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**James W. Spears
West Virginia Homeland Security Advisor
And
Cabinet Secretary
Of the
West Virginia
Department of Military Affairs and Public Safety**

**United State Senate Select Committee on Intelligence
Intelligence Reform -- FBI and Homeland Security
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Introduction

Good afternoon Chairman Rockefeller, Vice-Chairman Bond, and members of the committee. My name is Jim Spears and I sit before you wearing many hats. The first is that of Cabinet Secretary of the West Virginia Department of Military Affairs and Public Safety. As Cabinet Secretary I coordinate and have direct oversight over a dozen divisions, including: the West Virginia State Police, the state's National Guard, the Fire Marshal's Office, West Virginia's Capitol Police, Corrections, our state's Regional Jail Authority and West Virginia's emergency management agency. These are all agencies that generate and/or protect information impacting Homeland Security and emergency response.

My second hat is that as West Virginia's Homeland Security Advisor, a role to which the Governor appointed me immediately after my appointment as Cabinet Secretary. In these two roles I am responsible for the state's homeland security posture and have coordinating responsibility with state government leaders from Agriculture, Emergency Medical Services, the Health Department, Natural Resources, Environmental Protection and Transportation. In short, through my designation as Homeland Security Advisor to the Governor, and as Cabinet Secretary, it is my responsibility and my duty to coordinate the entire range of government services for the public safety and the protection of and response to disasters of all types for the citizens of West Virginia.

In June of last year the National Governors Association (NGA) Center for Best Practices formed the Governors Homeland Security Advisors Council to provide a structure in which the homeland security directors from each state and territory can discuss homeland security issues, share information and expertise, and keep governors informed of the issues affecting implementation of homeland security policies in the states. Hence, my third hat. Upon formation of this body and until last Friday, I served as Vice-Chair of the Standing Committee on Catastrophic Planning. As of last week I was named Acting Chair of this Committee. Two of the four priorities set by the Council directly interface with the subject matter of this hearing: 1) Improving interstate and

regional communication and 2) Facilitating communication between state and federal agencies.

Another of my hats relates to my membership on the Board of Directors of the All Hazards Consortium (AHC). The AHC was formed with stakeholders from government, industry, education and non-profit organizations in North Carolina, Virginia, West Virginia, District of Columbia, Maryland, Delaware, Pennsylvania, and New Jersey. It is a grassroots effort to enhance regional collaboration in homeland security by facilitating discussion of regional issues and sharing best practices, ideas, and strategies in a forum that includes academia, government, and private industry.

Finally, under my hats, I was a professional intelligence officer as a collector, analyst and consumer while serving in the U. S. Army for over 20 years.

I've been invited here today to provide my views on intelligence sharing and counterterrorism coordination among the FBI, the Department of Homeland Security, and state and local officials over the last two years and discuss the following:

1. The actions I have taken as the state Homeland Security Advisor and Secretary of the Department of Military Affairs and Public Safety to enhance security in West Virginia.
2. Are the roles and missions of the FBI and the DHS in the homeland security arena clear and well understood by state and local officials?
3. Has the creation of new Joint Terrorism Task Forces and new state and local fusion centers enhanced the effort against terrorism and other threats?
4. Is information sharing improving between federal and state and local entities?
5. What additional steps should the Executive Branch and the Congress take to improve the information sharing and counterterrorism performance of the U.S. intelligence community as it relates to state and local governments?

Security In West Virginia

It has been difficult and complicated to bring about security enhancements in the last two years but I believe West Virginia has a very positive story to tell. Shortly after assuming my current position, I discovered certain irregularities in the state's administration of homeland security grant funding. At the U.S. Department of Homeland Security's inception, West Virginia, as with most states, received an infusion of funding to obligate within an extremely short time frame, with little guidance and no long-term sustainment plan. In sum, states were asked to formulate security needs and spend money towards those requirements in a relatively short time span while simultaneously having to create the proper administration and oversight of the nascent program. As one can imagine, in many cases, this led to improper spending and lax oversight.

In West Virginia, after my dual appointments as Cabinet Secretary and Homeland Security Advisor, it became apparent that our state's program was lacking in focus, sound management, and direction. After an investigation and analysis of the program's policies and procedures, I saw it necessary to transfer the state's Homeland Security State Administrative Agency (SAA) to my office, the Office of the Cabinet Secretary, and completely overhaul the state's homeland security grants process.

Two major problems were uncovered. The first was the state's spending of homeland security grant funds on unallowable expenses during the FFY 2003 and 2004 funding cycles. After uncovering these unallowable expenditures, my staff and I held numerous discussions with our federal homeland security partners. As a result, West Virginia was asked to repay this debt to the federal government; a requirement to which the state readily complied.

The second significant discovery was that the previous grant managers had over-obligated homeland security funds for local projects by several million dollars. Desiring to honor the promises made to local entities, the State searched for funding from within and made good on these obligations.

After reviewing the above problems and analyzing the state's homeland security oversight requirements, we implemented a system that not only has our Homeland Security house in order, but is so effective that the National Criminal Justice Association (NCJA) recently named West Virginia's Homeland Security Grant Monitoring a "Promising Practice" and is now using our monitoring policies and procedures when conducting grants management workshops across the country. Also, the NCJA is reviewing our Homeland Security Grant Administration Manual and this, too, may also be labeled as a "Promising Practice." We are even fielding calls from other states who want to discuss our grants management policies and procedures and request copies of our documents to perhaps help them in improving their processes.

As I said, enhancing West Virginia's security posture during the last two years has been challenging. Prior to my tenure the state's homeland security emphasis had been on enhancing first response capability to Weapons of Mass Destruction (WMD); a major challenge given West Virginia's mountainous geography. This was accomplished by dividing the state into hazardous material/ WMD response team regions in which each region was given large amounts of specialized equipment and response training. Although the grant had not been administered properly, the state's WMD/HAZMAT response capability was greatly improved.

Our State is home to over one hundred chemical plants, multiple coal-fired power plants, hundreds of miles of natural gas transmission lines, a port that is the 6th busiest in America in terms of tonnage, miles of coal mines, and a burgeoning coal bed methane gas industry and robust locks and dams systems. West Virginia occupies a critical place in the nation's electrical grid. There is a multitude of public and private critical infrastructure in this state that interfaces with the economy, communications, energy and

other integral resources that are critical to the continuity of life in the eastern portion of the United States.

Since my arrival, we've taken a hard look at these areas of greatest security concern in our state. However, the greatest concern, as we determined and as you will hear in this testimony, has an impact that reaches far beyond our state's borders and has the potential to affect millions of Americans. It is no secret that Washington D.C. and New York City are at the top of the international terrorist hit list and that today's terrorists are looking at how to inflict the most catastrophic of blows on our nation. Therefore, it is not unreasonable, nor should we overlook the potential of a terrorist chemical, nuclear, biological or radiological attack on our nation's capital. Should this occur, it is of great concern to West Virginia, that vast numbers of Americans will evacuate the Baltimore-Washington area in a chaotic uncontrolled exodus.

A person can't help but note that even one of Hollywood's most popular television series is currently using a terrorist "dirty bomb" attack as its main story line. Correctly, the program's producers recognized and infused the resulting mass exodus of citizens who would seek to escape the radioactive cloud. Unfortunately, our concern is very real and is not one of Hollywood. We believe, and a recent West Virginia University survey supports, that a large number of people would self-evacuate in such a scenario. When this happens West Virginia's largely rural infrastructure will be quickly overwhelmed and potentially many lives could be lost if we are unprepared to handle such an evacuation. Given the rugged terrain, the preservation and protection of potentially impacted critical infrastructure is also of concern for the continuity of government plans and continuity of operations plans of federal agencies which may be planning to move to West Virginia or Pennsylvania. Unfortunately, the Department of Homeland Security officials responsible for such planning remain unconvinced that such a scenario could occur and have failed to apply the necessary resources for planning and preparing for this.

Instead of recognizing this glaring issue of national significance, the Department of Homeland Security's most recent grant guidance, continues to use its threat and risk methodology that considers urban risk the highest factor without consideration of the widespread impact to rural areas. We in West Virginia agree that Washington D.C. is a likely terrorist target. However, that risk underscores to us that we are likely to be secondary victims. There is no indication that the federal government recognizes that another direct attack on Washington, D.C. will have a regional impact, and that a coordinated regional response radiating out to the states of Maryland, Virginia, Pennsylvania and West Virginia will be required for the safety of all this region's citizens.

If the HSGP Risk Methodology is perpetuated, the secondary victimization will continue. It embraces the notion that when looking at an area of the country, there is a greater ability to measure consequence than vulnerability. In fact, in this regard, this is not occurring. It cannot occur with this methodology because the area of vision is limited to the directly impacted area and not the surrounding areas that will be indirectly

impacted or directly impacted by the aftermath. DHS is not giving consideration to the high likelihood of self-evacuation despite studies that have so confirmed. Accordingly the threat to West Virginia is enormous.

West Virginia's attempts over the last two years to obtain direction from FEMA, DHS and even surrounding states on how best to implement a coordinated multi-state mass evacuation planning strategy were met with little interest at best and with outright derision at worst. That is, of course, until Hurricane Katrina made landfall. The fact that our calls to action were prophetic is not gratifying. Our State's experience hosting hundreds of Katrina victims ultimately provided the impetus to West Virginia to organize and host the August 2006 groundbreaking multi-state "West Virginia Urban-Rural Evacuation Conference" in Canaan Valley, West Virginia. Invitees included the Homeland Security Advisor, Homeland Security State Administrative Agency Points of Contact, Emergency Manager, Emergency Management Planner, Homeland Security Planner, Adjutant General, Chief Law Enforcement Officer, Emergency Medical Services/Threat Preparedness Officer, Transportation Director, Volunteer Agency/Citizen Corps Director from Delaware, Kentucky, Maryland, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Subsequent regional meetings were held around our state to facilitate local regional planning integral to readying the local community for a population surge. At the October 2006 All Hazards Forum in Baltimore, West Virginia was presented with the 2006 Mid-Atlantic Regional Recovery Award for our vision and leadership in this area. We, nor our neighboring states are ready to handle such a large number of evacuees, but West Virginia is continuing to plan and prepare as best it can given its limited resources.

Roles and Mission of FBI and DHS

West Virginia has a great deal of experience with emergency response to natural disasters. Since 2000, the President has declared and we have responded to eleven Major Disaster Declarations, an Emergency Declaration and two Fire Management Declarations. Through and with these emergencies we have developed and maintained strong relationships with our federal partners – FEMA, the Army Corp of Engineers, the National Guard, the Small Business Administration, etc, all of whom have a seat in our state Emergency Operations Center. Our responses in each disaster were enhanced by knowledge gained from each previous experience and built on the previous foundation of relationships, enabling quick and efficient responses in each event. In talking with our state agency partners, there is some confusion of the role and mission of DHS. These same agencies, however, see the FBI as the principal federal law enforcement agency.

JTTF and Fusion Centers

We queried Virginia, Pennsylvania, Maryland and the District of Columbia along with West Virginia state agencies and have found a sometimes improving relationship with their federal partners. Within West Virginia, there appears to be a general consensus that the federal partners of the Joint Terrorism Task Force are not as forthcoming with information as they are at absorbing information provided by local and state agencies.

Collaborative information exchange seems to be most effective when state agency representatives are co-located with the JTTF. Although co-location is the most effective method for information exchange, another method is through the internet. For West Virginia, however, many of our rural areas still only have access to dial-up internet connection. It is also impractical to physically bring together far-flung local law enforcement entities for information-sharing events. It is even more important to note that we have recently been advised that the FBI is undergoing reorganization and is dismantling the JTTF in West Virginia, reassigning the agents to their home squads/agencies.

Fusion Centers are another matter. Though there is no formula for a standard one, many information gathering centers have been established across our country, often top-heavy with law enforcement personnel. A fusion center needs to go beyond the traditional law enforcement community for its sources of information. At the state level, we obviously need the participation of federal agencies willing to share information and intelligence. We also know that we can include valuable sources of information collected from within jails and prisons. We are also aware that the security operations of various private sector businesses can contribute valuable information on threats and risks that we might not otherwise be aware. For example suspicious behaviors toward banks, railroads, chemical plants and utility plants may all be identified by their respective security forces long before the public sector is aware. By bringing information routinely from these sources into a fusion center, analysts may determine a pattern of activity needed to thwart criminal or terrorist activity.

We have varying capabilities in our region. West Virginia and Pennsylvania currently operate law enforcement intelligence exchanges while our sister states of Virginia and Maryland operate robust fusion centers. The District of Columbia is just establishing its fusion center. We, too, are in the beginning stages of establishing a true fusion center, but it has been difficult. There is little federal direction and training. Each of our neighbors indicates an increasing need for additional skilled analysts. Fortunately, the All Hazards Consortium has launched a dialogue to facilitate fusion center development across our region. It is clearly still too early to tell whether these fusion centers will have an impact on terrorism.

Information Sharing

The world that changed on September 11, 2001 brought a new awareness to many of us at the state and local level – specifically that we must be prepared to respond to risks and threats of intentional man-made disasters. As a nation we learned that information was available, but that “dots weren’t connected” in ways that could prevent tragedy. But at the state level we found we hadn’t necessarily identified the “dots” correctly. There are mountains of information to be gleaned from a plethora of sources both in government and the private sector, but there is no standard system in place to synthesize that information into intelligence. Our informal survey of our sister states and intra-state partners make it apparent that even today, there is trouble distinguishing information and intelligence. Unfortunately, at the state level, sometimes information

and intelligence have the same effect. Because we are often called upon to respond quickly, we don't always have time to analyze the information into intelligence.

The history of our interaction with federal intelligence information sharing is one of slow evolution and building of trust. Our initial experience has been that federal agencies were eager to acquire what information and intelligence we had to offer, but were slow to pass information along to the general state and local levels. Conservative judgments by federal agencies of which agencies or organizations had a "need to know" left many at the state and local level with the feeling of being used as a pawn, not an equal partner. More recent efforts by Homeland Security and the Federal Bureau of Investigation have begun to break down this attitude. Joint FBI and Homeland Security Alerts are useful and relevant because they are more timely than quarterly briefings, and often sent within days of an event or suspicious activity. But our analysts still wonder if we at the state level are receiving perceived threats and alerts as soon as possible.

As a Homeland Security Advisor, I have a need for strategic intelligence – that is, information that has been analyzed and made relevant to help me identify threats that may imperil my state. That means I must have access to information that affect my state. I have to understand the vulnerabilities of the industries in my state such as chemicals and rail transportation, and realize the impact that targeted destruction of those facilities could bring about. Most important I need to know the federal agencies that are located or that plan to move to West Virginia in times of disaster. Unfortunately, obtaining such a comprehensive list has been problematic.

Ironically, the need to bring together multiple sources of information into an intelligence system transcends law enforcement and the public sector and reaches into information owned by the private sector. Our efforts to prevent or mitigate acts of terror require that we work confidentially across public and private barriers to gather information.

The Intelligence Reform and Terrorism Prevention Act was intended to improve information sharing. The focus was to establish an Information Sharing Environment among federal, state, local, private and international components, not build out a system. It has been recommended that to create a federal voice, state and local advocates be located in the National Counter-Terrorism Center and that the coordination group be comprised of federal, state and local members and that a senior DHS employee provide oversight/coordination between DHS and DOJ. We concur.

It is important to note the communication disconnect between the states and DHS. Historically, there has been a shortage of meaningful consultation with states. The DHS relationship with states is often one-sided, with requests for representation often being ad hoc. There has been poor outreach to states and locals on how to better serve their needs and how DHS could better support the leading roles states and locals play in all-hazard events. Remember, all disasters are "local." There have also been occasions when DHS has communicated directly with locals, governors, chiefs of staff, without notifying the Homeland Security Advisor. This leads to a disconnect on multiple levels.

Recommendations

As any prudent manager must do, we in the Homeland Security arena juggle many responsibilities and wear many hats, including the preparation and response to events over which we have no control. We must also do all we can to mitigate or prevent harmful incidents over which we may exert some influence. For each of these situations, accurate and current information is critical in making correct choices.

State partners can make strong partners in the national security efforts, particularly as related to terrorism. An integral component of our nation's homeland security effort is the information sharing between federal and state entities. To facilitate this we would recommend timely distribution of significant terrorist intelligence and information to those who direct the first responses to these threats. Critical information must be shared in a timely manner with Governors, Homeland Security Advisors and other selected state officials. Information passed should be actionable and consistent with the current threat level. The security clearance process should be standardized across agencies and states so that information exchange is truly reciprocal between the FBI, DOD, DHS and other agencies and all levels of government.

As our country leans forward to develop and implement emergency preparedness plans at the federal, state and local levels, it is imperative that we coordinate and collaborate our efforts. With 85% of our nation's critical infrastructure privately owned, we recognize that private sector partners play a key role in maintaining our country's security. They also have information to share. We must keep in mind the business community's role and continue to coordinate with our private sector partners. Our preparedness and recovery efforts must ensure that the limited federal resources are effectively allocated across all geographic areas not just urban areas.

To reiterate, a vulnerability of our state is that of secondary victimization. We have a small population base spread over a largely rural environment and we are not immune to the consequences of a direct attack upon a major population center. As I mentioned earlier, a foreseeable consequence of a "dirty bomb attack" upon Washington D. C. would be the likely evacuation of the Washington Metropolitan area. With limited evacuation routes, West Virginia could very well be overwhelmed in our ability to manage evacuees streaming through our state toward safe harbors. The surge demand of food, fuel, health care and housing could well cripple the state in short order without proper planning and oversight to manage such an event. This level of strategic planning can only be accomplished with critical analyzed thought applied to the mass of information that makes up the picture of our state. It also implies that we need to look not just in the borders of our state, but also in a regional view with jurisdictions surrounding our state.

Accordingly, it is imperative that the risk methodology employed by DHS be amended to reflect recognition that an attack on an urban area will have an impact on the

surrounding regional area, and that a coordinated regional response will be required for the safety of all citizens.

DHS is perfectly positioned to provide us with a road map on how to plan and prepare for regional disasters. We would recommend the formation of a “Greater Washington Mass Evacuation Planning Group” (GWMEPG) with a full-time coordinator located in DHS’s Office of National Capital Region Coordination. The planning group would consist of one representative each from West Virginia, Pennsylvania, Delaware and North Carolina. The coordinator’s responsibility would include acting as the liaison between the GWMEPG and the National Capital Region Planning Group and DHS to integrate plans and secure the resources that such a large preparedness effort would require. The GWMEPG would develop the subcommittees necessary to conduct a thorough review and build a comprehensive region-wide evacuation plan beyond the Washington Beltway

We look forward to working with our federal partners for the mutual benefit that collaborative information exchange and cooperation can each achieve.

Thank you for allowing me the opportunity to address the committee.