

**MEETING THE HOMELAND SECURITY CHALLENGE:  
A Principled Strategy for a Balanced and Practical Response**

By

Admiral James M. Loy, U.S. Coast Guard

&

Captain Robert G. Ross, U.S. Coast Guard

**Authors' Note:** The following article was written before the events of September 11<sup>th</sup>. As devastating as that day was, we have chosen not to revise the article. Rather, we believe that the very nature of those attacks only reinforces our basic arguments. The events of the 11<sup>th</sup> were not, despite the militaristic tones used by numerous commentators, recognizably *military* in nature. To the contrary, these attacks were almost certainly carried out by a non-state actor and used unarguably non-military means. We do not question the potential for state-sponsorship or complicity in the events of the 11<sup>th</sup>, nor do we dispute the potential necessity and appropriateness of a forceful military response against any state found to have knowingly harbored or actively aided those responsible. However, the fact remains that these attacks exploited security weaknesses in a key component of our national economy, the air travel system. Moreover, other critical components of the national transportation system and economic infrastructure are equally vulnerable. Accordingly, an effective Homeland Security regime will necessarily involve significantly improved domestic security provisions implemented by government and the private sector. Those provisions must be built on a solid legal foundation and must be implemented so as to be effective and acceptable, both economically and societally. As Thomas Friedman put it in his New York Times column on 13 September, "We...have to fight in a way that is effective without destroying the very open society we are trying to protect...We have to fight the terrorists as if there were no rules, and preserve our open society as if there were no terrorists. It won't be easy. It will require our best strategists, our most creative diplomats and our bravest soldiers." In that spirit, we offer our thoughts. Semper Paratus.

-----

**It wasn't supposed to be this way.** The break-up of the Soviet Union and the global failure of expansionist Communism were supposed to usher in the Pax Americana, a time when Americans would reap the benefits of having successfully waged the Cold War. We were supposed to be able to enjoy a greater sense of security as our reward. Instead, judging by the numerous reports, papers and articles flowing out of various official blue-ribbon Commissions and Washington think-tanks, a number of responsible officials and national security experts argue that the United States is less secure than at any time in its history against catastrophic attacks directed at the homeland. "Homeland Security"

appears poised to be the next growth industry in the National Security realm. So what happened? How did it get this way? More important: What are the threats? What can the United States reasonably do about them?

Complete answers to these questions are beyond the scope of this article. Some aspects of the Homeland Security topic are so complex that entire volumes would be necessary to explore narrow issues in anything like the depth necessary. Rather than succumb to the temptation to jump right into details on areas of particular concern to the Coast Guard, we have chosen to step back, to look at Homeland Security in a more comprehensive, holistic manner to see if there aren't some higher order principles to guide the nation.

Our analysis reveals an existing but discounted National Security "Lever of Power" – Civil Authority – that must be used creatively if America is to successfully meet the Homeland Security challenge. We also identify four principles essential to crafting an effective and affordable response to this multi-faceted problem. Among these are adherence to the Constitution and the Rule of Law, as well as the use of Risk Management concepts in selecting those actions and capabilities to implement.

**Potential Threats- The Players.** The current situation is not the result of a single event or trend. Rather, it is the result of interactions between a number of discrete threads of history. First, the disintegration of the Soviet Union and its empire of captive states has loosened the controls on several potentially negative forces. Former client states now feel free to pursue their own agendas without having to worry about the interests of their vanished sponsor. Concerns have been expressed by some security authorities that former Soviet scientists, desperate for work and the money to feed their families, may become mercenaries in the employ of aspiring nuclear powers and others seeking Weapons of Mass Destruction (WMD). Serious concerns have also been expressed over the ability of the resource-strapped Russian military to maintain security over former Soviet nuclear devices, fissile materials and other advanced weapons systems now under its control. If the Russian economic situation deteriorates further, these concerns will only grow.

In this era of globalization, the world reach of America's economy and culture are creating powerful resentments in some sectors. Even without regional conflicts providing motivation, it is highly likely that Osama bin Laden, or a similarly reactionary guardian of traditional ways, would have arisen in reaction to modern America's economic power or the dominance of American culture, some aspects of which are admittedly negative. Those with a dislike for the effects of globalization, as well as those who merely feel threatened or left out by an economy and technology they do not understand, have strong motives for lashing out at the most highly visible source of their discontent – the United States.

In many parts of the world, ethnic and nationalistic grievances have fueled the anger now directed at the United States. One of the burdens of being the sole remaining Superpower is that Americans are frequently the target, rightly or wrongly, of grievances around the

world. There are large ethnic blocks in this country that could provide either unwitting cover for ill-intentioned aliens or a source of ready recruits for a foreign terrorist organization. There are also those Americans who think themselves at war with something in their own society - government, industry, development, taxes, whatever.

There is also the continuing threat of state-sponsored or state-on-state violence in support of identified national objectives. It is not difficult to imagine scenarios in which a foreign government threatens to attack the United States with a WMD to dissuade U.S. opposition to their aggression on a neighbor. It is also not difficult to imagine an endangered despotic regime striking out at the U.S. to improve its domestic survival prospects. That such measures almost always fail does not stop the desperate from trying.

Common to all of the above is the use of an asymmetric means of attack on the United States by a state or non-state actor that is either unwilling or unable to confront the U.S. directly. That it is almost invariably a militarily inferior adversary who would employ such means does not lessen their potential impact. To the contrary, the potential inability to properly attribute such attacks to the correct perpetrator makes it all the more difficult to deter, defend against or respond to such attacks using traditional military means.

Finally, there are a number of serious trans-border threats facing the nation that fall outside the narrow bounds of "national security threat" as that term has sometimes been interpreted. Included among them are international crime (e.g., drugs, illegal migrant and weapons smuggling), the potential for accidental introduction of human or agricultural disease agents (e.g., hoof and mouth disease), and threats against natural resources or the environment (e.g., environmental terrorism or fisheries poaching).

**Potential Means of Attack.** If the number of actors who could conceivably threaten the U.S. homeland is daunting, the number and range of potential tools at their disposal is far more so. The number of differing means of attack is one of the principal difficulties in addressing the Homeland Security threat. At one extreme is the nuclear Inter-Continental Ballistic Missile (ICBM). At the other are small arms of types readily available in many legitimate retail outlets and powerful truck bombs and other devices made from readily available household and industrial chemicals.

One of the ironies in globalization is that, besides being a potential motivation for attacking America, growing global trade may also provide the delivery mechanism for a devastating attack on the U.S. It is similarly ironic that the spread of technology, accelerated by the Internet, gives those opposed to economic or technical change far greater access to information with which to craft attacks on the critical information, energy and transportation infrastructure that underpins the global economy.

While the range of potential threats is large, the greatest concerns have been expressed over WMD and threats against critical infrastructure. Excellent descriptions of the various threats and means of attack are available from numerous sources (see suggested

reading list). Rather than repeat those descriptions, we have chosen to emphasize selected aspects of the WMD threat that help point to effective counter-measures.

Some of the most widely discussed asymmetric threats are nuclear, chemical and biological WMD. There is some dispute over the degree to which these kinds of devices are likely to be developed or obtained by non-state actors, but the Aum Shinrikyo gas attack against the Tokyo subway showed that certain WMD are well within the reach of terrorist organizations. This incident also revealed another aspect of WMD. The Tokyo attack was initially thought to be an industrial or transportation accident, as was an earlier Aum Shinrikyo gas attack. Potential similarity between an attack and an accident or natural event is not limited to chemical incidents. For example, a biological attack might well be mistaken for the outbreak of a natural disease. The consequences of many potential WMD incidents will be similar to those of a variety of accidents or natural disasters, for which response mechanisms are already in place. Further, it may not be until much later that investigation reveals that an event was an attack rather than due to some less malign cause. This has significance when selecting WMD attack response and consequence management capabilities. Requirements should be driven by the nature of the event, not by the identity or intent of the perpetrators, if any.

Means of delivery is another aspect of WMD attack that is significant when deciding how to address the problem. Much has been made of the potential for a rogue state to threaten or attack the United States using an ICBM armed with a WMD warhead. Other potential delivery means are also available, some of which offer decided tactical advantages over the ICBM. Among these are cruise missiles and smuggling, either via legitimate trade or clandestinely across our porous borders. There are some 70,000 cruise missiles in arsenals around the world and, unlike ICBMs, the technology is both affordable and widely available. Many existing cruise missile designs could be launched, with relatively little risk of detection, from hundreds of miles at sea by small fishing or freight vessels. Further, more than 20 million containers enter this country each year, and the number is growing. Only a small percentage of these are ever inspected, whether for WMD or for more mundane purposes. As with cruise missiles, the potential for attribution is small. Because attribution risks and entry costs are small, some analysts have concluded these non-ICBM delivery means represent significantly greater risks than do rogue-state ICBMs. In fact, in the early 1940s, in a letter to President Roosevelt, Albert Einstein noted that "...a single [nuclear] bomb...carried by boat and exploded in a port, might very well destroy the whole port together with some of the surrounding territory."<sup>1</sup> The only significant difference between then and now might be the ease with which even a less developed nation is able to acquire nuclear devices.

These arguments, along with projected costs, have been used against National Missile Defense (NMD). Rather than argue against NMD, however, we believe the "half a fence is no fence" argument cuts both ways. The United States needs to improve its capabilities to intercept incoming foreign "warheads," whether delivered by ICBM, by other traditional military delivery platforms or hidden in a shipment of running shoes. As Dr. Michael O'Hanlon, a Senior Fellow and defense analyst at the Brookings Institution,

puts it, the US should "...broaden the homeland defense agenda beyond the narrow scope of missile defense, and indeed beyond the purview of the Department of Defense alone."<sup>2</sup> The fact that the non-missile portion of the fence will cost far less than NMD does not make it sufficient by itself. It does suggest, however, that we should build the first half of our fence while R&D and deployment planning continues on the other. (For a discussion on how the United States might choose to deal with the threat of WMD delivered via maritime means, see the description of the Coast Guard's Maritime Domain Awareness concept later in this article.)

**The Homeland Security Dialogue to Date.** Much has been written on the Homeland Security issue over the past few years by various Commissions, public policy think-tanks and individuals presenting either personal or agency perspectives. Regrettably, almost every study, report and article to date has concentrated on only a narrow aspect of the larger problem. While many very good ideas have been presented, the dialogue has lacked a more comprehensive context within which the pieces would fit and make sense. This has limited our discussion of Homeland Security. The terminology initially used when talking about the Homeland Security challenge was "Homeland Defense." There are several problems with this term but chief among them is that it initially focused the debate on the Department of Defense as the primary source for solutions. DOD, in turn, tended to focus almost exclusively on NMD and consequence management. This DOD view is simply too restrictive. This is not to suggest that DOD does not have a role in Homeland Security. To the contrary, DOD and the DOD military components are essential to a comprehensive solution. They are not, however, adequate by themselves.

The primary exception to the tendency to concentrate on only a narrow slice of the larger Homeland Security question has been the Commission on National Security Strategy/21<sup>st</sup> Century, aka the Hart-Rudman Commission. Hart-Rudman did look at Homeland Security broadly. However, the Hart-Rudman panel looked at so much more (DOD acquisition reform, State Department restructuring, science and technology education, etc.) that their Homeland Security message may have been diluted. The controversy surrounding Secretary Rumsfeld's efforts to seriously scrutinize America's national military strategy and the difficulties inherent in the shift to a new Administration will also undoubtedly deflect attention from Hart-Rudman's conclusions and recommendations.

Despite the lack of reaction to the Hart-Rudman and other similar reports, the following comments remain disturbingly on target:

"The United States will become increasingly vulnerable to hostile attack on the American homeland, and U.S. military superiority will not entirely protect us... attacks on American citizens on American soil, possibly causing heavy casualties, are likely over the next quarter century...America's openness and freedoms make it more vulnerable...[U.S. government] structures and strategies are fragmented and inadequate ..."<sup>3</sup>

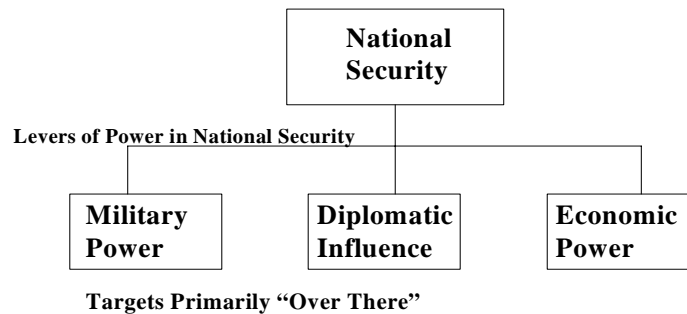
This is why the Hart-Rudman Commission concluded:

“...the security of the American homeland from the threats of the new century should be *the* primary national security mission of the U.S. government...”<sup>4</sup>

and recommended:

“The President should develop a comprehensive strategy to heighten America’s ability to prevent and protect against all forms of attacks on the homeland, and to respond to such attacks if prevention and protection fail.”<sup>5</sup>

**America’s National Security “Levers of Power.”** Conventional thinking in this country’s National Security Strategy has been based on exploiting three “Levers of Power,” or means to our desired ends, as shown in Figure 1. This approach has been acceptable for much of our history: we were protected from most foreign threats by two extremely wide oceans and we have enjoyed generally peaceful relations with our North American neighbors, especially since early in the last century. The major Cold War exception was the Soviet nuclear force, but our countervailing nuclear force and the doctrine of Mutual Assured Destruction kept that threat at bay. So long as the threats remained “over there” and/or were primarily military threats posed by identifiable state-actors susceptible to military counter-threats, this three pronged approach was successful.

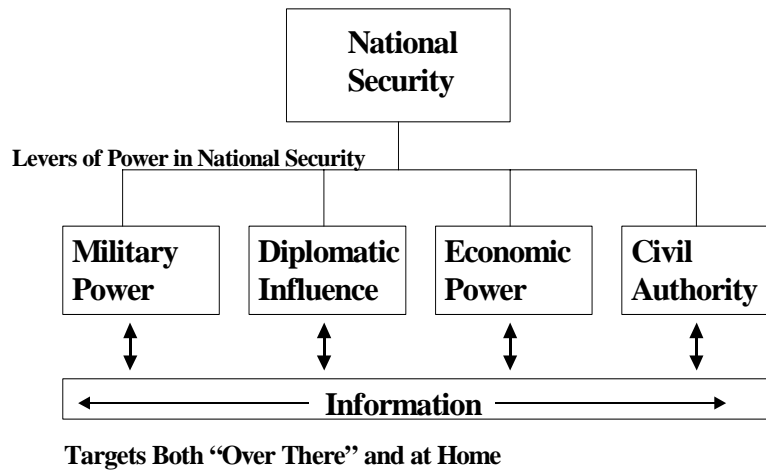


**Traditional Thinking in National Security Strategy**

**Figure 1**

Now, however, these traditional means are proving inadequate to the task. Many current and projected threats involve non-state actors, some not even foreign, who are not susceptible to Diplomatic Influence or Economic Power. Traditional applications of Military Power may also be entirely ineffective against such amorphous threats. If the traditional Cold War tools are inadequate, the only remaining recourse is to add some new capability to the National Security toolkit. As shown in Figure 2, the most readily

identifiable “new” tool is Civil Authority. As also shown in Figure 2, sharing and transparency of information across all four “Levers of Power” is an essential requirement if we are to be able to exploit the most effective means for achieving a desired outcome. The idea of information sharing between the military and foreign-focused national security intelligence communities and the domestic law enforcement community will undoubtedly raise civil liberties concerns. The more prudent course, however, would be to adopt strict guidelines and rigorous oversight on such information sharing rather than banning it outright, as is largely the case today.



### New Reality in National Security Strategy

Figure 2

Of course, there is nothing really “new” about applying Civil Authority to National Security or in mixing some components of the military and law enforcement. The Coast Guard and FBI intercepted and arrested Nazi saboteurs on the beaches of Long Island during World War II and the FBI has a long-standing domestic counter-espionage role with obvious National Security implications. What is new is the growing importance of Civil Authority in meeting emerging threats. As the Hart-Rudman Commission observed in its Phase I report:

“...U.S. national security policy in the 20<sup>th</sup> Century has been something that mainly happened “there,” in Europe, or Asia or the Near East. Domestic security was something that happened “here,” and it was the domain of law enforcement and the courts. Rarely did the two mix. The distinction between national security policy and domestic security is already beginning to blur and in the next quarter century it could altogether disappear.”<sup>6</sup>

Rather than previously hard lines becoming blurred, the new reality is more a case of Civil Authority simply being given a more prominent role as another legitimate means of providing for the safety and security of the American people.

The necessity of exploiting “Civil Authority” in the Homeland Security arena is made clear by two examples of its applicability. First, “Terrorism” has consistently been defined by essentially every nation as a criminal act. Despite the fact that military means have occasionally been used in response to terrorist attacks when the perpetrators were beyond the reach of prosecutors, Counter-Terrorism actions are Law Enforcement by definition, not military. In the United States, law enforcement and criminal prosecution are expressions of the sovereign’s civil authority. Similarly, inspecting cargo shipments for contraband at the border is an expression of civil authority whether that contraband is counterfeit designer jeans, drugs or WMD. This is not to deny the possibility of using military forces for such a civil function. Rather, the distinction is between a military function, subject to the Law of War and the rules of sovereign-to-sovereign relations, and the domestic exercise of a sovereign nation’s inherent right to protect itself from non-military trans-border threats.

**A Principled Response.** Developing a comprehensive response to the Homeland Security threat has been hampered by the complexity of the problem and the multiplicity of measures required for effective risk mitigation. Compounding the difficulty has been the number of different agencies and different levels of government acknowledging some degree of responsibility to act. Given these difficulties, it is no wonder that so many of the ideas that have come forth, as good as many of them are, have been presented in isolation and without connection to a fully articulated strategic and policy construct. The following provides suggested Guiding Principles and steps to take in building that larger, more comprehensive national response to the Homeland Security challenge.

## **I. Adhere to Constitutional Principles and the Rule of Law**

There is little, if any disagreement with the absolute necessity of this first requirement. As the Hart-Rudman Commission put it **“Guaranteeing that homeland security is achieved within a framework of law that protects the civil liberties and privacy of United States citizens is essential. The United States Government must improve national security without compromising established constitutional principles.”**<sup>7</sup> Security measures, if carried too far, pose risks that may equal or even exceed those of terrorists and ill-intentioned foreign governments. Extreme restrictions on personal liberties would instill resentments against government and ultimately weaken the government’s ability to protect the populace. In fact, such over-reactions have sometimes been the result desired by terrorists. Similarly, badly designed border controls could endanger international trade and the American economy.

There is one specific topic that must be addressed before moving on: Posse Comitatus. Some have suggested, erroneously, that the Posse Comitatus doctrine and law<sup>8</sup> preclude the use of military forces and personnel to perform Homeland Security functions. To the



contrary, the Posse Comitatus doctrine has always allowed the use of military forces to support domestic law enforcement. However, that use has always been subject to constraints, including civilian control of the military. Further, there is the very significant question of whether such use is in the best interests of the nation. Too active or too aggressive a military role carries with it the risk that resentments against the military and/or government will result. More likely, and therefore of even greater concern, is that the use of combat forces to perform domestic security functions will degrade their ability to fight and win any future war.

## II. Use all Four “Levers of Power” Appropriately

A truly comprehensive Homeland Security program would include actions ranging from Nuclear Counter-Proliferation efforts overseas to Consequence Management operations here in the event of a successful attack. Given the range of actions required and the need to work both at home and in foreign venues, it will be necessary to use all four Levers of Power. Further, with many responsibilities being fulfilled by state and/or local authorities and with many potential targets being owned by the private sector, **a truly national program will necessarily extend well beyond the federal government.** Figure 3, below, depicts the full scope of organizational involvement while also showing the split between military roles (Homeland Defense against military threats and Military Support to Civil Authorities) and civil functions at the federal, state and local government levels and among private-sector owner/operators of critical infrastructure.

### The Homeland Security “Big Picture”

HOMELAND SECURITY (HLS)			
Civil Authority HLS Functions (prevention & response)			Homeland Defense (HLD) (against military attack)
Private Sector*	State & Local Government	Non-DoD Federal	Military Services & Defense Agencies
	DoD Civil Support		

\* Private Sector security functions would be authorized or even required by cognizant authorities

Figure 3

### III. Employ Risk Management Concepts in Developing Action Plans

Risk is a function of both Probability and Consequence. Effectively managing risk requires actions to address both determinants of risk. Prevention is aimed at reducing the probability of an adverse event occurring while Consequence Management and Response capabilities must be available should Prevention prove inadequate. Neither Prevention nor Consequence Management is sufficient by itself. A comprehensive national strategy to meet the Homeland Security challenge requires both.

Table 1 presents a broad spectrum of potential Prevention Measures and Consequence Management and Response capabilities that could be applied to the Homeland Security problem. As shown, Prevention starts with “over there” diplomatic and military measures and extends into “execution disruption” measures here at home. Consequence Management and Response pick-up with “execution disruption” (e.g., hostage rescue) and run through the full range of recovery and reconstitution measures that would be required following a successful attack of whatever nature. **Finding the right mix of Prevention Measures and Consequence Management and Crisis Response Capabilities is the key to successfully meeting the Homeland Security challenge.**

**Table 1**  
**Prevention and Consequence Management Concepts Applied to Homeland Security**

**Prevention Measures** (probability reduction and breaking “event chains” prior to reaching the crisis stage)

- a. Anti- Proliferation and Counter-Proliferation programs
- b. Intelligence (traditional military & non-traditional economic intelligence)
- c. Deterrence (through credible threat of massive retaliation)
- d. Active Self-Protection/Vulnerability Reduction (anti-terrorist measures)
- e. Pre-emptive Actions (includes military, other counter-terrorist measures)
- f. Critical Infrastructure Protection and Redundancy
- g. In-transit Interception, including National Missile Defense
- h. Execution Disruption (overlaps into the Crisis Response arena)

**Consequence Management and Crisis Response Capabilities** (breaking end-stage “event chains” prior to full completion and mitigation of adverse impacts)

- a. Execution Disruption/Crisis Response (overlaps from Prevention arena)
- b. Strong Federal/State/Local Incident Command System (ICS) in Place
- c. Robust Emergency Medical System capabilities

- d. HAZMAT (Chemical/Biological/Radiological) Response capabilities
- e. Large Scale Disaster Response capabilities
- f. Military Support to Civil Authorities
- g. Reconstitution Capabilities for Essential Services (food, energy, etc.)
- h. Economic Recovery Programs
- i. Investigation & Follow-on Actions (prosecution, military response, etc.)

#### **IV. Select and Implement “Best-Value” Homeland Security Measures**

The Risk Management approach described herein provides the right conceptual framework for developing the comprehensive capability called for by Hart-Rudman and others. However, significant analysis and program development work would be required before this conceptual approach could be turned into concrete measures ready for implementation. The first step would be to develop detailed threat assessments addressing known and potential capabilities of our adversaries, our own vulnerabilities and the logistics requirements and likely critical paths in executing attacks of various types. Understanding these aspects of threat in detail will allow us to target the weakest links in order to break event chains before harm comes to the nation. From this we can select specific Prevention measures, based on probability of success rather than self-serving bureaucratic agendas, and determine the resources required for execution. Another essential analytic task would be to describe, in detail, the likely consequences of various forms of attack should they succeed. This will allow us to determine the capabilities needed to conduct Consequence Management operations. Rigorous analysis of the sort described would allow us to **identify the capabilities, operational competencies and resources**, including those not yet in existence, **required for successful execution across the Prevention and Consequence Management/Response spectrum.**

Having identified what needs to be done, the next step would be to determine which agencies and levels of government are most appropriate to carry out specific functions. The key to ensuring that we get the “Best-Value” for our money, always an essential requirement for Good Government, is to **build on existing agency legal authorities, missions, capabilities and competencies, to the maximum extent possible.** Where new legal authorities and/or operational capability is required, give them to the agencies best suited to the task by virtue of their existing tasking, and **avoid duplication wherever feasible.**

Finally, identified agencies must be given clear Homeland Security tasking, together with unambiguous direction on their new priorities and adequate resources for tasks assigned. There are those, including the Hart-Rudman Commission, who also believe restructuring is a prerequisite to effecting the necessary cross-functional coordination and to changing priorities at agencies that have historically paid little attention to existing or potential Homeland Security responsibilities. The counter to that argument is simple: agencies respond to the policies and priorities of the Administration and Congress, as reflected in appropriated budgets. If agencies have not given sufficient priority to Homeland Security

issues in the past, it is because they have not been tasked or funded to do so. Of course, in the past, such attention wasn't needed to the degree that it is now. A more moderate approach would be to acknowledge the necessity of clear tasking and adequate resources while also admitting that restructuring may be required for more effective cross-functional coordination and to clearly indicate that priorities have shifted dramatically. In short, restructuring may be needed but **clear tasking, well-defined priorities and adequate resources are absolutely essential.**

**A Case-Study in Practicality.** Building on existing law enforcement authority and blending in proven risk-management practices and a range of traditional and non-traditional national security and economic information, the Coast Guard-developed Maritime Domain Awareness (MDA) concept serves as an excellent example of common-sense application of the principles discussed above. The MDA concept involves fusing ship, cargo, passengers and crew data-bases from multiple sources to give the various security and enforcement agencies a far more complete advance picture of who and what is coming their way. Compared to the incomplete information available within agency stove-pipes today, this cross-agency integration and correlation of different data elements will yield a quantum step improvement in government's ability to protect the homeland from threats arriving by sea.

As noted previously, international trade is both a source of animosity in some quarters and a means of access to our shores. Well over 95% of our non-NAFTA foreign trade is carried by ship and America is connected to the global economy, not by aviation and the Internet, but by maritime commerce.<sup>9</sup> Every year, thousands of foreign-flag ships, carrying multi-national crews and cargoes from around the globe, enter US ports. Unfortunately, in a time when access to Weapons of Mass Destruction (WMD) may be growing, the resources and methods available to our border control agencies are not adequate to protect the homeland from myriad threats that could arrive by sea. As a result, asymmetrical "military" and terrorist threats have a natural gateway to America's shores via the marine transportation system. Given the importance of international goods and materials to the US economy, closing our borders is out of the question. Further, with our growing reliance on "Just-in-Time" deliveries of foreign goods, even slowing the flow long enough for more complete random inspections may be economically intolerable. The challenge facing the Coast Guard, the Customs Service and the other border control agencies is to develop ways to better protect the nation that don't sacrifice economic vitality in the process and that also don't break the federal budget.<sup>10</sup>

Information is the key. Data-bases from agencies/services, each with a partial view, must be fused so that the total picture emerges and actionable intelligence products are produced. With sufficient advance information on in-bound ships, cargoes and crews, the various border control agencies will have significantly enhanced ability to separate the good from the bad. Thus armed, they will be better able to intercept the bad before it becomes a problem for the country. This idea – exploiting available information to separate the good from the bad, and to then stop the bad – is at the heart of the MDA concept. The potential in this idea is so powerful that it has recently received National

Security Council support and a multi-agency Memorandum of Agreement aimed at MDA implementation has been executed

Much of the information required for MDA must already be submitted to various agencies, although not always in a timely manner to satisfy Homeland Security intelligence requirements. While earlier submissions may incur a cost, that cost should be minor. To carry the concept a step further, a properly conceived system could be designed so that it actually expedites properly documented cargoes originating in countries whose Customs and security authorities have entered into reciprocal arrangements with the U.S., thus facilitating legitimate commerce rather than impeding it.

**The evidence is in.** America is entering a new era filled with dangers we have either never faced or have not seriously confronted for a long time. Clear too are the calls for action to deal with these emerging threats. Less clear has been what to do in response to these calls to action.

Dr. Kevin O’Prey, a defense analyst with DFI International, has observed that the Homeland Security issue is extremely difficult to deal with due to its inherent nature. He describes the Homeland Security threat as involving low probability, high consequence events that are impossible to prevent (absolutely) and impossible to ignore (politically). Further, while acknowledging that specific threat scenarios may involve individually low probabilities, Dr. O’Prey quotes former Secretary of Defense Cohen that “the question is ‘When?’ – not ‘If?’”<sup>11</sup>

This perspective reveals parallels between Homeland Security and commercial aviation that lend support to the principles and basic approach outlined earlier. The traveling public knows that planes can and do fall out of the sky, but the benefits of flying are too strong to resist. The public’s response to the risks inherent in flying has been their demand for rigorous safety programs (prevention) coupled with emergency preparedness and effective accident investigation (response) and availability of insurance (consequence management). The benefits of America’s political, military and economic place in the world are, like those of commercial air travel, too attractive to forego. However, unlike with aviation, our recognition of the threats facing us is so new that we have yet to develop a comprehensive national suite of prevention programs and consequence management/response capabilities to deal with the Homeland Security problem.

Certainly, many good ideas have been put forward outlining how this nation could deal with specific aspects of the overall problem. What has been lacking has been a more encompassing, holistic view of the Homeland Security issue and a set of principles and a methodology to guide our future actions. While much remains to be done, we have attempted to provide a framework about which the United States can build the comprehensive national response the nation needs.

While adhering to Constitutional Principles and the Rule of Law, the President and the Congress can use Risk Management concepts to select, from among the many options

available, those measures and capabilities that provide the best value in safety and security. The key is in understanding the true nature of the threats and using all four National Security “levers of power” appropriately. The American people deserve no less.

Endnotes:

1. America's Achilles Heel, by Richard A. Falkenrath, Robert D. Newman and Bradley A. Thayer (Cambridge: MIT Press, 1999, p. 213).
2. “Beyond Missile Defense: Countering Terrorism and Weapons of Mass Destruction,” by Michael E. O’Hanlon, Policy Brief #86, Brookings Institution, August 2001
3. U.S. Commission on National Security/21<sup>st</sup> Century, “Roadmap for National Security: Imperative for Change,” Phase III Report, 15 February 2001, pgs 2 and 10
4. Ibid., pg 10
5. “Roadmap for National Security,” Phase III Report, pg 11, Recommendation 1
6. U.S. Commission on National Security/21<sup>st</sup> Century, “New World Coming: American Security in the 21<sup>st</sup> Century,” Phase I Report, “Supporting Research and Analysis,” 15 September 1999, pg 130
7. “Roadmap for National Security,” Phase III Report, “Addendum on Implementation,” 15 April 2001, p. 3-B
8. The Posse Comitatus law (18 USC 1385), adopted in response to Reconstruction era abuses, precludes the use of military forces for general law enforcement. The law applies only to the Army and the Air Force. The Posse Comitatus doctrine has been extended to the Navy and Marine Corps by DOD policy. The Coast Guard, while a branch of the Armed Forces of the United States at all times (14 USC 1 & 10 USC 101(a)(4)), has specifically been granted broad federal maritime law enforcement authority by statute (14 USC 2 & 89). The Coast Guard is unique in being both a military service and a civil authority/law enforcement agency. For additional commentary on the current status of the Posse Comitatus doctrine, see “The Myth of Posse Comitatus,” MAJ Craig T. Trebilcock, USAR, Journal of Homeland Defense, October 27, 2000
9. “An Assessment of the Marine Transportation System: A Report to Congress,” US Department of Transportation, September 1999, pg. 2
10. “Beyond Border Control,” Stephen E. Flynn, Foreign Affairs (Nov-Dec 2000), Council on Foreign Relations and “A Transportation Security Agenda for the 21<sup>st</sup> Century,” Stephen E. Flynn, TR News (Nov-Dec 2000), No. 211, pp. 3-7, Transportation Research Board, National Research Council
11. Dr. Kevin P. O’Prey, Executive Vice President, DRI International; Comments at the “Quadrennial Defense Review 2001” seminar, National Defense University, 9 November 2000 (attribution with permission)

Suggested Reading:

The Lexus and The Olive Tree; by Thomas Friedman

Reports of the Hart-Rudman Commission (officially known as the Commission on National Security Strategy/21<sup>st</sup> Century). These reports can be accessed at: <http://www.homelandsecurity.org/research.cfm> .

Report of the Seaport Crime and Security Commission (sometimes referred to as the Graham commission) located at <http://www.seaportcommission.gov/>. This report describes the security vulnerabilities arising from the United States' relatively ineffective Port Security and control measures for contraband entering via otherwise legitimate international marine commerce.

Reports of the Gilmore Commission (officially known as the "Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving WMD") located at <http://www.rand.org/nsrd/terrpanel/>. The Gilmore Commission's reports describe the United States' current low state of preparedness to deal with a range of mass consequence events such as a nuclear attack or the release of a lethal contagious disease such as anthrax or smallpox. The Gilmore Commission appears to be moving beyond mere "response" and toward a more comprehensive view of prevention

The Center for Strategic and International Studies (CSIS) has produced a number of reports dealing with Homeland Defense (a subset of Homeland Security) and with preparedness for attacks with biological weapons). CSIS reports can be accessed via <http://www.csis.org/>.

The Cato Institute has prepared a limited number of reports dealing with Homeland Security. Cato Policy Analysis No. 306, "PROTECTING THE HOMELAND, The Best Defense Is to Give No Offense" is recommended only for its description of the potential threats. This paper can be accessed at <http://www.cato.org>

At the Council on Foreign Relations, Dr. Steve Flynn, an active-duty Coast Guard officer, is working on a project to examine "Border Control in an Era of Global Economic Integration," (<http://www.cfr.org/public/resource.cgi?prog!42>). He has also published two shorter articles on his work: "Beyond Border Control," Foreign Affairs (Nov-Dec 2000) and "A Transportation Security Strategy for the 21st Century" TR News (Nov-Dec 2000).

Additional information can be obtained through the ANSER Institute of Homeland Security at: <http://www.homelandsecurity.org/research.cfm> .