

MINORITY VIEWS OF NORM DICKS AND DAVID PRICE

As we approach the ten-year anniversary of the September 11th terrorist attack, there is no doubt that America is better prepared than before to counter and respond to a terrorist attack. Yet, it is equally clear that this threat has not diminished. Over the past 18 months, we have seen numerous attempts to attack our homeland, including efforts from homegrown terrorists as well as from persons who would not have been flagged for further scrutiny before being permitted to come to the United States. The Christmas Day, 2009, bombing attempt of a Northwest Airlines flight over Detroit, the Times Square bombing attempt in May 2010, and the Yemen air cargo plot are notable examples of this persistent threat. Additionally, after the death of Osama bin Laden, media sources reported that Al Qaeda may have been attempting a major attack on U.S. rail systems. Each of these threats must be dealt with by the programs and activities funded in this bill. Unfortunately, the funding levels contained herein do not adequately address these threats.

Concerns with the Bill: Budget Allocation

For the second year in a row, overall funding for the Department of Homeland Security (DHS) will drop. With a 302(b) allocation for DHS in FY 2012 of \$40.592 billion, the Republican majority is essentially returning DHS discretionary funding to the 2009 level.

The bill adopted by the Full Committee is 2.6 percent, or \$1.071 billion, below the 2011 enacted level of \$41.661 billion, which is already below the fiscal year 2010 enacted level. And the bill is 6.8 percent, or \$1.984 billion, below the President's budget request of \$43.576 billion. While this bill provides adequate funding for the front line employees of the Department of Homeland Security to continue to conduct critical operations along our borders, protect our nation's airports and seaports, and respond to the spate of natural disasters our country has experienced this spring, it severely shortchanges our State and local partners who will be the first responders to terrorist attacks, natural disasters, and other major emergencies. It also decimates the Department's research efforts on cyber security and other developing threats.

Beginning with the 2011 Appropriation, which included reduced funding levels to many key State and Local programs, and now continuing with this 2012 bill, which cuts funding for State and Local grants and Firefighter Assistance grants by more than half from 2011, this compounded reduction in funding breaks faith with our responder community. These reductions come for two reasons: a paltry 302(b) allocation for the homeland security bill resulting from an entirely inadequate discretionary spending cap established in the Republican Budget Resolution, and the decision to increase funding for the Disaster Relief Fund by \$850 million without emergency designation, which was not requested, even though the Administration is well aware of at least \$6 billion in disaster commitments it must pay out shortly. (These Disaster Relief commitments do not reflect the new disaster costs incurred with the tornados and flooding this spring.) Traditionally, a Disaster Relief shortfall has been met through emergency supplemental appropriations, as shown when the Full Committee adopted a \$1 billion dollar emergency supplemental for disaster costs anticipated for the remainder of 2011. Chairman Rogers has indicated that he expects to pass another supplemental later this year to deal with the costs that will be incurred in 2012 from these same disasters. Yet even with a \$1 billion increase for 2011 needs and an impending supplemental disaster appropriation for 2012, this bill still includes funding for Disaster Relief at a higher than requested level. This requires deeper cuts to critical programs than would be required by the paltry allocation itself. Unfortunately, state and local first responder grants received the brunt of this blow, taking a fifty percent reduction overall. Not only does this adversely impact efforts at the state and local level to improve preparedness for natural disasters and terrorist attacks, but it does so at a time when state and local budgets are already contracting, making this funding all the more vital.

Breaking Faith with the First Responders

The bill adopted by the Full Committee cuts FEMA State and Local programs by a staggering 55 percent below the enacted level and 70 percent below fiscal year 2010. Similarly, the bill cuts 57 percent from Firefighter Assistance as grants compared to 2010 and 2011. With the threat of terrorism still looming large and with the seemingly incessant onslaught of natural disasters across the country, these cuts break faith with the states and localities that depend on us as partners to secure our communities. Similarly, the cuts to firefighters ignore key investments needed to maintain the basic response capacity in our communities. According to the International Association of Firefighters, 1,600 firefighters will lose their jobs if the cuts in this bill are enacted. These cuts will be doubly disruptive as many of our states and municipalities are being forced to slash their own budgets as the effects of the recession linger.

Further the bill provides a total of \$1 billion for all State and Local Grants, making all-hazard, formula-based State Homeland Security grants compete against terrorism-based security grants for high threat, high-risk urban areas, ports, and transit. But this \$1 billion allocation is misleading. After excluding the statutory set-asides for Operation Stonegarden of \$55,000,000 and for National Programs of \$192,663,000 as well as the 10 percent for administrative costs, the actual funding that the Secretary can allocate is \$677,103,300. This figure is below what the urban area security grant program alone received in fiscal year 2011. At this level, if the Secretary were to provide funding for State Homeland Security grants, which requires each state and territory to receive a minimum amount of funding (defined in statute) as well as a 25 percent requirement for law enforcement terrorism prevention grants, DHS estimates that states and territories would receive at least 53.2 percent less than they will receive in fiscal year 2011. Some states, such as California and New York, could receive over a 90 percent reduction if the Secretary did not increase state funding above the minimums for risk, vulnerability, and consequence.

Plainly put, these decisions are shortsighted, and we cannot conceive of any defensible argument for cuts of this magnitude. Chairmen Rogers and Aderholt explained at the Full Committee markup of this bill that one of the main reasons for the cut to State and Local grant programs is because the agency has allowed large pots of money to remain "unspent." While we concur that the Department has struggled to get those entities who receive grants to expend the dollars quickly, many of these funds are tied to longer term construction and acquisition projects that require multiple stages of review before construction can begin or reimbursement can occur. We should also be clear that, by and large, these funds are already obligated for specific and approved projects, but the money has not left the Treasury because final receipts for completed work have not been turned in by the states and localities. Again, this is largely due to the fact that these efforts to build local preparedness capacity are long term endeavors and that the various financial accountability and legal requirements on the grantees extend the reimbursement schedule longer than would be ideal. But it is not the case that States and localities are inundated with federal preparedness funding and that continued funding is unnecessary, as has been suggested. On the contrary, vital preparedness efforts will be delayed, stalled or abandoned in the absence of sufficient follow-on grant funding combined with shrinking state and local budgets.

Since the Subcommittee markup of this bill, we have heard repeatedly from numerous entities about the damaging nature of this decision to only provide \$1 billion, in one lump sum, for all State and Local grants. For example,

- Transit agencies will not have funding to hire additional law enforcement officers, acquire bomb sniffing dogs, or install explosive screening devices at a time when open source media reports indicate that Al Qaeda may be attempting a major attack on the U.S. rail system.

- State and localities will receive greatly reduced funding (or be denied funding entirely) to harden tunnels and bridges or install surveillance systems at high-risk areas.

- Ports will not have funds for vessels to protect Harbor waterways from a terrorist threat or for maritime training of law enforcement personnel at the ports.

- According to the National Association of Counties, a reduction in grant programs and the combining of funding will result in communities of all sizes not being able to enhance their level of preparedness to deal with all hazards, including potential nuclear, chemical, and biological attacks.

- Cuts of this magnitude will cost jobs and harm the economy.

We cannot support this diminution in preparedness and so offered three amendments to restore funding for these critical grant programs, which were defeated almost exclusively along party lines. We maintain that more can and should be done to support our first responders, and we will continue to voice our support for funding enhancements as the bill progresses to the floor and in conference with the Senate.

Disaster Relief Reporting Requirements

We expressed strong concerns in Full Committee over a disturbing, precedent-setting provision in this bill. It would require the President to submit a budget amendment for additional disaster relief funding three months before the balance of available funds reaches \$800 million. And it would require those additional funds to be fully offset from discretionary budget accounts. Certainly, Democrats as well as Republicans would like to see less reliance on supplemental appropriations to fund disaster relief. But when disasters strike, victims need help, and they need help quickly. We should not risk delaying disaster relief because of partisan battles over proposed offsets. Nor should we create a mechanism that could tie up the relief process because a disaster did not do us the courtesy of providing three months notice.

Extreme Funding Reductions to Research and Development Activities

Another highly troubling decision in this bill is reducing the level of funding for research and development activities within the Science and Technology Directorate by more than half. The bill approved by the Full Committee provides \$398.2 million for Science and Technology's Research, Development, Acquisition and Operations, 61 percent below the request and 42 percent below 2011. And to complicate matters further, over half of the appropriated funding is to maintain or construct laboratory facilities, not even for research activities.

At this level for 2012, S&T would first fund programs at centers that require an extended time to

shutdown, programs required by law, and work conducted for other Federal agencies. After meeting these mandatory obligations, the Directorate would only have \$110.4 million remaining for high-priority Research and Development activities. S&T has informed us that it would concentrate its remaining resources on aviation security and explosives detection technologies and on two Apex projects that S&T has committed to deliver to DHS components in signed charters. This means that funding for many other critical research efforts under way on cyber security, disaster resiliency, and detection of chemical and biological threats, could not be funded in 2012.

Immigration

While we appreciate the willingness of the Chairman to continue statutory language on the deportation of criminal aliens, continued oversight of 287(g) agreements, and funding increases for both the Secure Communities and Alternatives to Detention programs, we have serious reservations about other immigration provisions included in this bill or the accompanying report.

We strongly oppose inclusion of statutory language mandating ICE maintain a level of not less than 34,000 detention beds through September 30, 2012, which is 600 more beds than the budget request included. This language may obstruct ICE's ability to satisfy its stated enforcement priorities and accomplish detention reform. ICE Assistant Secretary John Morton has stated that he interprets this language as mandating not only that he maintain 34,000 beds but that he also fill those beds with detainees on a daily basis. We have no problem funding the capacity for 33,400 beds, as requested in the budget (\$2,023,827,000); but the use of those beds should be determined by the enforcement actions of ICE and the judgment of ICE on whether detention is required for particular detainees based upon flight risk and danger posed to the public. Mandating government spending on a pre-set number of detention spaces is contrary to the government's interest in reforming the detention system and targeting its use for only those individuals who require it. And in an environment of fiscal restraint, Congress should

not be telling a federal agency that it is not permitted to spend less than a certain amount if the same objective can be achieved at a savings to the taxpayer. For example, ICE could make greater use of Alternatives to Detention, where warranted by the circumstances of the detainee, resulting in significant daily cost savings. Finally, we are unaware of any other law enforcement agency that has a requirement to detain no less than a certain number of individuals in its custody on a daily basis. Normally, detention level is a consequence of enforcement activity.

We also oppose report language that supports the argument that Alternatives to Detention (ATD) program costs more than detention per individual. As ICE's own data shows, ATD is a very economical alternative to holding a low-risk individual in detention. Estimates of ATD enrollment have been as low as \$7 per day while detention costs on average \$122 per day. Also, ATD has proven to be an effective and low-cost way of ensuring attendance at immigration hearings without the high cost of detention. While we are pleased that the bill supports the requested increase for the ATD program, allowing for 2,500 new participants, the bill continues to favor the expansion of penal detention, for which funding has increased by 140 percent, from \$842.3 million since 2006, to \$2.24 billion in this bill, thereby reducing the likelihood that ICE will take full advantage of the cost-saving potential of prison alternatives.

Citizenship

The bill provides no funding for asylum and refugee processing and immigrant integration grants, two areas that had received appropriated funds in the past. This reverses course on a 2010 decision to fund the processing of asylum seekers and refugees out of general funds, rather than asking other immigrant petitioners to pay for a service that they do not receive through fees. This bill also reverses a policy in recent years of appropriating funds for immigrant integration grants. Now, if the Secretary decides to continue this worthwhile program to promote the integration of new citizens into the American social fabric, these funds must now be carved out of the fees paid by persons and businesses applying for immigration benefits. These grants

are used to support citizenship preparation services for permanent residents; strengthen citizenship preparation programs that provide direct services in communities across the country; and increase the capacity of members or affiliates of national, regional, or statewide organizations to offer citizenship services in underserved communities.

Other Reductions to Construction, Information Technology and Automation Projects

In total, the bill reduces \$504,036,000 from the budget request for construction, information technology, and automation programs throughout the Department. This includes no funding to migrate all DHS component resources to two consolidated data centers, a project that has been under way for a few years and will reduce the risk of locating all of the Department's data at one facility or at aging, non-DHS facilities that are already overloaded. The bill also makes significant reductions in CBP and Coast Guard facilities construction, CBP automation and DHS headquarters. These are shortsighted reductions that eventually could weaken frontline operations and will cost taxpayers more money in the future.

Of particular concern is the decision to provide no funding for the new DHS headquarters or for the consolidation of leased property, a penny-wise and pound-foolish decision. Already, based on the delay in finalizing the 2011 bill and the reduced resources provided in that bill for DHS headquarters construction activities, the cost of the headquarters project has grown by \$200 million, from a total cost of \$3.4 billion to \$3.6 billion. The decision to deny an additional \$159,643,000 in 2012 to finalize construction of the first phase of the new headquarters project and begin construction on the second phase will result in higher costs in the out years and will delay, by at least one year, when the Coast Guard can move into its new headquarters facility (phase one), which is already under construction.

Similarly, the bill does not provide the \$55,630,000 requested for lease consolidation activities. Last year, this Subcommittee held a very informative hearing with DHS and the General Services Administration on this activity and heard testimony about the significant financial benefits of reducing the number of leases DHS has from 70 buildings across 46 locations in the greater Washington DC area to 6-8 buildings. Witnesses testified that the massive footprint disrupts the effectiveness and cohesiveness of Departmental operations and adds needless layers of cost and complexity to facilities management. Additionally, the leases will consume an increasingly larger share of the Department's budget through overhead costs in the coming years. In a time of fiscal constraint, the Department will not have extra dollars to pay for all of these lease increases without shortchanging front line and mission essential programs. At a time when real estate prices continue to be low in the greater Washington, DC area and construction and materials costs are relative low as well, this is the time to make this type of investment. Funding this activity would save taxpayers money for years to come.

The country deserves better than this bill. For the aforementioned reasons, we oppose this bill and urge our colleagues to do likewise.