



Statement for the Record

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U.S. Department of Homeland Security

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“An Overview of the Department of Homeland Security Federal Advisory Committees”

Hearing before the

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**“An Overview of Department of Homeland Security Federal Advisory Committees”
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I. Opening Remarks

Chairman Thompson, Congressman King, and the distinguished members of the Committee. Thank you for the opportunity to speak with you today about the Department of Homeland Security’s federal advisory committees.

In March 2006, I was appointed Executive Director of the Homeland Security Advisory Committees. In this capacity, I serve the dual role of coordinating the activities of our twenty-seven (27) active federal advisory committees and directly manage one of these bodies, the Homeland Security Advisory Council (HSAC). I oversee the staff of the Committee Management Office (the CMO), which coordinates the establishment, structure, and legal compliance of the Department’s advisory committees, and the staff dedicated specifically to HSAC. I will speak broadly to the structure and activities of the Department’s advisory committees and specifically to that of the HSAC.

The Department of Homeland Security, perhaps more than any other federal department, depends on its state, local, and private sector partners to accomplish its mission. Through their volunteer members, our federal advisory committees, provide an important avenue to empower our various partners and bring outside-the-beltway perspectives to the policy table. We have very active advisory committees. In managing them we have made great progress since DHS was established, but there is more work ahead.

II. Overview of Federal Advisory Committee Act of 1972

Our advisory committees are part of a larger Federal initiative to tap relevant external perspectives to help formulate sound policy. The advisory committee program is governed by the Federal Advisory Committee Act of 1972, commonly known as FACA. FACA enhances public openness and accountability of advisory committees, controls undue influence of special interests by balancing committee membership; and reduces wasteful expenditures on advisory committees by establishing overall management controls. These controls monitor advisory committee costs and identify and eliminate unproductive and/or unnecessary committees. FACA places limits on the function and duration of advisory committees and stipulates certain oversight requirements. My colleague on this panel, Mr. Robert Flaak, from the General Services Administration, is better positioned to discuss the details of FACA.

III. History of Advisory Committees at Department of Homeland Security

When the Department of Homeland Security was formed in 2003, the operations of twenty-two (22) existing federal agencies dealing with various aspects of Homeland security were combined. The Department also inherited twenty-four (24) legacy advisory committees from the Departments of Commerce, Defense, Justice, Transportation, and Treasury, the Federal Emergency Management Agency (FEMA), and the Office of the President.

The CMO is responsible for reviewing the mandates and activities of the various committees to ensure that they continue to be useful and relevant to the Homeland Security mission. In 2003, the then Acting Committee Management Officer worked with the staffs of our inherited or legacy committees to review the purpose and function of each committee and assure there was no duplication of function. We initially identified two committees that were performing a very similar function: the Immigration and Naturalization Services Airport and Seaport User Fees Advisory Committee from the Department of Justice and the U.S. Customs Service Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) Fees Advisory Committee from the Department of the Treasury. The functions of both committees were assumed by the Airport and Seaport User Fees Advisory Committee, and the COBRA Fees committee became administratively inactive¹.

Since that time, as a result of the CMO's review, we have terminated four additional committees that have completed their mission or are no longer relevant. We are currently contemplating further contraction of the committee structure and, in particular, we are reviewing whether the establishment of FEMA's National Advisory Committee (NAC), renders any of the existing FEMA advisory committees duplicative. As a result of this review, we may take action to terminate one or more additional existing committees and execute their advisory functions through the NAC. Where appropriate, we will continue to terminate any unnecessary discretionary committees and will work with Congress to terminate statutory committees if appropriate.

As I mentioned earlier, when the Department was established we inherited twenty-four (24) committees from other agencies. Since then, we have established new committees only as necessary to address new initiatives or as directed by Congress, and have terminated those committees that have completed their mission or that have missions that are no longer relevant. The FACA database currently lists twenty-nine (29) advisory committees for DHS; two (2) were terminated this year and will be deleted from the database in the next fiscal year. Thus we have twenty-seven (27) chartered committees: fifteen (15) statutory, ten (10) discretionary, and two (2) presidential. Twelve (12) of our committees exist at the Administration's discretion and the remaining fifteen (15) are committees created by Congress.

During Fiscal Year 2006, DHS FACA committees held over 100 formal meetings.

IV. Current DHS Advisory Committees

¹ The COBRA Fees Advisory Committee is an example of a statutory committee that requires legislative action to be officially terminated.

Under Section 8 of FACA, the CMO is responsible for establishing uniform policies, administrative guidelines, and management controls for the establishment, supervision, and operation of Departmental advisory committees. The CMO develops policies and provides guidance on the interpretation and implementation of FACA. Since the Department was established, the CMO has coordinated over 50 membership packages and over 50 charter actions, and regularly monitors compliance with FACA including input into the GSA FACA database, ensuring that diverse viewpoints are included in committee membership, and publication of federal register notices. Each FACA committee has a Designated Federal Officer, or DFO, who is ultimately responsible for compliance with FACA and for the day-to-day management of committee activities.

In the last four (4) years, the CMO has accomplished a great deal. In 2003, the then-acting, Committee Management Officer, without any staff support, stood up the FACA management program for DHS and incorporated 24 existing FACA committees into the Department. Since then, we have standardized committee actions throughout the Department and improved the timeliness of FACA database reporting. Very recently, working with congressional staff, we took actions to standardize recommendation reporting in the GSA FACA database. We now have two full-time CMO staff and I personally spend a significant amount of my time working on CMO-related items. The CMO became part of the Policy Directorate in 2006, strengthening the cross-pollination of our committees and heightening policy follow-up on committee recommendations.

We have several initiatives designed to further solidify the committee management structure at DHS. These initiatives will elevate the visibility and accountability of the DFO positions and committee management Department-wide.

First, we have concluded that we need to revise the Department's management directive for FACAs. The new directive will clarify the CMO's authority and responsibilities and set forth responsibilities of other Department personnel for FACA activities, including component heads and Designated Federal Officers. The directive will make clear that Component heads are responsible for ensuring that their employees comply with the requirements of FACA, Committee Management Secretariat regulations, the directive, and other guidance issued by the CMO, and that they cooperate with the CMO in the management of the FACA program.

Second, over the last year, we have improved communications to DFOs and have plans for further improvement. We have increased the information flow on relevant initiatives and policies to DFOs and committee members. We have also increased the frequency of our meetings with DFOs. We will have a group meeting this fall of all DFOs to provide updates on policies and procedures and to solicit input from the DFOs. Additionally in the next year, the CMO will develop an intranet site that will provide information on FACA and serve as a resource for DFOs and all Department personnel. This site will provide a one-stop location for information on procedures and provide templates for routine documents such as action memoranda, charters, and Federal Register notices. The DFO Handbook, which is under development and set for completion in the next year, will also be included.

Third, in the next year, we plan to develop an external one-stop web page that will include information on all DHS FACA committees, including links to individual committee web pages. This will enhance the transparency of the DHS FACA process and provide ready access to information about our committee's work.

Fourth, we recently worked with the Chief Human Capital Officer and issued a memorandum that strengthens the accountability of each DFO's performance with their supervisors. At DHS, our performance plans lay out yearly goals along with quantifiable measures. The employee is responsible for drafting the goals and reaching a consensus with her/his supervisor. This action will help ensure management responsibilities are a part of the formal employee appraisal process and will increase accountability of committee activities and performance.

We look forward to updating your committee on our progress on these initiatives in the coming months.

In the last year and half since my arrival, we have increased our coordination with Congress. I and/or members of my staff have come to the Hill three times to provide an overview of DHS advisory committees and to discuss the activities of the Homeland Security Advisory Council. Last fall we invited staff members of both the majority and minority to join a meeting of our Culture Task Force and have increased the number of our invitations to Congressional staff for advisory committee meetings in general. Members of Congress have participated in three (3) meetings of the Homeland Security Advisory Council in the last year and half.

Taken together, these steps have greatly strengthened the Department's ability to use and manage its FACAs. As might be expected, when DHS was initially formed the managerial styles and structures used by the legacy agencies for FACAs varied widely. Since then we have made substantial progress in rationalizing these structures and putting in place the management processes of a single Department. While, as I have outlined, more surely remains to be done, we have succeeded in unifying widely disparate structures in a single office and brought order to their operation.

V. Homeland Security Advisory Council

Let me now move from the macro to the micro, looking at committee management from my perspective as the DFO for the HSAC. The HSAC provides advice and recommendations to the Secretary of the Department of Homeland Security on a broad spectrum of matters relating to homeland security.

The members of the HSAC are leaders and experts from the private sector, academia, nongovernmental organizations, state and local governments, and other appropriate professions and communities. In addition, the Chairman of the National Infrastructure Advisory Council, the Chairman of the President's National Security Telecommunications Advisory Committee, and the Chairman of the Panel on the Science and Technology of Combating Terrorism/President's Council of Advisors on Science and Technology, serve as ex officio members of the HSAC. The Chair of the HSAC is Judge William Webster. All members volunteer their time to tackle challenging homeland security issues and their service is greatly appreciated.

There are five subcommittees of the HSAC: the State and Local Senior Advisory Committee, the Emergency Response Senior Advisory Committee, the Academe and Policy Research Senior Advisory Committee, the Private Sector Senior Advisory Committee, and the Rice-Chertoff “Secure Borders and Open Doors” Advisory Committee.

The HSAC has issued fifteen (15) reports that include 175 formal recommendations. One example of the value the HSAC has added is through the work of the Intelligence and Information Sharing Working Group, which helped define state and local fusion center operations and provided foundational principles as the local, state, and federal governments have developed fusion centers throughout the country. This is a great example of how the work of an advisory committee has helped empower our partners and expand our networks to match those of our enemies. These fusion center recommendations, like other HSAC recommendations, were developed from the “bottom-up” by those that will have to implement and execute them outside the beltway. One of my responsibilities is to ensure that committee members have a forum where they can be independent, innovative, non-partisan, and inquisitive so they can provide the best possible advice to the Secretary.

We have strengthened the synchronization between HSAC efforts and the needs of the Department. In January of this year, the HSAC delivered two reports on topics of the Secretary’s choosing – one on the Future of Terrorism and another on Improving DHS Culture. In June, HSAC staff coordinated written feedback on the Department’s response to the Future of Terrorism recommendations and, where appropriate, what actions had been taken to implement each recommendation. One of the primary recommendations was to create an Office of Net Assessment at DHS similar to the one at the Department of Defense, and the Secretary has tasked the Office of Strategic Plans and the Intelligence and Analysis office to develop implementation options.

Similarly, the report on DHS Culture has gotten high level attention. The DHS Chief of Staff and the Chief Human Capital Officer have met several times with the co-chairs of the task force and briefed HSAC and subcommittee members twice about departmental initiatives in response to their report.

We have made great strides in the past year and a half on providing clear feedback on member recommendations. We have recently engaged in a project to improve tracking each of the 175 recommendations the HSAC has given in its lifetime and to receive written feedback from all relevant offices and components responsible for their implementation if appropriate. Sometimes, of course, a particular recommendation may not be implemented. We may have resource constraints or the Department may simply choose a different policy. But we are committed to reviewing and responding to each and every recommendation.

Moving forward, all of our recommendations will be tracked in this way, creating a tool useful for feedback to advisory committee members, recordkeeping, and historical perspective. We take the responsibility of giving feedback to HSAC members very seriously because they are volunteers. If the Department chooses not to implement a recommendation the members deserve feedback on the rationale behind that decision.

This fall, we will continue to work with the DFOs of the other DHS advisory committees, to institute similar tracking mechanisms for their respective recommendations where such mechanisms do not yet exist.

VI. The Value of FACAs

Thus far we have discussed the processes by which FACAs are managed. I would like to turn now to a discussion of the value FACA committees add to the Department as we seek to carry out our strategic mission. Here are some examples of that value:

The Aviation Security Advisory Committee, or ASAC, was established to provide a key forum for the exchange of views and information on civil aviation security issues. Since its inception in 2003, ASAC has provided 46 formal recommendations to the Department. One example of the ASAC's value was its review of the Transportation Security Administration's (TSA) Baggage Screening Investment Study, which helped improve Airport Security Access Control Systems, including biometrics.

The Chemical Transportation Advisory Committee (CTAC) provides advice to the Coast Guard's Assistant Commandant for Operations with respect to the water transportation of hazardous material in bulk. CTAC has made many significant contributions since its creation in the 1940s. Most recently, CTAC's recommendations on implementing the revised International Convention for the Prevention of Pollution from Ships (MARPOL) Annex II and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code), has received international recognition for its ingenuity and fiscal responsibility. CTAC developed marine emergency responders' competencies that will be incorporated into nationally recognized National Fire Protection Associated standard.

Another committee that has received recognition for excellence is the Data Privacy and Integrity Advisory Committee (DPIAC). In the past year and a half, the Committee has issued five reports to the Department. The Department has used the report "Framework for Privacy Analysis of Programs, Technologies, and Applications" has been utilized by the Department to analyze the effects of various programs and technologies on privacy, and the New Zealand government has even expressed interest in the document's methodology. The report "Use of Commercial Data to Reduce False Positives in Screening Programs" was adopted September 28, 2005. The Secure Flight Program found this report particularly helpful in addressing the issue of adverse impacts on the public. Indeed, the Privacy Office is integrating portions of the report into the soon to be released Privacy Impact Assessment Guidance for the Department. This report is frequently used when components propose programs incorporating such data.

Since the National Infrastructure Advisory Council's (NIAC) inception in late 2002, the Council has released thirteen (13) reports, with two (2) more slated for completion this fall. The Sector Partnership Implementation Report and Recommendations helped establish an initial governing structure to work with our various private sector partners in an organized fashion. The report offered numerous recommendations designed to enhance the public-private sector partnership as well as to ensure trust and cultivate an effective, close working relationship between both

spheres. This report laid the foundation for the following partnership avenues: Sector Coordinating Councils, Government Coordinating Councils, the Partnership for Critical Infrastructure Security, and the relatively new Critical Infrastructure Partnership Advisory Council. These organizations all play integral roles in aiding in the function of and maintaining the public-private critical infrastructure partnership.

The National Maritime Security Advisory Committee (NMSAC) was active in developing the Transportation Worker Identification Credential (TWIC) Notice of Proposed Rulemaking (NPRM). The Committee formed a workgroup to address credentialing and provided input on specific questions posed by the Coast Guard and TSA. This work resulted in a maritime operating requirements document, as well as technical card and reader specifications which meet maritime industry needs, both of which may be used during the TWIC pilot tests and subsequent implementation nationwide. The Commandant of the Coast Guard recently expressed his views regarding the value this committee has added: “I want you to be aware of the excellent intra-department support we received...the [TWIC] working group preformed in a remarkable manner to ensure that the views and participation of industry and labor were considered at the front end of the TWIC version II effort as the government works toward a meaningful, realistic card reader requirement that balances security with commerce...NMSAC continues to prove its value to the Department through their diligent work and should be viewed as a resource to gain valuable insights as we move forward in other areas of maritime security.”

These are just a few examples of how our advisory committees have assisted us in improving policy and ultimately carrying out our mission.

VII. Concluding Remarks

Thank you for the opportunity to address the Committee and highlight an important avenue of empowering our Homeland security partners. Chairman Thompson and Congressman King, I welcome any questions you have, and look forward to our future work together.