



Permanent Subcommittee on Investigations Hearing:
Dirty Bomb Vulnerabilities: Fake Companies, Fake Licenses, Real Consequences
OPENING STATEMENT

AS PREPARED:

Today's hearing provides a sober reality check. We turn our attention to the threat of a dirty bomb attack and whether our government's efforts to prevent such a disaster are effective. This Subcommittee has been engaged in a four-year effort to bolster U.S. government's ability to prevent a nuclear or radiological attack on U.S. interests. The Subcommittee's efforts have been thoroughly bipartisan and I appreciate Senator Levin's continued dedication to this cause.

Make no mistake: the threat of a dirty bomb attack is real. The Executive Director of the 9/11 Commission stated in 2004 that Al Qaeda "remains interested in using a radiological dispersal device or 'dirty bomb.'" Even worse, he said that "[d]ocuments found in al Qaeda facilities contain accurate information on the usage and impact of such weapons." The aspiring terrorists that were arrested in London in August 2004 sought to construct "a crude radiological dirty bomb."

In September 2006, the then-leader of Al Qaeda in Iraq reportedly called for "nuclear scientists and explosive experts" to help his terrorist group manufacture "unconventional weapons," specifically including dirty bombs. Sadly, these are just a handful of examples to get a sense of the problem.

In light of this threat, government oversight of radioactive materials has become more important than ever. The best way to prevent a dirty bomb attack is to stop terrorists from getting radiological materials in the first place. Our hearing today – along with the Subcommittee's staff report – will explore some gaps in the federal government's regulation of radiological materials. In particular, we will address weaknesses in the Nuclear Regulatory Commission's administration of licenses for radiological materials.

As part of its ongoing investigation into homeland security matters, the Subcommittee requested that the Government Accountability Office conduct a clandestine operation to determine whether a terrorist could use a phony company to slip under the radar and get a valid radiological license in his quest for a dirty bomb. The results are not encouraging.

In short, GAO created two dummy corporations and applied for radiological licenses – one in West Virginia, where the NRC regulates radiological materials, and one in Maryland, a so-called Agreement State that regulates radiological materials on its own. Shortly after receiving the application, regulators in Maryland embarked on a seven-month review process, requesting a site inspection of the company's facilities and interviews with its employees. GAO, knowing that this robust review process would expose their sting operation, withdrew the Maryland application. That's the good news.

The bad news is that the application that went to the NRC was approved in short order. The NRC conducted a cursory review and gave a license to GAO's phony company in just 28 days.

As if that weren't bad enough, GAO was able to counterfeit the NRC license – using ordinary computer software that any teenager could use – to remove the restrictions on the amount of radiological materials

permitted under the license. In this exhibit, you can see the comparison of the valid NRC license on the left and the counterfeited version on the right.

GAO investigators then used copies of the counterfeited license to execute contracts to buy enough radiological materials to meet the NRC's definition of a "dangerous" quantity – enough, according to GAO, to build a dirty bomb. Perhaps more importantly, investigators could have easily prolonged their effort, generating dozens of fake licenses, visiting multiple suppliers, and stockpiling significantly higher amounts of this – and possibly more radioactive – material. The GAO states that it could have purchased "substantially more radioactive source material" – potentially enough to reach the NRC's threshold of a "very dangerous" material. In other words, the modest amount of radiological materials that GAO sought to purchase was but a demonstration amount, and it could have been considerably larger and considerably more dangerous.

These weaknesses are not new. In fact, as detailed in the Subcommittee's staff report, several entities – including the GAO, the NRC Inspector General, and this Subcommittee – have recommended over the past few years that the NRC improve its licensing procedures to ensure that radiological materials will be used as intended.

To its credit, the NRC *has* shown a willingness to strengthen its licensing process. It made some changes in June 2007 in response to the GAO's latest clandestine operation. Those changes are steps in the right direction – and I applaud the NRC for doing so – but I don't think they go far enough.

I am concerned that the NRC does not fully appreciate the dirty bomb threat. They appear to be focused on the accident instead of the crime, safety instead of security, the good faith actor in world of bad faith people. To be fair, focusing on health and safety is obviously a paramount concern and the NRC should be commended for its responsible management of the most lethal radiological materials. But, in this world of sleeper cells and suicide bombers, we must be vigilant about the smaller-scale threat.

For instance, we think the NRC should regulate so-called Category 3 sources more stringently. Category 3 refers to the NRC's scale for radioactive sources, which goes from 1 through 5, with Category 1 being the most dangerous radiological sources and 5 the least. Category 3 sources are in the middle range and are designated as "dangerous."

Under the NRC's previous rules, license reviewers were not required to visit the facilities of applicants seeking Category 3 sources before issuing the license. Instead, the NRC would visit those facilities up to one year *after* the license was issued.

Thankfully, the NRC changed some of its rules soon after GAO's latest operation. Now, license reviewers are required to "visit" with applicants seeking Category 3 licenses. Again, I applaud the NRC's prompt response and recognize that it is a step in the right direction. I believe, however, that their change does not go far enough. Although their reviewers are required to visit with such an applicant, that "visit" can be a simple meeting at the NRC's offices. So the problem is clear: even with this recent change in procedures, the NRC license reviewers are *still* not required to visit facilities of applicants seeking Category 3 sources before issuing a license. I believe the NRC should require on-site visits – not meetings at the NRC – *before* Category 3 licenses are issued.

In addition, the NRC should evaluate whether to include Category 3 sources in the proposed National Source Tracking System, which will be designed to monitor the most lethal sources from cradle to grave. The NRC should also take steps to ensure that source materials can be obtained only in authorized amounts by legitimate users. For instance, the NRC should also consider established a web-based licensing system, so that suppliers can go online and check that a purchaser's license is actually valid and how much radiological material the purchaser is authorized to obtain.

These recommendations are designed to bolster our government's efforts to prevent a radiological attack in the United States. It is clear that terrorists are interested in using a dirty bomb to wreak havoc in this country. In the words of one homeland security expert, the impact of such an attack – even a relatively simple and small dirty bomb – could be a “nightmare scenario.” As a result, the government must be more vigilant in regulating and tracking radioactive materials in the U.S. One critical step is to prevent America's enemies from acquiring radiological materials in the first place. To that end, the NRC should focus on ensuring that such materials can be obtained only in authorized amounts by legitimate users. These measures will help ensure that the “nightmare scenario” of a dirty bomb attack never occurs.

I look forward to hearing the testimony from GAO and Commissioner McGaffigan from the NRC today. I know the Commissioner is passionate about the NRC and I commend his long tenure in government service. I look forward to discussing with him how we can work together to better protect America.

