Symposium Series Number 2

The Role of "Home" in Homeland Security

The Federalism Challenge

The Challenge for State and Local Government

Symposium Series Number 2

The Role of "Home" in Homeland Security

The Federalism Challenge

The Challenge for State and Local Government

March 24, 2003

The Rockefeller Institute of Government

Albany, New York

The Nelson A. Rockefeller Institute of Government
Albany, New York 12203-1003
© 2003 by The Nelson A. Rockefeller Institute of Government
All rights reserved.
Printed in the United States of America

The Nelson A. Rockefeller Institute of Government
411 State Street
Albany, New York 12203-1003

June 2003

TABLE OF CONTENTS

Foreword v
James W. Fossett

Symposia Topics and Speakers ix

Welcome 1
Richard P. Nathan

Opening Remarks 1
Frank Thompson

Introduction of Speaker 2
Frank Thompson

Speaker's Remarks 3
Don Kettl

Introduction of Speaker 16
Frank Thompson

Speaker's Remarks. 16
Paul Posner

Introduction of Speaker 30
Frank Thompson

Speaker's Remarks. 30
James Fossett

Question and Answer Period 39
Frank Thompson

Closing Remarks 49
Frank Thompson

FOREWORD

The events of September 11, 2001, dramatically raised the stakes for American government's ability to address the problems of homeland security. Confronted for the first time with an adversary with the ability to plan and carry out attacks which inflict massive casualties, American governments find themselves required to take large-scale actions on a variety of fronts to identify and apprehend would-be terrorists, protect critical infrastructure, and prepare to respond to future attacks. While much attention has been focused on the national government's efforts to address these problems, there has been less consideration of the role of state and local governments, which play a critical role in preventing and responding to terrorist attacks.

To focus attention on the role of state and local governments in homeland security, the Rockefeller Institute of Government, a nationally recognized center for research on American federalism, is presenting a series of symposia collectively entitled "The Role of *'Home'* in Homeland Security: The Challenge for State and Local Government." This series features nationally recognized experts who are convened to contemplate the most important challenges for state and local governments in homeland security and identify what government must do to keep our nation secure.

These symposia focus on the following four topics:

- Public Health
- The Federalism Challenge
- The Detection and Prevention of Terrorism
- First Responders

The proceedings for each symposia will be published and posted on the website of the Rockefeller Institute of Government (*www.rockinst.org*). A book addressing the issues raised in this series is planned for mid-2004.

This report contains the discussion at the second of these symposia, "The Federalism Challenge" held at the Rockefeller Institute of Government on March 24, 2003. Frank Thompson, Dean of the Rockefeller College of the University at Albany of the State University of New York, presided over a panel of speakers that included Donald Kettl, Ph.D., of the University of Wisconsin; Paul Posner, Ph.D., of the U.S. General Accounting Office; and James W. Fossett, Ph.D., of the Rockefeller Institute and the Department of Public Administration and Policy of the University at Albany. While the discussion covered a wide range of topics on federalism and intergovernmental relations related to homeland security; four major points are worth repeating:

1. There is no clear intergovernmental division of labor around most homeland security activities. "Perimeter protection" against foreign terrorists is primarily a federal activity, while responding to attacks and other disasters once they have occurred has evolved as principally a local responsibility. Responsibilities around "target hardening," or protecting structures from attack, are more complicated. Most vital infrastructure is owned by the private sector and regulatory responsibility for some industries is divided between levels of government in frequently complicated ways. In other industries, it is unclear that **any** public agency has the legal authority to set and enforce security standards.
2. In many program areas related to homeland security, there has been a strong push to "federalize" many activities that have historically been local responsibilities or shared between federal and state and local governments. Federal agencies have been aggressive in pushing for national standards in a variety of program areas, and there is talk of requiring national standards for such traditional state functions as drivers licenses. Federal actors have tried to mandate that states vaccinate frontline workers against smallpox and tried to convince governors that they should activate the National Guard in response to elevated threat levels, with little success.
3. Homeland security presents many of the same problems that have been encountered in federal-local relations in other functional areas. There is considerable political pressure to spread available funds broadly to a large number of geographic areas rather than targeting them on areas that are most at risk of at-

tack, and there has been considerable argument about traditional federalism concerns of money, turf, and power.

4. There was broad agreement that effective response to the homeland security challenge requires considerable collaboration and cooperation between a wide range of federal, state, and local agencies. All three speakers agreed that fostering this cooperation was a difficult task that required the development of informal relationships and trust before attacks took place. The current fragmentation of federal funding sources, program rules, and the large number of state and local agencies likely to be involved in responding to a particular attack make achieving the required level of coordination and cooperation difficult.

It is a pleasure to acknowledge the contributions of a number of people to the success of this symposium and the publication of this transcript. Funding was provided by Blue Cross/Blue Shield of New York. Courtney Burke of the Rockefeller Institute staff organized the symposium and, with Michelle Kelafant, managed the meetings logistics. Michael Cooper handled the layout and other technical chores connected with the publication of this volume. Our thanks to them all.

James W. Fossett
Senior Fellow
Rockefeller Institute of Government

SYMPOSIA TOPICS AND SPEAKERS

Public Health — January 31, 2003

- *Georges C. Benjamin*, MD Executive Director of the American Public Health Association and former Maryland Secretary of Health and Mental Hygiene and president of the National Association of State and Territorial Health Officials.
- *Harvey Fineberg*, MD, Ph.D., President of the Institute of Medicine and former Provost of Harvard University and Dean of the Harvard School of Public Health.
- *Carol Ann Rauch*, MD, Ph.D. Chief of Clinical Pathology at Baystate Medical Center and member of the Massachusetts Governor's Bioterrorism Preparedness Task Force.
- The symposium was moderated by *Dennis P. Whalen*, Executive Deputy Commissioner of the New York State Department of Health

The Federalism Challenge — March 24, 2003

- *Professor Don Kettl*, who has studied the federalism challenge of homeland security, is the former Director of the University of Wisconsin Robert M. La Follette School of Public Affairs and teaches public administration and public management.
- *Paul Posner, Ph.D.*, a recognized national expert on U.S. federalism, is the Managing Director, Federal Budget Issues, Strategic Issues for the General Accounting Office.

- *James Fossett, Ph.D.,* an expert on public management and health policy is a professor at the State University of New York at Albany
- The session was moderated by *Frank Thompson*, Dean of the Rockefeller College of Public Affairs and Policy at the State University of New York at Albany. Thompson recently edited a special section of the *Public Administration Review* on the role of state and localities in homeland security.

The Prevention and Detection of Terrorist Attacks — June 12, 2003

- *James McMahon* is Superintendent of the New York State Police. He is responsible for overseeing the state's police force and directing law enforcement activities that combat terrorism.
- *James Kallstrom* is advisor to Governor George E. Pataki on homeland security and is the former Director of Public Security for New York State. He also served as head of the Federal Bureau of Investigation's New York Division and is Director of Public Security for MBNA America.
- The session was moderated by *Thomas Constantine*, former Superintendent of the New York State Police and Administrator of the Drug Enforcement Agency.

Training First Responders — September 11, 2003

- *James G. Natoli* is the New York State Director of Disaster Preparedness and Response. From 1994-2002, he served as the Director of State Operations under Governor George E. Pataki.
- *Penny Turnbull* is Director of Crisis Management and Business Continuity Planning at Marriott International (*invited*).
- *Larry Reader* is special assistant to the President of Onondaga Community College, part of the State University of New York. He is managing the development of curriculum on training first responders.
- *John V. Fenimore*, former Adjutant General, State of New York and Chairman of the New York State Disaster Preparedness Commission, was the moderator for this session.

Welcome — *Richard P. Nathan*

Richard P. Nathan

I welcome you to this second seminar in our symposium series on the "home" in homeland security. Our first seminar was on bioterrorism and today's subject is on, a favorite of many of us here at the Rockefeller Institute, federalism and homeland security. We will transcribe today's session. There will be a publication from each symposium in the series.

I would like to thank Courtney Burke and Jim Fossett for all the work they have done to arrange these programs. We are looking forward to what our speakers have to say. Frank Thompson, the Dean of the Rockefeller College of Public Administration and Policy, will moderate this symposium.

Opening Remarks — *Frank Thompson*

Frank Thompson

Thank you, Dick. I add my welcome to you all too. I must say, last weekend, I was down at the annual meeting of the American Society for Public Administration in Washington, D.C. and all the buzz was about the new Department of Homeland Security and what it would mean. My friend, Don Kettl, argues that this is the most major reorganization that has ever happened to the federal government. So there was a lot of buzz in the National Academy of Public Administration. The thing that struck me about all the talk about the new federal agency, being a student of federalism, was that the discussion was only focusing on the tip of the iceberg. The real big part of the iceberg is federalism and the 87,000 units of government that are going to have to do something if we are going to achieve homeland security goals: the 50 states, the 3,000 counties, the 35-36,000 general purpose local governments. And then all those special districts or at least a lot of those special districts will have to be involved as we take on these issues of homeland security.

I thought about the functional areas that had been front and center as we thought about homeland security: prevention — the notion that we need to get activities designed to reduce the ability and inclination of individuals and groups to commit terrorist acts. My friend, Tom Constantine, is big on the importance of better intelligence in that regard. Then there is preparedness, efforts to develop the plans and capacity you need to respond effectively to terrorist attacks should they occur. Thirdly is response, the immediate activities taken by public and private sector parties, individual citizens to limit injury, death, physical damage and impairment, critical societal functions once an attack does occur. Fourth is recovery, long-term and short-term efforts to restore and rebuild, what we’re witnessing now in the southern part of Manhattan as people begin to rebuild from the awful events of September 11.

When I thought about each of those functions, what really hit me was again, the biggest part of the iceberg, those 87,000 units of government. Not all of them are going to be critical to the homeland security effort but I would easily say a clear majority of them will be critical. So how we can, in a vertical or horizontal sense, do something to make these governments part of the mosaic in the homeland security mosaic is a critical question.

So fortunately today is a counterbalance to what I was talking about last weekend. Today we have a very distinguished panel. As the time comes for each panelists to talk, I will spend a little time introducing each of them and will tell you more about their background. On my immediate left we have Paul Posner of the General Accounting Office. Here in the center we’ve got Don Kettl, who’s a Professor of Public Affairs and Political Science, University of Wisconsin, and finally, my colleague from Rockefeller College of Public Affairs and Policy, Jim Fossett. Each of these gentlemen will be zeroing in on the issue, as Dick Nathan says, the “home” in the federalism aspects of homeland security. So let me then begin with an introduction.

Introduction of Speaker — *Frank Thompson*

The first speaker this afternoon is going to be Don Kettl. As I indicated to you, he is at the La Follette School at the University of Wisconsin-Madison. He’s also on the faculty of political science. He is

a prolific author. He has headed up a group at the Twentieth Century Fund that has been focused on this whole question of homeland security. He has published numerous books on reinventing government, including one I use in a seminar I teach called "Sharing Power" about public-private relations in government and many, many others. He is a fellow of the National Academy of Public Administration. He's a nonresident senior fellow at the Brookings Institution. He's consulted extensively with government, serving on a number of special councils and commissions in the state of Wisconsin. If any of you are readers of *Governing* magazine, you'll know he writes a monthly column for governing. He has his degree in political science, the Ph.D., and his undergraduate degree being from Yale University. So it is with great pleasure that I introduce Don Kettl.

Speaker's Remarks — *Don Kettl*

The New Department of Homeland Security

Don Kettl

Thank you very much for that overly generous introduction. I'm going to begin with a brief story. I was at the Kennedy School at Harvard about a month ago and the people who were the key operatives behind the scenes in creating this new Department of Homeland Security were there. They said that this is the most complicated federal reorganization since the creation of the Department of Defense. I said, "That's exactly wrong. It's the hardest thing in our history we've *ever* tried to do." And afterwards I understood that some of the people sat and whispered to each other saying, "Well, now I'm really depressed. I knew it was hard; I didn't realize it was this hard." Never before in history have we tried to combine so many different functions together into one federal department, to do it in such an enormous rush, to do it without in any way sacrificing any of the pieces that were already being done. Then layering on top of that a whole new thing called "homeland security."

When we created the Department of Defense, we already did have a building. We're still in the process of trying to get the Army and the Air Force and the Marines and the Navy to actually speak to each other civ-

illy on a regular basis. But at least they're all in the same building and at least what we tried to do when we created the new department was to have them continue doing what they were doing, which is to coordinate in a more effective way. In this case, what we're talking about is having a vast array of different kinds of functions at the federal level, everything from the cute little beagles who go crawling across your luggage when you fly back in from Europe to make sure you're not smuggling in illegal bananas, to the Secret Service, in charge of protecting the president and detecting counterfeit currency, all together in the same agency and dealing with homeland security.

The Role of Local Government in Homeland Security

As difficult and complicated as that is though, the one piece that strikes me as the missing link in the discussions at the federal level about homeland security is the question of federalism. I say that not just because I'm sitting in the state capital here or at home in Madison, for that matter. Rather, it's because all homeland security problems begin initially as an issue of first response by first responders and, therefore, all homeland security issues are by definition, local. Any homeland security system that's going to be effective has got to be, at its core, an intergovernmental system.

My great concern about the new department is this: The people in Washington working on it are so preoccupied by the tremendous difficulty of the structural issues that the intergovernmental issues — which, in many ways, are the hardest pieces of the puzzle — are likely to get either short shrift or little attention at all in the discussion.

Suppose, however, that we did want to pay careful attention to what the federalism component of homeland security really means. As Dick Nathan would suggest, what would looking at the "home" in homeland security mean? I want to share with you some of the findings that we've come up with as a result of the work that we've been doing as part of the Century Foundation's project on federalism and homeland security. There is a series of papers that will soon be published. They will look at what some states are up to. I want to try to summarize what we found and suggest some strategies that might make some sense.

If you look at what state and local governments have done so far, it's fair to say that the primary focus of homeland security has been on *re-*

sponse, not on prevention, although there has been an increased emphasis on prevention because of federal arguments about the need to try to be more alert. But, as we know, a primary complaint by state and local officials is that the federal government will say, "The terror level is now orange; be more careful." What, where, how, about what? Often the state of intelligence is not sufficiently good to tell anybody more than just to be careful, to which state and local officials say, "But we're already doing that. Asking us to do more of what we're already doing is hard because we're already stretched as far as we can be. There's only so much time we can spend putting people on overtime, having them drive by bridges and dams and power plants, and so on." So, in short, an effort to try to focus more on deterrence is an effort that has to be centered at the federal level. For better or worse, most of the effort at the state and local level has been — and will continue to be — focused on response.

What Is Homeland Security?

Let me try to explain what the homeland security system looks like. We talk about homeland security as if we know what it means. In practice, however, there is a surprising level of confusion, disagreement, or, at the very least, differences in emphasis among state and local governments about what "homeland security" is. In part, that's a political issue because when most local officials are discussing homeland security they will say, "Look, we know what to do. It's primarily a matter of preparing our response. We know how to respond. Give us the money that we need; we know what to do." On the other hand, there are those who from the top down say, "What we need to do is to create an integrated, seamless response system so that we don't run the risk of having problems fall through the cracks." This creates a tension in homeland security. Those who study issues of federalism will recognize this as one of your deep and historic tensions between those who say, "Give local governments flexibility and more money to create a better system from the bottom up" and those who argue the need for a more integrated system from the top down. I'll come back and talk about some of this a little bit later. At the core of the problem of homeland security is some disagreement about what homeland security is, who ought to be in charge of it, and how it ought to work.

An Examination Of What Has Been Accomplished Since September 11, 2001

Another question is, "What have actually accomplished since September 11?" It is undoubtedly the case that local governments in particular and state governments as well have worried much more about since September 11. There has been, in particular, a lot more emphasis spent simply on trying to put together plans at the state and local level, which, in many cases, were desperately needed.

One problem is that preparedness plans have, in many parts of the country, not been accompanied by much action. There are a lot of reports; there are a lot of plans; there is a lot of saying, "Here's what we'll do if — " but the pieces and the components required to put the plans into action in many parts of the country have not adequately been put into place. Let me give one example of that.

Everybody knows as a result of what happened, both with September 11 and as a result of the Anthrax attacks that followed soon afterwards, that public health has to be a key component of the first response system and the first response system has got to be quick and first on the scene.

In one of the states that we examined, which shall go nameless for reasons that will be obvious as I tell the story, there was this suspicious little bit of white powder that was discovered in October 2001. This was in a part of the country where it gets a little cold that time of year so they called the first responders out who arrived on the scene and proceeded to take people outside, have them strip down to their underwear, and hose them down to make sure that they'd be decontaminated — a rather unpleasant experience.

About forty-five minutes into this event, it dawned on somebody that maybe they ought to call the public health people: It took forty-five minutes to determine that public health people ought to be part of the first-response process. The public health people came, but then they were not allowed into command post. The health workers said, "We're here; we're here as part of the first response system." As it turns out, it was the public health workers that A) knew what to do in case of that kind of issue and B) would have advised something differently, C) weren't called, and D) when they arrived, they weren't let in. I've been

assured that this problem has since been cleared up so it won't recur. But one wonders in how many parts of the country that still is an issue.

First Responders: The Role of Local Public Health

One of the crucial issues with the first response system is an effective and a strong public health system. If there's any weakness anywhere at the local level in terms of homeland security, it seems to be in public health. The fact is that in most states and most localities that public health has not been carefully integrated into an effective first-response system. There may be plans for doing so but whether or not it would work in case of crisis is something that nobody really knows for sure. There have been some unsettling tests of this so far that suggest, in practice, that it might not work so well. Sooner or later the pressure of events tends to solve some of these problems. The problem is: How much pressure of which events would be required to solve which problems? The whole point of having an effective first response system is to make sure that important minutes and hours are not lost as people try to figure out the right thing to do. This delay can cause problems and in part because the first instincts may not be correct and they're hard to correct after the fact.

First Responders: Schools

Another example that shows the role of local players deals with the local schools. In this example, a local school had done some things to respond to FEMA's suggestion that all local schools ought to have a plan put in place in case suspicious powder was found. The question was: What should be done? What was the plan? A local fire chief I talked to had spoken to school officials and said, "What in fact is the plan?" It turns out the school officials had received the directive, but had not quite gotten around to figuring out what they ought to do. They hadn't gotten around to figuring out whether or not the best thing to do was to evacuate the school and run the risk that children would walk past the room where the suspicious powder was, each of them taking a good inhalation of it, and running the risk of sending it right to their lungs — or whether it was better to keep them in their classrooms and

running the risk that the ventilation system would produce the same result. One of those alternatives is probably better than another, but the school had not figured out which.

Variations in Preparedness at the Local Level

The third issue is widespread variation. The fact is that the level of attention to this issue has varied tremendously around the country. It is no secret, of course, that New York and Washington are widely viewed to be the most significant, likely targets and therefore have the most preparation in place. If there is any piece of luck — and I hesitate even to use the word in connection with September 11 — but if there was any piece of luck about what happened that awful morning, it was that the events happened in two of the communities in the country best prepared to deal with the consequences. There were a lot of other communities where such things, had they occurred, would have been met with much less effective results, including, as it turns out, the District of Columbia across the Potomac, where local officials took considerably longer to implement their emergency response plan than the people in Arlington who had to respond to the crash at the Pentagon.

The fact is that in many smaller communities, the level of preparedness is much lower. That raises an important question. Those communities most likely to be at risk are the ones that often tend to be best prepared and the places that are least likely to be affected are the ones that have tended to pay less attention to security. That's a natural product of local politics of this, of course, because those areas that are most likely to be affected have the strongest political incentives for developing plans for things to be effective. As a ninety-four-year-old woman in rural Connecticut discovered — a woman who died of Anthrax apparently transmitted through her mail — there are many issues of homeland security that pay no attention to the size of the community. You can't assume simply, because you don't live in a place presumed to be at risk, that you're immune from the consequences of homeland security problems and terrorist attacks. There is widespread variation around the country and many state and local governments have simply not taken the issue as seriously.

Coordination

Another is coordination. We all know that coordination is important. In many ways, the defining administrative strategy of homeland security is coordination. The whole reason why we created this new federal department is to secure better coordination among federal entities that have a piece of the homeland security puzzle. At the state and local level, this is largely a matter of coordination as well, whether it's through mutual aid agreements, whether it's through a strategy to integrate public health into the first-response system, whether it's to enhance the ability of fire departments to come to each other's aid — a whole variety of issues that are, at their core, about federalism.

When you think of homeland security, you need to think of interorganizational, intergovernmental coordination. Homeland security is, at its foundation, an issue of coordination. Anyone who is even a casual student of federalism knows that this is one of the crucial problems in making homeland security work effectively. Coordination is not federalism's strong suit. In particular, if coordination is going to work effectively with the wide variation in local preparedness, it requires communities to work closely with each other.

In one state, it turns out that local governments from smaller communities are very nervous about entering into mutual aid agreements because larger governments refuse to guarantee that they would in fact respond if in fact a problem occurs. Smaller local governments have an inadequate base of revenues and expertise to mount effective systems on their own. In fact, it's foolish for all communities to develop the same level of expertise when coordination among them is by far more efficient and more effective. However, that requires smaller communities and larger communities to work together. Communities have found that very difficult in practice.

People in Washington may often forget these challenges because they look at homeland security with tunnel vision. For local communities, coordination is important to solve homeland security problems — but they are often, at the same time, fighting with the same partners over other issues. They might be fighting with each other over water and sewer permits, over expansion plans, over economic development strategies, over who gets the new Wal-Mart. Coordination is at the heart of what are some of the nastiest and most enduring conflicts in the Ameri-

can system. These conflicts tend to spill over from other problems into homeland security and, in the process, they make homeland security problems far harder to solve.

In one state, officials decided that it was important to buy one of those creeping devices that would crawl up to and grab a suspected bomb. Now, those are the devices that not every community needs to own, but they would be essential for a community to be able to use in the case of suspected explosive device. The plan was to put this device into the largest community in the state, on the grounds that this was the place that was most likely to suffer the possibility of a bomb. The plan was that if a smaller community needed it, the device would be transported to where it was needed. The larger community said, "We're going to host this thing, but we don't have the money to transport it around the state." State officials said, "Well, we're not sure we can pay for it either." This has and continues to be an issue for federalism: Everyone knows that they need to cooperate, but it's hard for policy makers to tax their citizens to provide services in other jurisdictions.

Most states are experiencing fiscal difficulties, to put it mildly. Their communities are saying, "We can't afford to take this on and we certainly can't afford to assume the cost of a major operation that would affect other states and other communities and other areas. But at the same time, unless we can find some effective way of ensuring that kind of coordination, that kind of bomb-grabbing, bomb-detection device, may not be something that's readily available." The battle over how to pay for such devices — and other kinds of homeland security — can sometimes undermine the effort to strengthen homeland security itself.

Communication

Another issue is communications systems. On the morning of September 11, we discovered just how difficult communication systems can be and how important they are. As it turns out, the police department had better information about the condition of the World Trade Center towers than did the firefighters on the inside, because the police department had a helicopter circling overhead. They radioed the information to police commanders. But the police commanders were not in touch with the fire commanders, and the fire commanders in the lobbies of the World Trade Center did not have access to the TV

pictures that all the rest of the world was watching. Not only did they have difficulty communicating to the firefighters on upper floors, they also had trouble communicating among related agencies.

We've discovered that for homeland security to work, especially in cases of attack and terrorist events, effective communication is crucial. We also know that there are many, many local communities around the country where radio systems are not inter-operable. Police officers often can't talk to each other without going through a very complicated system through the emergency dispatch headquarters. There's been an effort around the country to solve this problem. One state's forest services provided vehicles for local governments to use. The requirement was that any local community that received one of these vehicles also had to install a radio that was inter-operable — that had a frequency where communities could talk to each other. There were two problems, however. One was that local fire departments didn't operate on the same frequency, so these radios couldn't raise the local fire department — and thus were not truly inter-operable. The second problem was simpler: the people who received them often never got around to turning them on. It might be that, in the case of an emergency, they'd remember that they had them and could turn them on. Overall, however, we have significant problems of communication that frustrate and complicate the problems of coordination.

Funding

Another issue is money. Local government officials are saying, "If we really want to solve these problems, what we need is more money. We can't come up with the cash ourselves. It must come from the federal government, because state governments are in the middle of "the biggest fiscal crisis since World War II." The federal government is saying, "We'll make more money available," but the actual flow of funds has been at a far lower level than what was originally promised. There is no doubt that local governments desperately need more money to help buy some of the communications equipment, to buy first responder suits so that local governments are prepared for dealing with emergency response to chemical and biological contamination. The simple fact is this: Simply putting more money put into the system wouldn't necessarily produce higher levels of homeland security. More

money would, in all likelihood, only replicate, in larger measure, all the problems we already have — because more money put into the system would not secure more coordination.

If you listen carefully to local governments are saying, they're saying, "Give us more money because we need to buy more radios, more equipment, more trucks, more hazardous material vehicles, more of all these things." But you tend not to hear local governments saying, "Give us more money and we'll work better with our neighbors." You also hear local governments saying, "Whatever you do, don't give the money to the states because we don't want the state governments putting their fingers into this money supply — we need every nickel of it. We're the first responders and you have to understand we're the ones who can make the best use of the money." If coordination is going to happen, it's going to have to happen by some means other than what currently happens with local governments. This implies a stronger role for the states and perhaps for the federal government as well.

There needs to be a different way of thinking about the federal aid system to solve these problems. Simply putting more money into the system would soon not produce any real improvement in homeland security until we solve the coordination problem. The only way to solve these issues is to use the funds as incentives to get local communities to do what otherwise they're not inclined to do. In short, what we have to do is try to encourage local governments to engage in unnatural acts: to engage in the kind of coordination that's required because, at its core, homeland security is an issue of coordination.

Elements of Successful Strategy for Homeland Security

If we wanted to solve these problems, what would we do? Let me try to outline what I think the elements of a successful strategy would be.

- ***Create a Minimum Level of Protection*** — The first thing we need to do is create a minimum floor for protection. Citizens should not be exposed to higher and unacceptable levels of risk because of the accident of where they happen to live, or because of the accident of where they might happen to be traveling in the event of an attack. There were a lot of people who were involved in the events of September 11 who didn't

happen to live at the places where the attacks occurred but who nevertheless found themselves wrapped up in it.

At the time of the attacks, my Madison cardiologist happened to be two blocks from the World Trade Center towers and went to one of the local hospitals to help in first response and emergency treatment, which regrettably wasn't needed that morning. One never knows where one might be at the time that a terrorist event occurs.

I think that it's clear that we need to establish some minimum national levels for local protection, so that there's at least a floor for the level of homeland security around the country. I think it's also clear that, for most of the country, this would be a higher level than is now in place. We will have to figure out how to get there.

There are a lot of established practices for getting to this point. For example, there are some basic standards for fire protection that are used to set fire insurance rates. Insurance companies set these rates by a combination of response times, distance from fire hydrants, and other factors. We thus have some practice at setting standards for risky events, and for preparedness and response to levels of risk. One could imagine setting platinum, gold, and silver levels of protection, where a community could decide what level it sought. Local officials could then explain to their constituents why they were or were not up to the base level, how much more it would cost to go from silver to gold, or how much it would cost to have platinum-level protection. There is a variety of strategies that could be based on incentives that would help promote a minimum floor for protection.

- ***Strengthen Local Coordination*** — The second thing we need to do is strengthen local coordination. For homeland security to work, there has to be coordination; for coordination to work, there has to be a set of financial incentives associated with it. What this means is that we have to figure out two things: who is it that enforces the coordination; and how does the money flow?

  It is crucial that the states play an important role as the coordinating vehicles. As I've suggested, the kind of coordination that's required among local communities to create and

enforce this local floor is, in essence, an unnatural act. It is not likely to happen spontaneously, for the same reasons that local communities often find it so difficult to work with each other in a wide variety of other things. That's especially true when you get to issues of police and fire protection. The battles over coordinating police departments in many parts of the country suggest just how difficult an issue this can be. Where homeland security systems have tended to work better, they've relied on either regional or statewide coordinating bodies. This is based on two things: First, left to their own devices, local governments are not likely to do much of what's needed to be done on their own; and second, if this is going to happen, it's going to require a higher level of government to promote and nurture this coordination.

The logical level of government to do this is the states. The nature of the problems and the nature of the responses required vary substantially from state to state so that having the federal government do this is probably not a good idea. But allowing the decisions to slip too much below the state level is, in all likelihood, creating an increased likelihood that it's not going to occur at all. The key is to try to find the right level at which this could be done.

- ***Modify Systems for Funding*** — We need a different system of channeling intergovernmental aid from the federal government to the states, and then from the states to local governments. This means that the federal government needs to set minimum national standards and to identify best practices. The states could receive block grants with considerable discretion, and local governments would have primary responsibility for carrying this through. Those of you who are students of federalism will realize this is a familiar debate guaranteed to raise all the issues that so often have hamstrung intergovernmental systems for the last generation. In fact, this is like many other intergovernmental issues — except that the stakes are very high, and an effective intergovernmental response is essential.

  At its core, this suggests two things. One is that allowing the money to flow as it has been flowing so far is, in all likelihood, not going to significantly improve the quality of the

homeland defense system. And second, if we are serious about doing it, we're going to need to create a different system of intergovernmental aid to make sure that the problems that we have identified actually are solved.

- ***Test Systems*** — A fifth and final point is that it's not only important to write plans and create these new systems. It is also important to test them. One of the things that is especially nasty about homeland security is that often you don't get a second chance to come back and do it better the next time. You must have a strong system, battle-tested in advance, to protect against events that are rare but catastrophic. There are systems that exist to help us figure out how to do that. People in the emergency management area have ways of creating tabletop exercises and other simulations to test these things. The time to find out that, "Oops, we forgot for forty-five minutes to call the public health people," is not in the middle of an actual event. There are a lot of ways of testing these things in advance to make sure that the odds that they will work under pressure are improved.

Closing Remarks

In summary, homeland security is primarily an issue of coordination, but coordination is fundamentally a problem in intergovernmental relations and federalism. Left to its own devices, federalism is not likely to respond effectively. It's going to require some innovative strategies for coming at this problem. The consequences of failing to do so could very well prove to be dangerous — even catastrophic — so the urgency for attacking this problem is huge.

Let me step back just for a second. My concluding point emphasizes and underlines many of the same points that those of us who look at federalism have studied and poked around at for a long time. My guess is that there's little that I've said that is in many ways new at all. In fact, it's the fact that this debate occurs against the backdrop of September 11 — and our realization of what the costs of a poorly performing system could be — that underlines just how important it is. The central issues of governance here are in many ways very familiar to students of federalism. Most of us who have studied this and have looked at this know

that much of what I've suggested are problems that we need to confront in any event. And that if there's a ray of sunshine at all in this, it is that doing what we know we need to do for homeland security also will better equip our governmental system for solving a lot of other problems that we must also attack.

Introduction of Speaker — *Frank Thompson*

Don, thank you very much. I'll now briefly introduce Paul Posner, who is Managing Director for Federal Budget Issues of the U.S. General Accounting Office and certainly a foremost expert on issues of federalism in this country. I might just comment briefly that the last time we had Paul speak at Rockefeller College it was about three or four years ago when Alan Greenspan was very worried about the federal government building up too much of a budget surplus and that this might negatively affect the economy. I said at the time "that three years from now we would be saying Paul gave a great talk on this subject and we don't have to worry about it any more." I regret to say that this is the case.

Paul has a distinguished career in government. He has headed the federalism section in the American Political Science Association. He's found time, in addition to working at GAO and being a foremost expert there, to write a book called *The Politics of Unfunded Federal Mandates*. He teaches courses at Johns Hopkins and Georgetown University. He's a fellow of the National Academy of Public Administration and received his Ph.D. in Political Science from Columbia University. It's a pleasure for me to introduce Paul Posner.

Speaker's Remarks — *Paul Posner*

Paul Posner

Thank you very much. It's a pleasure to be here again. I want to thank you for assembling people to focus on this topic. I think most of us, when searching around for a focal point to deal with federalism issues and intergovernmental relations, end up here, at the Rockefeller Institute. Under Dick Nathan's leadership

and Frank Thompson's involvement, and others, there is a real collection of expertise and a focused energy on keeping these issues in the forefront.

Those of us who toil in Washington and in a world where sometimes federalism seems like an afterthought or secondary principle, think the Institute is a nice enclave to come to, at least for a day, to have the luxury of dealing with these issues as a prominent matter of concern. I want to recognize also Amelia Shachoy who is with me here from GAO, and who has done a lot of work over the past several years on the intergovernmental issues associated with homeland security.

We at GAO have some bragging rights in that we were there before 9/11; we were, as we often do, nagging the Congress and the agencies to take this problem more seriously. Not that we were alone; a substantial amount of funding actually was made available in the earlier years for state and local preparedness. So there is some foresight alive in government, not just simply crisis response.

Today I want to talk about the unprecedented challenges that this problem poses for those of us in public administration and more particularly, for intergovernmental management. As Don has very well indicated, the two are intertwined. While the response to 9/11 was clearly heroic — firefighters deserve their share of fame and of commendation — the real test is not how we do in crises, but how we institutionalize preparedness to prevent or better prepare for the next event. The challenges that we face in this are somewhat unique compared to the other problems that we face in public administration.

The Importance and Challenges of Security

First, the stakes are as high as they get. While public rhetoric suggests that mistakes in other areas are career-ending, mistakes here are both career-ending and possibly community-ending. So the stakes here are higher than almost any other problem we deal with in the federal system. Although the stakes are high and the risk is high, the probability of an event is low, which makes it even more difficult for communities and even the nation to sustain a sense of urgency and commitment in the face of competing priorities, particularly if we're fortunate enough to escape a major event over time.

As Anthony Downs has written some years ago, an "issue attention" cycle affects issues like the environment and other kinds of safety questions where we are prone to initially develop policy with a burst of enthusiasm, followed by a reconsideration as people think more about the costs of these initiatives. Previous airline disasters and our response suggests there is an episodic and cyclical quality to dealing with these horrific events, as we balance the tradeoffs in a sequential manner over time. Whether that happens here or not remains to be seen. How to create a surge capacity then to deal with this low-probability, high-risk event, particularly when deficits cut essential services, is a very, very difficult challenge at all levels of government.

Another question is how to prioritize and target resources. Needs are inexhaustible, as they are in every area. We know in this case we are probably going to err on the side of doing too much, which is understandable. Is there a limit? How much is too much? How much is enough? That is what Don raised about the minimum standards idea. Who decides what is the minimum? It is the nature of our system that these questions aren't answered in one place, because authority is disbursed, capabilities, and assets of power are scattered widely to deal with this problem.

The Role of State, Local, and Private Organizations in Security

The Department of Homeland Security (DHS) was created where twenty-two agencies used to exist. We have states, local governments, private actors, and the like. This is a national, not a federal challenge. The problem spills over the boundaries of a single agency, even the new DHS at the federal level, and spills over the boundaries of states, local governments, and the private sector as well.

This is again, as Don indicated, not an unfamiliar problem. As with most domestic problems the federal government has taken on in the past sixty years, the national government simply does not have the resources, the legal authority, the expertise, or the political legitimacy to deal with these problems from Washington alone. We don't have control over the drivers licensing authority in this country and yet that's a critical function for controlling access to facilities, information, and

other kinds of potentially vulnerable targets. We don't own the physical infrastructure at the federal level by and large. Rather, the infrastructure is owned by local government, state governments, and the private sector. The federal government does not commandeer 650,000 policemen like local governments do. We have an FBI of about 20-30,000. We are critically dependent on, as we are in welfare, health care, and education, among many other areas, third parties to help implement and finance federal initiatives. This doesn't necessarily mean devolution to third parties. This doesn't necessarily mean that the state and local governments are in control as we've found in so many other areas. In fact, the federal involvement engagement of third parties often presages a centralization of services and goal-setting in the system.

So, in some sense, homeland security is more of the same. It epitomizes what we've done in some ways with the rest of domestic government. The difference is that third-party governance and interdependent public management and public administration are sweeping over areas that were heretofore largely separate. National defense was largely the province of the central government. Firefighting was largely the province of local governments. There are very few local functions anymore that have been left untouched by the centralization and nationalization of policy in the past sixty years. Firefighting was one of them, arguably. Now that's been changing in recent years anyway, thanks to the firefighters themselves who have lobbied successfully for federal aid. So, in some ways the homeland security crisis has prompted the sweeping a tide of intergovernmentalization to wash over one of the last bastions of dual federalism.

At the state and local level, this challenge comes against a backdrop of what they typically do. Traditionally for most typical disasters and problems, state and local governments could contain most of the preparedness and response responsibility. And when they couldn't, they called in the feds for disaster relief. Weapons of mass destruction in particular are very different. They create a mismatch between the scope of the problem and the capacity of individual jurisdictions to deal with it because the size, the scale, and the complexity requires at least a regional sub-state capacity as well as other partnerships with the federal agencies and others. The capabilities are spread. Coordination is critical.

The Experience of Public Health

For example, in public health, let's examine what a local government faces to prepare for bioterrorism. It has to improve the capacity of its local health departments, the human capital that has been woefully neglected in recent years reportedly. It has to update its technology so that it at least can communicate problems to the CDC in Atlanta over the Internet. It has to achieve agreements with hospitals to develop surge capacity and support from doctors and other medical personnel. It has to develop laboratory infrastructure to at least know where the labs are and reach some kind of agreements on how to process samples of suspicious materials. And most importantly, what we're finding increasingly in the local health departments, it has to develop surveillance systems to produce real-time data on day-to-day incidences, to help get early warning of suspicious health trends and incidents to facilitate an expeditious response to health problems where time is such a critical variable influencing potential health outcomes for those exposed.

Baltimore is one of the pioneers. They can show daily the numbers of admittances to emergency rooms, the veterinarians' reports, daily school absences. They are trying to get pharmacies to report daily on medications prescribed. The point is they can monitor these things and look for variations and look for puzzles and, fortunately, they haven't found any. That's the kind of surveillance system that is under development in some communities and illustrates the political challenges in gaining the cooperation of numerous independent actors at the local level.

Framing the Problem

The way the problem is framed determines the framework and the modality or the process that we use to address it. For example, if we define the homeland security problem as a response problem, as a first responder's problem, then the model will have a local orientation. City managers have told me that when you're dealing with the response to an incident, the most effective thing for the effective management of response is for the federal government to stay out of our way. These managers feel they know their communities best. As one said, "Give us money but let us control the action."

As long as we frame homeland security as a response challenge, then the issue for federal policymakers is how can we get the money and information down to the local level as fast as possible?

However, other phases of homeland security suggest a more national and centralized model. For example, if the challenge is how do we interdict terrorists before they get started, how do we protect and mitigate the damage, how do we change standards for infrastructure and things like that, then that suggests a more national centralized model? Again to quote a city manager of a major Western city, "what we actually need is federal leadership and standards in preparedness and mitigation because we don't have the incentives to address those problems nor the expertise."

What this official and other people closer to the frontlines are calling for is more centralization of information for use by local responders, the development of authoritative national standards and guidance which provides local official with some protection internally in answering the sensitive question — how much preparedness is enough? This local call for federal guidance and leadership is not at all atypical. Studies of other federal mandates have also chronicled how local or state officials find federal mandates and standards useful in gaining support from recalcitrant legislators and interest groups.[1]

The Six Mission Areas of Homeland Security

The 2002 strategic plan for homeland security issued by the administration illustrates the point that the intergovernmental partnership necessarily extends well beyond the response phase. In fact, state and local governments are critical players in each of the six major mission areas defined by this plan. The mission areas are:

1. Intelligence and warning, obtaining early notice and advance intelligence of the threats that we have. Clearly, part of that is getting information from state and local governments about threats to their community and advising state and local governments of these threats so they can take real-time action.

1 Paul L. Posner, *The Politics of Unfunded Federal Mandates: Whither Federalism?* (Washington, D.C.: Georgetown University Press, 1998)

2. Border and transportation security, protecting the nation’s borders, whether it be airport security train stations, other forms of transportation like mass transit, and the like. State and local governments have a role to play and obviously are doing this.
3. Domestic counterterrorism was a third important area, to generate intelligence information which states and local governments can often provide and use to help interdict threats and gain advance warning.
4. Protecting critical infrastructure. Again, as I said earlier, state and local governments own the infrastructure and their investment and involvement is critical to national efforts to protect these assets against terrorist attacks. In the post 9/11 era, infrastructure has shifted in public debates from an asset needed to promote community economic development to become “critical national infrastructure” — so a bridge is no longer a way to get to the store; it’s a critical national infrastructure. This language, in effect, reflects and perpetuates a nationalization in the debate about how infrastructure is to be financed and managed.
5. Defense against catastrophic threats and bioterrorism. We already went over how important local health departments are.
6. Emergency preparedness and response.

Again, the important thing is, as the Office of Homeland Security laid out, five of the six areas really are pre-disaster, pre-response and with each of those state and local governments are critical.

The Risks and Rewards of Intergovernmental Partnerships

For each of these areas, partnership confers both rewards and risks. From the federal standpoint, engaging state and local governments in all phases of preparedness opens access to the legal, personnel, technical, and political resources of state and local governments. The federal government also gains the opportunity to eliminate gaps in coverage among state and local communities that could be exploited by intelligent terrorists who look to exploit weak spots.

State and local governments get federal money, information, and standards. Very often, standards are called for by those very govern-

ments to help better promote a national response and indemnify them from opposition and debate. But there are risks to these partnerships for both sides as well.

From the federal standpoint we face the potential diversion and substitution of effort and resources. For instance, some state and local governments have refused to participate in the Justice Department's initiative to interview immigrants of Arab or Muslim descent. Many local governments have not reportedly observed orange alerts, at least not in a uniform way. We know in the past that when we give large amounts of money for functions that parallel what local governments are doing anyway, there is a great vulnerability for fiscal substitution. In other words, the federal funds do not promote increased activity for the program area; rather it permits state or local governments to free up their money for tax cuts or spending increases in other areas. If we want to provide unrestricted aid for local governments to use as they wish, it is far more efficiently and honestly provided through revenue-sharing than through the back door displacement of federal programmatic dollars? There is also tremendous pressure, as Don indicated, to spread the money around, not to target it on the places that need it the most or where the vulnerability is greatest.

Another risk from the federal perspective involves the sharing of information, which again is vital because the state and local governments are a partner in law enforcement. On the other hand, federal officials feel there are risks in disclosing too much information.

From the state and local standpoint, the risks are there as well. For instance, federal funds and initiatives are often accompanied by unfunded mandates. Even if state want certain mandates, they don't want to pay for them. While they may want a minimum standard for such areas as training or equipment, they often get highly specific and intrusive regulations that constrain flexibility and limit their ability to tailor initiatives to address unique state or local needs.

I think the greatest risk of this new intergovernmentalization is the area of public accountability. With every area, one of the greatest risks from a partnership is the obfuscation of responsibility, for who is to blame, who is to take credit. For example, when that shooter killed the ticket agent at the counter at the Los Angeles airport on July 4, 2002, considerable confusion arose over who was responsible for preventing this incident. The Transportation Security Administration (TSA) indicated that they were not responsible for this area, only the areas where

passengers are screened. Debate ensued over who else might be held responsible, ranging from the airport authority, to the airline itself, to the FAA, to the FBI. The presence of high stakes and multiple actors sharing responsibility lends itself to finger-pointing and blame shifting when problems occur.

It's difficult to tell who is accountable in complex systems where authority is so divided and fragmented. For example, let's look at food safety; there's a whole food safety network. If there's a contamination, where did it start? There are very different responsibilities at different levels of the food chain from a farm to the processor to the retail food establishment to the restaurant. All of those have different regulatory regimes and different responsibilities. We have not figured out a road map to know who is to blame.

Federalism Responses to 9/11

The question that I want to focus on for the remainder of my discussion is what kind of partnership is emerging and clearly there is an *ad hoc* adjustment of roles and responsibilities since 9/11. We are seeing different models start to take shape and compete with one another for what this federal role might look like.

- ***Model 1: Cooperative Federalism*** — The first model is what many have called "cooperative federalism," the traditional model where the federal government gives aid to the states, where states and local governments are viewed as partners. Each partner in this relationship has leverage, has some kind of bargaining position vis á vis the others. Local governments can walk away from the grants; the federal government can impose standards. There's a tension between those two that often gets negotiated out.

  Right now quite a bit of tension exists over the existing grants. The president promised and proposed a consolidated first-responder grant that never came about. The Congress appropriated money in this past January, to provide first-responder funding through the existing grant channels. There was no new block grant or consolidated grant created. Rather additional funds were allocated to existing grants from the Justice Department, from FEMA, from HHS for

different pieces. Two of those major programs are now consolidated into different directorates in the Homeland Security Department; the Justice grant for preparedness is in one directorate; the FEMA grant is in another. So the grant fragmentation problem has not been solved by the consolidation of the Department of Homeland Security; it's been teed up but it hasn't been solved.

As we go forward and think about designing a grant to promote this kind of cooperative partnership, let's talk about some of the dilemmas that we face — they are traditional dilemmas in federal grant design. One is targeting. How do you concentrate funds in the places with the highest net risks? A proclivity to spread money around, unfortunately, will provide less additional net protection with a lot of additional local burden.

A second dilemma involves preventing fiscal substitution. That's a fundamentally vexing area. On the one hand it seems like a no-brainer to say you should require local fire departments and police, whoever gets these grants, to maintain the effort they were making before and use the federal money on top of that. That's pretty straightforward except for one thing. We've seen since 9/11 that many local jurisdictions have taken it onto themselves, taken the initiative, to increase funding and effort dramatically. Do we penalize them by preventing them from getting some fiscal relief for the effort and the initiative they've already taken and thereby give an advantage to the governments that have laid back and avoided taking the initiative? That's a classic grant design problem we're going to face.

A third challenge is sustainability. Local governments think of sustainability as keeping the federal spigot turned permanently to "on." They argue that the urgent will trample the important without federal aid. Well, I'll put my black federal hat on here for a second and say that I think there's an expectation that sustainability responsibility would at least be shared because local governments get internal benefits from these grants just as much as the nation gets protection. One model that might be considered here is the seed money concept where federal money would be available for, say, a four or five year period to change preferences at the local

level, possibly with the expectation that they take more of the burden at the end of this period. In fact, the literature on intergovernmental management suggests that federal money succeeds in institutionalizing a commitment to aided goals and purposes over time within states and communities, as professional administrators and clients of these programs take root and gain influence within local political circles. [2]

A fourth challenge involves the issue of accountability. Block grants are often bandied about by those frustrated with federal categorical restrictions and mandates. Yet I think it's probably unlikely that we're going to have a pure block grant in the homeland security area where state or local governments gain the discretion to use federal funds for state or local priorities. We have too many national concerns and criteria and goals for a traditional devolution of responsibility here. I think we probably would get a consolidated grant but a "consolidated categorical," if you will. And one only needs to look again at that Office of Homeland Security's strategic plan to see that the White House itself is calling for national training standards, national interoperability standards, nationally required standards for exercises and regional mutual aid, as a condition of aid. That is not a block grant, in most people's view.

One of the models I find most promising is what EPA piloted several years ago, a so-called performance partnership, where funding streams are consolidated. Under this model, states and local governments have discretion but are held accountable for discrete national or negotiated measures and standards.

The final bulwark of cooperative federalism is what I call "networks." They are the backbone of cooperative federalism. They've been called the "picket fence" by many. Experts talking to experts across levels of government grease the wheel of cooperation. Peterson's model of mature federalism suggests that special education and other programs matured when those networks blossomed and became more

2 Paul Peterson, Kenneth Wong, Barry Rabe, *When Federalism Works* (Washington, D.C., Brookings Institution, 1985).

professionalized.[3] However, those networks have often not yet been well developed in homeland security. The bonds of trust and familiarity have not been established between the FBI and the local governments, between the northern command of the Defense Department and the states. There is still great reluctance and a distrust even to share information across boundaries. This is true among professionals within local communities as well. Fire and public health professionals, for example, are just getting acquainted as they both realize that they share a responsibility for protection against weapons of mass destruction. We might see some shifts over time as professionals learn to work together and develop routines and norms guiding cooperative behaviors, but this will take time in this area.

- ***Model 2: Coercive Federalism*** — The other model that, as a student of federalism, I find less preferable but I think is more inevitable, is the coercive federalism model. Over the past thirty years, this model has become more prominent with the evolution of mandates and preemptions at the federal level. In this area at this time, mandates and preemptions are definitely part of the debate and in fact have already happened. Already federal agencies are talking about preempting what used to be local responsibilities for port security, or encouraging national goals for driver's license standards. Mandates in areas such as communications, equipment, infrastructure, etc., are seemingly a foregone conclusion. A federal mandate for local drinking water systems to develop vulnerability assessments and action plans has already been enacted, albeit with some federal dollars. Mass transit may very well be next, as national officials consider proposals to require local systems to monitor threats as a condition for receiving federal transit funds. Other key areas of infrastructure will feel the heat of the federal mandates.
- ***Model 3: Partial Preemption*** — The other tool of coercive federalism that we've seen recently used is partial preemption where the federal government engages state and local regulatory agencies to serve national protection goals. Frank Thompson has written about this. With this model, state or

3 Ibid.

local enforcement or regulatory resources are marshaled to serve national goals. The INS, for instance, has entered into partnerships with certain local police departments to use their contacts and personnel to track down foreign residents overstaying their visas. The Coast Guard has assumed responsibility for policing ports in 55 major areas, with local police and other authorities working under their leadership. The TSA in a sense has conscripted local police to patrol airports more regularly, often providing federal funds to defray at least some of the overtime costs. Active consideration is being given to imposing national standards for the states' issuance of driver licenses — the *de facto* national ID card.

Which Model Will Homeland Security Use?

I wish the cooperative model would be the prevailing model, but I fear that in homeland security the particular nature of these issues will prompt more reliance on the coercive. And why is that? Well, the cooperative federalism model is appropriate and has the greatest advantage to promoting diversity and experimentation. This works when stakes are lower, when there's limited national consensus and limited knowledge of how to accomplish the goal. We have laboratories of democracy that help us along. For homeland security, we may have limited knowledge but we have high stakes. We also have a much greater consciousness of the interdependence, of the weak link destroying the rest of the chain, whether it's driver licenses or port security — local failure has national consequences.

I'm taken with the model in this wonderful volume that Frank Thompson helped edit for the *Public Administration Review*. George Frederickson and Todd Lapore talked about two types of organizations. They talked about an error-tolerant organization and a high-reliability organization. The error-tolerant organization has a much greater premium on diversity and consensus. With the high-reliability organization (the nuclear power plant, for example) the presumption is to err on the side of safety. The high-reliability organizations could be transported to the idea of intergovernmental networks. The high-reliability network is the kind of network that will be guided by strong standards and low-risk tolerance — this is the reason why we departed from our

historical reliance on contractors to screen airline passengers and instead converted to the most significant single increase in civilian federal employment in recent history with the creation of the TSA.

I think this kind of transition is going to take root in intergovernmental management as well, albeit in different forms. For instance, for natural disaster planning and preparedness, FEMA funded states using the error tolerance model. Since most disasters had largely state or regional consequences, FEMA provided discretion and flexibility to states to manage and allocate funds. The accountability for these grants was largely process-oriented. FEMA provided advisory criteria for states to use to evaluate themselves. This model of accountability will not be sufficient for homeland security preparedness grants and we will see the emergence of more insistent national standards and reviews of state performance.

The Emergence of Protective Federalism

Ultimately, anxious political leaders and restive publics will determine how our federal system responds. The stakes are high, mass publics are engaged and watchful, and responsibility is difficult to assign. The concluding thought is that state and local and federal political leaders are going to grasp for "protective federalism." What are they trying to protect against at the state and local level? They're trying to protect against threats, low-probability threats with high consequences. They're also trying to protect against other governments that might undermine their best efforts, other local governments who might undermine public health protection (for example, other state governments who might be the weakest link in the chain). And they need to protect themselves against the voters and political opponents who can be unmerciful if a crisis occurs on their watch.

The consequences of protective federalism are that state and local governments seek both funding and national standards to immunize themselves and indemnify themselves from political risk. They avoid isolation by seeking partnerships and networks, including regions. They also want to avoid unstable partners like, possibly, the federal government. They want to shift blame before the crisis occurs. "We didn't get that money you promised." And they are tempted to overachieve to immunize themselves from charges that they failed to do enough should a terrorist event occur on their watch.

I would like to think that another strategy of protective federalism is that political officials might see the value of seeking cover in performance standards and measures. That is, relying on professionals to develop an expert consensus on how much protection is sufficient, on what kinds of measures define best practice, and on what kinds of reports can best showcase for the public the level of protections that local or state governments are committed to achieving. Ideally, standards and measures and perhaps even a readiness index of sorts would be a far better way of defining accountability and preparedness than the presence or absence of a terrorist event. n event. So, in my own optimistic view, possibly professionals can save political leaders from themselves.

Introduction of Speaker — *Frank Thompson*

It's now a pleasure for me to introduce yet another expert on issues of federalism, my colleague Jim Fossett, who's on the faculty of the Rockefeller College of Public Affairs and Policy and is a key leader in the Federalism Group here at the Rockefeller Institute. Jim has been working on issues of federalism for a long time. He was at the Brookings Institution and has written on issues of sharing intergovernmental grants. He's an expert on Medicaid, has done a lot of work in Medicaid managed care. He has recently headed up a project focused on take-up in the Medicaid program for children that is getting the many, many children who are now eligible or technically could qualify for Medicaid, actually enrolled in the program, which is no small problem. Jim received his Ph.D. in Political Science from the University of Michigan. So without further ado, let me turn it over to him.

Speaker's Remarks — *James Fossett*

James Fossett

The Current State of Homeland Security

Thanks, Frank. I think this discussion is a lot more relevant than a lot of us would like it to be. We're at the early stages of a war that's starting to slow down and

there seems to be, if you believe the tone of the newspaper coverage, widespread concern that we're more vulnerable in a way that we haven't been in the past year. The level of nervousness is at a level that it hasn't been since just after September 11. I don't know if anybody read the piece in *The New York Times* over the weekend about New York's tattered security blanket. It basically said that we've done a lot but there are still big holes.

There is also concern that the domestic side of homeland security has lost momentum over the last year. In recent reports by the Brookings Institution and particularly by the Council on Foreign Relations, rather strong language was used to describe the current lack of preparedness in a number of areas. We've got the president and the Congress fighting with each other, blaming each other over why there hasn't been more money for first responders. There is a plan to vaccinate frontline medical and emergency workers against smallpox that's running way, way behind schedule and there was information released last week by the National Academy of Science that said if we got another large-scale Anthrax attack, our plans to distribute drugs to deal with it are just not up to the job.

While there's cause for concern, there's really not much cause for surprise. Much of our current state of preparedness for good or ill can be traced to traditional, normal, and thoroughly expectable problems of American federalism, conflicts between governments over money, turf, and power. In some important areas, the basic intergovernmental machinery for addressing major problems of homeland security didn't exist seriously before September the eleventh and we've had to negotiate them from scratch. In areas where there was some kind of basic agreement over who was supposed to be doing what, homeland security has come to resemble other areas of domestic policy, haggling between and among different governments over power and control. I want to argue that we're looking at governments doing what they usually do, pressing for organizational and financial arrangements that maximize their control and minimize their financial responsibility.

I would like to briefly review where I think we are in three broad areas of homeland security and suggest what the major federalism problems are going forward. While you can divide up the issues any number of ways, I want to focus on three. One is the general problem of prevention, trying to keep bad people and things out of the country and then trying to neutralize them once they're here before they can do anything. Piece number two is target hardening, trying to do things in advance to

reduce the vulnerability of things that could be attacked, and third and finally is dealing with an incident after it's occurred.

Prevention of Terrorism

First I will talk about prevention. This really has two main pieces to it. One is what a Brookings report labeled "perimeter security" — preventing terrorists and threatening objects like nuclear devices from getting in here in the first place. And the second is internal, trying to neutralize these folks once they're here and keep them from getting dangerous materials that they could fashion weapons from. Perimeter security is one of the areas that Paul talked about where I think local governments are being forced out of what limited role they have. The major activities involved — intelligence gathering and analysis, regulating the movement of people and goods into this country, and safeguarding waterways and airports, are those that have traditionally been the purview of federal agencies.

This is an area where the trend that Paul describes toward "coercive or preemptive federalism" is exactly what's going to happen. There are plenty of serious management resource and technology issues to be addressed, but they're mainly at the federal level inside the Beltway and not between Washington and state capitals.

Internal prevention is another matter entirely. It is one of those areas where we're having to invent the machinery from scratch. Domestic counterterrorism has historically been the purview of the FBI and this is a monopoly that it seems determined to maintain. State and local police groups, several different national advisory commissions, even before 9/11, have pressed for a much broader dissemination of intelligence and a bigger role for state and local law enforcement. In general terms, both Secretary Ridge and FBI Director Muller have supported a larger role but that's about as far as it's gotten. The dominant mode of intelligence-sharing is still the joint terrorism task force where you get a limited number of state and local officers assigned to work specialized investigations. These people, however, can't tell their colleagues anything that they learn so it's really not of much value beyond the immediate investigation.

Some FBI regional offices have been better than others about keeping their state and local counterparts informed in an informal way, but

that's very much a sometime thing that's dependent on the quality of the personal relationship between the local special agent in charge and state and local police commanders. As a regular matter, local law enforcement agencies don't have access to even routine things, like the State Department watch list and so forth. It's not real clear that there are too many state and local law enforcement agencies that are in a position to make terribly good access of better intelligence if they could get it. Those of you who are old enough to remember public controversies about the New York City red squad and various similar groups in other departments know that controversies over these things led a lot of local and state agencies to simply get rid of this intelligence function. So it's the analytical part of things that a lot of state and local departments don't have. And if they're going to get into this business in a serious way, they need to build it back up. This is a problem that still has to be dealt with or has to be negotiated.

Federal concerns about sources and methods need to be addressed, but at the same time you need to be able to draw on state and local capabilities in a meaningful and effective way. Paul put it very well — there's 650,000 state and local law enforcement offices and 11,000 FBI agents. The benefit of a larger number of eyes is obvious but we've still got to figure out a way to make effective use of them.

Some cities and states have forged ahead on their own. The New York Police Department now has a thousand people working on counterterrorism as opposed to twenty, less than a couple of years ago. But they're very much the exception. So in most places, the major role of state and local law enforcement is to do what they're doing now, which is to drive around and keep tabs on the public buildings and other major potential targets. The reason again is because we're having to start from scratch. Most federal agencies don't want to share information with each other or even with different parts of their own organization, never mind giving it to an outsider. A lot of state and local law enforcement agencies don't have the capability themselves to do the sifting and the digesting of intelligence that they need.

Target Hardening

The second area where we've still got to reinvent is in the area of target hardening. This is the most difficult political and administrative

task around homeland security: deciding what you're going to protect against what level and what kind of threat. There are tens if not hundreds of thousands of potential targets and ownership among them is spread all over the place. The estimates I've seen is that eighty-five percent of what you call critical infrastructure is owned by the private sector. And they're in a variety of industries that are regulated in very different ways and split in no consistent way between multiple federal, state, and local agencies. Now while the Nuclear Regulatory Commission has the ability to mandate security standards for power plants, for example, they don't have the ability to mandate how people get out of the area if something bad happens. I think they have to get approval from FEMA and there are at least a couple of power plants, including one not too far south of here, that don't have an approved evacuation plan.

In other industries, it's far from clear that anybody, any public body, has the authority to set security standards for a lot of industries. Within the last week, for example, GAO came out with two reports saying that federal agencies don't have any explicit legal authority to mandate either chemical plants or food processing plants to assess their vulnerabilities and take measures to safeguard their facilities. Industry groups have typically opposed any kind of formal federal mandate and supported voluntary industry sponsored initiatives. While there are a variety of these kind of informal initiatives underway, nobody's keeping track of where they are or who's actually participating in them. So as far as I can tell, the only honest answer to the question, "Is critical infrastructure better protected now than it was before 9/11?" is something on the order of, "Who knows?"

I don't think there's any real easy way to get through this process of trying to decide what needs to be hardened against than to do it an industry at a time. In some places there's still a fairly serious technical debate that has to take place about how do you protect a structure that looks like this against a force that looks like that. Now obviously the structural engineering community or the part of it that worries about what tall buildings look like has been aggressive and active since September 11 but I don't really think every comparable group in every industry has achieved that same kind of level of activity.

There's a technical agreement that has to be reached. There are all kinds of particulars about regulatory structures and attitudes and statutes that have to be haggled out one industry at a time. To have progress on this, it will have to be driven by political progress, Paul's "protective

federalism," rather than by any reasonable standard of risk. So we don't have the ability to say, "Geez, these are the things that could do the most damage if somebody ran a plane into them; let's fix them first." The American Chemistry Council shot down a piece of legislation to give the federal government the power to do that last year, but has now at least partially reversed itself and supported some form of federal standards. We're going to have to move this as the political stars line up and not according to any reasonable standard that based on analysis of what we *should* want to protect first.

The Role of State and Local Government

As with prevention, the role of state and local governments in this process is a discussion that really hasn't happened yet. State and local governments, as Paul says, own a lot of this infrastructure and have their own set of cybersecurity issues to deal with. While some places — New York City again comes to mind — have spent money to secure these facilities, it's far from clear that very many governments have made huge amounts of progress in hardening the targets that they have under their control. These governments also have some kind of regulatory responsibility and again, Paul worked his way through the food security problem because feed lots are state and food processing is federal and the stores are mostly under state and local regulation.

In many areas, it is still largely a theoretical question. The major state and local contribution here has again been to provide police and the National Guard for services at critical sites. So we have at least two big areas where there's a lot of potential state and local responsibility and a lot that could be done in a coordinated manner. It still hasn't happened yet and one of the things about federalism as usual, is that it takes a long time and there's a lot of haggling and we haven't been able to accelerate that process.

Building Formal and Informal Networks

Now the area where there is a little bit better division of labor is in emergency management — how you deal with the attack after it happens. Local police and fire agencies have been recognized for a long

time as the obvious first responders and there's some reasonably well-developed and practiced doctrine about how you respond to incidents in an integrated fashion. Now there are some well-grounded concerns in this area — particularly Don's note about the health care system having been left out of this planning, both the public health side and the health care side. Somebody made the comment at the first symposium in this series that in most big cities the public health commissioner and the CEO of the largest hospital don't know each other and neither one of them even knows who the police chief is. So there are now a lot of attempts to integrate the health care system and the public health system into existing response structures.

There's a structure in most places to build on and there's been some attempt in most places to begin to pull the pieces together. This has led to the formation of these enormous committees with sixty-three people on them who can't do anything more than exchange business cards — but at least they have the business card. There's not really a decision-making structure here or something that you could call on to function in a disaster. Preparing to respond locally is a really tough organizational problem. You're asking public and private organizations who don't deal with each other normally in the course of their routine day-to-day business to invest lots of time and effort, contemplating how to work very closely with each other under conditions of extreme stress in response to what for many areas still remains a low-probability event.

There's an old military adage that no plan survives the first contact with the enemy; what does survive is the process that you went through to get the plan. Where you can pick up the phone and call, if you're the hospital CEO, the public health commissioner and say, "What are you guys doing to us? Why can't we fix this?" The point is that what you're trying to build is this informal network, which is what sociologists call it, of people who have had enough dealing with each other to be able to improvise effectively in the event of a major emergency.

Part of the problem in New York City on 9/11, for example, wasn't so much the radios but the fact that the police and the fire department set up command structures two blocks apart and, as far as I can tell, never said a word to each other the whole time. In fact, there are stories of at least one police lieutenant who got told to leave the north tower before it went down and telling a couple of dozen firefighters who were standing around on about the tenth floor, "This thing is coming down; they told us to bug out. You guys better split" and getting a look back that

was something like "I'm a New York City firefighter and I don't take orders from a cop." That's the problem.

New York City is one of the few places that doesn't subscribe to the sort of integrated command system which has become the gold standard for emergency management because the police and fire departments would have to agree one of them could give orders to the other. The point is this is the kind of thing governments and agencies have to work through beforehand and in most places it's going to be a tough thing to do.

The Role of the Federal Government

On the federal side, the challenges look like other areas of domestic policy. There are programs for equipping, training, and supporting first responders that were in place before 9/11, even were getting more money before 9/11, but they're in different departments, have different standards for application, and in some cases are even pushing different versions of how to handle events. They can talk about trying to consolidate these things and get everybody reading out of one book or at least pushing the same set of best practices. But again, that didn't happen; the political forces against that are fairly substantial.

Homeland security's another case of federalism as usual and it's slow and it requires a lot of haggling and that's exactly what we've been seeing. Federal agencies have been trying to get private companies and state and local governments to spend their money according to federal dictates and preserve their own turf and budgets against incursion by other agencies. State and local governments have been complaining, "Gee, we don't have the money to spend. If the feds don't pay for it, we can't, we won't be able to." Some states have absorbed a lot of extra cost for this stuff out of their own budgets, but most of them, as both Don and Paul have said, have their own problems and they want to see some federal money on the table.

So I think the way we got to where we are is by virtue of the fact that the government usually does business like this. We've had to start from scratch in a couple of important areas and we've had the usual problems — this is about coordination and that's an unnatural act.

What are the things that are important going forward? In some areas the federal government's going to have to learn to collaborate rather

than to command. Typically, the way federal agencies get state and local governments to do things is by a combination of bribery and cajolery. Instead, what we've seen is an attempt to issue orders, to mandate things, but with generally pretty lousy results. The smallpox vaccination program for frontline workers is way, way, way behind schedule. A fair number of hospitals and local communities have opted out of it altogether and those that have been doing it have been bitching bitterly that it's been pulling resources away from other areas. The recent demand to mobilize the National Guard hasn't produced a huge response. I haven't seen anything more recent but as of last Wednesday, only six states had mobilized the Guard.

Who Has Authority?

Finally, the major issue is one that both Don and Paul touched upon: Who's really in charge in case something bad happens? I think most local areas understand by now that they need some integrated means of responding to attacks. Some are really trying to put structures in place to do that. This integrated command system that the emergency management folks have been working on for quite awhile seems to work reasonably well if everybody understands and practices it. Many localities haven't gotten around to practicing it very much. Getting the level of collaboration required to respond effectively to major events is just a tough task; it's not an easy exercise and it's not something that you can mandate. You can mandate the equipment; you can mandate the training; you can mandate a whole lot of things, but you can't mandate that level of political cooperation. You can make it harder but making it easier is tough.

This still doesn't address the problem of the legions of federal employees from any number of agencies who will descend on any incident en masse, determined to be in charge and tell the locals what to do. There has to be some sorting out of federal agencies since some have some very highly specialized resources that most local and state and local governments can't afford and probably wouldn't have any consistent and ongoing use for. Apart from that, I associate myself with the comments of my two colleagues.

Question and Answer Period — *Frank Thompson*

Thank you very much, Jim. So now we've reached that part of the afternoon where people have comments and questions.

Question 1:

I've have two questions. One's about structure; one's about policy or function. The structure question is for Dr. Kettl. If you took a snapshot of the federal government and its multiple agencies and said there's eighty of them out there…that's not quite accurate, but if you can think about that many on a slide and look at how they're connected with strings. Then you take a picture on January 23 and compare it to a picture on January 24 and it doesn't look a whole lot different except a lot of the strings are now going through Tom Ridge and his deputy. What I'm getting at is it's a very flat table of organization and it doesn't look to improve efficiency at all. Are they going to redo this, do you think? Or is that it as far as the restructuring builds this?

Response from Don Kettl:

Yes, I think that's right. There are a couple of issues here. One is that there's not only the absolute bowl of spaghetti that constitutes this new organization chart but also the eighty or so congressional committees and subcommittees that are connected up with this as well that help to re-enforce all the fragmentation that exists within the Department of Homeland Security to begin with. And there are those who say that there can be no coherent federal homeland security policy without Congress somehow getting its act together, the odds of which are of course slim, with all due respect to colleagues of mine who may work with the legislative branch. So the first point is the need to recognize the importance of Congress in all this.

The second thing is that it's important to recognize in a sense how unusual or bizarre, depending on your point of view, a restructuring this is at the federal level. I can't recall a single time in American history or in administrative history since the creation of the world, where we have tried to restructure an agency but allow all the individual elements to continue existing out in all their existing units.

Remember why we’re trying to do this; we’re trying to do this because the argument in the aftermath of September 11 was that we failed to connect the dots. The failure to connect the dots was in terms of what? It was in terms of intelligence. What do we do about that problem in creating the Department of Homeland Security? The answer was “nothing.” And so the primary driving force for the creation of the department was in fact unaddressed.

When it came time to improving the integration of federal agencies, there’s a secondary argument about the need to try to improve that integration and coordination. But the argument there was that we needed to improve and strengthen and transform the culture. What we know about transforming organizational culture is that you can’t transform a culture allowing all the people who work within an organization to continue working cheek by jowl where they already are because all of the things that re-enforce that culture haven’t changed a bit. Not to be too cynical about this, but Tom Ridge is now moving out to Nebraska Avenue in Washington and anybody who was in Washington last week during this siege of the tractor guy on the Mall knows how difficult it was to get around.

The question’s been raised, this is one guy on one tractor. In the middle of some kind of emergency, the odds of getting Ridge in contact with people in the White House, he has to be physically at a meeting, is going to be difficult. And of course the reality is he’s going to be spending a lot of time on Capitol Hill testifying; he’s just going to be spending an enormous amount of time in his car. So it’s not only all that but multiplied by the coordination of problems and multiplied by the fact that we haven’t actually physically changed the location of all these agencies. Not to be too cynical about this.

The last point to be made on this is that yes, is this going to be the way it’s going to be or is it going to change? And the answer is, nobody knows for sure. I think everybody agrees that this is an interim step. Everybody knows it’s unworkable in the long term. Why was it done this way? It was done this way because the Democrats were on the move and the Republicans and especially the Bush administration, which had fought the creation of this department for a year and a half was about to get rolled. So the administration embraced this and they’ve been backing it as long as they’ve been going. There are two things that will change this. I think everybody agrees it’s not going to stay as it is.

Two things might change it. The first is what they learn as they move along this process, as they find a way to do better what needs to be done and that's a five-year process at the minimum. The second is, unfortunately, the possibility of another terrorist event of some kind that re-enforces some new lesson that has to be learned which then will force the change in the federal structure. One of the things that we know as administrators, of course, is that the last thing you want to be doing is to always be reacting to the previous event because you don't necessarily improve your ability to be able to deal with the next one, which is in the end what, of course, this is all about.

In the best of all worlds I think, at least from my point of view, we wouldn't have created this department to begin with. We would've thought about what problem we're trying to solve and we would've recognized it as a matter of trying to find new ways of coordinating different pieces. We would've focused on coordinating strategies, which probably have to do with information, with coordination and developing these networks of the sort that Jim was talking about. We would have spent a whole lot more energy dealing with that instead of now creating a set of problems that probably guarantee that whatever it is that we have won't be very stable and that the people who are dealing with this instability will be so caught up with that they won't have time to deal with the questions we've been talking about.

Question 2:

This is a great discussion. I think in New York State we have something like 960 towns. They range in size from maybe Hempstead, which is the largest, to probably something up in the Adirondacks, which is the smallest. We created the Department of Homeland Security, a structural and political response. It hasn't made a difference for local governments. So I'm wondering and maybe, Paul, I address this question to you and Jim and Don can chime in. What kind of incentives are out there? I like the idea of a performance, consulting, or performance partnership. You say, okay, and this is kind of Don's point, where do we want to be? What do we want to accomplish? What are the kind of functional prerequisites of a set of relationships?

What kind of incentives might be created for local governments to engage in the necessary conversations with neighboring municipalities, villages, cities, county government, and the state, to sort out these communication networks. The rural town that I'm in, our disaster pre-

paredness plan, whipped together with great skill in the aftermath of September 11, involves all of us showing up at the town hall. I asked the question, "And what do we do when we get there?" And people just kind of looked at me, "Well, that's where we show up so that we can communicate". I said, "Good. So who do I communicate with?" There was just a stunned silence. It's a town with no police force, no traffic lights, all volunteer fire departments. The only full-time employees were in the highway department and they plow the roads. But that doesn't in any way mitigate the necessity of having an appropriate network in place. I mean, I think you talked, Paul, that there's some minimum set of protections that need to be in place, regardless of accident of geography. So I'm wondering, how are incentives created to encourage those conversations to occur in meaningful ways that don't result with plans?

Response from Paul Posner:

That's a good question. I endorse what Jim said — you can't mandate this stuff. That's the problem; it's the dilemma and it really is one of those things that has to come about possibly because people there see their way clear that this is a better way of doing business. However, we don't have a particularly good history of doing this at the federal level. Sub-state regionalism was something that appealed to those of us who are rationalists and, you know, we created area wide agencies on the aging and area wide agencies on economic development and we had all sorts of grants to develop plans that were never really taken seriously. You had the hope that maybe some of them would catch on.

The model that I could ask my colleagues here when you think about this, that reputedly works to some extent, given that this is a difficult challenge is the ICED T model where you have empowered a regional planning organization to actually control, at least have an influence over the allocation of big dollars. Under ICED T theoretically, although in some states it doesn't work out this way, we have to recognize there's a lot of slippage, as there should be, in a federal system. When these regional networks are strong, you've given them leverage over state highway bureaucrats. You have empowered them with either a veto or a positive influence over those decisions. It's not a safety net but to the extent you could then possibly apply that model here, that the extent to which you have a regional collaboration, that regional collaboration would have a role to play in deciding the projects and the plans that are developed for the money that passes through the state. I for one don't think that you're going to see the money come directly to the local governments. I think it's probably rational to have it go through the state.

Question 3:

Well, the interesting thing is in New York State where we're largely the intergovernmental coordination is between the state and counties. Things are state supervised, locally administered, and when you get to the sub-county level, counties are important in New York, we know, unlike in other states. How do we get it? So you're suggesting money would go to the state and then be….

Response from Paul Posner:

You're a county-administered state that will service some other programs. Is that the right frame for this kind of service or not? I guess what I'm saying is the extent to which you have a region that spans counties or spans … I'm not that familiar with the rural areas, then it raises the question whether that's the appropriate network in terms of the federal incentives, whether we can do something along those lines.

Response from Don Kettl:

I just want to make two quick points. One is that we've been making an argument that is based on a certain set of assumptions that locals on their own won't have the incentives to be able to do what has to be done and that in the end there has to be some kind of muscle from the people who have a broader overarching view and have the money. There's a vision about all this stuff and there may be some who disagree with that, who say the more it is as you lay down the set of issues, the more it has to do with just local incident response, the more you just allow the locals to be able to do what has to be done and give them the money. So there's a lot of these strategies that are contingent about how one defines the problem.

The second point is, whether or not it's possible to break out of this long, long, long dilemma of intergovernmental aid based on this balance of national control and local discretion and make it more information-based and more incentive-based somehow, on best practices. Whether or not this model that, for example, of private and nonprofit organizations used to create best-practice standard for fire protection which can say, "If you have this, we'll tag you at this level, this level or this level," based on certain kinds of things which one can identify, set up by these networks, professional networks. And then have the money out there and allow people to chase it, depending on their conversation with citizens and the information that they have about what level of protection they want to try to buy for their citizens. I'm not sure what the odds are of that working; I don't have high hopes for it but it's at least

interesting to think about other ways of trying to craft this, given the fact that the other alternatives really mean having to go after generations-long basic dilemmas in American federalism that we haven't successfully resolved and that we will surely get ourselves in again if we pursue some of these strategies.

Question 4:

I'll make a comment; then I have a solution for this. I like Jim's division of the territory to prevention, target hardening and close incident action, in relation to the kinds of federalism comments that both Don and Paul made in a very useful and intelligent way. It's going to be a good record for other people to read and I think about, as Paul said, how do we design new instruments? I have some thoughts about that but that isn't my simple solution; I mentioned this to Paul in the coffee break. Some day, I always kid at the Rockefeller Institute, we're going to have a conference and it's going to be all coffee breaks and people are going to have a chance to talk to each other, get to know each other, and compare experiences. I thought, Paul, your comments about networking — if I had to do anything nationally soon in Jim's third area about post-incident response, I would first of all hire a consultant company to go out and collect information about who talks to each other in various different places. Who knows each other? How are they or are they not a network in relation to particularly the things we care about here, but also generally. I would spend some money just in getting people to come together and meet each other and talk through with each other who they are.

An example is the hospital person who doesn't know the police chief — that's everywhere. I did something for this administration now in Albany. For every six weeks for about a year, I had all the executive deputies of state agencies come here and just talk to each other and they couldn't get over how interesting it was and how they never knew each other and how they had a lot of shared experiences and "I'm going to call you about this and I'm going to call you about that." I think a simple thing that this department could do in this third area that Jim mentioned, would be to actually organize it and pay for it, get people to know each other. Now Paul, you got to think about that and Jim, maybe you and Don would say, "Well, they already do and that's a silly idea."

Response from Jim Fossett:

Bringing the health people into the emergency management network is something that really doesn't happen very much yet. And the public health people and the health care people don't usually talk very much to each other. They do know each other's names but the odds are that they haven't met more than once or twice. I don't know what good acronym would be for dinner and a few drinks where people could socialize and get to know each other, but you could try to think of one....

Response from Paul Posner:

This is a fundamentally important issue and let me give you two examples for this. The first is if you go to the Arlington County website and read the after-action report for the Arlington County Fire Department the morning of 9/11, there is a lot of evidence about what it is that happened and what worked well and what didn't. The consultant who did the report said things worked very, very well. Reason: there was an extensive coordination among the individual elements and good interfunctional coordination among the players. Why? Because they were used to talking to each other, knew who each other was, trusted each other, had existing relationships and the evidence for that in that report is overpowering and the exact support of your point.

In another case, I was talking to a county official in a much smaller jurisdiction, who had done some tabletop exercises, including an opportunity to meet the local FBI field agent and she said, "You know, one of the most interesting things and useful things about this is that I got that FBI agent's cell number, which said a couple of things. I got to know the FBI agent; he's going to take my call if there's a case of an emergency and I know how to reach him" which would not have happened in the absence of this exercise. Further underlining your point about the importance of these informal networks because that in the end is how this stuff works most effectively and it's probably the lesson least likely to be learned by the creation of this new federal department.

Question 5:

Well, there's a couple of points. First, there are people whose job it is to know everybody and that's the elected officials. And they are the brokers and they need to be interested in this, you know, so it's in relatively small jurisdictions, even 200,000 people, 250,000 people. The county

executive knows all the people and all he has to be convinced of is the necessity to make sure they know each other and create a venue where that can occur. In fact, there are venues in communities like that, where that might occur, and there are reasons why it doesn't sometimes.

Response from Jim Fossett:

This is a natural political role since the elected officials are about the only ones who are going to know all of those people.

Question 6:

If you gave an elected official some money to get people together so he could have them there for two hours and make sure they knew each other, that would be easy because essentially financing a political reception — that would be your problem — to be sure that it didn't turn into that. The second point is that…Dick and I have written about this in years past. There are a lot of models that come to my mind or techniques that come to my mind about how to achieve some of this stuff and at the risk of being too parochial, in something we wrote, we talked about how 9/11 was implemented in the counties and how you got all the police departments and ambulance corps and emergency management directors and everybody together to do that. You even got counties to raise a tax to do it, which is a hard thing to do. It could be county, it could be regional, that created lots of inducements to collaborate and you kept people in a room until they figured out a paradigm, a way of doing it so they could get the resource and the response to the demand.

So you created a receptiveness to a tax, when people believe that the tax was buying them something specific. It turned out to be a surcharge on their phone bill. There are models and their adaptability across jurisdictions. I'm interested in your thinking about the cross-jurisdictional issues. The example that suggests itself to me is looking at the definition of metropolitan areas and how many of them cross state lines…I think it's about forty percent. So you still have a very substantial problem of collaboration as a consequence. Simply by choosing the states, you're creating a barrier to doing some of the things you might want to do. And the remarks about Washington, D.C., and Arlington are indicative. They've apparently worked.

Response from Jim Fossett:

I would commend this report to you because it also notes that the Arlington County fire chief and one of his deputies weren't even there.

But the point is, they had practiced this; they knew what to do when they got there. The D.C. fire department, I think, did in fact show up later in the day and they just stuck right in.

Question 7:

When I was a politician, I would never even spend any time on these exercises; they seemed absurd to me, you know, to spend two days running around with people who seemed semifanatic about radio technology when there's so much else to do, you see. That's not a problem any more. It's not a problem to convince the head of a local government to spend time on this and pay attention because if they don't it potentially catastrophic, both in human terms and in career terms to not pay attention and that lesson's learned.

Response from Paul Posner:

If I could just ask one follow up on that is, not withstanding arrangements. I think what you just said is very important because it does suggest as the stakes become more immediate you're going to get political leadership, but the question is what about followership and how do we know about how well our co-producers out there, the people that have to leave an area or take measures, are involved in this process. I'm thinking of Washington where most people are trying to avoid thinking about what might happen in an attack, people I work with and others, and there's really been some discussion but really not much internalization and a lot of mockery. Oh, if you're north of Pennsylvania Avenue, you have to go to Maryland. If you're south, you go to Virginia. And I'm wondering how political leaders are going to deal with that problem. It's just a rhetorical question but I think it's a concern.

Question 8:

I want to pick up on one of Jim's comments related to not having a sense of where we are with security and Paul's notion, it's better to do this through performance management; it's a measurement and then if Don were still here, he talks about there ought to be a minimum threshold that all jurisdictions achieve.

If you read the Bush proclamations on this homeland security, there's a test that he wants to apply that says we're not going to waste resources; this is performance-based; we're going to reward people ultimately who perform. My question to at least the two of you who are re-

maining here, is that realistic? In terms of your sort of performance management, you know, it'd be better to do it that way, could we develop a flat preparedness index so that we could measure this?

Response from Jim Fossett:

Well, this is not unlike the problem that the Pentagon has in trying to measure combat readiness for military units. Certainly the outcome measure is not one you really want to have to subject the system to. If you wanted to do it, you could say, they're staffed appropriately for this kind of thing.

They have access to the appropriate inputs. That's the way the Pentagon does it. They have experts and their equipment is inspected every so often. They replace it. They've got access to the right number of ejection kits for these kinds of things. You can specify a set of preparedness standards. You can say they have to practice so many times. The emergency management system has these practice sessions every two or three years. So I think you could do it.

Response from Paul Posner:

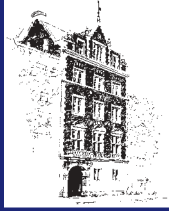
Actually FEMA currently has something called CARS where they have a thirteen as a criteria rating system. The states rate themselves; there's no apparent consequence for the current grants I review. That's going to change because we have much more urgent national goals here. So I actually think you could take a lot of what Jim's saying and operationalize it. I get a little worried about one number. But I think the notion of having some index, the notion of thinking about a government performance project where you would assess states' financial management prowess, where you assess their emergency management prowess. I think there's a responsible way to do it. I think there's also an irresponsible way to do that and that's the rub. But I guess I'm worried if we don't have that, then essentially you're kind of rudderless in trying to develop some meaningful way of evaluating the system and then I think you let political leaders off the hook that are vulnerable. I think you can easily get this ratcheting up of effort.

I have one quick story: I had a hearing in Iowa this summer and I took a rental car from the Cedar Rapids Airport and returned it and lo and behold, there's two guys searching my car from head to toe when I brought it back to the airport. This is Cedar Rapids. I mean, I don't know what critical assets are there. I'm sure, you know, maybe cornfields we could define as an infrastructure. I puzzled about that because I certainly didn't have to do that when I went into Reagan Na-

tional Airport which is arguably one of the most, you know, highly high targets that we have. Yet, lo and behold, the good citizens of Iowa had decided, or the leaders of that airport authority decided, they'd better be prepared to search every car coming in, glove compartment, trunk, the whole bit. The only time I've ever seen a search like that is when I went onto Ft. Belvoir's main campus, which I can understand, a month after 9/11. So I get worried when I see things like that.

Closing Remarks — *Frank Thompson*

Other comments or questions? Either of our remaining panelists have any parting words? Well, let me thank the remaining panelists. That was a very stimulating session. Thank you so much.



The Rockefeller Institute of Government

State University of New York

411 State Street
Albany, New York 12203-1003

www.rockinst.org