prerogative of Congress, not DHS, to make these needed changes.

116. Under what circumstances, if any, do you believe that it is appropriate for the Department of Homeland Security to withhold information from Congress when Congress is exercising its legislative or oversight functions?

I fully respect Congressional legislative oversight functions and will establish throughout the Department a policy and culture of responding appropriately and expeditiously to any and all information requests from Congress.

V. Assistance

117. Are these answers your own? Have you consulted with DHS or any interested parties? If so, please indicate the individuals or entities with whom you have consulted, and the nature of the assistance they have provided.

Many of the items in this questionnaire require a level of specificity and detail about Departmental Components, programs, policies, or draft regulatory proposals for which I, as the sitting Governor of Arizona, do not have first-hand personal knowledge. In an effort to be as forthright and responsive as possible to the Committee in the time available, I have participated in normal pre-confirmation consultations with the Obama Presidential Transition Team and related staff, my immediate staff who may accompany me if I am confirmed as Secretary, and staff at the Department of Homeland Security. These consultations were used to inform my knowledge regarding the background, current operations and potential policies for the Department. However, and in all cases, the substance of the answers is my own, and is based on my understanding and consideration of the information provided to me.

AFFIDAVIT

I, Juan Nep. L. Cano, 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.

Juan Nep. L. Cano

Subscribed and sworn before me this 7th day of January, 2009.

Norma A. Hernandez
Notary Public



Senator Carl Levin
Questions for the Record
Pre-Hearing Questions for Janet Napolitano
Secretary, Department of Homeland Security
December 16, 2008

U.S. Citizenship and Immigration Services (USCIS)

Currently, USCIS has a significant number of cases pending security reviews. There are a number of security reviews and background checks required by USCIS, which may include an Interagency Border Inspection System (IBIS) Name Check, an FBI fingerprint check, and an FBI Name Check through the National Name Check Program (NNCP), in addition to other checks that USCIS may require. While IBIS and the fingerprint check have traditionally been completed quickly, other checks have, in many instances, taken much longer and there have been few requirements as to when they must be completed. In some cases, the checks are not resolved for several years.

1. What policies would you implement to ensure that security reviews, including the FBI Name Check, that may be required by USCIS, are conducted in a more efficient manner at all relevant stages, both to increase U.S. security and to avoid unnecessary delays for legal aliens?

Bringing guests and legal immigrants into our country legally is one of the Department's most important missions. If confirmed, I will work with my counterparts at the FBI and with the Director of U.S. Citizenship and Immigration Services to ensure that the relevant background checks are completed efficiently.

2. Will you continue the current policy of granting Legal Permanent Resident status (green cards) to those who have completed all steps, but still have their FBI NNCP check pending? If not, what modifications do you intend to make and why?

I am aware of the process that applicants for adjustment to legal permanent resident status must go through, including the background checks they undergo. I am also aware of the litigation CIS has been party to and the mitigation CIS has put in place to ensure that LPR applicants who have cleared all other checks can obtain their green card in a timely fashion. If I am confirmed, I will review this process in conjunction with the Director of USCIS to make sure that security is adequately protected and to direct additional efficiencies as appropriate.

3. Will you pledge to provide regular updates to Congress regarding the status of immigration-related backlogs, including security check-related backlogs?

I will.

Immigration and Customs Enforcement (ICE)

4. As the largest investigative arm of DHS, how do you envision ICE's role in accomplishing the overall mission of the Department of Homeland Security, and what will be its enforcement priorities?

DHS's three major immigration components - CBP, ICE, and USCIS - each have unique expertise, responsibilities, and operational concerns. ICE's responsibilities include enforcing the immigration laws. If I am confirmed, one of my primary goals will be to ensure that ICE's enforcement priorities enhance the broader immigration and border security missions of DHS.

5. Objective 2.4 of the DHS Strategic Plan aims to prevent the introduction of illicit contraband into the U.S. Considering the resources of DHS including air, land, and marine dedicated to border security, what is your view on seeking Title 21 authority for narcotics enforcement and investigation by DHS law enforcement, so that they can efficiently carry out objective 2.4?

The Department of Justice's Drug Enforcement Administration (DEA) administers Title 21 authority, relating to U.S. Government counternarcotics activity. Under a 1994 Memorandum of Understanding, DEA delegates Title 21 authority to a certain number of Immigration and Customs Enforcement (ICE) agents, case by case, in order to further the shared counter-trafficking activities of DEA and ICE. As Secretary, I will review these arrangements and work to ensure that ICE and other DHS components have sufficient authority to fulfill the DHS strategic plan and their statutory responsibilities.

6. DHS and its components play key roles in combating money laundering which fuels terrorism, foreign corruption, and other crimes. How high a priority would you place on this function compared to other DHS missions?

Given the nexus between terrorism and money laundering, if confirmed, I will place all due attention on the issue, within the limits of the Department's mission, resources, statutory authority, and other priorities.

7. What is your view of DHS's role in the National Strategy to Internationalize Efforts Against Kleptocracy, and what will you do to ensure that this strategy is pursued by DHS under your leadership?

One of the main tenets of the National Strategy to Internationalize Efforts Against Kleptocracy is to deny a physical safe haven to kleptocrats. As Secretary of the Department of Homeland Security, I would direct that DHS resources be leveraged to ensure that government officials who succumb to bribery are not afforded refuge in this country. Additionally, I will give careful consideration to requests for technical assistance in areas specific to DHS's areas of expertise.

8. The ICE Office of Investigations - Foreign Corruption Unit conducts important investigation involving kleptocrats using the U.S. as a financial safe haven, an important mission for the U.S. government. What are the Foreign Corruption Unit's top priorities and does it need additional staffing and resources?

If confirmed, I look forward to working with the Assistant Secretary for ICE to review the top priorities of ICE's Foreign Corruption Unit, including the investigation of kleptocrats using the U.S. as a financial safe haven, and to make sure that its operations are adequately staffed and resourced.

9. What policies would you implement to ensure that ICE plans for, and addresses, the humanitarian concerns of detained aliens who are caretakers of U.S. Citizen or Legal Permanent Resident relatives?

The question raises an important issue, when ICE detains aliens often there are U.S. Citizen and legal permanent resident family members that are impacted – whether its because the alien was the primary caretaker of an ill or disabled family member, or a parent of a U.S. citizen child. Ensuring that children and dependent family members who are affected by detentions are treated humanely is extremely important. If I am confirmed, I will work closely with the Assistant Secretary for ICE to ensure that ICE detention policies and guidelines take full and effective account of such humanitarian concerns and will work with the Congress to ensure that such concerns are being fully addressed.

10. ICE Office of Investigations has not expanded relative to CBP hiring, specifically the U.S. Border Patrol, who often require their investigative assistance. Considering ICE's broad mission at the border and beyond, what is your view of the current staffing level of ICE special agents?

If confirmed, I will review the staffing levels and mission requirements of ICE special agents with the Assistant Secretary for ICE. In doing so, I will work to ensure that there is an adequate number of agents to meet ICE's multiple investigative missions, including concerns that derive from expanded CBP hiring.

REAL ID

11. What will you do to ensure that state implementing agencies are not denying licenses to individuals who should be eligible under the Real ID program? In particular, what will you do to ensure that those with a less common immigration status or a status that is "pending" will be able to obtain a license?

As indicated in my answers to questions from the full Committee, I would, if confirmed, address the implementation of the REAL ID Act by undertaking a detailed assessment of the process and of options for the issuance of state-issued secure identification.

Customs and Border Protection (CBP)

For many individuals, especially seniors on fixed incomes, it is difficult to pay for prescription medication. Many of the same medications are available in countries such as Canada at a significantly reduced price. Provisions – such as Section 558 of the FY08 Consolidated Appropriations Act (P.L. 110-161) – have been included in a number of appropriations bills to prohibit CBP from using appropriated funds to take enforcement action against individuals importing a personal supply of prescription medication.

12. What is your view of CBP's role regarding importation of personal supplies of prescription medication?

If confirmed, I will work with the Executive Office of the President, the Office of Management and Budget, the involved senior leaders in the Department, the Secretary of Health and Human Services, and the Congress to ensure there is correct alignment between the Department's statutory authorities, its mission and its enforcement priorities. If confirmed, I will of course enforce the laws of our nation in this regard.

Senator Mary L. Landrieu
Questions for the Record
Pre-Hearing Questions for Janet Napolitano
Secretary, Department of Homeland Security
December 20, 2008

1. What are your major priorities with regard to improving the nation's disaster response and recovery system?

Planning and the planning process are among the most important functions of not only FEMA and DHS but all Federal departments and agencies with a role in homeland security. It is also important that FEMA's state, local, and tribal government partners have the capacity and the tools they need to plan for the hazards they face. As Secretary, I will work to ensure that Federal planning activities are effectively integrated with state, local, and tribal planning through FEMA's regional offices and review the efficacy of current planning systems and processes. I will also continue efforts between DOD and DHS to support military integration into catastrophic planning, such as the Task Force for Emergency Response (TFER) program for which I understand Congress is considering legislation to expand to all 50 states.

2. How would you describe the Department of Homeland Security's (specifically the Federal Emergency Management Agency's) role in long-term recovery?

FEMA and DHS play an important role in coordinating Federal departments and agencies to support state and local governments. FEMA has developed a concept paper addressing future improvements to the disaster recovery process. I look forward to working with FEMA and DHS, other Federal departments and agencies with a role in disaster recovery, the Department's state, local, non-governmental, and tribal partners, and the Congress to explore how best to enhance future disaster recovery activities.

3. Do you believe that the Federal Emergency Management Agency (FEMA) can be more effective as an agency within the Department of Homeland Security (DHS), or as an independent, cabinet-level agency?

FEMA can and should be more effective. The employees of FEMA and I all share the desire for the nation to have an effective, strong and coordinated preparedness, response, and recovery effort whether the disaster is caused by nature or by humans.

At present the Obama Administration has not taken a final position on this issue. FEMA has made strides in integrating with DHS, and some improvements have been made in FEMA's capabilities.

In the coming months, I will be reviewing in depth the issues surrounding FEMA's roles and responsibilities as outlined in law, in doctrine, and within the Department's

management and coordination structures. I recognize that the issues of roles and responsibilities are ones that need to be addressed, and I am committed to doing so.

Catastrophes

4. In the years and months since Hurricanes Katrina and Rita, federal officials from both the legislative and executive branch have worked to make improvements to our disaster response mechanism. DHS has been at the forefront of that effort by taking serious strides to reform FEMA's capacity to respond and assist with recoveries. One of the most significant findings from the oversight hearings conducted by the Subcommittee on Disaster Recovery, which I chair, is that the Stafford Act provides authorities that allow FEMA to respond effectively to smaller scale disasters, but are inadequate for responding to a catastrophic disaster such as Katrina.

- a. Do you believe that the Stafford Act as it currently exists provides the tools necessary to respond to a catastrophic disaster?

In general I believe the Stafford Act provides the basic tools necessary to respond to catastrophic disasters. However, I understand that serious concerns have been raised about the effectiveness of the Stafford Act in the response to Hurricanes Katrina and Rita. If confirmed, I look forward to working with the President, Department leaders, the Congress and the many other stakeholders, especially state and local governments, to see if the Stafford Act needs modification to deal with catastrophic disasters.

- b. Do you believe that the Stafford Act should be rewritten to provide tools to be used only for the most severe of incidents or catastrophes?

I understand that there is concern that many of the obstacles state and local governments experienced in recovery after Hurricanes Katrina and Rita hit the Gulf Coast were in part created by limitations in the Stafford Act. As mentioned in 4(a), if confirmed as Secretary of Homeland Security, I will work with the Executive Office of the President, senior leaders from across the Department – and particularly those at FEMA – and the Congress to determine whether the Stafford Act should be further revised, and if so, how specifically to make those modifications in light of previous disasters and the lessons learned.

- c. Do you believe that there should be a third category of federal declarations specifically for catastrophes?

Similar to my intentions with regard to Item 4(a and b), if I am confirmed, I will work with the Executive Office of the President, officials across the Department, senior career officials at FEMA, and the Congress to determine whether the Stafford Act should be further revised to include a third category of federal declarations for catastrophes.

- d. What efforts will you undertake as Secretary of the Department to assess FEMA's capacity to respond to disasters the size of Katrina or larger?

As Governor of Arizona, I have overseen and coordinated the response to a multitude of emergency management situations. If confirmed, I will build upon these experiences, assemble a talented team of senior emergency management professionals, and seek input from a wide variety of interested stakeholders to continually assess FEMA's capacity to respond to disasters. In doing so, I would construct a nimble, effective FEMA focused on all-hazards mitigation, preparedness, response, and recovery. In my experience, "preparedness" requires continuous dedication to the development, training, exercising, evaluation, and modification of plans, resources, and capabilities. If confirmed as Secretary, I will place significant emphasis on FEMA's preparedness for all-hazards, and I will hold my senior leaders accountable for demonstrable results in this regard.

Disaster Housing

5. The Subcommittee on Disaster Recovery is in the final stages of completing a report detailing its findings from a nearly 9-month investigation into the federal government's disaster housing programs. The report details the dramatic problems faced by disaster survivors in the wake of Hurricanes Katrina and Rita as they sought housing after their homes and communities were devastated by the storms. The investigation found that the nation's disaster housing plan relied heavily on travel trailers to house well over 100,000 disaster victims at the peak of the Katrina and Rita recovery. There is nearly universal agreement that trailers were an inadequate tool to house such a large number of survivors. Our reports suggest that had the federal government been allowed to renovate damaged rental facilities, or actually build new permanent structures, the length of the recovery might have been shortened.
- a. What efforts will you undertake to review possible legislative proposals to expand FEMA's ability to renovate existing housing stock and build structures in the wake of large disasters?

FEMA is currently working with HUD and other federal entities to develop a National Disaster Housing Strategy. I look forward to reviewing the work done to date on this Strategy and will ensure that the process for finalizing it includes serious consideration of all legislative proposals developed to date.

- b. What kind of timeline would you encourage for reviewing and acting upon these proposals?

If confirmed, I will have an interim strategy in place in time for the 2009 Hurricane season.

6. There have been significant efforts to turn over a substantial part of FEMA's long-term disaster housing operations to the Department of Housing and Urban Development (HUD). Hurricanes Katrina and Rita displaced over a million people and damaged or destroyed 300,000 homes.
- a. How will you go about determining FEMA's appropriate role in providing housing to disaster victims?

I will review relevant legislation and work with DHS's partner agencies including HUD, USDA, and SBA.

- b. What efforts will you undertake to ensure that FEMA and HUD coordinate their efforts to provide disaster housing?

I will make it my personal responsibility to bring together relevant officials at DHS/FEMA and HUD.

- c. How can you, as Secretary of Homeland Security, foster a collaborative environment between the players involved in administering disaster housing response, recovery, and assistance?

I will make it my personal responsibility to bring together relevant officials at FEMA, HUD, and DHS.

- d. Do you believe that HUD has the capacity to more effectively administer disaster housing programs than FEMA?

If I am confirmed, I intend to engage immediately with the incoming HUD Secretary on this question. HUD is the federal expert on providing permanent housing assistance for low-income families. HUD is a partner with DHS/FEMA in meeting the housing needs of disaster victims through Emergency Support Function #14 – Long-Term Community Recovery. If confirmed, I will review the effectiveness of this partnership. With the housing issues we continue to face in the Gulf Coast and in Texas, the disaster housing issue will be a priority.

Federal Coordinator for Gulf Coast Rebuilding

7. President Bush established the Office of the Federal Coordinator for Gulf Coast Rebuilding by executive order in order to coordinate federal recovery efforts following the 2005 hurricane season. That office is scheduled to close in March of 2008.
- a. Do you believe this office has the existing authority and capacity to effectively accomplish its mission?

If confirmed, I will review the current operations of the Office to determine its capabilities and performance.

- b. Would you recommend to President-elect Obama that this office be preserved within his administration?

If confirmed, I will work with the Executive Office of the President, my Cabinet colleagues, elected officials in the Gulf Coast Region, and the citizens affected by Hurricanes Katrina and Rita to determine forward-looking recommendations regarding Gulf Coast Recovery and the Office of the Federal Coordinator.

- c. If yes, do you believe that the office's authorities should be modified or enhanced?

As noted above, as Secretary I would work with the Executive Office of the President, my Cabinet colleagues, elected officials in the Gulf Coast Region, and the citizens affected by Hurricanes Katrina and Rita to determine forward-looking recommendations regarding Gulf Coast Recovery.

- d. Do you believe that this office should continue to reside within DHS, or do you believe that the Federal Coordinator should be elevated to a position within the Executive Office of the President in order to better coordinate the recovery efforts of DHS with federal agencies outside the Department?

Again, I would work with the Executive Office of the President, my Cabinet colleagues, elected officials in the Gulf Coast Region, and the citizens affected by Hurricanes Katrina and Rita to determine forward-looking recommendations regarding Gulf Coast Recovery, including those regarding the Office of the Federal Coordinator.

Post-Katrina Emergency Management Reform Act (PKEMRA)

8. In October 2006, Congress passed the Post-Katrina Emergency Management Reform Act in large part to improve the organization and authority of FEMA following its inadequate response to Hurricane Katrina. The bill prohibits unauthorized reorganizations of the agency or funding diversions by DHS and provides the Administrator with direct access to the President during a time of crisis.

- a. Do you support the statutory provision prohibiting Departmental reorganization of FEMA?

I understand why Congress felt compelled to include that provision in the bill, given the DHS/FEMA failures in their response to Hurricanes Katrina and Rita. If confirmed, I will review the issues surrounding FEMA's roles and responsibilities as outlined in law, in doctrine, and within the Department's management and coordination structures. I recognize that the issues of roles and responsibilities are ones that need to be addressed and I am committed to doing so.

- b. What do you believe is the appropriate role of the Secretary of Homeland Security during a time of crisis, and how does that function compare and contrast to what you believe to be the appropriate role of the Administrator of FEMA?

The Secretary of Homeland Security has the ultimate responsibility to serve as a leader and to coordinate any Departmental response to a national crisis. The FEMA Administrator has the responsibility of coordinating with the state and local officials to ensure on-the-ground support of disaster recovery efforts. If confirmed as Secretary of Homeland Security, I will work with the Executive Office of the President, the Cabinet, federal departments and agencies with a role in homeland security, and Congress to develop and expand productive working relationships with all of the Department's internal and external stakeholders, and to ensure that DHS develops and deploys the necessary capabilities and resources in support of its mission.

Homeland Security Grants

9. Current law dedicates a baseline percentage of all grant dollars under the State Homeland Security Grant Program (SHSGP) to each state regardless of risk determinations conducted by analysts within the DHS. What is your opinion about the current formula used to calculate the allocation of grants under SHSGP?

This is an issue that has been subject to considerable debate, and there are inherent uncertainties in measuring terrorism risk and in comparing risks across a variety of naturally occurring and human-caused threats. In general, I support the idea that homeland security grants should be allocated in a manner informed by risk. It is important to note, however, that there are "risks" associated with any area of the country, so that some base of funding is appropriate. As you know, the 9-11 Recommendations bill revised the grant methodology. As Secretary, I will evaluate the Department's current methodology for applying risk to homeland security grant allocations and ensure that the Department allocates grants in keeping with the laws and in a manner best suited to addressing the homeland security-related risks faced by the nation.

10. The portion of Homeland Security grants that are allocated on the basis of risk are subject to a calculation carried out by DHS that determines the level of risk for individual states, urban areas, port areas, et cetera.
- a. What is your impression of the risk formulas currently utilized by DHS?

As mentioned in question 9, I understand the debate surrounding funding allocations. If confirmed, I will evaluate the Department's current methodology for applying risk to homeland security grant allocations, and will ensure that the Department allocates

grants in a manner best suited to addressing the homeland security-related risks faced by the nation.

- b. Are there any specific program formulas that you DHS should revisit for potential modification?

I have not prejudged what modifications, if any, should be made. That said, as outlined in previous questions, if confirmed, I will evaluate the Department's current methodology for applying risk to homeland security grant allocations and will ensure that the Department allocates grants in a manner best suited to addressing the homeland security-related risks faced by the nation.

- c. Do you believe that existing risk formulas give proper weight to the factors of population, critical infrastructure and key resources, and specific intelligence about potential threats?

Same answer as question 10b.

11. The Department of Homeland Security's Port Security Grant Program has undergone a series of evolutions since its inception. While it seems to be a critical and effective program overall, certain program guidelines have attracted criticism from port areas and users in the United States.

- a. What is your impression of the 25% match requirement that exists under the Port Security Grant Program and the conflicting notion that no such match is required under other Homeland Security grant programs such as the Urban Area Security Initiative (UASI)?

Congress enacted a statutory provision against matching requirements in the UASI and certain other State Homeland Security Grant Programs; however, there is no such prohibition for the Port Security Grant Program. The Department has viewed such matching provisions as a necessary tool to ensure state and local ownership of their grant programs. If confirmed, I will work with the Executive Office of the President, the Office of Management and Budget, the Department's senior officials, and the Congress to develop and promulgate grant guidance that comports with the law, aligns with the Department's stated priorities, and achieves the best balance in using Federal dollars to create and sustain state and local homeland security capabilities.

- b. What is your impression of the current prohibition on using Port Security Grant awards specifically for security personnel or operational costs directly associated with security activities?

I understand the concern that this prohibition affects some of the most significant expenditures associated with hardening our nation's ports security. As noted above,

if confirmed I will work with the Executive Office of the President, the Office of Management and Budget, the Department's senior officials, and the Congress to develop and promulgate grant guidance that comports with the law, aligns with the Department's stated priorities, and achieves the best balance in using Federal dollars to create and sustain state and local homeland security capabilities.

Coast Guard

12. The Coast Guard's Integrated Deepwater System is a multi-year initiative to modernize Coast Guard assets and improve command and control and logistics. What is your opinion of this program and the existing timeline and budgetary outlays for continued acquisition and development?

The Coast Guard has a mid-sized (\$1.5B to \$2.0B per year) acquisition organization that is becoming more disciplined and establishing documented processes. As the acquisition decision authority for the Coast Guard's Deepwater projects, DHS has established roles for oversight, technical authorities, project sponsors, independent review, and Navy partnerships. If confirmed as Secretary, I will work with my management team to review the Coast Guard's Acquisition Directorate and will work with the Congress to make any necessary adjustments to ensure the program's success.

Chemical Security

13. On April 8, 2007, the Department of Homeland Security issued the Chemical Facility Anti-Terrorism Standards (CFATS).
- a. What is your opinion of the current CFATS regulations and inspection regime?

DHS is in the process of implementing Chemical Facility Anti-Terrorism Standards (CFATS). I believe that they are an important step in securing a wide range of chemical facilities across the country. There are a number of issues, however. First, the existing authority behind CFATS expires in September 2009. Second, there are inconsistencies across different security regimes that create confusion and security gaps. Facilities under CFATS have different standards than facilities regulated under MTTSA, for example. Third, some facilities are not subject to security standards, such as drinking water facilities. Fourth, CFATS, while useful, are overly focused on physical security and not on systemic security. If confirmed, I will work with Congress to renew and strengthen CFATS and to create a strong and consistent national standard that secures chemical supply chains, not just chemical facilities. During the campaign, the President-elect repeatedly highlighted the importance of securing chemical facilities and I expect this to be a priority once in office.

- b. What do you believe to be DHS's appropriate role in securing chemical facilities and hazardous chemical cargoes and materials?

A variety of authorities assign DHS with primary responsibility to regulate the security of chemical facilities across the country. These include CFATS, MTA, and HSPD-7. The regulation of the transportation of hazardous chemicals is shared at the federal level with the Department of Transportation. Depending on the specific nature of chemical facilities, other federal agencies may play constructive roles, including the Environmental Protection Agency. For this reason, DHS has tried to build a collaborative relationship across the federal government in its approach to infrastructure protection in general and chemical security in particular. We must develop a strong and consistent national standard for securing chemical facilities. I believe there is plenty of room for DHS and other agencies with relevant expertise to work constructively together and with chemical manufacturers, transporters, and end users to make these operations as safe and secure as possible.

Regionalization

14. Certain agencies within DHS are organized in the field on a regional basis. For instance, FEMA divides the United States and its territories into distinct regions with Regional Administrators in each one. The Coast Guard organizes field operations by geographic districts and sectors with individual commanders for each one. However, DHS is not organized on a regional basis, and the previous administration has resisted the notion of pursuing a regional organizational model for the Department's field operations. What is your opinion of proposals to formally organize the Department of Homeland Security's field operations by geographic region?

If confirmed, I intend to review this issue as part of the Quadrennial Homeland Security Review.



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

December 30, 2008

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Janet A. Napolitano. President-elect Obama has announced his intent to nominate Governor Napolitano for the position of Secretary, 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 December 22, 2008, from Governor Napolitano to the agency's ethics official, outlining the steps Governor Napolitano 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 any action she agreed to take in her ethics agreement.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Don Fox".

Don W. Fox
General Counsel

Enclosures

December 22, 2008

Mr. Robert E. Coyle
Designated Agency Ethics Official
Department of Homeland Security
Washington, DC 20528-3650

Re: Ethics Agreement

Dear Mr. Coyle:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Secretary of the Department of Homeland Security.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position as Governor and will have a "covered relationship" for a period of one year under 5 C.F.R. § 2635.502 with the state of Arizona. You have advised me that my participation in particular matters involving specific parties in which the state of Arizona is a party or represents a party will be authorized pursuant to 5 C.F.R. § 2635.502(d).

I will continue to participate in the State of Arizona Elected Officials Retirement Program, a defined benefit pension plan. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of the State of Arizona to provide this contractual benefit to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2), such as 5 C.F.R. § 2640.201(c)(2).

Upon confirmation, I will resign from my positions on the boards of directors of the James B. Hunt, Jr. Institute for Educational Leadership and Jobs for America's Graduates. I also will resign from my *ex officio* positions with the Arizona Board of Regents, Translational Genomics Research Institute, and the Arizona Mexico Commission. I resigned from my position with the American Legacy Foundation in May 2008. For a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Sincerely,



Janet Napolitano

Senator Carl Levin
Additional Questions for the Record
Nomination Hearing of Janet Napolitano
January 15, 2009

1. Your predecessor, Secretary Chertoff, previously commented on the risk posed by a lack of transparency in corporate formations. Secretary Chertoff stated that "...in countless investigations, where the criminal targets utilize shell corporations, the lack of law enforcement's ability to gain access to true beneficial ownership information slows, confuses or impedes the efforts by investigators to follow criminal proceeds." What is your assessment of this risk; and if confirmed, would you support legislation to eliminate this vulnerability?

I understand legislation has previously been proposed to deal with this potential vulnerability. My predecessor viewed the misuse and lack of readily available information about beneficial ownership to be a problem in pursuing certain criminal investigations. I share this concern, and if confirmed, I will work with the Executive Office of the President, the Department of Justice, and the leaders of DHS's law enforcement agencies to evaluate thoroughly the risks involved and determine whether legislative changes are necessary.

2. As the second largest investigative agency in the federal government, U.S. Immigration and Customs Enforcement (ICE) has one of the most complex and varied missions of any law enforcement agency. That mission is still being defined and your leadership will have an important role in that determination. How do you view ICE's role in the Department of Homeland Security, and how will you utilize ICE's investigative capabilities to carry out the overall mission of Department?

ICE plays a highly important role in the Department of Homeland Security, conducting the interior enforcement of our Nation's customs and immigration laws. Its enforcement activities advance a variety of Department goals, including enhancing national security, stopping illegal immigration, and countering the trafficking of illegal and dangerous goods. If confirmed, I will work with ICE leadership and consult widely to look for the most effective ways to enhance ICE's investigative capabilities and align them efficiently with the overall mission of the Department.

3. Between fiscal years 2004 and 2007, the Border Patrol workforce increased nearly 37 percent. In comparison, the number of ICE Special Agents decreased by 4 percent during that timeframe. Although U.S. Customs and Border Protection (CBP) interdicts and apprehends criminals at our borders, ICE is responsible for the investigation of those crimes and detention of those apprehended. Considering the interrelated missions of these two agencies, if confirmed, how will you address the staffing levels among ICE to compensate for the additional workload caused by increased CBP hiring?

If confirmed, I will carefully review the staffing levels and mission requirements of ICE special agents with the Assistant Secretary for ICE, in order to ensure that the Department is adequately staffed to meet ICE's multiple investigative missions.

4. Do you agree that the Department of Homeland Security has the lead federal responsibility for Homeland Security and federal response to catastrophic incidents, and that the Department of

Defense may provide support to DHS and other civil authorities, if needed and if directed by the President? Do you believe that that division of responsibilities is appropriate, and that the Department of Defense should not be given the lead responsibility for Homeland Security and the federal response to catastrophes?

Yes; the Homeland Security Act of 2002 correctly assigns responsibility for Homeland Security and federal response to catastrophic incidents to the Secretary of Homeland Security. I also believe the Department of Defense – as well as other federal departments and agencies – may provide support to DHS and other civil authorities as outlined in the National Response Framework. Finally, I do believe the current division of responsibilities is appropriate.

5. In Michigan and throughout the Great Lakes, there is a lack of adequate ice breakers and helicopters with deicing capabilities. The Coast Guard's Ninth District currently utilizes a fleet comprised of nine Cutters. The fleet is comprised of five 140' vessels, two 225' vessels, and the heavy ice breaker Mackinaw. Last year's heavy ice demonstrated the inability of the aging 140s and poor design of the newly commissioned 225s to adequately assist the Mackinaw in ice breaking. The aging 140s have been prone to breakdown and maintenance problems that hinder the ability to perform their missions.

- a. What are your plans to update and reallocate ice breaking assets?

If confirmed, I will work with the Coast Guard to determine the best allocation of ice breaking assets, and review plans to update and modernize USCG ice breaking resources. It is premature for me to speculate as to plans for updating or especially reallocating Coast Guard resources.

- b. Can you provide your assurance that you will review the Coast Guard's ice breaking capabilities in the Great Lakes so that our shippers will not have their vessels damaged as a result of the ice?

Yes, I will work with the Commandant of the Coast Guard to undertake such a review.

6. U.S. Customs and Border Protection (CBP) plays the important role of protecting the homeland while facilitating legitimate trade. U.S. industry plays a significant role in our national security, especially port security. Companies have invested heavily in securing their supply chains to reduce the opportunity for bad actors to infiltrate their global supply chains. Business also has experience and knowledge on supply chain security that could be helpful to CBP's mission.

How do you plan to work with the business community to improve national security without unduly burdening legitimate trade?

Strong public-private partnerships are critical to ensuring security, especially since industry owns the majority of assets and employs the people who make up the global supply chain. It therefore makes good sense for DHS to work closely with industry to leverage the natural investment that industry has made in protecting its own assets and people. I know port officials and industry stakeholders are often concerned that new security policies could constrain business efficiency and impact our nation's competitive edge. However, I believe that supply chain efficiency and security are not two antithetical objectives. I'm confident that as global commerce increases, and as port security infrastructure is expanded to meet this

growth, DHS and industry can continue to work together to integrate security into new port infrastructure and develop commercial models to ensure the least amount of disruption to operations. It is important to understand that there will be different approaches in different sectors. Regarding chemical security, for example, more significant regulation is appropriate given the inherent dangers associated with hazardous substances and processes, but this has the potential to lower risk and costs over the long run.

7. Many of CBP's regulations and initiatives are based on risk-management principles. Industry has worked collaboratively with CBP through the Customs Trade Partnership Against Terrorism (C-TPAT) to help distinguish between low and high-risk importers. Yet in many initiatives, such as the Importer Security Filing known as 10+2, the past Administration was unwilling to work with industry and instead treated them the same as high-risk importers. In implementing new regulations, will your department seek to recognize and distinguish low-risk shippers such as C-TPAT members from first time, high-risk importers?

As a general rule, the more we know about in-bound cargo, the better we can apply risk management principles to secure global supply chains while facilitating trade. I am aware that advanced information submitted by industry partners is a fundamental element of the Department's risk-based approach to securing cargo as it transits the global supply chain. This advanced information, and other types of industry participation in supply chain security programs, ensures that DHS has the best means available to improve targeting efforts and to reduce the burden of unnecessary inspections for lawful shipments. I also know Customs and Border Protection recently published a new requirement that will significantly increase the scope and accuracy of information gathered on the goods, conveyances, and entities involved in the shipment of cargo to the United States. I understand that this requirement was modified significantly as a result of extensive industry and public sector feedback. Regardless, it remains critical that these consultative processes continue, and that industry feedback and insight further guide the development of the final advance information requirement and other supply chain security measures. If confirmed, I look forward to exploring opportunities to expand participation in security partnership programs and to enhance the necessary collaboration between DHS and industry stakeholders.

Senator Thomas R. Carper
Additional Questions for the Record
Nomination Hearing of Janet Napolitano
January 15, 2009

1. As you know, we've spent a significant amount of time and money over the years in areas such as aviation security and border security. We've made a lot of progress in those areas but we also have vulnerabilities elsewhere. Some of those vulnerabilities we may not have even known about in the immediate aftermath of September 11th or when the department was first set up. What steps do you plan to take, if confirmed, to examine what the Department has accomplished over the years and to change the focus where necessary to meet the current threats we face?

The Quadrennial Homeland Security Review (QHSR) is an opportunity for the Department to complete a measured examination of major strategic issues, including current and anticipated threats, and existing priorities, programs, capabilities and resource allocation. I intend to use the QHSR to review Department accomplishments and initiatives and identify where additional focus is necessary so that the country can protect what is important to us, reduce known vulnerabilities and be as prepared as possible to respond to a wide range of challenges.

2. A number of my colleagues and I have a special interest in the way the department distributes grants to states and localities. The State of Delaware has a small population but is a densely-populated state located in the most densely-populated part of the country. It is also home to the kind of critical infrastructure that might be attractive to those who want to do us harm. When it comes to distributing grant funding, however, we are treated the same way that states like Wyoming or South Dakota with a much different that are faced with very different kinds of threats. What is your philosophy on how homeland security grants to states like Delaware should be handled?

It is important that DHS balance its investments based on risk, and provide adequate support to address those risks. Both small and large states have risks; however, DHS must be aware of the need to maintain its focused efforts on higher risk areas with large populations and significant critical infrastructure. As Secretary, I will work with the FEMA Administrator to ensure the Department is addressing the risks of both small and large states and best accounting for variations in risks across states of similar size and population.

3. If you are confirmed you will be taking the lead in our efforts to monitor and defend the government's civilian information network with respect to cyber attacks. In addition, you will be responsible for making sure our critical infrastructure – such as the electrical grid – is secure from these types of attacks. After several hearings that Senator Coburn and I have held on the issue of cyber

security, I am concerned that the Department of Homeland Security's cyber response team, US-CERT, does not have the authority and resources necessary to be as effective as it needs to be. That is one of the reasons why I introduced legislation in the last Congress – S. 3474 – that would strengthen US-CERT. I have several questions on this topic:

- a. Do you believe that the department currently has the authority and resources necessary to protect vital assets from a cyber attack? If not, what specifically will you do to address the weakness?

We face increasingly sophisticated threats in cyberspace that affect both our economic and national security. Adversaries seek to establish a presence on both government and private sector information systems. The Department has been directed to help protect the security of federal civilian information infrastructure and facilitate cyber security in the private sector.

As Secretary I will direct a comprehensive review of the Department's roles and responsibilities to protect cyberspace and how best to work with other Federal agencies, state and local government, and the private sector. Such a review must be expedited given the ongoing attacks against the information infrastructure and will examine whether the Department has sufficient authorities and resources to address this problem.

- b. I understand that there have been discussions about removing the National Cyber Security Center from the department and combining it with the Joint Inter-Agency Cyber Task Force (JIACTF) run by the Director of National Intelligence. Please tell me how you see the National Cyber Security Center operating under your direction. If the Center is eventually combined with the JIACTF, what effect do you see the move having on US-CERT and the National Cybersecurity Division within the Department of Homeland Security (DHS or the Department)?

The roles of cyber organizations within the Department will be examined under the comprehensive review. Until the review is completed I will refrain on further comment.

- c. The Department works with other entities within National Security Agency (NSA) and the Department of Defense (DOD) on cyber security issues. Much of the information these entities share is highly classified. At the same time, many of the companies that own or control sensitive critical infrastructure lack cleared personnel and never receive this information. If confirmed, how would you enhance the effective sharing of classified information with the private sector and enable the department to be a constructive partner that will harden our cyber infrastructure?

Under the comprehensive review, I will examine the Department's relationship with other agencies, including NSA, as well as its relationship with the private sector. Certainly the ability of the Department to share sensitive or classified information with the private sector is critical. I will work to build on the programs and policies the Department has in place to support information sharing.

- d. The department provides assistance to state and local governments on cyber security issues. Unfortunately, many of these governments still do not have the finances or the technical resources necessary to defend against sophisticated attacks. Do you think it would be beneficial to expand the department's outreach to state and local governments in the area of cyber security?

From my experience as Governor of Arizona, I know the Department has begun developing important relationships with state and local governments. As Secretary, I will look for ways to enhance and build upon these foundational activities. I expect to receive recommendations through the comprehensive review on how we can improve the relationship between the Department and state and local authorities in protecting the nation's cyberspace.

4. Five years after its creation, the DHS continues to have difficulty getting good grasp of its problem with improper payments. In the latest annual financial report for the department, the Office of Inspector General again sites a failure to fully comply with the Improper Payments Information Act due to the fact that five programs that are considered to be high risk for making improper payments are not yet able to provide estimates on the errors they make. Further, one of the department components that is actually in compliance with the reporting requirements in the Act, the Federal Protective Service, has the highest improper payment rate in government at 26 percent. What would you do if confirmed to ensure that the department comes into full compliance with the Improper Payments Information Act and makes progress in eliminating improper payments?

If confirmed, I will work with the Department's Chief Financial Officer, Chief Procurement Officer, and other management officials in order to eliminate improper payments and ensure Departmental compliance with applicable laws.

5. DHS is still among those in the federal government that are unable to get a clean opinion on their annual financial statements. The Department's auditors found six material weaknesses and a disclaimer of opinion when they examined the last set of statements issued at the end of last year. As you know from your experience in state government, addressing difficult problems like these takes times but it also takes leadership and commitment from the top. What would you do if confirmed

to address the department's problems in this area and to ensure that sound financial management is a priority?

Sound financial management is essential to the success of any governmental entity. If confirmed, I will work with the Department's Under Secretary for Management and Chief Financial Officer to remedy any problems with the Department's financial oversight system and resolve material weaknesses and disclaimers in the Department's audit opinions.

Senator Mary L. Landrieu
Additional Questions for the Record
Nomination Hearing of Janet Napolitano
January 15, 2009

1. I chair the Subcommittee on Disaster Recovery, and we are currently completing an investigation and report on the national disaster housing apparatus, which is expected to be released between the end of this month and mid-February. We found that during the immediate aftermath of Hurricanes Katrina and Rita, the Federal Emergency Management Association (FEMA) employees sought to stretch the Stafford Act authorities in creative ways in order to fit the disaster's massive housing challenges. In fact, FEMA had done a significant amount of catastrophic housing response planning, which included using strike teams to repair damaged homes, among other innovative ways to stabilize the housing situation. Yet, in the end none of these plans were used, and FEMA relied on trailers, which created a three-year debacle that continues.

Our report found that many of these decisions were made outside of FEMA. In many cases the Deputy Secretary of Homeland Security made them, and in others, the involvement of the White House and Vice President's office seems to have stripped the people who were supposed to be the experts of their opportunity to apply their creative planning to the situation.

- a. How will you ensure that the professionals hired to manage the disaster are actually allowed to do the job they were hired to do?

As Governor of Arizona, I have overseen and coordinated the response to a multitude of emergency management situations. FEMA needs a talented team of senior emergency management professionals who are empowered to make decisions and to act in a timely manner. If confirmed, I will draw upon my experience as Governor and my common sense to determine the most effective level of Departmental oversight of FEMA activities.

- b. How will you work to ensure that FEMA maintains a degree of independence that will enable it to perform well in both response and recovery activities?

I understand why Congress felt compelled to include provisions in the Post-Katrina Emergency Management Reform Act to ensure that FEMA maintains a degree of independence. If confirmed, I will review the issues surrounding FEMA's roles and responsibilities as outlined in law, in doctrine and within the Department's management and coordination structures. I recognize that the issues of roles and responsibilities are ones that need to be addressed and I am committed to doing so.

2. FEMA typically uses temporary reservists recruited on a 90-day basis to oversee construction projects that by nature take years to complete. While surge capacity

and temporary workers are an understandable element of FEMA's workforce, which can sensibly be deployed to handle debris removal, shelter management, evacuation, search and rescue, or other immediate response missions, they are poorly suited to oversee permanent construction and long-term recovery work. Turnover and inconsistent training protocols have been some of the greatest challenges faced by local governments seeking to rebuild, and forced to deal with a new face every few months, re-justify their projects, and often contend with repeated decision reversals by constantly transitioning FEMA staff. FEMA finally created an office to credential and train its Disaster Reserve Workforce, and it is well led, but it is also terribly under-resourced for the mission with which it has been tasked.

- a. For Public Assistance categories that fall under the heading of "permanent work," do you think it is appropriate for FEMA to rely upon temporary reservists instead of full-time staff?

If confirmed, I will work with FEMA leadership to review current practices and determine the best mix of temporary and full-time staff for Public Assistance projects.

- b. What will you do to address turnover within FEMA's Public Assistance cadre?

As with the question above, if confirmed, I will work with FEMA leadership to review current practices and take whatever steps are necessary to ensure that FEMA recruits and retains the most effective mix of temporary and full-time staff for Public Assistance projects.

**Post-Hearing Questions Submitted by
Senator Susan M. Collins
For the Nomination of the Honorable Janet A. Napolitano
To be Secretary, U.S. Department of Homeland Security
January 15, 2009**

1. I have long supported the risk-based, layered approach to cargo container security that the Department of Homeland Security has implemented. These layers of security include inspecting all high-risk containers through the Container Security Initiative, providing incentives to the private sector for them to secure their supply chains through the Customs-Trade Partnership Against Terrorism, deploying radiation portal monitors at the 22 largest U.S. ports in order to scan 98% of incoming cargo for radiation, and inspecting high-risk vessels and crews before they enter U.S. seaports. These programs were strengthened by the SAFE Port Act that I co-authored and which became law in 2006.

Subsequent to that law's passage, however, a 2007 law included a provision requiring that all cargo containers, regardless of their risk, be scanned with large x-ray equipment at foreign ports by 2012. Reports by DHS on pilot projects that were established to test the feasibility of this 100% scanning technology have demonstrated that there are substantial costs and technological challenges that would lead to disruptions in the flow of commerce at larger ports if they attempted to scan all containers. In your written responses to the Committee's questions, you recognize the limitations of 100% scanning and note that it would be difficult to achieve 100% scanning by the 2012 deadline. And you promise to review current cargo security measures and to come back to Congress with a path forward. When do you envision being able to complete this review and brief this Committee on how you will handle the 2012 deadline?

As I indicated, this is an important critical and complex issue. I assure you it will be a priority. My understanding is that U.S. Customs and Border Protection has made good initial progress with the Secure Freight Initiative pilot programs and, based on these experiences, has outlined a risk-based expansion strategy to guide future deployments of the scanning systems. If confirmed, I will work with the Commissioner of Customs and Border Protection and other federal entities such as the Department of Energy and the Department of State to evaluate the progress that has been made, as well as the challenges that have been encountered. I will need to consult with foreign partners and industry so that we can meet the goal of the legislation without hindering the flow of legitimate commerce. I will report back to this Committee as soon as is feasible to describe how the Department anticipates addressing these provisions and when the Department will be able to complete its review.

2. The White House has published National Security Presidential Directive (NSPD) 66 and Homeland Security Presidential Directive (HSPD) 25, establishing new guidance for Arctic Region Policy. This directive provides that the U.S. has "broad and fundamental national security interests" in the Arctic region and calls for the U.S. to "assert a more active and influential national presence to protect its Arctic interests and to project sea power throughout the region." A robust polar icebreaking fleet is absolutely essential to

ensure our ability to project sea power in the Arctic. Unfortunately, a 2007 report from the National Research Council (NRC) on the U.S. polar icebreaking fleet states that, "U.S. [polar] icebreaking capability is now at risk of being unable to support national interests in the north and the south."

In fact, the Coast Guard has only two heavy-duty icebreakers: an extensive overhaul of the POLAR SEA in 2006 extended the expected service life of the 30-year-old icebreaker only through 2014, and its sister ship, the POLAR STAR, remains at the pier in Seattle, with a skeleton crew, unable to get underway. Currently, there is no plan to recapitalize the Coast Guard's polar icebreaking fleet. The acquisition of two new icebreakers, from design to construction, will cost an estimated \$1.6 to \$1.8 billion and take 8 to 10 years to complete. Would you support devoting the necessary funds to initiate the acquisition process for two new polar icebreakers?

U.S. Coast Guard polar icebreakers are the only United States Government surface assets capable of projecting and fulfilling interagency objectives year round in the region. To my understanding, the Coast Guard operates three polar icebreakers: USCGC HEALY, USCGC POLAR SEA, and USCGC POLAR STAR. As noted in your question, with the exception of USCGC HEALY, the polar icebreaker fleet has reached or is approaching the end of its service life. As has been explained to me, except for the \$30 million appropriated in FY 2009 to re-activate the POLAR STAR, the Coast Guard is not directly funded to operate or maintain its polar icebreakers. All operating and maintenance funds are appropriated to, and controlled by, the National Science Foundation. As I noted in my pre-hearing questionnaire, if confirmed, I will work with the Coast Guard and the Department's Chief Financial Officer, as well as the Executive Office of the President, OMB, and other Executive Agencies, to determine the appropriate U.S. polar icebreaking capacity and appropriate funding levels for all Department projects, programs, and initiatives.

3. Customs and Border Protection (CBP) is responsible for the dual missions of safeguarding borders against the illegal entry of goods and people and regulating and facilitating legitimate international trade and foreign travel. In a February 2007 address to the National Press Club, you said that "border enforcement designed to stop drugs and other contraband should not hinder the flow of legitimate travel and commerce," and that more can and should be done to ensure that people and goods travel quickly and safely through our land border ports of entry. Technology has been helpful in expediting travelers through border crossings and solving border security challenges. In my state, border community residents have been able to travel across unmanned ports of entry by enrolling in a program where they receive a card to confirm their identity and are processed at a nearby port via video-phone, before a gate is opened to allow them to enter the U.S. What role do you think technology can play in facilitating legitimate travel and commerce without reducing the ability of CBP officers to carry out their border security mission?

As Governor of a border state, I am intimately familiar with the need to both detect illegal cross-border activity and expedite inspection and the important role that

technology can play to achieve both of those objectives. Technology, advance information and modern infrastructure all play vital roles. Under my leadership, Arizona redesigned and opened new corridors at Arizona's ports of entry. My experience as Governor of Arizona, however, indicates that inadequate infrastructure, including technical infrastructure, of our land border ports of entry and the roads leading to them continue to pose significant challenges to border operations and the surrounding border communities.

If confirmed as Secretary, I look forward to working with Congress, GSA, Customs and Border Protection, the border states, and my counterparts in Mexico and Canada to develop a plan and funding stream for better funding and coordination of land border port of entry modernization projects, including enhanced technology.

4. Many high-tech American businesses rely on the H-1B visa program. Under the H-1B visa program, when employers can demonstrate that there are too few U.S. workers with defined education and skills in engineering, science, medicine, health, and other specialties, they may petition for temporary, foreign workers to fill those vacancies.

Unfortunately, there has been a long history of some unscrupulous employers attempting to abuse the H-1B program. In 2006, the *Portland Press Herald* newspaper in Maine published a three-part series showing shell companies filing applications for H-1B visas in Maine, but there was no evidence that the H-1B visa holders actually worked for those businesses in Maine. In addition, in October 2008, US Citizenship and Immigration Services released a long overdue H-1B Fraud Assessment that revealed that over 20% of H-1B applications contained fraud and technical violations of the H-1B visa program. I have previously introduced legislation to address this problem. What steps will you take to reestablish confidence in the H-1B program?

I share your concern that employers and individuals are abusing our immigration programs and appreciate your efforts to provide additional legislative authority to stop those who commit fraud.

If I am confirmed as Secretary, I will work with USCIS and ICE, as well as organizations representing the business community to ensure that the H-1B admission spaces available each year are used by legitimate companies and workers, and to strengthen the Department's measures to prevent fraud and abuse in our immigration system.

Senator Tom Coburn
Additional Questions for the Record
Nomination Hearing of Janet A. Napolitano
January 15, 2009

1. Which programs within the Department of Homeland Security (DHS or the Department), if any, do you think can be eliminated because they are ineffective, duplicative, and unnecessary or have outlived their purpose?

It is premature for me to speculate on which programs within DHS are ineffective, duplicable, unnecessary, or have outlived their purposes. However, should I be confirmed, I will review all of the Department's current programs and activities, and will work with the Department's senior leadership; state, local, and tribal governments, and Congress to determine whether adjustments to programs are necessary.

2. President-elect Obama promised to conduct "an immediate and periodic public inventory of administrative offices and functions and require agency leaders to work together to root out redundancy." When do you plan to start this and when can we expect you to complete it?

I plan to review the Department's offices and functions as part of the Quadrennial Homeland Security Review, which by statute will be completed in December 2009, and will make any recommendations based on the results of that review. If adjustments are required sooner, I am prepared to make them.

3. Currently all recipients of federal grants, contracts, and loans are required by law to be posted online for public review. Do you support making all federal assistance including subcontracts and subgrants transparent in the same manner?

Yes.

DHS Grants Questions

4. In testimony you gave before this committee two years ago, you said that a continuing source of frustration you have with DHS is the agency's lack of transparency in how allocation decisions are made with DHS grants. You went on to say that States are greatly concerned about the process by which these funding decisions have been made and that requests to the Department for details on how funding allocations were determined have been ignored or rebuffed. I have also had trouble getting information from DHS on some of the funding decisions they have made for my state of Oklahoma. How will you work to change this culture of secrecy within the agency to ensure better communication with Congress about these important funding decisions?

Building state, local, and tribal capability through grant funding is an essential element of homeland security. Administering DHS's grant funding programs involves balancing a number of competing priorities. If confirmed as Secretary, I will review the Department's methodologies for, and the transparency of, allocating grant funding and will make adjustments as necessary to protect the American public while meeting the intent of the Department's governing statutes.

5. Gov. Napolitano, you have stated in the past that you believe states need some sort of base amount for homeland security, however, the President-elect has stated that homeland security grants should be allocated based on risk only. Do you plan to support the new Administration's stance on risk allocation?

This is an issue that has been subject to considerable debate. There are inherent uncertainties in measuring terrorism risk and in comparing risks across a variety of naturally occurring and human-caused threats. In general, I support the idea that homeland security grants should be allocated in a manner informed by risk. It is important to note, however, that there are "risks" associated with any area of the country, so that some base of funding is appropriate.

6. DHS allocates funding based on risk for a number of different grants – port security, bus, transit, Urban Area Security Initiative (UASI), etc.
- a. Do you know if the department assesses risk for each of these grants using the same process?

To my understanding, DHS allocates funding for each grant program based on risk as appropriate to the various programs.

- b. Does DHS consider the other grants a particular location receives when considering another grant award for that same location? In other words, if the Port of Long Beach (which is considered a part of Los Angeles under UASI) receives a port security grant, can Long Beach also use UASI money to fund port security projects?

To my understanding, a jurisdiction such as the Port of Long Beach could receive funding both under the Port Security Grant Program and under the Urban Area Security Initiative for port security projects but could not receive duplicative funding for the same project through multiple grant programs.

- c. How will you as DHS Secretary address these overlap and duplication issues?

As noted above, if confirmed, I will work with the FEMA Administrator to evaluate the Department's current method of allocating homeland security grant funding and take appropriate steps to address any inappropriate overlap or duplication.

7. In order for a risk-based funding system to work, the risk assessments performed by DHS must be legitimate and accurate. A recent Government Accountability Office (GAO) report found that the department has not taken action to address a key GAO recommendation made last year that the Secretary of DHS formulate a method to measure vulnerability that captures variations across states and urban areas, and apply this vulnerability measure in future iterations of this risk-based grant allocation model. The Federal Emergency Management Agency (FEMA) and DHS concurred with the recommendation yet no action has been taken to date. What will you do to ensure that the risk based model used by DHS to allocate this money is improved so that the risk a community faces is accurately evaluated each year and the grant funding is tied to that evaluation?

As noted above, I strongly support the idea that homeland security grants must be allocated in a manner informed by risk. I understand that GAO and others have raised concerns about DHS's methodology for applying risk to grant allocations. If confirmed as Secretary, I will review the Department's current methodology for applying risk to homeland security grant allocation along with GAO's recommendations and will work toward a system that allocates grants in a manner best suited to addressing the homeland security-related risks faced by the nation.

8. Gov. Napolitano, you have stated that it is a federal responsibility to help states prepare to respond and recover from terrorist attacks. The funding reflects this basic thinking – 61% of homeland security grant funding is for terrorism preparedness. However, the vast majority of disasters states face are natural disasters such as forest fires and tornados.
- a. Do you think it is a federal responsibility to help states prepare for natural disasters also?

Yes.

- b. If so, do you support the idea of allowing all DHS grants for all-hazards preparedness?

Different DHS grants serve different homeland security purposes. Many of these purposes are set by statute. As noted above, if confirmed, I will review the Department's grant programs and make any recommendations necessary to ensure that these programs best address the nation's homeland security-related risks.

9. Since 2002, DHS has spent over \$22 billion in American taxpayer dollars on homeland security grants. Despite this massive infusion of money to the states, DHS has created no specific benchmarks for states and localities to meet concerning these grants. While DHS has done good work in establishing national standards for readiness, the department has not yet been able to tie this grant

funding to the established standards. Since drafting the target capabilities list in 2005, the department has not taken any measures to ensure that these plans are executed at the federal, state and local levels.

- a. Do you plan to implement a system to evaluate the use of DHS grants at the state and local level?

I think it is important to understand what capacities we are building at the state, local, and tribal levels. I understand that DHS has developed several new initiatives designed to measure the effectiveness of state, local, and tribal use of grant dollars, but these initiatives have not been tested. If confirmed as Secretary, I will work with the FEMA Administrator to review these initiatives, and I will support a system, designed in coordination with our state, local, and tribal partners, that allows the Department to effectively evaluate state, local, and tribal use of grant funds with the minimum necessary burden to grant recipients.

- b. What type of benchmarks will you require state and local governments meet in order to continue to receive funding?

I understand that DHS is currently reviewing the target capabilities list and working with its federal, state, local, and tribal partners to make the capability benchmarks more objective and measurable. It is premature for me to speculate on specific benchmarks state, local, or tribal governments might need to meet in order to continue receiving grant funding.

- c. How should a state measure its preparedness level? What metrics should be used?

States should measure their preparedness levels against clear, objective, risk-based standards. As noted above, I understand that DHS is continuing its efforts to develop and enhance these standards. If confirmed as Secretary, I will work with the FEMA Administrator to review these efforts and make any adjustments necessary to ensure objective, measurable benchmarks for preparedness.

10. The 9/11 Commission warned in its report that homeland security grants were in danger of becoming pork-barrel funding. While federal spending on homeland security has increased exponentially since 9/11, state spending on homeland security has remained almost flat as a percentage of total state appropriations. Studies suggest that this trend may indicate a more dangerous practice of federal grants supplanting state spending on homeland security.

- a. Are you concerned that States are becoming dependent on this federal cash flow?

As a Governor, I understand that one of the most critical aspects to building and sustaining state, local, and tribal first responder capabilities is predictability of funding support, whether that be state and local funding or federal grant support. Federal funding should supplement, not supplant, state, local, and tribal funding. If confirmed as Secretary, I will review preparedness grant funding to date and support efforts to establish what level of support is necessary to build and sustain necessary capabilities.

- b. Are we federalizing our local law enforcement and fire fighters?

No. Supporting state, local, and tribal preparedness in order to achieve national preparedness goals does not federalize local law enforcement or firefighters.

11. Federal funds should be used to supplement, not supplant, state and local spending. Unfortunately though, each year, multiple news stories surface detailing how DHS grant funds have been used to purchase items totally unrelated to terror prevention and response (examples: purchases of executive leather chairs, air conditioners, payment of delinquent phone bills, exercise equipment, leather coats). These examples show that states are using this federal grant money to finance projects that are clearly local responsibilities and wasteful projects that would probably never be funded if the localities had been forced to bear the financial burden themselves.

- a. I'd like to know your thoughts on these stories?

Federal preparedness grant funds should be used for the purposes for which they are intended. If confirmed as Secretary, working with the FEMA Administrator, I will review and, as appropriate, make any necessary adjustments to the Department's current processes to ensure appropriate use of grant funds.

- b. Is this a saturation problem? In other words, are states having trouble absorbing these funds?

No, I do not believe that this is a saturation problem.

- c. Are these stories evidence that states have "built capacity" for terrorism preparedness enough that federal grant dollars can be reduced?

If confirmed as Secretary, I will review preparedness grant funding to date and support efforts to establish what level of support is necessary to build

and sustain necessary capabilities. Until that is done, it would be premature for me to give an opinion on homeland security grant funding.

12. The Grant Programs Directorate within FEMA is responsible for the administration of over 80 different homeland security grants. The division within the directorate responsible for the oversight of these grants is a 14-person office called the "Accountability, Management and Oversight Division." Do you plan to reorganize this office or bulk up its personnel so that more rigorous oversight of these grants can be performed?

As explained to me by current Department leadership, DHS ensures oversight for its grant programs through annual monitoring visits on both the financial and programmatic aspects of the grants. To my understanding, the Department is also continuing its work to move towards a consolidated grants management platform which should streamline the application and reporting processes for all Departmental grants. If confirmed, I will review these programs. Until then, it is premature for me to speculate on any reorganization of FEMA's grants administration organization.

13. In 2006, an assessment of the State Homeland Security Grant Program and the Urban Areas Security Initiative conducted by the Office of Management and Budget (OMB) scored the programs as "Not Performing – Results Not Demonstrated." While the 2008 OMB assessment rated these programs as "Adequate," there remain major areas of concern. OMB found that the budget requests for these programs are not tied to accomplishment of the annual and long-term performance goals, the programs do not use strong financial management practices, and the programs do not demonstrate improved efficiencies or cost effectiveness in achieving program goals each year.

- a. Did you, as Governor, institute performance goals and strong financial management practices throughout your agencies?

I launched the Efficiency Review initiative in the first year of my term in order to ensure that state government was as efficient and effective as possible. Over the course of my term, Efficiency Review saved more than \$1 billion. Some of the major savings involved a restructuring of procurement in state government and energy efficiency measures. Others, such as the "Plain Talk" initiative that sought to reduce the use of bureaucratic language in government forms, had less of a dollar impact but made state government significantly more effective and made interaction with citizens easier.

In Arizona we've also leveraged our federal homeland security funds to fill only the gaps that are allowable under these grant programs.

b. Can you give me examples?

Yes. The Arizona Department of Homeland Security is currently in the process of selecting a vendor for a statewide Target Capabilities Assessment (TCA). Specifically, the TCA will include Capabilities Surveys; Gap Analysis and a Needs Assessment of the current status of emergency preparedness and emergency response capability in Arizona. The Capabilities Survey and Gap Analysis will involve agencies throughout the State of Arizona including law enforcement, public safety, and emergency response organizations from federal, tribal, state, county, and local levels of government because they are all partners in Homeland Security. Non-profit and private sector organizations will also be an integral part in this project. The Assessment will be based on the Federal Target Capabilities List (TCL), Homeland Security Presidential Directive (HSPD) -8 and the 15 national scenarios. This broad based assessment will help ensure that Arizona's Homeland Security Department has all the data necessary to make informed updates to the Arizona State Homeland Security Strategy and the State Preparedness Report.

Arizona's planned Target Capabilities Assessment is among one of the first comprehensive state assessments of its kind in the nation. It represents a detailed survey that takes stock of where they stand now so that future funds will be directed to the most critical needs.

Another example would be the strong financial management system that is the foundation for the operations of the Arizona Department of Homeland Security. The Department strives for transparency and employs strong internal controls that, of course, align with federal grant guidance as well as Office of Management and Budget and Codes of Federal Regulations.

c. What will you do as Secretary to institute these policies at DHS and improve the department's OMB score?

Certainly, as I stated before, I will review all of the Department's current programs and activities. From there, I will work with the Department's senior leadership to determine what best practices exist and how they can be implemented as well as whether any program or policy adjustments are necessary to address any areas of concern.

Certainly, I think the States and local jurisdictions can and will play a role in this process as we move forward to shape the Homeland Security Grant Program.

14. A September 2008 DHS Inspector General Report on the state of Arizona's management of more than \$103 million in DHS grants awarded between fiscal year 2004-2006 found that the state withheld portions of local units' funding

without proper documentation and did not perform adequate programmatic monitoring of subgrantees.

a. How do you respond to the claims in this report?

As I stated earlier, the Arizona Department of Homeland Security strives to align its policies and procedures with the federal grant guidance and other federal fiscal regulations. When an audit as such as the one in September 2008 identifies an opportunity, I feel strongly that we must act to address any concerns.

That particular audit focused on Federal Fiscal Years 2004-2006. Since the Arizona Department of Homeland Security was signed into legislation in December 2006, several controls have been implemented that aim to provide transparency and efficiency with the processing of federal homeland security grant funds. They include:

- requiring supporting documentation for all expenditures prior to reimbursement;*
- verifying that expenditures are within the scope of the project;*
- ensuring that all funds retained by the State are supported by Memorandums of Understanding;*
- verifying that expenditures are allowable by the Authorized Equipment List;*
- actively applying OMB and CFR regulations, and*
- monitoring stakeholders at their sites to ensure that equipment and training acquired through the federal homeland security grant program are for authorized purposes as required by the grant agreements.*

b. How will you ensure as DHS Secretary, that DHS grant money gets to the folks that need it at the local level and is not caught in the pipeline upon entry into the state?

This is an important question because as we know, it is the local level that must sustain a community in the first critical hours or days after a disaster. It has been our practice in Arizona to strictly align with federal grant guidance under the state homeland security grant program to ensure that only 20% of funds are eligible for State needs and 80% of funding is directed toward local needs.

If confirmed as Secretary, I will ensure first and foremost that local government has a voice in the programs and policies of the Department moving forward. Second, I will review the current policies and data coming from both states and local jurisdictions to balance the need for administrative costs and projects at the state level with the needs at the local levels. It is also important to reiterate that the homeland security

grant funding system is intended to supplement programs, not act as a sole funding source.

Based on my experience to date, I feel that specifically outlining the responsibilities and target funding levels for state and local recipients in the grant guidance is an effective method of ensuring funds move through the pipeline on the front end. To ensure compliance with grant guidance, I would also ensure that proper controls are in place on the back end from an auditing perspective to ensure that local jurisdictions are receiving their share of federal homeland security dollars.

Immigration and Border Security Questions

U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)

15. The U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program was established by DHS, in response to a series of laws that required creation of an integrated, automated entry and exit data system for all visitors to the United States. The purpose of US-VISIT is to protect the security of U.S. citizens and enhance the integrity of the U.S. immigration system, while still facilitating travel and protecting the privacy of visitors.¹ However, according to the Government Accountability Office and the Inspector General of DHS, US-VISIT has failed to meet critical program components, lacks financial justification for funding investments, has failed to coordinate and align with other immigration and homeland security effort, and lacks oversight on contracts.² Furthermore, the current balance of unobligated US-VISIT funds totals \$151.9 million.³ If we cannot ensure that foreign visitors have exited our country when their time expires, the goal of US-VISIT has not been met and we cannot determine who is currently in the U.S. with the potential to harm our nation.
- a. How will you ensure that the US-VISIT completes the program component required by Congress?

I am informed that US-VISIT has made significant progress since the GAO report in question was released. If confirmed as Secretary, I will work with the Department's senior leaders to ensure that all programs – including US-VISIT – meet their statutory obligations.

¹ http://www.dhs.gov/xnews/releases/pr_1160495895724.shtml

² GAO, *Strategic Solution for US-VISIT Program Needs to be Better Defined, Justified and Coordinated*, GAO-08-361 (Washington, D.C.: Feb. 2008), DHS Inspector General, *US-VISIT System Security Management Needs Strengthening* (Dec. 2005) (OIG-06-16), DHS Inspector General, *Implementation of the United States Visitor and Immigrant Status Indicator Technology Program at Land Border Ports of Entry* (Feb. 2005) (OIG-05-11)

³ Kristin Royster, Associate Director for the Office of Legislative Affairs, Department of Homeland Security; July 16, 2008.

- b. What consequences will you employ if the program continues to miss targets?

If confirmed, I will work with the Department's senior leaders to ensure that all programs achieve established milestones and performance expectations. It would be premature to discuss or consider "consequences" until I have had the opportunity to review the US-VISIT program in detail and can complete my own assessment of its strengths, accomplishments, challenges and opportunities.

- c. How will you ensure that DHS submits a strategic plan for improving coordination and alignment of US-VISIT with WHTI, SBInet, and other DHS border security efforts, and well as a strategic plan for improving coordination with Department of Justice information systems?

I plan to review the Department's offices, programs and functions as part of the Quadrennial Homeland Security Review. By statute, this review will be completed in December 2009. If confirmed as Secretary, I will make programmatic recommendations based on the results of that review.

- d. US-VISIT currently holds \$151.9 million in unobligated balances, will you commit to returning this money to the Treasury or make the funds available for offsets?

It is premature for me to comment on the fiscal status of any DHS program. Based on briefings provided to me, I understand the Department has plans to continue developing US-VISIT technologies. If confirmed, I will work with all DHS component heads and the Department's Chief Financial Officer to ensure that DHS operates in a fiscally prudent manner and within the boundaries of appropriations laws.

Secure Border Initiative Net (SBInet)

16. SBInet is the component of the Secure Border Initiative which deploys technology and tactical infrastructure to control the border. GAO has issued a number of reports critical of SBInet's expenditure plan, reporting that it "lacked specificity on such things as planned activities and milestones, anticipated costs and staffing levels, and expected mission outcomes." As a result, GAO warned that SBInet was at risk of not delivering promised capabilities on time and within budget.⁴

⁴ Statement of Richard Stana, Director of Homeland Security and Justice Issues at the Government Accountability Office before the Subcommittees on Management, Investigation and Oversight and Border, Maritime, and Global Counterterrorism, House of Representatives, Feb. 27, 2008.

What action will you take if current development problems are not eradicated?

SBIInet is a very significant priority and its technology demonstration phase was hampered by a compressed deployment schedule and unrealistic performance standards. I understand that the Department is currently working to address the concerns raised by GAO and others concerning SBIInet, including stronger program management. If confirmed, I will work with the Commissioner of Customs and Border Protection and Department senior leadership to assess SBIInet progress to date and make any adjustments necessary to ensure effective control of the nation's borders.

Immigration Benefit Fraud

17. In 2006, the Government Accountability Office (GAO) called benefit fraud an ongoing and serious problem, stating that "individuals who pose a threat to national security and public safety may seek to enter the United States by fraudulently obtaining immigration benefits."⁵ Specifically, GAO found that an astounding 33% of religious worker visa applications were fraudulent.⁶ GAO found that immigration adjudicators reported that communication from management did not clearly convey the importance of fraud control, and GAO concluded that the lack of a clear strategy for how to punish fraud perpetrators limits DHS's ability to project a convincing message that those who commit fraud face a credible threat of punishment.⁷ Just last October, DHS's Office of the Inspector General found that the Office of Fraud Detection and National Security, within the U.S. Citizenship and Immigration Service (USCIS), "has had little measurable effect on benefit fraud."⁸ The Inspector General cited a lack of incentives, such as in employee evaluations, for USCIS personnel to combat fraud.

What specific measures will you take to improve the performance of the Office of Fraud Detection and National Security?

I am committed to improving the Department's measures to deter, detect, and punish fraud in benefit programs. If confirmed, I will work with the Director of USCIS and other senior leaders in the Department to review relevant investigative reports, evaluate the findings and recommendations, and, as appropriate, develop plans of action to improve performance.

⁵ U.S. Government Accountability Office, Immigration Benefits: Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud 4 (2006).

⁶ Id.

⁷ Id. at 6-7.

⁸ U.S. Department of Homeland Security, Office of the Inspector General, Review of the USCIS Benefit Fraud Referral Process 1 (2007).

U.S. Border Patrol

18. As of September 2008, the U.S. Border Patrol employed 17,499 agents, which represents a 55 percent increase in a period of three years. In the past, you have called for the deployment and maintenance of National Guard troops on the border, as well as a substantial increase in the number of Border Patrol agents.

If confirmed, will you continue to support these measures?

If I am confirmed as Secretary, I will place great emphasis on continued efforts to secure all of our nation's borders. I am supportive of additional agents at the border and deployment of the National Guard in a support role. However, I feel it would be premature for me to comment on the specifics of any one component of the Department's border security strategy until I have completed a more detailed review of other elements of that strategy.

19. The Customs and Border Patrol (CBP) reports that its agents were attacked 987 times along the U.S.-Mexico border during fiscal year 2007, an increase of 31 percent. In response, CBP agents first use non-lethal methods such as tear gas and pepper-spray, but sometimes they must resort to lethal force. Unfortunately, some agents have faced criminal prosecution for actions taken in accordance with their duties. Border Patrol agents and other law enforcement officers must not take the law into their own hands. However, we cannot expect Border Patrol agents to succeed in their sworn duties if we do not update our laws to allow them the authority necessary to do so.

What changes will you make to ensure that our Border Patrol Agents are able to defend themselves from this skyrocketing violence?

Having first-hand experience with this problem in my role as Governor of Arizona, I am deeply concerned about the increasing use of violence against United States Border Patrol agents. It is imperative that these agents have the tools, resources and capabilities they need to perform their duties. If confirmed, I pledge to work with my federal colleagues, Members of Congress, and the Department's senior leaders to ensure that DHS's Border Patrol agents are equipped and trained to do their jobs within the rule of law.

Border Fence

20. The Department has committed to the construction of 677 miles of pedestrian and vehicle fencing along the southern border by the end of 2008. Although DHS has made considerable progress over the past year, the project has not yet been completed due to a number of delays. Furthermore, it has been reported that parts

of the existing fence are highly susceptible to penetration and are ineffective in combating illegal border-crossers.

If confirmed, can you assure Congress that the fence will be completed, and how will you carry out existing plans?

I have previously noted the difficulty in relying on fencing as a singular strategy for border security. However, I do support an integrated strategy of technology, personnel and tactical infrastructure – including fences – as part of a comprehensive border security strategy. If confirmed as Secretary, I will work with the Department's senior leaders to ensure DHS remains compliant with existing Congressional statutes while simultaneously working with my federal colleagues, our state, local, and tribal partners, and Members of Congress to consider adjustments in our strategy to secure the nation's borders.

Deportation of Criminal Aliens

21. Julie Myers, head of Immigration and Customs Enforcement (ICE) under President Bush, recently told the *New York Times* at least 304,000 criminal aliens are currently eligible for deportation or removal. She also estimated that 10% of the U.S. prison population would qualify as removable criminal aliens. The problem has exploded in recent years. In 1980, there were fewer than 9,000 criminal aliens in Federal and State prisons. By 2007, there were approximately 50,000 in federal custody alone, accounting for 27% of the federal prison population. In that same year, according to government reports, 300,000 criminal aliens entered state and local facilities and by law should be deported after serving their sentence.

The federal government's Criminal Alien Program (CAP) is designed to identify and deport removable criminal aliens incarcerated in local, state, and federal facilities once they have completed their sentence. In 2007, the program identified and began proceedings against 164,000 criminal aliens, over double the 2006 number.

- a. Do you support this function of ICE, and if confirmed, would you continue the program in your capacity as Secretary?

In general, I do support this program. If confirmed as Secretary, I will continue to uphold existing immigration laws while working with my colleagues and the Congress to consider additional strategies to address problems associated with criminal aliens.

- b. Do you feel it is appropriate to impose sanctions upon a nation that refuses to repatriate its citizens?

Sanctions must be one measure available if a nation refuses to repatriate its citizens, but it is a powerful tool with major foreign policy implications. If I am confirmed, I look forward to working with the Department of State to develop effective strategies regarding nations that refuse to repatriate their citizens.

Workplace Enforcement

22. Recently, ICE has increased its worksite enforcement actions. In fiscal year 2007, ICE conducted 1,093 worksite enforcement actions, which resulted in 863 criminal arrests and 4,077 administrative arrests (mainly immigration violations).⁹ According to ICE, “worksite enforcement investigations focus on egregious employers involved in criminal activity or worker exploitation. This type of employer violation will often involve alien smuggling, document fraud, human rights abuses and/or other criminal or substantive administrative immigration or customs violations having a direct nexus to the employment of unauthorized workers. Worksite investigations also encompass employers who are subjecting unauthorized alien workers to substandard or abusive working conditions.”¹⁰

The net results of ICE’s recent worksite enforcement actions are more jobs and higher wages for American and legal workers. Some companies who lost access to illegal immigrant employees have significantly raised wages in order to attract a legal workforce. Nevertheless, this program has been criticized by some, who charge that the process is in violates civil rights.

- a. If confirmed, how would you proceed with worksite enforcement policy and deter unlawful employment?

See below.

- b. Will you support and continue with ICE’s current worksite enforcement actions?

Reducing the magnet of illegal employment is a critical component of a workable immigration system. Toward that end, I expect that ICE will pursue worksite enforcement efforts to ensure that employers hire only legally authorized workers. If confirmed, I will take a close look at the design and operation of worksite enforcement actions to ensure that the focus is on unscrupulous employers, subjecting violators to appropriate criminal punishment, deterring future violations, and encouraging employers to work with ICE to establish sound compliance programs that prevent unlawful hiring, avoid burdening legitimate new hires, and preclude discriminatory practices.

⁹ U.S. Immigration and Customs Enforcement, FY 2009 President’s Budget Request: 2007 Highlights 3 (2008).

¹⁰ U.S. Immigration And Customs Enforcement, <<http://www.ice.gov/pi/worksite/index.htm>>.

E-Verify

23. E-Verify (formerly known as the Basic Pilot/Employment Eligibility Verification Program) is a voluntary web-based system operated by DHS and the Social Security Administration (SSA) that allows employers to electronically confirm whether a newly-hired employee is authorized to work in the United States. According to DHS, 93 percent of queries are instantly verified as work authorized. Of the remaining 7 percent, the majority are not contested. An employee receiving a preliminary notice of non-confirmation has eight days to contest such a finding. After that, the non-confirmation is finalized and unless the employee is terminated, the employer is presumed to have knowingly hired an unauthorized employee. As Governor of Arizona, you signed into law a requirement that all employers in Arizona use E-Verify. Congress recently extended funding for the program through 2009.

a. What improvements/changes would you like to see made to the program?

As noted in the question, I have supported E-Verify and feel it is an important tool in addressing illegal immigration. If I am confirmed, I will undertake a comprehensive review of all of the Department's programs and offices, including E-Verify. I will use these reviews to determine what, if any, changes or improvements are necessary. Until I have had the opportunity to complete such reviews, it is premature for me to comment on any specific recommendations for change.

b. What, if any, other strategies will you utilize to assist employers, schools, and government agencies in identity verification?

I strongly support the development of sensible systems for reliable identity verification. As noted above, however, I feel it is premature for me to comment on any specific strategy, or propose new strategies, until I have assessed the Department's existing programs and the tools made available to assist government and non-government entities with determining an individual's identity within the rule of law.

Benefits for Illegal Immigrants

24. One of the largest challenges in passing immigration reform is how to handle the 12 million undocumented aliens currently residing in the United States. As Governor, you vetoed a measure which would have barred in-state tuition and day care benefits for illegal immigrants.

a. At the federal level, do you support granting in-state tuition rates or other benefits to illegal immigrant students? Do you support allowing illegal immigrants to participate in childcare programs funded with federal dollars?

I am convinced that we can provide for effective immigration enforcement through measures that focus on adults rather than their children.

- b. Would you support a measure giving illegal immigrants accelerated consideration for citizenship or permanent residency, prior to those who have followed the proper legal channels to attain citizenship?

The comprehensive immigration reform proposals of the last few years have provided for the current unauthorized population to gain legal status only after the immigration of those currently waiting in line for a green card. If I am confirmed as Secretary, I look forward to working with my colleagues and Members of Congress to determine the appropriate paths to, timing of, and benefits associated with any legalization program.

- c. If illegal immigrants were granted a path to citizenship, would you support allowing them to retroactively receive benefits such as Social Security for work completed while residing in the country illegally?

As noted above, if confirmed as Secretary, I will look forward to working with my colleagues and Members of Congress to determine the appropriate number, type, and timing of benefits that would be associated with legalization.

Immigration and Customs Enforcement detention space

25. Because of a lack of immigration detention space and years of ineffective enforcement of immigration laws, the number of fugitive aliens who had been ordered deported rose from 331,000 in 2001 to a record 632,000 by the end of fiscal year 2006 – with an estimated 80,000 of those being criminal aliens.¹¹ Through the increased use and funding of ICE fugitive operations teams, the number of immigration fugitives actually decreased (for the first time ever) by the end of last year to 594,000.¹² However, the success of the fugitive operations teams is still limited by a lack of detention space. The DHS’s Inspector General reported last year that the lack of adequate detention space limits the effectiveness of the fugitive operations teams.¹³ In fact, “a field office director reported ceasing fugitive operations for six weeks because of insufficient bed space and another manager reported slowing team operations for the same reason. . . . Another supervisor indicated that a lack of adequate detention space is the team’s biggest limitation.”¹⁴

¹¹ U.S. Department of Homeland Security, Office of the Inspector General, An Assessment of U.S. Immigration and Customs Enforcement’s Fugitive Operations Teams 12 (2007); U.S. Immigration and Customs Enforcement, ICE: Fiscal Year 2007 Annual Report at 5.

¹² ICE: Fiscal Year 2007 Annual Report at 5.

¹³ An Assessment of U.S. Immigration and Customs Enforcement’s Fugitive Operations Teams

¹⁴ Id.

- a. Do you support increasing detention space to detain fugitive aliens who have been ordered deported?

It is premature for me to comment on the adequacy of detention space for fugitive alien. If confirmed as Secretary, I will work with the Assistant Secretary for ICE, the Department's senior leaders, other executive branch agencies, and Congress to evaluate ICE's current detention capacity fugitive alien and for other enforcement priorities.

- b. Are there other strategies that you will employ to solve this problem?

As noted above, if I am confirmed I pledge to work with the Assistant Secretary for ICE, the Department's senior leaders, other executive branch agencies, and Congress to evaluate other possible strategies for dealing with fugitive aliens.

Sanctuary Cities

26. "Sanctuary cities" are municipalities that prohibit or inhibit communications between their employees and federal authorities in the enforcement of immigration law. Such policies are in direct violation of federal law. Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 provides that no federal, state, or local government entity or official may prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, DHS information regarding the citizenship or immigration status, lawful or unlawful, of any individual. Both the House and Senate have considered measures to prohibit funds appropriated for DHS from being distributed to states and localities that have sanctuary policies in place.

Will you support withholding grant funding from so-called sanctuary cities that do not enforce federal immigration laws?

If I am confirmed as Secretary, I will work with my colleagues in the Obama Administration and the Congress to administer grant programs within the rule of law.

English as U.S. National Language

27. Executive Order 13166 requires all federal agencies and recipients of federal funds to provide translations and interpreters for limited English proficient persons in a potentially unlimited number of languages. Executive Order 13166 is an enormously expensive measure and requires taxpayers to finance the cost of providing translation services. It is virtually impossible for the federal government to offer translation services for potentially every language known to the human race. Those who are not proficient in English can often find more convenient and more reliable translation services from their family, friends or

local community groups, rather than from professional translators provided by the federal government.

- a. Would you support the repeal of Executive Order 13166?

It is premature for me to comment on specific issues associated with any existing Executive Order.

- b. Do you support designating English as the national language of the United States?

English is already the common and unifying language of the United States. Along with President-elect Obama, I believe that immigrants want to learn English, and that to succeed in America they have to speak English. We should concentrate on measures that will help immigrants reach this shared goal.

Naturalization Backlogs

28. Due to a number of factors, a dramatic increase in immigration applications and petitions were received in fiscal year 2007. About 7.7 million immigration applications and petitions were received in FY 2007, as compared to 6.3 million in fiscal year 2006.¹⁵ According to USCIS, in July and August 2007 alone, nearly 2.5 million applications and petitions were received for all immigration-related matters.¹⁶ USCIS indicated that it would hire 1,500 new benefits adjudicators and support staff. Around 723 will be adjudicators and the rest support staff (including attorneys, fraud detection officers and technology specialists). In addition, USCIS requested permission from the Office of Personnel Management (OPM) to rehire up to 350 USCIS annuitants to help reduce the number of backlogged and pending applications. According to USCIS Director Emilio Gonzalez, the “two-year response plan will help us accomplish reducing processing times to six months by the third quarter of Fiscal Year 2010.”¹⁷

What, if any, additional steps will you take to ensure that the naturalization backlog is eliminated?

I am informed that USCIS remains on track to achieve the goals outlined by its previous Director. If confirmed as Secretary, I will work with USCIS and the Department's other senior leaders to ensure that USCIS fulfills its important mission and operates as a nimble, efficient component of the Department.

¹⁵ Information provided by USCIS.

¹⁶ *Id.*

¹⁷ Statement of USCIS Director Emilio Gonzalez before the Subcommittee on Immigration, Citizenship, Refugees and International Law, House Committee on the Judiciary, “Naturalization Delays: Causes, Consequences and Solutions,” Jan. 17, 2008.

DHS Contracting

29. According to a House Government Reform Committee Report, DHS contract spending has increased by 189 percent “from \$3.5 billion in 2003 to \$10 billion in 2005.”¹⁸ While an increase in contracts is expected, DHS procurement spending outpaced the rest of the federal government, including DOD, by 11 percent. In some circumstances noncompetitive contracting is needed and allowed by law¹⁹. However, full and open competition contracts are the preferred method in the federal government ensuring that taxpayers get the “most bang for their buck.” As the report highlights, the number of contracts awarded without full competition at DHS increased 739 percent from 2003 to 2005, to \$5.5 billion, more than half of the \$10 billion awarded by the Department that year.

- a. Outside of the circumstances outlined in law, do you support noncompetitive contracting?

No.

- b. If not, what will you do to decrease this alarming practice at the Department?

If confirmed, I will work with the Under Secretary for Management and the Department's senior leaders to review all acquisition and procurement practices and ensure that the Department's activities are in line with applicable laws, rules and regulations related to Federal government contracting.

30. Would you support a trigger that would temporarily halt funding for DHS contracts that have shown considerable cost overruns, or lack of performance standards, saving the American taxpayer hundreds of millions, if not billions in the coming years?

I would hesitate to set a rule automatically requiring halting of funding for a contract under those circumstances, as troubling as they are. It could be that the security of the nation would require me to continue that contract in force. As noted above, and if confirmed as Secretary, I will work with the Under Secretary for Management and the Department's senior leaders to review all acquisition and procurement practices and ensure that the Department's activities are in line with applicable laws, rules, and regulations related to federal government contracting and that contracts are managed from inception to end in such a way that cost overruns and performance problems are minimized.

¹⁸ House Committee on Government Reform report: *Waste, Abuse, and Mismanagement in Department of Homeland Security Contracts*; July 2006, pg. 2.

¹⁹ Competition in Contracting Act; Public Law 98-369.

Senator George V. Voinovich
Additional Questions for the Record
Nomination Hearing of Janet Napolitano
January 15, 2009

1. Senators Akaka, Levin, Carper, McCaskill and I sponsored legislation to create a Chief Management Officer for the Department of Homeland Security (DHS or the Department). What are your thoughts regarding a term for the Chief Management Officer to help ensure sustained leadership and focus on management issues?

As part of the transition process, I have met with the current Under Secretary for Management as well as the Department's Deputy Secretary, who previously served as Under Secretary for Management. If confirmed, I will work with these officials and others to determine how best to ensure sustained leadership and focus on Departmental management, including the possibility of a term appointment for the Under Secretary for Management.

2. The federal government's most valuable asset is its people. Unfortunately, low employee morale continues to plague the Department. What steps will you take to improve human capital management across the Department?

I strongly believe that DHS must work to recruit, train, and retain the best and the brightest among its workforce. Indeed, improving the Department's culture and its management of human capital is one of my highest priorities. I am familiar with the Department's previous rankings in various surveys and am troubled by DHS' ratings. As Secretary, I will have the opportunity to review the most recent Human Capital employee survey and will set as a high priority for my leadership team to implement initiatives, best practices and policies targeted at improving morale. If confirmed, I will work to better communicate to the Department's workforce how their efforts contribute to DHS's ability to effectively perform all its missions.

3. Governor Napolitano, as you may know, the Visa Waiver Program (VWP) has allowed nationals of certain ally countries to travel to the United States without a visa since 1986. As a result of legislation I worked on with the Chairman, other members of this Committee, Congressmen Emanuel and Wexler, and many others, in 2008, eight more of our allies were admitted to the VWP after agreeing to share terrorism, criminal and passport information with the U.S. I understand that if confirmed, you plan to review the VWP to determine whether you believe the program should be modified. As part of your review, will you work with the Department of State to fully understand the impact on our public diplomacy efforts if current VWP countries were excluded from the program?

Yes.

4. It's estimated that the VWP brings between \$75 and \$100 billion into the U.S. from travel, tourism and business each year, so in conducting your review, would you work with Congress and the Department of State, and also give adequate deference to the

perspectives of the U.S. travel and tourism industry and current and aspirant VWP countries?

I am well aware of the beneficial effect of the Visa Waiver Program on travel and tourism. Future decisions on the VWP must of course also pay close attention to US law enforcement and security interests. If confirmed, I will happily work with Congress and the Department of State in any review of the VWP, and I will listen carefully to the perspectives of the travel and tourism industry.

5. Full production of the next generation of radiation portal monitors, known as Advanced Spectroscopic Portal Monitors will require your certification. What approach will you take to ensure these new technologies meet operational requirements?

I have been briefed on the Department's efforts to-date to develop and deploy Advanced Spectroscopic Portal Monitors. If confirmed, I will work with the Domestic Nuclear Detection Office, the Science & Technology Directorate, U.S. Customs and Border Protection and other senior leaders in the Department – including the Under Secretary for Management – to ensure that Advanced Spectroscopic Portal Monitors meet the Department's operational requirements.

6. What assurance can you give to the Committee that future large-scale procurements at DHS will not repeat the mistakes of Deepwater?

I support a robust Department-level oversight role for DHS's major investments. Department-level oversight ensures that DHS is able to mitigate program risks before they occur, manage its acquisition portfolio in a manner that closes capability gaps and avoids unnecessary duplication, and demonstrate sound stewardship of homeland security funds. If confirmed, I will review the work done to date to enhance DHS Department-level investment oversight and determine if additional efforts are necessary to strengthen Department-level oversight for major investments.

7. Governor Napolitano, from your years of public service in Arizona, you have significant experience with border security issues. I believe our efforts to secure our borders must not hinder the free flow of legitimate commerce, and I read that as a governor, you have supported research on border security technology that does not hamper cross-border trade. As Secretary of DHS, would you have the Science and Technology Directorate or another component of DHS conduct similar research?

As Governor of a border state, I am intimately familiar with the need to both detect illegal cross-border activity and expedite inspection. Technology can play an important role in achieving both of those objectives. Under my leadership, Arizona redesigned and opened new corridors at its ports of entry. My experience as Governor of Arizona, however, also indicates that inadequate infrastructure, including technical infrastructure, of our land border ports of entry and the roads leading to them continue to pose significant challenges to border operations and the surrounding border communities.

If confirmed as Secretary, I look forward to working with Congress, the General Services Administration, U.S. Customs and Border Protection, the Science & Technology Directorate, the border states, and my counterparts in Mexico and Canada to coordinate planning and develop a funding stream for land border port of entry modernization projects. I expect these efforts will include border security research.

8. Given the different missions and focus of the organizations in DHS, and the possibility of threats entering our nation by any means or through any mode, do you feel it would be beneficial to create a systems approach that will synergize the various efforts across the department and create a systems approach for development of next generation technologies for screening, inspection, and the detection of threats for all types of cargo and modalities?

I am aware that the Department has already begun efforts to coordinate activities related to the screening of people across DHS, including activities associated with the innovation, development and reuse of technology. I am also cognizant of the efforts by TSA, CBP and USCG to bring new technologies to bear for the screening of cargo, such as the deployment of radiation portal monitors, and other programs such as the Secure Freight Initiative. I believe that a systems approach is beneficial and if confirmed, I will work with DHS leadership to conduct a review of these programs and identify opportunities for continued improvement using a systems approach.

9. During the 110th Congress, the Subcommittee on Oversight of Government Management held a hearing to discuss challenges facing the Federal Protective Service (FPS). Hearing testimony highlighted the security challenges posed by the current staffing plan. In Ohio alone, buildings requiring protection and security assessments outnumber personnel nearly 12 to 1. Should the federal landlord, the General Services Administration, assume responsibility for building security, or should FPS remain a component of DHS? What recommendations do you have for strengthening FPS?

I am aware of the challenges faced by FPS in protecting Federal buildings across America. If confirmed, I look forward to working with the Assistant Secretary for Immigration and Customs Enforcement and the Director of FPS to assess FPS's resources relative to its statutory mission. In undertaking such a review, I would invite and consider recommendations for strengthening FPS' role in protecting Federal property and people.

10. In recent months, the United States has seen incidents where U.S. citizens, typically second generation children of ex-patriots, return to their homelands for military training or to carry out attacks. The threat is particularly acute within the Somali community. Could you share your thoughts on possible strategies for outreach to communities, which can often be isolated through language and cultural barriers?

Based on briefings I've received, I understand that DHS is deeply concerned with the issue of U.S. persons returning to their homelands for military training or to carry out attacks. I am told that the Department is working with the FBI and other members of the

law enforcement community to address the issue. I also understand that DHS supports a number of efforts by state and local law enforcement agencies to reach out to ethnic communities, and that the Office of Civil Rights and Civil Liberties sponsors a number of cultural outreach programs on behalf of the Department. If I am confirmed as Secretary I will continue these efforts and work with my colleagues in the Obama Administration to ensure that we are doing all we can to engage those with different cultural or ethnic perspectives.

11. How will you interact with the Director of the Office of Civil Rights and Civil Liberties?

I believe CRCL should be an integral part of policy and legal discussions and the Office will serve in an advisory role to me as it has to previous Secretaries. As Secretary, I will consult with the Officer for Civil Rights and Civil Liberties to determine how best to support and enhance the Office's work in support of disability and special needs communities, its efforts to provide guidance and standards for Equal Employment Opportunity programs, and its work to investigate and resolve complaints from the public involving alleged violations of civil rights.

12. During the Committee's July 10, 2008 hearing, "The Roots of Violent Islamist Extremism and Efforts to Counter It," Dr. Peter Mandaville testified, "while there is not yet evidence of systematic or widespread threat of home-grown terrorism in the United States, it is worth considering the kind of circumstances that might allow such a situation to emerge." What will you do as Secretary to avoid creating, as Dr. Mandaville discussed, a "grievance base" by which the Muslim population is further alienated?

The American Muslim community is part of the fabric of America and has been for generations. DHS supports a number of outreach efforts by state and local law enforcement agencies and has led the interagency in this area with a number of programs through CRCL. As Secretary, I will work to ensure that DHS and its officers and employees treat all Americans with the same fairness and respect.

13. Since its inception, the Department of Homeland Security has become increasingly global as its various components "push out" our borders to increase our level of security. This is particularly true of joint agency programs such as the Secure Freight Initiative, Visa Waiver Program and the Coast Guard's Ship Rider program. Can you discuss your experience with respect to similar programs where international and interagency coordination is required?

As Governor of a border state, issues of cross border coordination were a routine part of my duties. As United States Attorney for the District of Arizona, Arizona Attorney General, and Governor, I worked with DHS, the FBI, the Drug Enforcement Agency, and other US Government entities on cross-border issues requiring interagency coordination related to immigration, border security, and narcotics trafficking. During my tenure as Governor, Arizona built an interoperability pilot with the state police of Sonora, Mexico, the Mexican state that borders Arizona to the south. I understand that international and interagency agreements are critical to DHS's work, and if confirmed as Secretary, I look

forward to working with the State Department, other Federal departments and agencies, and the Department's international partners on issues of shared concern and national security.

14. Governor Napolitano, from your years of public service in Arizona, you have significant experience with southwest border security issues. I think more attention needs to be paid to our northern border, and I applaud your plan to work with other federal agencies and Canada to gain operational control of that border. As Secretary of Homeland Security, would you pay equal attention to northern border security issues as southwest border security issues?

If confirmed as Secretary, I will reinforce the need to work across all components of the Department, throughout the Federal interagency, and with our Canadian partners to guide the design, development and deployment of the people, technology and tactical infrastructure required to gain operational control of the Northern border. I believe that both the northern border and the southwest border require DHS attention.

15. I understand you have expressed an interest in visiting the northern border to see first-hand the issues that exist there. As part of that tour, will you visit Ohio's maritime border with me to understand the risks and needs on such borders and see some of the small vessel issues you referenced in your pre-hearing questionnaire?

Threats associated with the potential exploitation of small maritime vessels are a significant concern. I have been briefed on the progress that the Department has made thus far to address these concerns, including the extensive consultations with the small vessel community as well as both public and private sectors. However, much remains to be done and if I am confirmed, I will certainly take advantage of opportunities to further explore this important issue.

16. The Great Lakes has more than four million registered boaters operating within its boundaries. Boaters rely on the United States Coast Guard during emergencies. In an effort to speed response time, which in turn saves money and possibly lives, the Coast Guard is seeking to upgrade its antiquated search and rescue communications system through the Rescue 21 program. Software challenges, as well as construction and land management issues, have delayed the deployment date for the Great Lakes until August 2010. What are your plans for ensuring full deployment of this vital program, particularly at a time when the Coast Guard is continually being asked to do more with less?

If confirmed, I will work with the Coast Guard as well as the Department's management officials to review the status of the Rescue 21 program and ensure that the Department is taking appropriate action to implement the Rescue 21 program consistent with sound acquisition principles and processes.

**Senator Susan M. Collins
On behalf of Senator Charles Grassley
Additional Questions for the Record
Nomination Hearing of Janet Napolitano
January 15, 2009**

1. I would like to know what your position is regarding amnesty.
- a. Should President Obama propose an immigration system that allows illegal aliens to become legal permanent residents or citizens, how will you ensure that those waiting in line to come here legally are treated fairly and are not overlooked by the millions of people who will benefit from such a system?

In many previous statements on this issue, I have said that we must pursue a realistic policy regarding those currently in the country illegally and provide them with a tough but fair opportunity for them to earn the privilege to stay legally. The solutions on each extreme – blanket amnesty and mass deportation – are both unrealistic and would be obvious mistakes. Especially considering that many families are of mixed legal status, a tough, fair, realistic approach is needed to reach a resolution on this population within the U.S.

- b. What kind of English and civic requirements will you push to include in an immigration bill, if one is to be debated this year? Last year's bill only required them to sign up for a class, not to be proficient in our language. Will you push to strengthen these requirements if one is to benefit from an amnesty program?

It is premature for me to comment on specific legislative proposals, but I understand that a reformed system must support families, meet the legitimate needs of U.S. businesses, and fulfill the nation's proud tradition of protecting refugees.

Along with President-elect Obama, I believe that immigrants want to learn English, and that to succeed in America they have to speak English. We should concentrate on measures that will help immigrants reach this shared goal.

- c. Would you support a trigger in any immigration bill that provides a path to citizenship for illegal aliens?

The comprehensive immigration reform proposals of the last few years have provided for the current unauthorized population to gain legal status only after the immigration of those currently waiting in line for a green card. If I am confirmed as Secretary, I look forward to working with my colleagues and Members of Congress to determine the appropriate paths to, timing of, and benefits associated with any legalization program.

2. I'd like to explore your views on visa policies.
- a. Do you agree that the H-1B visa program needs to be fixed before we allow an annual increase in the visa supply? Will you commit to doing more random audits and site visits to reduce the fraud and abuse in the program?

The H-1B visa program is important for the economic health of the United States. The availability of the most highly skilled workers from around the world is vital to certain industry sectors, but we must be careful so that those gains do not come at the expense of equally

qualified American workers. If confirmed, I will work with the Executive Office of the President, as well as the heads of USCIS and the Department of Labor, to determine whether changes are needed to this program. DHS needs to do as much as possible under the law to reduce fraud and abuse in this program, and I am open to considering a wide range of steps to this end.

b. What kind of English and civic requirements will you push to include in an immigration bill, if one is to be debated this year? Last year's bill only required them to sign up for a class, not to be proficient in our language. Will you push to strengthen these requirements if one is to benefit from an amnesty program?

It is premature for me to comment on specific legislative proposals, but I am committed to supporting effective measures that advance the goal of promoting the ability to speak English. Along with President-elect Obama, I believe that immigrants want to learn English, and that to succeed in America they have to speak English.

c. Would you support a trigger in any immigration bill that provides a path to citizenship for illegal aliens?

The comprehensive immigration reform proposals of the last few years have provided for the current unauthorized population to gain legal status only after the immigration of those currently waiting in line for a green card. If I am confirmed as Secretary, I look forward to working with my colleagues and Members of Congress to determine the appropriate paths to, timing of, and benefits associated with any legalization program.

3. I'd like you to discuss your position on interior enforcement.

a. How will you ensure cooperation between your department and state and local law enforcement who ask the feds for help in apprehending, detaining and deporting illegal aliens?

It is important for federal and state governments work together to facilitate effective immigration enforcement and to reinforce the rule of law. These are legitimate concerns for both jurisdictions. If confirmed, I look forward to working with the Executive Office of the President, other departments and agencies, the Department's senior leaders, the Congress, local and state elected officials, and law enforcement officials to ensure effective cooperation between DHS and State and local law enforcement, recognizing that immigration enforcement is predominantly a federal responsibility. All such efforts must assure that the legitimate rights of citizens and visitors are fully respected.

b. Will you continue to sign agreements with state and local law enforcement to delegate immigration authority; that is, will you support the 287(g) program authorized in 1996?

As Governor of Arizona, I have supported the concept and use of 287(g) programs. Indeed, at my direction, the State of Arizona executed several 287(g) agreements with the United States. If confirmed, I look forward to working with the Executive Office of the President, my Cabinet colleagues, senior officials in the Department, Congress, state and local officials, and other interested parties to determine whether modification or expansion of the 287(g) program would be appropriate.

c. Will you commit to increasing interior enforcement of our immigration laws, including the hiring of more ICE agents and continuing worksite enforcement efforts?

As noted above, my experience as U.S. Attorney for the District of Arizona, Arizona Attorney General and Governor of Arizona has given me a view of the complex ramifications of immigration and border policy – the need to crack down on illegal border crossings, while at the same time facilitating the legal cross-border commerce vital to our nation's economic health, and creating a system of legal immigration that addresses America's many labor needs. Reducing the magnet of illegal employment is a critical component of a workable immigration system. Toward that end, ICE pursues worksite enforcement efforts to ensure that employers hire only legally authorized workers. If confirmed, I will take a close look at the design and operation of worksite enforcement actions to ensure that the focus is on unscrupulous employers, subjecting violators to appropriate criminal punishment, deterring future violations, and encouraging employers to work with ICE to establish sound compliance programs that prevent unlawful hiring, avoid burdening legitimate new hires, and preclude discriminatory practices. I will also review the staffing levels and mission requirements of ICE special agents with the Assistant Secretary for ICE, in order to ensure that there is an adequate number of agents to meet ICE's multiple investigative missions.

4. I'm very interested in hearing your views on the E-Verify program.
a. Will you support reauthorization of E-verify?

As Governor of Arizona, I signed an Executive Order requiring the State of Arizona to use E-Verify in its everyday business. I also signed an employer sanctions law that punishes businesses from knowingly and intentionally hiring illegal labor by recalling the businesses' state-issued licenses. The law also mandated the use of E-Verify to check a potential worker's legal status. I would be open to proposals to reauthorize E-Verify, as well as other efforts to build a reliable system to ensure that employers hire legal workers.

- b. Will you work with small businesses and those in rural areas to increase participation in this free program?

If confirmed as Secretary, I will work with the Director of USCIS to ensure that we are reaching out to small businesses and rural areas to increase their participation.

- c. Will you retain the executive order mandating that all contractors of the U.S. government use E-Verify? How will you enforce this rule?

As I noted above, as Governor of Arizona, I signed a law requiring the use of E-Verify by all employers in the state. I have also consistently emphasized the need for the Federal government to do more to enforce our nation's immigration laws. If confirmed as Secretary, I will work with the Executive Office of the President, USCIS and ICE, other agencies and Departments, and the government vendor community to ensure the Federal government hires only legal workers.

5. Will you pledge to cooperate with Congressional oversight efforts and be responsive to all Congressional requests for information in a timely manner? Will you commit to ensuring that every whistleblower is treated fairly and that those who retaliate against whistleblowers are held accountable? Do you believe whistleblowers who know of problems with matters of national security should be prevented from bringing that information to Congress?

I fully respect Congressional legislative oversight functions and will establish throughout the Department a policy and culture of responding appropriately and expeditiously to any and all information requests from Congress. I believe that employees who report misconduct – or "whistleblowers" – are entitled to the full protection of the law and should not be subject to unlawful retaliation. I also believe, however, that "whistleblower" comments should be fairly analyzed for their completeness and veracity, just as comments would be from and other source.

Post Hearing Questions
Submitted by Susan M. Collins, Ranking Member
On the behalf of Senator Arlen Specter for the
Nomination of Janet Napolitano to be
Secretary of Homeland Security

January 15, 2009

- I. During the 109th and 110th Congresses we vigorously debated comprehensive immigration reform in which the Bush Administration supported. How do you plan to address the challenges of legal and illegal immigration? Do you believe there ought to be limits on legal immigration? If so, what kind of limits? Do you support comprehensive immigration reform? If so, what are your priorities for such legislation? Would it include expanding current visa programs to better fit the needs of American businesses?

Serving as U.S. Attorney for the District of Arizona, Arizona Attorney General, and Governor of Arizona has put me in a position to address the challenges of the border head-on for the past 16 years. My experience has also given me a view of the complex ramifications of immigration and border policy. I understand the need for resolute and effective enforcement of the immigration laws, and the complementary need to facilitate the legal cross-border commerce vital to our nation's economic health. The situation is complex, and only a balanced, comprehensive approach can ensure America's security, build our economy, uphold the rule of law, and continue America's tradition as a welcoming nation.

Building on what I said in a speech before the National Press Club in 2007, comprehensive immigration reform must consider the following elements, but the exact mix and timing should be given careful review in light of our current economic situation: the development of innovative, technology-driven border control between ports of entry; reform of our visa programs; well-designed revisions to our system for legal immigration in order to meet our labor needs and to promote family unification; providing a tough but fair opportunity for those currently in America illegally to earn the ability to stay in the country legally; the enhancement of interior enforcement, focusing on employers who break the law; modernization of border infrastructure to facilitate the flow of legal commerce; and the engagement of the "source nations" from which illegal migration comes.

If confirmed as Secretary, I look forward to working with the Congress to meet this challenge.

Are you committed to tracking foreign individuals in the United States? Please explain which programs you would expand, and how you would expand them. Please explain your positions on SEVIS and US VISIT.

I understand that DHS has several programs underway, such as SEVIS and US-VISIT, which respond to long standing legislation directing DHS to monitor and record specific interactions of foreign students and visitors. If confirmed, I will work closely with the Executive Office of the President, with other agency and Department heads, with Congress, and with the Department's senior officials and other interested parties, public and private, to examine the current plans for the US-VISIT and SEVIS programs and modify those plans as appropriate.

2. How do you plan to secure the Nation's borders and infrastructure from smuggling (human, narcotic, cash bulk, etc.)? Will you continue to ask for increased funding to secure the border? Would you support the concept of a "virtual fence" or using surveillance and technology to monitor smuggling and illegal crossings? What about additional fencing and barriers between the United States and Mexico?

As has been explained to me, and as I know from my experience as Governor of Arizona, DHS utilizes a mix of personnel, infrastructure, technology and other strategies to secure our nation's border. For instance, I am told that the Border Patrol has implemented a standardized national planning process that assesses the control level of every mile of the border, and directly links its resource requests (Border Patrol agents, air support, fencing, radars, cameras, ground sensors, etc.) with the operational requirements needed to ultimately gain control of the border. The deployment of resources must be based on the operational assessments of the threats and vulnerabilities to the Nation's border. As Secretary, I would consult with my colleagues in the Obama Administration, the Commissioner of CBP, the Department's other senior leaders, Members of Congress, and state and local officials along the border to identify requirements and ensure that funding is allocated to the highest priority needs. Ultimately, secure borders will depend on a mix of technology, physical infrastructure, personnel and national policies. We must not forget the importance of sustainable immigration policies on our ability to gain effective control of our borders.

Currently, there are approximately 18,000 border patrol agents. Do you support increasing the number of agents? How do you feel about putting National Guard troops at the border?

The growth in Border Patrol agents has been important in gaining additional control of the border between our ports of entry. To my understanding, CBP assesses the need for Border Patrol agents and other personnel in order to achieve effective control of the border. If confirmed, I will work with the Commissioner of Customs and Border Protection to review this process, and to assess how the deployment of additional technology will impact Border Patrol agent staffing requirements. Increased manpower is part of the answer, but we must ensure that we are able to recruit the right agents, and train, equip, deploy and support them effectively. With respect to the National Guard, I have continued to believe in the use of the National Guard in its support capacity to secure the border. I proposed their use prior to the announcement of Operation Jump Start, and since the end of Operation Jump Start, the National Guard has continued to support the Border Patrol in a limited way through counter-drug missions and participation in annual training projects. If confirmed as Secretary, I will consult with the Commissioner of Customs and Border Protection and advocate for the deployment of the National Guard with the Secretary of Defense and the President.

Also, will you hold accountable those who contract with the government to secure the border and make sure that taxpayer dollars are not wasted?

Yes. I believe that the appropriate deployment of technology along the border enhances Border Patrol agents' ability to secure our borders and that the development of such tools is an important priority. It must, however, be done in a manner that is responsible and yields demonstrable benefits. If confirmed as Secretary, I will work with the Under Secretary for Management and the Department's senior leaders to review all acquisition and procurement practices, including those relating to securing the border, and ensure that the Department's activities are in line with applicable contracting laws, rules and regulations. Improving the

department's acquisition systems, program management and contracting performance will be a priority.

3. What is your specific plan for the care and custody of detainees, and as Secretary, will you continue with "catch and detain" or revert back to "catch and release"? If "catch and release", will you use methods under the DHS Alternative to Detention Program, such as global monitoring devices, along with the issuance of a Notice to Appear?

As Governor of a border state, I am familiar with DHS's detention policies. Assuring adequate detention capacity is critical to successful immigration enforcement, but we must also develop alternatives to detention in our search for cost-effective measures that are equally capable of advancing the Department's enforcement mission. As noted in my responses to my pre-hearing questionnaire, I will consider modifications to DHS's parole policies, including alternatives to detention, only where appropriate and when there is adequate evidence that a detainee will not disappear. I would make any changes after consulting broadly inside and outside government.

4. A September 2008 report by the Government Accountability Office (GAO) detailed the aggressive expansion made by the executive branch to include additional countries to the Visa Waiver Program (VWP). On November 17, 2008, the VWP was expanded to include the Czech Republic, Estonia, Hungary, Latvia, Lithuania, the Republic of Korea and the Slovak Republic. On December 30, 2008 Malta joined the VWP. The report noted that the process to include these countries has caused confusion among interagency partners as well as aspiring countries who meet the requirements for inclusion, but MOUs were not negotiated (i.e., Croatia, Taiwan, and Israel). Do you support further expansion of the Visa Waiver Program? If so, what steps need to be taken to facilitate other countries participation into the Program?

Based on information provided to me by the Department, I understand the recent admission of eight countries to the VWP was the culmination of a lengthy and deliberate process that involved both the executive and legislative branches. This process—as the GAO acknowledged in its September 2008 report—resulted in several significant security enhancements to the VWP. If confirmed, I would make any decision to expand the program further on a country-by-country basis after a careful and comprehensive analysis of US security interests and that country's overall suitability for the program. Such a global assessment of all relevant factors would necessarily involve other agencies besides DHS and, as statutorily required, the final determination would be made by the Secretary of Homeland Security in consultation with the Secretary of State.

5. Tens of thousands of aliens ordered removed from this country are released back onto U.S. streets because their home countries refuse to repatriate them. Many of these aliens are criminals who have served time in our federal, state, and local jails. Refusal to repatriate is particularly damaging because the Supreme Court has generally limited the continued detention of aliens ordered to be deported to 180 days. Section 243(d) of the Immigration and Nationality Act specifically provides that, upon notification by the Attorney General -- given now by the Secretary of Homeland Security -- that a "foreign country denies or ...delays accepting an alien...the Secretary of State shall ...discontinue granting...visas to citizens...of that country" until the country accepts the alien. Congressional intent was clear, and the remedy was extremely effective when applied against Guyana several years ago. Unfortunately, the Congressional Research Service has not identified any other instance

in which the sanction was imposed. Would you commit as Secretary of Homeland Security to ensuring congressional intent is fulfilled by notifying the Secretary of State when a country refuses or unreasonably delays taking back its criminals so that sanctions will be imposed?

Sanctions must be one measure available if a nation refuses to repatriate its citizens, but it is a powerful tool with major foreign policy implications. If I am confirmed, I look forward to working with my colleagues in the Obama Administration and the Department of State to develop effective strategies regarding nations that refuse to repatriate their citizens.



STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOROFFICE OF THE GOVERNOR
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007MAIN PHONE: 602-542-4331
FACSIMILE: 602-542-7601

November 5, 2007

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

I am writing with respect to the Topoff 4 exercise that recently took place in Arizona, Oregon and Guam. The elaborate, expensive Topoff process has promise. Nonetheless, I have some substantive concerns that need to be raised to your level.

First, the elapse between exercise and formal feedback to the participants is too long. Topoff 3 took place in 2005 and the federal after action report has yet to be released. It makes no sense to conduct Topoff 4 if those involved have not been able to incorporate the lessons learned from Topoff 3. If there is a sense of urgency about these exercises -- and there should be -- I ask that you direct after action reports be completed no later than ninety days after the completion of the exercise.

Second, the planning period for Topoff 4 was too expensive, too protracted and too removed from a real-world scenario. In my view, we need to conduct many of these exercises on a more frequent, less elaborate basis. Frankly, when you have months to prepare for an exercise and you know the exact scenario being contemplated, a large part of the exercise's value is lost. It becomes a rather elaborate game as opposed to checking the capacity of a particular state to respond quickly to an emergency. Indeed, most states and localities cannot afford to participate in a Topoff exercise because to participate in the exercise depletes the very finances necessary to be prepared in the event of a real catastrophe. In light of my own experience, I would be hard pressed to ask my successor as Governor to participate in the Topoff exercises as currently designed. They just aren't useful enough for the expense and man-hours consumed.

Third, even given the months of planning, the Memorandum of Agreement between Arizona and the federal government was unduly delayed. Arizona's MOA for Topoff 4 was signed less than one week before the exercise began, yet it was ready for signature in late July of 2007. State and local governments need these documents in order to move the necessary finances to support a Topoff exercise. I ask that you direct that these types of bureaucratic delays be remedied.

Fourth, the exercise revealed some immediate gaps in federal-state relations. The Transportation and Security Administration, for example, never contacted the director of the Arizona Department of Homeland Security during the exercise even though the state's largest

The Honorable Michael Chertoff
November 5, 2007
Page Two

airport, Sky Harbor International, had been shut down during the exercise. A protocol should be established so that the TSA informs the state director of Homeland Security immediately of any airport closure.

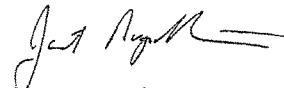
Similarly, the director of the Arizona Department of Homeland Security received no intelligence from the National Operations Center (NOC) until it was brought to official's attention late into the Topoff4 exercise. As the Homeland Security Advisor to the Governor, she needs to receive that information directly from the NOC, or any other appropriate federal source, as if this were a real life incident.

Finally, the Topoff4 exercise does not accurately incorporate the top decision makers who would actually be involved in the event of a catastrophic scenario. In real life, as Governor, I would be in touch minute to minute with the events unfolding in our emergency operations center, around the state, and as intelligence is developed throughout the country. During an exercise, however, I am merely asked to show up at different rehearsal points during the exercise. Even with that limited involvement, however, I found a significant federal-state problem. Specifically, I directly requested to speak with, and be briefed by, the principal federal official (PFO) on site. Despite my request, the PFO left the scene without making any contact with me. You need to instruct the principal federal officials that among their most immediate and important contacts are with the actual lead elected officials.

While I have many more comments I could make about Topoff 4, I wanted you to have these immediately before any other exercises are attempted. I offer these comments in the hopes of improving the process as I know we both share the desire to have the best-prepared citizen government that we can in case of an actual emergency. Without your direct involvement, however, I feel that the Topoff exercises will become another rehash of exercises that have been conducted in the past with no elevation of urgency, relevancy, or utility.

If I can provide any help or assistance as you contemplate these matters, please do not hesitate to call on me.

Yours very truly



Janet A. Napolitano
Governor, State of Arizona



STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOROFFICE OF THE GOVERNOR
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007MAIN PHONE: 602-542-4331
FACSIMILE: 602-542-7601

October 1, 2008

VIA FACSIMILE AND U.S. MAIL

The Honorable Michael Mukasey
 Attorney General of the United States
 United States Department of Justice
 950 Pennsylvania Avenue, N.W.
 Washington, D.C. 20530

Re: State Criminal Alien Assistance Program Invoices

Dear Attorney General Mukasey:

I enclose with this letter an invoice for \$501,252,637.92 for costs incurred by the State of Arizona to incarcerate criminal aliens that remain unreimbursed by our federal government and penalties for non-payment. I'm referring to the uncompensated costs Arizona's state government has incurred since 2003 for incarcerating criminal aliens under the State Criminal Alien Assistance Program ("SCAAP"). As you know, the federal government is required by law to pay these costs, but has refused to pay more than pennies on the dollar.

By refusing to fully reimburse Arizona for its SCAAP costs, the federal government has unfairly forced Arizona to bear the federal government's costs arising from its failure to adequately secure its borders. This comes at a time of severe financial hardship for Arizonans, who were disproportionately affected by the housing market downturn and credit market tightening. This spring I let you know that Arizona faced the largest budget shortfall in its history. We continue to face grim economic news. Arizona can no longer afford to continue this subsidization at the cost of necessary public safety, education and health services desperately needed by our citizens.

The enclosed invoice details all unpaid costs incurred by the State of Arizona since 2003, the interest costs incurred on the unpaid balance and penalties for failure to pay. As always, I remain available to meet with you personally on this important issue.

Yours very truly,

Janet Napolitano
GovernorJN:LK/jm
Encl.

State of Arizona
1700 West Washington
Phoenix, AZ 85007

Invoice

Invoice Date: October 1, 2008

Description	Average Daily SCAAP Population	Per Diem Cost	Number of Days	Amount Due
FY 2008 State Expenditures - State Criminal Alien Assistance Program (SCAAP):				
July 2008	5,868	\$58.21	31	\$ 10,227,982.68
August 2008	5,884	\$58.21	31	\$ 10,238,834.64
Total Amount Due for FY 2008 State Expenditures				\$ 20,466,817.32
FY 2008 State Expenditures - State Criminal Alien Assistance Program (SCAAP):				
July 2007	4,893	\$58.21	31	\$ 8,829,487.43
August 2007	5,030	\$58.21	31	\$ 9,078,588.30
September 2007	5,051	\$58.21	30	\$ 8,838,024.30
October 2007	5,069	\$58.21	31	\$ 9,147,381.19
November 2007	5,053	\$58.21	30	\$ 8,824,053.90
December 2007	5,182	\$58.21	31	\$ 9,350,170.82
January 2008	5,244	\$58.21	31	\$ 9,482,850.44
February 2008	5,301	\$58.21	29	\$ 8,848,385.09
March 2008	5,463	\$58.21	29	\$ 9,222,038.67
April 2008	5,528	\$58.21	29	\$ 9,331,781.82
May 2008	5,639	\$58.21	29	\$ 9,519,139.31
June 2008	5,605	\$58.21	29	\$ 9,481,744.45
Total Amount Due for FY 2008 State Expenditures				\$118,012,358.82
FY 2007 State Expenditures - State Criminal Alien Assistance Program (SCAAP):				
FY 2007 State Expenditures	4,581	\$58.21	365	\$ 97,326,478.89
SCAAP Reimbursements in FY 2008 for FY 2007 State Expenditures				\$ (12,788,858.00)
Total Amount Due for FY 2007 State Expenditures				\$ 84,537,620.89
FY 2006 State Expenditures - State Criminal Alien Assistance Program:				
FY 2006 State Expenditures	4,264	\$58.21	365	\$ 90,582,979.73
SCAAP Reimbursements in FY 2007 for FY 2006 State Expenditures				\$ (14,323,932.00)
Total Amount Due for FY 2006 State Expenditures				\$ 76,259,047.73
FY 2005 State Expenditures - State Criminal Alien Assistance Program:				
FY 2005 State Expenditures				\$ 77,125,339.50
SCAAP Reimbursements in FY 2007 for FY 2005 State Expenditures				\$ (13,601,247.00)
Total Amount Due for FY 2005 State Expenditures				\$ 63,524,092.50
FY 2004 State Expenditures - State Criminal Alien Assistance Program:				
FY 2004 State Expenditures				\$ 77,807,891.12
SCAAP Reimbursements in FY 2006 for FY 2004 State Expenditures				\$ (12,439,781.00)
FY 2004 Expenditures Not Reimbursed				\$ 65,368,110.12
FY 2003 State Expenditures - State Criminal Alien Assistance Program:				
FY 2003 State Expenditures				\$ 71,039,385.20
SCAAP Reimbursements in FY 2004 for FY 2003 State Expenditures				\$ (6,808,219.00)
FY 2003 Expenditures Not Reimbursed				\$ 64,231,166.20
Fees for Late Payment (\$500,000 for each year of non-payment)				
FY 2003				\$ 2,000,000.00
FY 2004				\$ 1,500,000.00
FY 2005				\$ 1,000,000.00
FY 2006				\$ 500,000.00
Total Late Payments				\$ 5,000,000.00
Interest on Past Due Amounts:				
Interest on FY 2003 Expenditures Not Reimbursed				
(Interest from 10/1/04-2/29/08 at 1.81%)				\$ 4,529,833.44
Interest on FY 2004 Expenditures Not Reimbursed				
(Interest from 10/1/05-2/29/08 at 1.81%)				\$ 3,448,828.87
Interest on FY 2005 Expenditures Not Reimbursed				
(Interest from 10/1/06-2/29/08 at 1.81%)				\$ 2,198,225.83
Interest on FY 2006 Expenditures Not Reimbursed				
(Interest from 10/1/07-2/29/08 at 1.81%)				\$ 1,786,952.58
Total Interest on Past Due Amounts				\$ 11,438,640.54
Total Amount Due				\$801,252,637.82

If you have any questions regarding this invoice, please contact Leezie Kim at 602-542-1586.



**International Association of
Chiefs of Police**

515 North Washington Street
Alexandria, VA 22314-2357
Phone: 703-836-6767; 1-800-THE
IACP
Fax: 703-836-4543
Web: www.theiacp.org

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Alexandria, VA

Deputy Executive Director
Chief of Staff
James W. McMahon
Alexandria, VA

December 19, 2008

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Lieberman:

On behalf of the more than 22,000 members of the International Association of Chiefs of Police (IACP), I am pleased to inform you of our support for the nomination of Governor Janet Napolitano to be Secretary of the Department of Homeland Security (DHS). The IACP believes that Governor Napolitano's years of service in state government clearly demonstrate her qualifications; she has the experience necessary to be an effective leader of DHS.

Governor Napolitano's experience as Governor and Attorney General of Arizona has provided her with an invaluable executive experience and a unique perspective on criminal justice issues. As governor of Arizona, Napolitano implemented the first state homeland security strategy in the nation and opened the first state counter-terrorism center. The IACP believes that Governor Napolitano understands the crucial role played by state, local, and tribal law enforcement agencies and will be a leader in coordinating federal, state, local, and tribal homeland security efforts.

The IACP urges you to confirm Governor Napolitano's nomination rapidly.

I look forward to your positive response to this request. If you have any questions on this matter, please contact the IACP at 703-647-7211.

Sincerely,

Russell B. Laine
President



Chicanos Por La Causa, Inc.

1112 East Buckeye Rd.
Phoenix, Arizona 85034-4043
(602) 257-0700 Fax: (602) 256-2740
www.cplc.org

Edmundo Hidalgo
President and CEO

December 19, 2008

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HDBank

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City of Phoenix (Resident)

Sofia M. Salas
Islamic Medical School

Ray Salazar
Arizona Department of Corrections



United States Senator Joseph L. Lieberman
Chairman of the Senate Homeland Security and Governmental Affairs Committee
340 Dirksen Senate Office Building

FAX: 202-228-3792

SUBJECT: Governor Janet Napolitano, State of Arizona

Dear Chairman Lieberman:

With this letter, Chicanos Por La Causa, Inc. (CPLC) proudly announces its support of Arizona Governor Janet Napolitano as she steps into her role as Secretary of Homeland Security under the Presidency of the Honorable Barack Obama. As a statewide community development corporation, serving Arizona for almost 40 years, CPLC has had the opportunity to work closely with Ms. Napolitano during her terms as Arizona's Attorney General and as our Governor.

During our work with this outstanding community leader, we have observed her strong commitment to giving back to the community, which she exemplified by her extensive volunteer work throughout Arizona. Our Governor has demonstrated an array of strengths, including a collaborative and inclusive management philosophy, keen financial management skills, superior analytical aptitude, and a comprehensive knowledge of local, national and international issues. She also has the critical ability to work closely with diverse philosophies and communities and focus on results.

Governor Napolitano has earned the respect of Arizona voters, including those in the Hispanic community. They have observed her integrity, perceptiveness and determination and have witnessed the fruits of her leadership. She is also highly respected among the nonprofit and business communities and her peer elected leaders from neighboring states and Mexico. This exemplifies her outstanding competence as a national and international leader.

Given Governor Janet Napolitano's exceptional credentials, record of lasting results and personal characteristics, CPLC wholeheartedly endorses her as our country's new Secretary of Homeland Security. We have no doubt that our nation will benefit from her commitment to excellence in leadership.

Respectfully Submitted,

Edmundo Hidalgo
President and CEO

cc: Senator Susan Collins

Thomas H. Melcher
Chief Deputy



James A. Eskew
Jail Commander

Office of
Sheriff of Gila County
John R. Armer

December 19, 2008

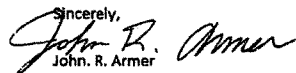
Senator Joe Lieberman
Homeland Security and Governmental Reform Committee
340 Dirksen Senate Office Building
Fax: 202-228-3792

In the forty plus years that I have been in law enforcement, I have worked with a great number of professionals in the public safety field and am confident in my ability to identify the truly sincere and capable from those who are less so. I have known and worked with Governor Janet Napolitano for over sixteen of those years. I knew her first as a very knowledgeable private attorney who was civic minded contributing a great deal of her time, without compensation, to causes for which she had strong feelings. As the U.S. Attorney she was a strong prosecutor and advocate for victims rights. The type of prosecutor that police officers love to work with.

My experience working with Ms. Napolitano as the Governor of the State of Arizona has been a refreshing change from past experiences. She appears tireless in her approach to the job maintaining constant contact with potential problems and events throughout the state. She has always been willing to work special events into her busy schedule and for rural areas of the state, it is always memorable to have the chief executive make a personal appearance. I have had several occasions in my eight years as Sheriff of Gila County to call on the Governor for assistance with emergencies in my county (flooding or wildfires mostly). More often than not, she has called me with an offer to help before I had the opportunity to make the request. The point is that she stays in constant contact with issues that impact the welfare of the people she serves.

One last talent that I have observed is that Governor Napolitano has great insight into the capabilities of others and surrounds herself with like-minded public servants who are dedicated to getting the job done. She is a no-nonsense manager who demands the same degree of commitment and dedication that guides her life.

While Governor Napolitano's appointment to head the United States Department of Homeland Security creates a void that will be difficult to fill in Arizona, her efforts in the area of border and domestic security locally will serve us well nationally and I am confident that we will be a safer, more secure nation as a result. I strongly urge your support in that appointment.

Sincerely,

John R. Armer
Sheriff

P.O. Box 311, Globe, AZ 85502 – Phone: (928)425-4449 – Toll Free: (800) 635-8017 – Fax: (928) 425-5674
108 Main St., Payson, AZ 85541 – Phone: (928)474-2208 – Toll Free: (866) 866-4452 – Fax: (928) 474-0614



Ralph E. Ogden
Sheriff

Major Leon N. Wilmot
Chief Deputy

Matthew Catron
Administration Bureau

Capt. Mark Martinez
Detention Bureau

Capt. Eben Bratcher
Patrol Bureau

141 S. Third Avenue
Yuma, Arizona
85364-2255

Phone: (928) 783-4427
Fax: (928) 539-7837

www.yumacountysheriff.org

Yuma County Sheriff's Office

19 December 2008
Via fax 202-228-3792

Honorable Joseph Lieberman
Homeland Security and Governmental Reform Committee
340 Dirksen Senate Office Building
Washington DC

Reference: Honorable Janet Napolitano
Letter of Support

Dear Senator Lieberman:

As the Sheriff of Yuma County, I am honored to write this letter of support for Janet Napolitano. She is a great public servant and I support her quest for the cabinet position of the Secretary of Homeland Security. I am confident that if confirmed, Governor Napolitano will give the new position the same dedication and diligence she has demonstrated as the Attorney General for the State of Arizona and the US Attorney for Arizona.

As a border Governor, she has developed a good working relationship with the Republic of Mexico and has a keen understanding of this nation's homeland security issues, border security and immigration.

Her foresight and subsequent action to provide an emergency border funding grant and to call in the National Guard to augment the law enforcement community in Arizona was instrumental in saving lives and turning the tide of incursions. Then and now, she calls for the federal government to accept the mantle of responsibility for this country's borders.

Governor Napolitano is known as a good communicator, receptive to innovation and change. She is a strong leader with a common-sense approach. When called upon, she will provide the same counsel and spirited discussion she has provided me. In the twenty plus years plus that I have known her, she has proven to be a person of high character and I wish her best success in these endeavors.

Please feel free to contact me directly should you have any questions.

Very truly yours,

RALPH E. OGDEN, SHERIFF

"Dedicated to Service"



The Tucson Hispanic Coalition is an organization that brings together the Tucson Hispanic Community, una familia unida--a united family.

December 21, 2008

United States Senator Joseph L. Lieberman
Chairman of the Senate Homeland Security and
Governmental Affairs Committee
706 Hart Senate Office Building
Washington, D.C. 20510

SUBJECT: Governor Janet Napolitano
State of Arizona

Dear Chairman Lieberman:

Southern Arizona's Hispanic community relationship with Governor Janet Napolitano spans over a few decades. The Southern Arizona Hispanic community has been afforded the opportunity to work closely with Ms. Napolitano while serving in her role's as Arizona's Attorney General, and as our Governor.

Prior to Governor Napolitano's involvement as an elected official we worked closely with her, and had the opportunity to observe her unselfishness nature and strong commitment to give back to the community, which she clearly demonstrated by her extensive volunteer work throughout Arizona.

What has been most impressive is to have observed the manner in which our Governor has consistently maintained very positive performance rating, while addressing numerous controversial and complex issues and having resolving them in a constructive and timely manner.

Governors Napolitano's judiciousness nature, her integrity and perceptiveness are characteristics that clearly endeared her to Arizona voters, and more so within the Hispanic community. The respect and credibility that Governor Napolitano has earned among her peers, the Arizona's electorate, and elected leadership from bordering state governments, and Mexico, S.A., alike substantiates her credential as a national and international leader.

Our Governor Napolitano's strengths include, but are not limited to; a collaborative (inclusive) management philosophy, keen financial management skills, superior analytical aptitude, along with an exceptional comprehensive knowledge of local, national and international issues. Most critical of which is her ability to work closely with diverse philosophies and communities and focus on results.

The Tucson Hispanic Coalition is an organization that brings together the Tucson Hispanic Community, una familia unida---a united family.

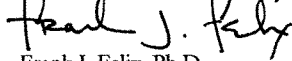
Ms. Napolitano is one of only a few exceptional governors to serve Arizona with distinction, and who has demonstrated a succinct understanding of the various facets of governance, a commitment to understanding of the financial revenue sources, their complexities and impact on the citizenry, and more importantly an unyielding commitment to her fiduciary responsibilities.

Having observed Governor Napolitano work successfully with diverse constituencies at the State, National and International levels, clearly demonstrates Ms. Napolitano has sharpened her abilities building effective teams and working partnerships across organizational boundaries to lead, drive and implement key strategic initiatives.

Given Governor Janet Napolitano's superior intelligence her exceptional credentials and personal characteristics we strongly support Governor Janet Napolitano. Without question we feel that Ms. Napolitano is uniquely qualified and prepared to assume a major decision-making leadership role.

We wholeheartedly endorse Governor Napolitano, and have no doubt that whatever role she may be assigned to manage and direct that; our nation and each state will benefit from her high degree of professionalism, and her dedication and commitment to excellence.

Respectfully Submitted,



Frank J. Felix, Ph.D.

President:

Tucson Hispanic Coalition (THC)

(THC represents twenty-six Hispanic organizations within Southern Arizona)



City of Phoenix
OFFICE OF THE POLICE CHIEF

December 22, 2008

The Honorable Joseph Lieberman, Chairman
Senate Committee on Homeland Security & Governmental Affairs
340 Dirksen Senate Office Building
Washington D.C. 20510

Dear Senator Lieberman:

Re: Nomination of Arizona Governor Janet Napolitano as Secretary of U.S. Department of Homeland Security

As head of the largest law enforcement agency in the state of Arizona, I offer my support for President-elect Obama's nomination of Governor Janet Napolitano as Secretary of the U.S. Department of Homeland Security. Governor Napolitano is a proven leader in Arizona who has championed many successful law enforcement initiatives and has served to advance the state's homeland security and preparedness strategies.

Homeland security has been a priority for state and local governments throughout Arizona under Governor Napolitano's leadership. As she has worked to develop the state's homeland security strategy, she has been receptive to input from local jurisdiction representatives regarding their homeland security priorities and has always put the formation of strong relationships first on her agenda. She has supported collaboration, and has also been willing to encourage cooperation and coordination of all state participants in advancing security strategies even with those agencies whose budgets would be significantly affected by the institution of such programs. In her representation of the State at national level meetings, she has been willing to volunteer Arizona for projects and programs that would serve to further improve homeland security strategies. This was evidenced by Arizona's recent participation in TOPOFF 4, the largest anti-terrorism drill ever held in the United States. The City of Phoenix was one of the lead local governments involved in the planning and participation of this vital exercise.

The Phoenix Police Department has been involved in numerous successful homeland security programs instituted during Governor Napolitano's tenure. One example is our Federal Emergency Management Agency (FEMA) deployments and unified command response with the Phoenix Fire Department supported by the Governor's office through our Urban Search and Rescue Teams. Another is our commitment of resources to the Arizona Counter Terrorism Information Center (ACTIC), one of the first fusion centers established in the United States. This center consolidates the resources of multiple agencies at the federal, state and local level at one location and provides an effective and efficient mechanism for exchanging information and intelligence. The ACTIC currently serves as a national model for fusion centers across the country. Added advancements in information sharing have continued through the establishment of the Terrorism Liaison Officer (TLO) Program which connects law enforcement with fire agencies and the public and private sectors through secure lines of communication.

620 West Washington Street, Phoenix, Arizona 85003 602-262-6747

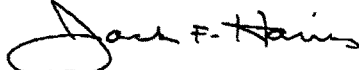
Senator Joseph Lieberman
Page 2
December 22, 2008

Governor Napolitano has been an advocate for increased funding in Arizona through the Urban Area Security Initiative and other federal homeland security grants. Millions of dollars have been secured for Arizona through these funding sources. These monies have been instrumental in furthering preparedness capabilities in jurisdictions within the Phoenix metropolitan area and throughout the state. Several notable accomplishments made possible through this funding have included security improvements at all Tier 1 critical infrastructure sites in Phoenix and the rest of the state as well as improvements to communication interoperability between federal, state and local public safety agencies within the Phoenix metropolitan area.

As the largest city in a border state, Phoenix has experienced first hand the shortcomings of our nation's immigration policies. In recent years, our city has seen increased levels of criminal activity associated with illegal immigration. Governor Napolitano has always been an advocate for strong border security. She has championed collaborative efforts with law enforcement in Arizona to deter, disrupt, and dismantle violent criminal organizations profiting from illegal immigration in the greater Phoenix and Maricopa County areas and has signed into law some of the most stringent legislation in the country cracking down on employers who knowingly hire illegal immigrants. She has also supported similar collaborative efforts to address serious criminal activity perpetrated by gangs and other violent repeat offenders in Arizona and has advocated the use of new technology and strong penalties to reduce crime.

I am proud to offer my support of Governor Napolitano. She has the experience and the leadership qualities necessary to move the nation's homeland security and preparedness initiatives to the next level.

Sincerely,



Jack F. Harris
Public Safety Manager

c: Senator Susan Collins

620 West Washington Street, Phoenix, Arizona 85003 602-262-6747



Pima County Sheriff's Department

1750 E. Benson Highway • Tucson, AZ 85714-1758
 Phone 520-351-4600 • Facsimile 520-351-4622
 www.pimasheriff.org

Clarence W. Dupnik
 Sheriff

KEEPING THE PEACE AND SERVING THE COMMUNITY SINCE 1821

December 23, 2008

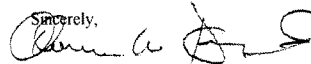
The Honorable Joseph Lieberman
 Chairman, Committee on Homeland Security and Governmental Affairs
 United States Senate
 Washington, D.C. 20510

Dear Senator Lieberman,

It is my honor to write this letter in support of Janet Napolitano as Director of the Department of Homeland Security. As the Sheriff of one of the largest counties in Arizona, my jurisdiction includes 130 miles of shared border with Mexico. I understand the importance of having someone in the position of Homeland Security Director who is cognizant of the importance of working closely with officials at all levels of government in finding solutions to the problems caused by drug and human trafficking. Additionally, Governor Napolitano has made it a priority to work to secure our borders from terrorists and others who would do us harm.

From the moment she became the United States Attorney for the District of Arizona in 1993, and continuing in her position as Attorney General for the State of Arizona in 1998, Governor Napolitano took an active role in addressing federal, state and local law enforcement issues. She has been a strong supporter of the concerns of law enforcement professionals since that time, reflecting this support in her service as the Executive Director of the Arizona High Intensity Drug Trafficking Area. Governor Napolitano has demonstrated her determination to work at all levels of government to uphold national security through a strong, unified effort to protect the American homeland and the safety of American citizens. She has been an avid supporter of cooperation between federal, state and local authorities in strengthening and enforcing laws governing our borders. She has worked to develop a strategic plan that includes a regional approach to border issues. She recognizes that it is a multi-faceted problem, not just one that must be faced by border towns and counties. In Arizona, she provided the leadership needed for people to cooperate on a global perspective to the problems associated with border security. She held people accountable and based grant-funding on cooperative efforts and a regional approach to border enforcement. She has experience with this issue in more than an academic sense. She has demonstrated that she has real-life experience in addressing the challenges that face the nation in these times of world-wide turmoil.

She has served the citizens of Arizona with honor and dedication. I am certain that she would be of great value to President-elect Barack Obama, and the citizens of this country. If you have any questions or would like further information, please do not hesitate to call my office at 520-351-4711.

Sincerely,


Clarence W. Dupnik
 Sheriff of Pima County

CWD/djc

TOHONO O'ODHAM NATION
Department of Public Safety

PO Box 837
Sells, AZ 85634
Voice (520) 383-8681
Fax (520) 383-8333



Corrections
Environmental
Protection
Office
Fire Protection
Law Enforcement
Office of
Emergency
Management
Tribal
Employment
Rights

Edward Reina, Jr.
Director

December 30, 2008

Senator, Joe Lieberman
Homeland Security and Governmental Reform Committee
340 Dirksen Senate Office Building
Washington, D.C.

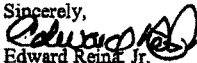
Dear Senator Lieberman,

I am writing to urge you to support Janet Napolitano for Secretary for the United States Department of Homeland Security. I am Edward Reina, Jr., Director of Public Safety for the Tohono O'odham Nation located in the southwest portion of Arizona bordering 75 miles of international border with the Republic of Mexico.

I base my request on the work experience I have had with Janet Napolitano during her terms as U.S. Attorney for Arizona, and the State of Arizona's Attorney General and more recently during her term as Governor of Arizona. Janet Napolitano has been particularly attentive to concerns expressed by all of her constituents, i.e. during her term as U.S. Attorney; she took time to meet with the family of a victim, in a very tragic case, to explain why her office had to decline prosecution. This simple act left the family with the knowledge that despite the legal barriers hampering the system the U.S. Attorney's Office, Janet Napolitano, truly cares. Because of this act, that family will remember her not because of the status of her office but because of what she did to comfort them.

Governor Napolitano has consistently supported the Tohono O'odham Nation regarding border security issues; often jurisdictional and sovereignty issues hamper State and Indian Country cooperation but, Governor Napolitano did not hesitate to provide support to the Tohono O'odham Nation. She provided political support and also state resources, including funds to assist in cleanup of the tons of trash left behind by illegal aliens.

This is the type of person that is necessary to administer the U.S. Department of Homeland Security. A person that truly cares for individuals, a must for our leaders, and an individual that will not allow real or perceived barriers to hamper efforts to enhance the security of our great Nation.

Sincerely,

Edward Reina, Jr.
Director of Public Safety
Tohono O'odham Nation


INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®

HAROLD A. SCHAITBERGER
General President

VINCENT J. BOLLON
General Secretary-Treasurer

January 5, 2009

The Honorable Joe Lieberman, Chairman
The Honorable Susan Collins, Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Lieberman and Ranking Member Collins:

On behalf of nearly 300,000 professional fire fighters and emergency medical personnel who protect Americans in every corner of the nation, I wish to express our strong and unequivocal support for Janet Napolitano to be confirmed as Secretary of Homeland Security.

I have known Governor Napolitano for many years, and have witnessed firsthand her skills and leadership. She combines a deep and abiding commitment of service to the nation with a pragmatic effectiveness that has made her one of the nation's most extraordinary governors. She possesses both the vision to know what must be done and the abilities to turn the vision into reality.

While I believe Governor Napolitano would have been an excellent choice for almost any position in the new administration, she is especially well suited to lead our nation's homeland security efforts. Her work on public safety and border security in Arizona demonstrates her expertise in the myriad challenges facing our nation. Quite simply: I can think of no one better for this critical important position.

I encourage you to move quickly to confirm this extraordinary nominee. Thank you for your consideration and your attention to the views of our nation's domestic defenders.

Sincerely,

Harold A. Schaitberger
General President

1750 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5395 • (202) 737-8484 • FAX (202) 737-8418 • WWW.IAFF.ORG



MAJOR CITIES CHIEFS ASSOCIATION

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 Austin, Texas
 Baltimore City, Maryland
 Baltimore Co., Maryland
 Boston, Massachusetts
 Buffalo, New York
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 Chicago, Illinois
 Cincinnati, Ohio
 Cleveland, Ohio
 Columbus, Ohio
 Dallas, Texas
 Denver, Colorado
 Detroit, Michigan
 Edmonton, Alberta
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 Honolulu, Hawaii
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 Jacksonville, Florida
 Kansas City, Missouri
 Las Vegas Metro, Nevada
 Long Beach, California
 Los Angeles, California
 Los Angeles Co., California
 Louisville, Kentucky
 Memphis, Tennessee
 Miami-Dade, Florida
 Milwaukee, Wisconsin
 Minneapolis, Minnesota
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 Nashville, Tennessee
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 Philadelphia, Pennsylvania
 Phoenix, Arizona
 Pittsburgh, Pennsylvania
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 Prince George's Co., Maryland
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 Seattle, Washington
 St. Louis, Missouri
 Suffolk Co., New York
 Toronto, Ontario
 Tucson, Arizona
 Tulsa, Oklahoma
 Vancouver, British Columbia
 Virginia Beach, Virginia
 Washington, DC
 Winnipeg, Manitoba

January 6, 2008

The Honorable Joseph Lieberman
 Chairman
 Committee on Homeland Security and Governmental Affairs
 U.S. Senate
 Washington, DC 20510

Dear Mr. Chairman:

On behalf of the Major Cities Chiefs, I am writing to support the nomination of Governor Napolitano to become Secretary of Homeland Security. The Major Cities Chiefs represents the 56 largest jurisdictions across the Nation. Our cities are the major urban areas and the most attractive targets to terrorists. The appointment of Governor Napolitano is critical to America's security and she deserves swift confirmation by the Senate.

We look forward to working with Governor Napolitano over her term and we look forward to working with you on issues like the Office of State and Local Law Enforcement, the Law Enforcement Terrorism Prevention Program, the Urban Areas Security Initiative, fusion centers, the Commercial Equipment Direct Assistance Program, interoperable communications and technical assistance. All of these issues are of critical concern to the chiefs and sheriffs of this Nation.

American law enforcement has always looked to you for leadership and we again turn to you to move the nomination of Governor Napolitano quickly through the confirmation process.

Sincerely,

R. Gil Kerlikowske
 President



INTERNATIONAL ASSOCIATION OF FIRE CHIEFS

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January 7, 2009

The Honorable Joseph I. Lieberman
 Chairman
 U.S. Senate Committee on Homeland Security
 and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the nearly 13,000 chief fire and emergency officers of the International Association of Fire Chiefs (IAFC), I strongly endorse the nomination of Governor Janet Napolitano to be the Secretary of Homeland Security. The IAFC urges the U.S. Senate to quickly confirm Governor Napolitano to this position.

Governor Napolitano is widely respected for her leadership in the area of homeland security and support for America's fire service. As governor of Arizona, she implemented the first state homeland security strategy in the nation, and opened the first state counter-terrorism center. Governor Napolitano also was instrumental in the creation of the Arizona Department of Fire, Building, and Life Safety. The agency is responsible for state fire training, state fire service mutual aid, and maintaining and enforcing safety standards for manufactured and mobile homes. It also contains the State Fire Marshal's office, and enforces the state fire code. Governor Napolitano worked with the state's fire service organizations to ensure that the new agency has the resources needed to be effective. She also has been a leader in Arizona in responding to wildland fires, especially those in the wildland-urban interface.

Based on her reputation for effective governance and knowledge of emergency service issues, the IAFC believes that Governor Napolitano is well-qualified to ensure that the U.S. Department of Homeland Security is prepared to respond to all hazards, natural and man-made. We urge you to schedule her confirmation hearings expeditiously, and urge the U.S. Senate to confirm Governor Napolitano to be the nation's third Secretary of Homeland Security.

Sincerely,

Chief Larry Grorud, CFO, MIFireE
 President
 International Association of Fire Chiefs



- President**
Ms. Nancy Dragani, OH
- Vice President**
Mr. David Maxwell, AR
- Secretary**
Mr. Dan McGowan, MT
- Treasurer**
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- Past-President**
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Mr. Johnnie Smith, WI
 - Region VI**
Mr. Tim Manning, NM
 - Region VII**
Mr. Al Berndt, NE
 - Region VIII**
Mr. Hans Kallam, CO
 - Region IX**
Mr. Ed Telxela, HI
 - Region X**
Mr. John Madden, AK

January 8, 2009

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
Room 340 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Susan Collins
Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
Room 442 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Lieberman and Ranking Member Collins:

The National Emergency Management Association (NEMA) is encouraged by President-Elect Barack Obama's nomination of Governor Janet Napolitano to serve as the Secretary of the Department of Homeland Security.

Gov. Napolitano would bring knowledge and experience to the position having dealt extensively with homeland security issues in her home state of Arizona. As a Governor, she understands the importance of a strong Federal-State-Local partnership, and the need for effective communication and collaboration with stakeholders in order to achieve national homeland security objectives.

NEMA believes it is imperative that DHS take an all-hazards approach to homeland security. Having presided over preparedness, mitigation, response and recovery efforts for natural disasters and other emergencies in Arizona we anticipate Gov. Napolitano would provide the necessary focus and resources to address all the hazards that threaten States and communities- this includes support for FEMA as well as State and local emergency management programs.

Gov. Napolitano is a strong nomination for DHS Secretary and NEMA encourages the Committee to give her the utmost consideration.

Sincerely,

Nancy Dragani
NEMA President



NEMA OFFICES:
The Council of State Governments
2760 Research Park Drive • P.O. Box 11910 • Lexington, Kentucky 40578-1910 • (859) 244-8000 • FAX (859) 244-8239

WASHINGTON OFFICE:
Hall of the States • 444 North Capitol Street, Suite 401 • Washington, DC 20001 • (202) 624-5459 • FAX (202) 624-5875



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

January 7, 2009

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, D.C. 20510

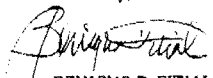
The Honorable Susan M. Collins
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Lieberman and Senator Collins:

We strongly support the confirmation of Governor Janet Napolitano for U.S. Secretary of Homeland Security. As a colleague, we have all worked with Governor Napolitano in a bipartisan manner and found her to be an intelligent, honest and passionate public servant. Having served as U.S. Attorney, Attorney General and Governor of Arizona, Governor Napolitano has a vast understanding of what it takes to protect our homeland and the ability to foster a strong federal-state partnership to achieve those goals.

We urge your committee to support Governor Napolitano's confirmation and look forward to a quick vote by the Senate.

Sincerely,


BENIGNO R. FITIAL

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200/2300 Facsimile: (670) 664-2211/2212
01/07/2009 1:27AM

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

D. MICHAEL FISHER
CIRCUIT JUDGE



5360 U.S. POST OFFICE & COURTHOUSE
700 GRANT STREET
PITTSBURGH, PA 15219-1906

January 9, 2009

Senator Joseph I. Lieberman, Chair
Homeland Security & Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

Senator Susan M. Collins, Ranking Member
Homeland Security & Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

Re: Governor Janet Napolitano, Secretary Designate
Department of Homeland Security

Dear Senators Lieberman and Collins:

I write at this time to strongly recommend Arizona Governor Janet Napolitano to serve as Secretary of the Department of Homeland Security. I am pleased and proud to recommend Governor Napolitano for this important assignment at a difficult time in our nation's history.

I first met the Governor in 1998 when she was elected Attorney General of Arizona. At that time, I was serving my first term as Attorney General of Pennsylvania. We worked closely in a bipartisan fashion on a wide variety of issues as part of the National Association of Attorneys General and on behalf of our respective states. Since her election as Governor and my appointment to the Court in 2003, I have observed her work and accomplishments for the people of Arizona.

Her career as a prosecutor began with her service as United States Attorney for Arizona and continued as Attorney General. She always pursued a tough but common sense approach to crime problems. Following September 11th, she worked closely with the Arizona Legislature to develop Arizona's Security Act which became a model for other states. During that tenure and

412-208-7320
412-208-7327 (FAX)
chambers_of_judge_d_michael_fisher@ca3.uscourts.gov

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Senator Joseph I. Lieberman
Senator Susan M. Collins
January 9, 2009
Page two

later as Governor, she emphasized the need to use new technology to fight crime, expanded the use of DNA testing, took a tough stance on international human sex trafficking and many other efforts to make Arizona a safer place to live.

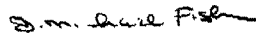
Few state officials have had the involvement at their level in dealing with border security that Governor Napolitano has experienced. She was the first governor to deploy the National Guard at the border, increasing the patrols in the most highly trafficked areas, while providing critical assistance to border cities and towns. Through her efforts, Arizona has a nationally acclaimed Counter Terrorism Information Center (ACTIC) and many other effective programs for border security and to combat illegal entry.

Governor Napolitano has also faced and responded to her share of state emergencies, all of which she has handled quickly and effectively. Whether it be a prison hostage crisis, an industrial accident, a natural emergency or any other problem facing her state, she showed a high level of preparedness and an extraordinary level of intra-governmental cooperation.

In essence, Governor Napolitano is extremely well qualified to lead the Department of Homeland Security. In addition, she has other qualities that are important to consider. I have always found Janet to be extremely intelligent but yet very practical in her approach to problems. She has traveled the world extensively and is very well read. Her family's travels took her to many parts of the country in her youth including a few years living in the Pittsburgh area. Let me be one Pennsylvanian to testify that Governor Napolitano "has had a real life" and has used it well. She is prepared for a tough job. I would urge your Committee and the Senate to promptly approve her.

If any additional information is needed, please contact me.

Very truly yours,



D. Michael Fisher

DMF:krm

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER



One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

January 12, 2009

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Lieberman and Ranking Member Collins:

I write in full support of Governor Janet Napolitano's nomination to be the third Secretary of Homeland Security and urge her swift confirmation by the United States Senate. Governor Napolitano is exceptionally qualified for this position and has the experience and perspective to transform the Department of Homeland Security (DHS) into a successful and responsive agency.

In Arizona, Governor Napolitano has worked on issues vital to the Department's mission. As a U.S. Attorney, she led the Arizona terrorism investigation into the Oklahoma City bombing; as Attorney General, she helped to break up human smuggling rings; and, as Governor, she has implemented the first State homeland security strategy in the Nation. Moreover, Governor Napolitano is a leader in coordinating Federal, State, and local homeland security efforts, presiding over large-scale disaster preparedness exercises and emergency plans.

As you know, the mission of DHS is vital to our national security. Recent events have demonstrated that transitioning governments are targets for terrorist attacks. Therefore, it is imperative that DHS has effective leadership immediately. Governor Napolitano will provide the leadership that our country needs.

The Committee and I stand ready to provide you with any necessary support to ensure Governor Napolitano's swift confirmation. I look forward to working together during the 111th Congress to keep our country free and secure.

Sincerely,

Bennie G. Thompson
Chairman
Committee on Homeland Security

CC: Honorable Susan M. Collins



January 12, 2009

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

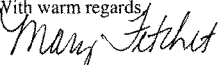
Dear Chairman Lieberman,

On behalf of Voices of September 11th, I am writing to inform you of our support for the nomination of Governor Janet Napolitano as Secretary of the Department of Homeland Security (DHS). As you know, VOICES has been a strong advocate for the implementation of the 9/11 Commission recommendations and a proponent of preparedness on the local, state and a federal level. We believe Governor Napolitano will bring strong leadership skills, very valuable firsthand experience and expertise to the critical position as Secretary of DHS.

As Governor of Arizona, Janet Napolitano was proactive in implementing the first state homeland security strategy in the nation and in developing the Arizona Counter-Terrorism Information Center. This innovative multi-agency intelligence fusion center, that tracks and shares critical information has set a standard for improving communications among government agencies and protecting our country from potential terrorist threats. As a state Governor, she understands the importance of statewide planning among government agencies on the local, state and federal level, as well as potential benefits of coordinating efforts with bordering states. In addition, her years as Attorney General provides her with an understanding of the criminal justice system that will be valuable in her new role.

As a family member who suffered the tragic loss of my 24 year old son Brad on 9/11, I am especially concerned about the safety of our nation and recognize that we are especially vulnerable at a time of Presidential transition. I am writing to both endorse Governor Napolitano's nomination and ask that this key member of the new national security team be confirmed as soon as possible. A rapid appointment of a qualified Secretary will send a message to the world that the new administration is prepared and ready to meet the challenges that lie ahead.

I appreciate your consideration of our request and look forward to attending Governor Napolitano's confirmation hearing. Please contact me at (203) 966-3911 if you have any questions.

With warm regards,

Mary Fetchet
Founding Director

161 CHERRY STREET, NEW CANAAN, CT 06840 • TEL (203)966-3911 FAX (203)966-5701 • www.voicesofsept11.org • www.911livingmemorial.org



January 13, 2009

The Honorable Joe Lieberman, Chairman
 Committee on Homeland Security and Government Affairs
 United States Senate
 Room 340 Dirksen Senate Office Building
 Washington, D.C. 20510

The Honorable Susan Collins, Ranking Member
 Committee on Homeland Security and Government Affairs
 United States Senate
 344 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Chairman Lieberman and Ranking Member Collins:

On behalf of the Board of Directors and our nearly 4000 members of the United States Council of the International Association of Emergency Managers (IAEM-USA) I am writing to strongly support the nomination of Governor Janet Napolitano as Secretary of the Department of Homeland Security (DHS).

Governor Napolitano was selected by Time Magazine as one of America's Top Five Governors, and her position as leader of Arizona makes her uniquely sensitive to the importance of protecting our nation's borders.

Her background in law enforcement – both as a former U.S. Attorney and as a former Attorney General for Arizona – provides her with the tools to understand the importance of the primary mission of DHS – preventing the next terrorist attack aimed at our nation, as well as securing our nation's borders.

Finally, and perhaps most importantly, as a leader of State government, Governor Napolitano has a practical understanding of the need for a close working relationship between federal, state and local government partners.

Given the importance of the mission of the Department of Homeland Security we urge a speedy confirmation of Governor Napolitano and very much look forward to working with her.

Sincerely,

Russ Decker, CEM
 President
 IAEM-USA President

January 13, 2009

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

The Honorable Susan M. Collins
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Lieberman and Senator Collins:

We strongly support the confirmation of Governor Janet Napolitano for U.S. Secretary of Homeland Security. As a colleague, we have all worked with Governor Napolitano in a bipartisan manner and found her to be an intelligent, honest and passionate public servant. Having served as U.S. Attorney, Attorney General and Governor of Arizona, Governor Napolitano has a vast understanding of what it takes to protect our homeland and the ability to foster a strong federal-state partnership to achieve those goals.

We urge your committee to support Governor Napolitano's confirmation and look forward to a quick vote by the Senate.

Sincerely,

Governor Mike Beebe
Arkansas

Governor Togiola T.A. Tulafono
American Samoa

Governor Arnold Schwarzenegger
California

Governor Bill Ritter Jr.
Colorado

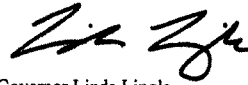
Governor M. Jodi Rell
Connecticut

Governor Ruth Ann Minner
Delaware

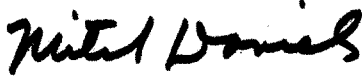
Page 2



Governor Sonny Perdue
Georgia



Governor Linda Lingle
Hawaii



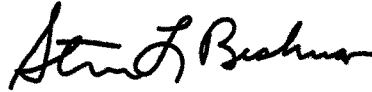
Governor Mitch Daniels
Indiana



Governor Chester J. Culver
Iowa



Governor Kathleen Sebelius
Kansas




Governor Steven L. Beshear
Kentucky



Governor John E. Baldacci
Maine



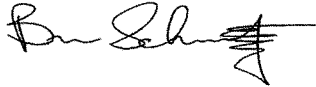
Governor Martin O'Malley
Maryland



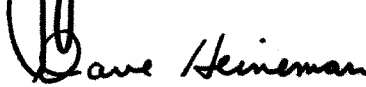
Governor Deval Patrick
Massachusetts



Governor Jennifer M. Granholm
Michigan



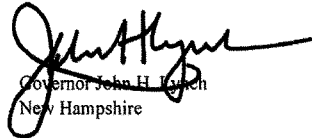
Governor Brian Schweitzer
Montana



Governor Dave Heineman
Nebraska



Governor Jim Gibbons
Nevada



Governor John H. Lynch
New Hampshire

Governor Jon S. Corzine
New Jersey

Governor Bill Richardson
New Mexico

Governor David A. Paterson
New York

Governor John Hoeven
North Dakota

Governor Benigno R. Fitial
Northern Mariana Islands

Governor Ted Strickland
Ohio

Governor Brad Henry
Oklahoma

Governor Theodore R. Kulongoski
Oregon

Governor Edward G. Rendell
Pennsylvania

Governor M. Michael Rounds
South Dakota

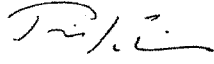
Governor Phil Bredesen
Tennessee

Governor Rick Perry
Texas

Governor Jon Huntsman Jr.
Utah

Governor James H. Douglas
Vermont

Page 4



Governor Timothy M. Kaine
Virginia



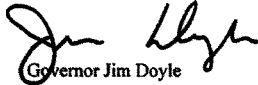
Governor John deJongh Jr.
Virgin Islands



Governor Christine O. Gregoire
Washington



Governor Joe Manchin III
West Virginia



Governor Jim Doyle
Wisconsin



Governor Dave Freudenthal
Wyoming



FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

P.O. Box 326 Lewisberry, PA 17339

www.fleoa.org

(717) 938-2300

representing Members Of
 AGENCY FOR INTERNATIONAL DEVELOPMENT
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 & NARA Fisheries Law Enforcement
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 Air Force - OIG
 Army - OIG
 Defense Criminal Investigative Service
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 FEDERAL DEPOSIT INSURANCE CORPORATION - OIG
 FEDERAL SERVICES ADMIN. OIG
 HEALTH & HUMAN SERVICES
 Food & Drug Administration & OIG
 HOMELAND SECURITY
 Border Patrol
 Coast Guard Investigative Service
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 Federal Protective Service
 US Secret Service
 Transportation Security Administration
 HOUSING & URBAN DEVELOPMENT - OIG
 TERROR
 Bureau of Indian Affairs
 Bureau of Land Management
 Fish & Wildlife Service
 National Park Service
 OIG
 U.S. Park Police
 JUSTICE
 Bureau of Alcohol, Tobacco, Firearms & Explosives
 Drug Enforcement Administration
 Federal Bureau of Investigation
 US Marshals Service
 OIG
 S. Attorney's Office-CI
 AROPE - OIG & Rulemaking
 NATIONAL AERONAUTICS & SPACE ADMIN. - OIG
 NUCLEAR REGULATORY COMMISSION - OIG
 POSTAL SERVICE-OIG & Inspection
 AIRROAD RETIREMENT BOARD - OIG
 SECURITIES & EXCHANGE COMMISSION - OIG
 SMALL BUSINESS ADMINISTRATION - OIG
 SOCIAL SECURITY ADMINISTRATION - OIG
 STATE DEPARTMENT
 Bureau of Diplomatic Security & OIG
 TRANSPORTATION-OIG
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 FINCEN & OIG
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 TIGTA
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 RON MILLER
 Executive Vice-President
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 LAZARO FORDHE
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 JOHN RAMSEY
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 JAMES DITZEN JR
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 DUNCAN TEMPLETON
 National Chapters Director
 RASHIED TAHR
 National Awards Director
 STEPHAN MAST-McPHERSON
 Immediate Past President
 ART GORDON
 Legislative Counsel
 SCOTT C. HOFFMANN

January 13th, 2009

The Honorable Joseph I. Lieberman
 The Honorable Susan M. Collins
 Senate Committee on Homeland Security and Governmental

SD-340 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Chairman Lieberman and Ranking Member Collins:

As the National President of the Federal Law Enforcement Officers Association (FLEOA), a 26,000 member nonprofit, nonpartisan organization representing federal law enforcement officers, I am writing to you in support of President-elect Barack Obama's nomination of Janet A. Napolitano for the position of Secretary of the Department of Homeland Security.

FLEOA's membership includes criminal investigators and officers from the Secret Service, Immigration and Customs Enforcement, Transportation and Security Administration, Customs and Border Patrol, Office of the Inspector General and the Coast Guard Investigative Service. All of our members serving in these agencies have sacrificed a great deal while supporting their agency's formidable mission. They are the frontline of our nation's defense, and we need to ensure that they are led by someone who is qualified and experienced in the area of homeland security.

I am optimistic that designee Janet A. Napolitano possesses the requisite knowledge and leadership ability that will enable her to serve as the next Secretary of the Department of Homeland Security. During her career in government service, Ms. Napolitano has distinguished herself while serving as the United States Attorney in the District of Arizona, and then later as the state's Attorney General. She has a wealth of experience dealing with immigration issues, as well as border security. As the Governor of Arizona, Ms. Napolitano was influential in the passage of a bill that calls for the revocation of a business' license if they knowingly employ illegal immigrants.

It is also inspiring to know that Ms. Napolitano has a good working relationship with Attorney General Designee Eric Holder. Our country and its citizenry benefit when the leaders of the Departments of Homeland Security and the Department of Justice work well together and put what's in our country's best interest first. I fully expect that Ms. Napolitano will recognize the value of stakeholder input, and will be

receptive to having open lines of communication with the FLEOA executive team.

Please don't hesitate to call should you require any additional input from FLEOA regarding the qualifications of Janet A. Napolitano. We look forward to working with her and strengthening our homeland defenses.

Respectfully submitted,

J. Adler
National President

State Attorneys General

A Communication From the Chief Legal Officers
of the Following States and Territories:

Arizona * California * Colorado * Connecticut
Delaware * Georgia * Hawaii * Idaho * Illinois * Indiana
Iowa * Kansas * Kentucky * Maine * Maryland * Massachusetts * Minnesota
Mississippi * Montana * Nebraska * New Mexico * North Carolina * North Dakota
Oklahoma * Rhode Island * South Dakota * Tennessee * Utah
Vermont * Washington * Wyoming

January 13, 2009

The Honorable Joseph I. Lieberman
Chairman
Senate Committee on Homeland Security &
Governmental Affairs
Via facsimile 202-228-4469

The Honorable Susan M. Collins
Ranking Member
Senate Committee on Homeland Security &
Governmental Affairs
Via facsimile 202-224-9603

Dear Senator Lieberman and Senator Collins:

As State Attorneys General from across the country, we write in support of former Arizona Attorney General Janet Napolitano's nomination to serve as Secretary of the Department of Homeland Security.

As United States Attorney for Arizona, Arizona Attorney General, and Governor of the State of Arizona, Janet Napolitano has demonstrated bipartisan leadership that ensures Arizona is ready to respond to emergencies quickly and appropriately. She also has worked tirelessly to secure Arizona's border and to make Arizona's communities safe. Moreover, Governor Napolitano's innovative yet common-sense approach to combating crime has allowed her to develop the skills she will need to lead the Department of Homeland Security.

Emergency Response

During her term as Governor, Janet Napolitano has faced a wide variety of emergencies, some manmade, some natural.

For example, early in her first term, a privately-owned pipeline broke in Tucson, disrupting the supply of gasoline to the Phoenix area. Her handling ultimately resulted in systemic changes and new procedures to ensure continuity of critical service. She also had to deal with the fallout from a massive forest fire that became known as "the Rodeo-Chediski Fire," the largest wildfire in Arizona history. After that disastrous fire was extinguished, Governor Napolitano developed more effective forest management procedures and better techniques for fire and disaster response.

Arizona frequently faces natural emergencies. Much of Arizona is prone to flash flooding, and Governor Napolitano led the response to several serious floods, including recent floods in Havasupai Canyon and on the international border. On the opposite end of the spectrum, Arizona faces serious drought issues, and Governor Napolitano has made Arizona a leader in drought preparedness.

Governor Napolitano's approach to disaster preparedness shows true foresight. She developed mutual aid compacts, which facilitate the sharing of resources and improve communications during

emergencies. She also developed Border Partnerships among border states to share intelligence and strengthen border security.

Governor Napolitano's demonstrated ability to work through complex issues arising from emergencies is a strength she will bring to the Department of Homeland Security.

Secure Borders

Governor Napolitano has made Arizona a leader among states in tackling the consequences of our broken borders and employing innovative homeland security measures.

Governor Napolitano was the first governor to deploy the National Guard at the border. She declared a state of emergency along the international border to increase patrols in the most highly trafficked areas and to provide critical assistance to border cities and towns. She also created the first state cabinet-level Department of Homeland Security and the first state-level homeland security strategy in the nation. Through her efforts, Arizona built the nationally-recognized Arizona Counter-Terrorism Information Center (ACTIC).

Because of Governor Napolitano's innovative vision, Arizona is a leader in fighting crime along the border. Under her leadership, Arizona began using state-of-the-art technology to crack down on border-related crime. She expanded the Fraudulent ID Task force to catch criminals who create and use fraudulent documents to facilitate illegal immigration. Her leadership also brought about the Illegal Immigration Prevention and Apprehension Co-Opt Team (IIMPACT) to dismantle and deter criminal organizations profiting from illegal immigration, and deployed Gang Intelligence and Immigration Team Enforcement Missions (GIITEMs), to deter violent gang- and border-related crimes.

Governor Napolitano has brought a no-nonsense, practical approach to legislation affecting the border. She worked to ensure passage of legislation that allows Arizona law enforcement to identify companies and individuals who lease buildings to be used as "drophouses" to hide illegal immigrants.

Governor Napolitano's leadership has helped secure Arizona's ports of entry to better detect illegal cross-border activity, and to expedite inspection at the border. Law enforcement officials in Arizona and the Mexican state of Sonora now regularly exchange information about stolen vehicles, warrants, weapons, and Amber Alerts.

Governor Napolitano will bring this type of leadership to bear in helping our nation tackle the consequences of broken borders and to employ innovative homeland security measures.

Crime Fighting

Governor Napolitano takes a tough, common-sense approach to public safety, using new technology and aggressive enforcement to reduce crime.

Following the terrorist attacks of September 11, 2001, then-Attorney General Janet Napolitano worked closely with the Arizona Legislature to develop Arizona's Security Act, which incorporated provisions from the USA PATRIOT Act, modified laws on terrorism, established new penalties for terrorist acts and eliminated the statute of limitation for terrorism.

Governor Napolitano also partnered with the FBI to become one of four states nationally to develop a mitochondrial DNA (MtDNA) laboratory to better capture and incarcerate criminal suspects. And she

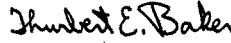
has taken a tough stance on human and sex trafficking, signing legislation to address those crimes in Arizona.

Governor Janet Napolitano's leadership in emergency responsiveness, border security, and public safety demonstrate the skills she will need to lead the Department of Homeland Security. We strongly urge her prompt confirmation.

Sincerely,



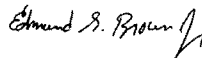
Terry Goddard
Attorney General of Arizona



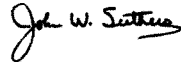
Thurbert E. Baker
Attorney General of Georgia



Mark Shurtleff
Attorney General of Utah



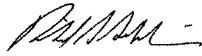
Edmund G. Brown, Jr.
Attorney General of California



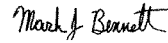
John W. Suthers
Attorney General of Colorado



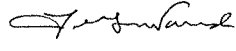
Richard Blumenthal
Attorney General of Connecticut



Richard S. Gebelein
Acting Attorney General of Delaware



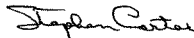
Mark J. Bennett
Attorney General of Hawaii



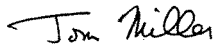
Lawrence Wasden
Attorney General of Idaho



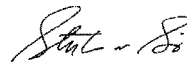
Lisa Madigan
Attorney General of Illinois



Stephen Carter
Attorney General of Indiana




Tom Miller
Attorney General of Iowa





Steve Six
Attorney General of Kansas




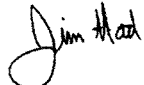
Jack Conway
Attorney General of Kentucky

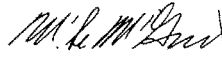

Janet T. Mills
Attorney General of Maine



Douglas F. Gansler
Attorney General of Maryland



Martha Coakley
Attorney General of Massachusetts



Lori Swanson
Attorney General of Minnesota



Jim Hood
Attorney General of Mississippi



Mike McGrath
Attorney General of Montana

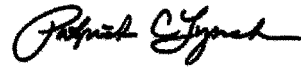

Jon Bruning
Attorney General of Nebraska



Gary King
Attorney General of New Mexico



Roy Cooper
Attorney General of North Carolina

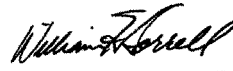

Wayne Stenejem
Attorney General of North Dakota

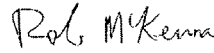

W. A. Drew Edmondson
Attorney General of Oklahoma

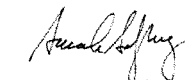

Patrick Lynch
Attorney General of Rhode Island


Larry Long
Attorney General of South Dakota


Robert E. Cooper, Jr.
Attorney General of Tennessee


William H. Sorrell
Attorney General of Vermont


Rob McKenna
Attorney General of Washington


Bruce A. Salzberg
Attorney General of Wyoming

Cc: Members of the Senate Homeland Security & Governmental Affairs Committee



January 13, 2008

The Honorable Joe Lieberman
 Chairman
 Committee on Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Chairman Lieberman,

I am writing on behalf of the National Association of Counties (NACo) to express our support for the confirmation of Janet Napolitano as Secretary of the U.S. Department of Homeland Security (DHS).

Counties are the first responders to terrorist attacks, natural disasters and other major emergencies. Whether it is a fire, a flood, a horrific crash, or an act of terrorism; counties across the nation respond to virtually any emergency situation. County public safety, public health, emergency managers, sheriffs and other appointed workers are at the frontlines in the fight to protect the people of America and safeguard our communities. We are responsible for putting out fires, enforcing the law, caring for the injured, and informing the public. Counties also own, operate and secure key aspects of the nation's infrastructure, such as airports, transit systems, water supplies, schools and hospitals. Elected county officials, along with our emergency managers and other public safety officials provide the essential regional leadership, planning and coordination function in preventing, preparing for and managing a communities' response to emergency events.

In light of this role, NACo applauds President Elect Obama's choice of Governor Janet Napolitano's as the next Secretary of DHS. She brings demonstrated experience to the post, and has worked closely with county governments throughout Arizona on wildfire, flooding and other disaster relief and recovery efforts. Furthermore, as a border state Governor, Secretary Designee Napolitano is a leader on immigration reform and has worked closely with county sheriffs throughout Arizona to secure our border from illegal immigrants.

Given this history of building effective working relationships between all levels of government, NACo supports this selection. We urge the committee to quickly approve Janet Napolitano as the next DHS Secretary.

Sincerely,

Larry E. Naake
 Executive Director
 National Association of Counties

Don Stapley
 President
 National Association of Counties

cc: Members of the United States Senate Committee on Homeland Security and Governmental Affairs

25 Massachusetts Avenue, NW | Suite 500 | Washington, DC 20001 | 202.393.6226 | fax 202.393.2630 | www.naco.org

SHEILA JACKSON LEE
18TH DISTRICT, TEXAS

WASHINGTON OFFICE
2435 Rayburn House Office Building
Washington, DC 20515
(202) 225-3816

DISTRICT OFFICE
1919 SMITH STREET, SUITE 1180
THE GEORGE "MICKY" ELAND FEDERAL BUILDING
HOUSTON, TX 77002
(713) 655-0950

ACRES HOME OFFICE
6719 WEST MONTGOMERY, SUITE 204
HOUSTON, TX 77019
(713) 691-4882

HEIGHTS OFFICE
400 WEST 18TH STREET
HOUSTON, TX 77008
(713) 961-4070

FIFTH WARD OFFICE
3300 LYONS AVENUE, SUITE 301
HOUSTON, TX 77020

Congress of the United States
House of Representatives
Washington, DC 20515

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JUDICIARY

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IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER
SECURITY, AND INTERNATIONAL LAW
CRIME, TERRORISM AND HOMELAND SECURITY

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SUBCOMMITTEES
AFRICA AND EUROPE, HEALTH
MIDDLE EAST AND SOUTH ASIA
Inclusion of
DEMOCRATIC CAUCUS
With
CONGRESSIONAL BLACK CAUCUS
Chair
CONGRESSIONAL CHILDREN'S CAUCUS

January 15, 2009

The Honorable Joseph Lieberman
Chairman
U.S. Senate Committee on Homeland
Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510-6225

The Honorable Susan Collins
Ranking Member
U.S. Senate Committee on Homeland
Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510-6225

Dear Chairman Lieberman and Ranking Member Collins:

Thank you, Chairman Lieberman for your continued leadership as the Chair of the Senate Committee on Homeland Security and for your service to the Nation. I also thank you Ranking Member Collins for your leadership on this Committee.

I am honored to submit this letter of support on behalf of Governor Janet Napolitano in her appointment by President-elect Barack Obama to be the Secretary of Homeland Security. I am pleased that our President-elect has chosen Governor Napolitano.

As a Senior Member of the House Judiciary and the Chair of the Transportation and Infrastructure Subcommittee of the Homeland Security, I have worked tirelessly on homeland security issues. I am keenly aware of the challenges and perils that are attendant to ensuring that America and its borders are safe. Given my experience and expertise, I am confident that Governor Napolitano would be an excellent Secretary of Homeland Security. I have no doubt that she would work tirelessly to ensure that the freedoms that we so often take for granted would be protected and that the homeland would remain free.

Ms. Napolitano is the current governor of the State of Arizona. She was originally elected in 2002 and was re-elected in 2006. She is Arizona's third female governor, and the first woman to win re-election. Napolitano was chair of two state Governor's associations and named by Time magazine as one of the top five Governors in 2005.

In 1993, Napolitano was appointed by President Bill Clinton as United States Attorney for the District of Arizona. She ran and won the position of Arizona Attorney General in 1998. Her tenure focused upon consumer protection issues and improving general law enforcement. As United States Attorney, she supervised the prosecution of more than 6,000 immigration cases. As Attorney General, she helped write the law that breaks up human smuggling rings by seizing their assets.

Ms. Napolitano is an excellent candidate to serve as Secretary of Homeland Security because she promises to restore balance to a one-sided security debate. She will be able to straddle wide political divisions. She is fair. She listens. She has excellent judgment. She is the perfect choice, especially given that no Democrat has run the troubled and sprawling Department of Homeland Security since its creation in 2003. Ms Napolitano has run a major bureaucracy and the biggest challenge for the Department of Homeland Security is the management challenge of leading nearly 200,000 workers.

Ms. Napolitano also offers a skill set well-suited for Secretary of Homeland Security. In 2003, Ms. Napolitano developed the first state homeland security strategy that highlighted the role of state and local law enforcement, information-sharing and law enforcement-led intelligence fusion centers for preventing terrorism. She has distinguished herself by being a proponent for comprehensive immigration reform.

On immigration, Ms. Napolitano has cultivated a tough stance, calling for the National Guard troops on the border and signaling legislation to punish companies that hire undocumented immigrants. She has also argued for humane treatment of such immigrants and for the need to strengthen Arizona's economy. As Governor in a border state, Ms. Napolitano knows better than anyone how important border security is to our national security. She has been skeptical that building a fence along the border will solve the immigration problem. She once said, "You build a 50-foot wall, somebody will find a 51-foot ladder."

As Governor, she has overseen wildfire and flooding disaster relief efforts and worked with the Federal Emergency Management Agency (FEMA), which is now part of the Homeland Security Department.

In 2007, her state passed a law that requires all Arizona businesses to use the federal online database, E-Verify, to confirm that new hires have valid Social Security numbers and are eligible for employment. Governor Napolitano's approach on immigration is fundamentally pragmatic. She is extremely smart, well prepared, and absorbs policy aggressively.

Given Governor Napolitano's qualification and experience, I recommend her without reservation to be the next Secretary of Homeland Security and I am hopeful that this Committee will confirm her appointment. She has an unparalleled and excellent record and I know that she would be an excellent Secretary of Homeland Security.

Very Truly Yours,

Sheila Jackson Lee
Member of Congress

