

The Subcommittee on Coast Guard and Maritime Transportation

Hearing on

Port Security

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PURPOSE

The purpose of this hearing is to discuss the current maritime security efforts implemented in the Port of New York and New Jersey and to investigate suggestions on ways to further reduce the vulnerability of our ports and waterways

to terrorist attacks.

BACKGROUND

The Port of New York and New Jersey is the third largest in the nation and the largest on the east coast of North America. This port serves a region of 18 million people locally and a larger population of 89 to 90 million people within a ten-state region surrounding the port. Last year, the port handled over 3 million containers, as well as more petroleum products than any other port in the nation. In addition, the harbor also supports a wide range of passenger services including cruise ships and commuter ferry services. There are approximately 21 federal agencies with overlapping jurisdictions and regulations that have a role in port security in the harbor.

Increased Coast Guard Security Measures Taken After September 11th

Since September 11th, the Coast Guard has increased its counterterrorism operations using existing personnel, vessels, and aircraft. This increase in maritime security operations has reduced the Coast Guard's capacity to perform other vital missions, including counter-narcotics, migrant interdiction, and fisheries law enforcement activities. Without additional resources, the Coast Guard will not be able to maintain this increased port security posture and perform other vital Coast Guard missions.

Immediately following the events of September 11th, the Coast Guard launched the largest homeland port security operation since World War II. As part of Operation Noble Eagle and Enduring Freedom, the Coast Guard heightened security by establishing port and coastline patrols with 55 cutters, 42 aircraft and hundreds of small boats. Over 2,800 U.S. Coast Guard reservists were called to active duty to support maritime homeland security operations in 350 ports. Four of the six Port Security Units, which are self-contained rapid response units trained primarily in port and waterway security, were used to help patrol the Ports of New York and New Jersey, Boston, Seattle, and Long Beach in the weeks immediately following the September attacks. The Coast Guard enforced over 118 maritime security zones around navy vessels, cruise ships, nuclear power plants, and other

potentially hazard facilities.

Currently, the U.S. Coast Guard is enforcing a wide range of security measures on all ships entering U.S. ports. The Coast Guard has issued a temporary final rule changing the 24-hour Notice of Arrival requirement for ships entering U.S. ports to 96 hours before arrival at the first U.S. port. New special rules apply for all vessels carrying dangerous cargoes and additional information is also required in the Advance Notice of Arrival. The notice must now include a listing of all persons on board, crew and passengers, with date of birth, nationality, along with the appropriate passport or mariner's document number. The Notice must also include the vessel name, country of registry, call sign, official number, the registered owner of the vessel, the operator, the name of the classification society, a general description of the cargo, and date of departure from the last port, along with that port's name.

The Coast Guard has created a pilot-armed escort program, called the Sea Marshals program, in the Ports of San Francisco, Los Angeles, and San Diego. This program is designed to reduce the threat of using a commercial vessel as a terrorist instrument. The Sea Marshal concept employs preventive measures to neutralize tactics that could be employed by terrorists attempting to gain control of a large commercial carrier. The Sea Marshals armed escort provides security for the pilot, master, and the bridge navigation team on board a vessel during its transit in U.S. navigable waters. According to the Coast Guard, further expansion of this program will depend on the availability of resources, as well as future port-specific security needs.

The Coast Guard has also established Naval Vessel Protection Zones for a distance of 500 yards around all U.S. naval vessels in the navigable waters of the United States. These protection zones will remain in effect through June 15, 2002.

In addition, each Coast Guard Captain of the Port may employ any security measures that he deems necessary to ensure the safety and security of the port. For example, the Coast Guard has required several facilities handling dangerous cargo to provide additional security personnel and other security improvements. Facilities not addressing Coast Guard security concerns may have their operations suspended or be subjected to civil penalties.

Immediately following the September 11th attack, the Commandant directed Coast

Guard Captains of the Ports to implement passenger vessel and passenger terminal security plans to the maximum extent possible at security level III. Level III is implemented when the Commandant determines that the threat of an unlawful act against a vessel or terminal is probable or imminent and intelligence indicates that terrorists have chosen specific targets. The Coast Guard is working closely with the operations and security personnel at the International Council of Cruise Lines which represents the bulk of large passenger vessels operating out of the United States. Level III passenger vessel and terminal security measures require restricted areas around the vessel which are enclosed with fences or walls and protected by intrusion detection systems and patrols. Other security measures include the screening of all baggage, cargo, and stores that are placed on the ship as well as the screening of passengers before they are allowed to board the ship.

Current Coast Guard Authorities

The U.S. Coast Guard currently has primary responsibility for the promotion of safety of life and property at sea, the enforcement of all applicable Federal laws on, under, and over the high seas and United States waters. The agency also is charged with protecting the marine environment, conducting icebreaking activities, maintaining aids to navigation, and securing the safety of vessels, ports, waterways, and their related facilities.

Section 89 of title 14, United States Code, authorizes the Coast Guard to board any vessel subject to the jurisdiction, or operation of any law, of the United States in order to make inquiries, examinations, inspections, searches, seizures, and arrests for the violations of U.S. laws. The Coast Guard may order and force any vessel to stop and may engage in land, water, and air patrols. Federal law also authorizes the Coast Guard to control the anchorage and movement of vessels in the navigable waters of the U.S. in order to ensure the safety and security of U.S. naval vessels.

The Ports and Waterway Safety Act (PWSA) provides the Secretary of Transportation with broad authority to regulate the movement and operation of a vessel subject to the jurisdiction of the United States. Coast Guard Captains of the Port may order vessels to operate as directed, to anchor, as well as require pre-arrival notices. The PWSA also authorizes the Secretary to respond to acts of terrorism against vessels and waterfront facilities and to investigate any incident that causes damage to a waterfront facility or affects the safety of a U.S. port. The Secretary of the Treasury is authorized to refuse or revoke a vessel's clearance

when it may be liable to the U.S. for violation of the PWSA.

During times when the President determines that national security is endangered, the Coast Guard may seize any vessel that fails to follow its directions within U.S. territorial waters. Under the above conditions, the Coast Guard may also fine or imprison the master and crew for noncompliance with its orders, as well as establish a Port Security Card Program. This program provides for the controlled access to waterfront facilities and vessels by individuals with an appropriate security background screening by the Commandant. When certain conditions exist, the Captain of the Port may be directed by the Commandant to establish a restricted waterfront area and prevent access of persons who do not hold a Port Security Card. The Coast Guard required Port Security Cards at various facilities from 1942 until the end of the Vietnam War.

Federal law authorizes the Coast Guard to regulate the handling of dangerous cargo at waterfront facilities, the use of dangerous cargos on inspected vessels, and the carriage of certain specified liquid bulk cargoes by vessels. The Secretary of Treasury, at the request of the Secretary of Transportation, may refuse or revoke the clearance to enter a port of the United States when he believes a vessel carrying liquid bulk dangerous cargo or other hazardous materials has violated U.S. law. Vessels carrying dangerous cargoes are built and inspected to Coast Guard standards. Coast Guard marine inspectors conduct annual inspections to ensure these vessels meet and maintain these standards and make unannounced boardings to monitor transfers of dangerous cargoes.

In 1985, a U.S. citizen was killed during the terrorist seizure of the passenger vessel ACHILLE LAURO. In response to the vulnerability of passenger vessels and associated passenger terminals to acts of terrorism, Congress enacted the Omnibus Diplomatic Security and Antiterrorism Act of 1986. Title XI of this law constitutes the International Maritime and Port Security Act and authorizes the Coast Guard to require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism. The law also requires that passenger vessels and passenger terminal operators develop a plan of action for implementation of security measures at the ports and passenger vessels operating from those ports. The Coast Guard must examine and approve the security plans for passenger vessels and terminals and provide oversight to ensure that the plans are being properly implemented. Passenger vessels are only allowed

to embark from or disembark to terminals that hold an approved Terminal Security Plan.

Federal law further requires the Secretary to conduct foreign port vulnerability assessments for passenger vessels, should he find U.S. citizen passengers to be at a high risk of acts of terrorism directed against passenger vessels. The law also requires the issuance of travel advisories and authorizes the President to suspend certain passenger voyages for security reasons. This law does not apply to cargo vessels and terminals. Foreign port assessments are coordinated with the Department of State and the cruise ship industry. This program has been perennially underfunded and only two assessments were completed last year.

U.S. Customs Service Security Authorities and Activities

The U.S. Customs Service has the primary Federal responsibility to ensure that all imports and exports comply with U.S. laws and regulations. The Customs Service provides the nation with its second largest source of revenue. Last year, more than \$22 billion in duties were collected on imports. The agency is responsible for enforcing more than 600 laws and 500 trade agreements dealing with imported and exported cargo transactions.

The Customs Service physically inspects two percent of imported, and one percent of exported cargo. However, the majority of containers selected for intensive inspection are not randomly chosen. The Customs Service uses information from a database on shipping and trade activities called the Automatic Manifest System (AMS). Using a targeting system that operates within AMS, the Customs Service is able to pick out cargo manifests that appear unusual, suspect, or high-risk, for further evaluation. Although 97 percent of ocean manifests are filed electronically with the Customs Service, the advanced filing of shipping manifests is voluntary.

The Customs Service is currently developing two new information systems, the Automated Commercial Environment and the International Trade Data Systems. These systems are needed to replace numerous antiquated systems. In addition, these systems will allow for advanced collection of information for the targeting of high-risk cargo. These new systems will also allow other Federal agencies with an interest in cargo data to have access to the pertinent information.

The Customs Service has announced two initiatives to improve container security, the Customs Trade Partnership Against Terrorism and the Container Security Initiative. Both of these initiatives focus on the goal of checking the security of cargo before it reaches the United States. The Customs Trade Partnership Against Terrorism establishes partnerships with importers, carriers, brokers, warehouse operators, and manufacturers to improve security along the entire supply chain. The Customs Service, along with its partners, will look at where goods originate, the physical security and integrity of the foreign suppliers, the background of the personnel involved with the transaction, as well as the means by which goods are transported to the U.S.

The goal of the Container Security Initiative is to reduce the vulnerability of cargo containers being used to smuggle terrorists or terrorist weapons while accommodating the need for efficiency in global commerce. This initiative will establish criteria for identifying high-risk containers, pre-screen containers before they are shipped to the United States, use technology to pre-screen high risk containers, as well as develop smart and secure containers. The Customs Service plans to focus on the largest foreign seaports that are responsible for shipping the greatest number of sea containers to the United States.

WITNESSES

PANEL I

Captain Craig E. Bon
Commander
United States Coast Guard Activities
New York

Captain Richard J. Schoenlank
President
United N.J. Sandy Hook Pilots Association

Frank M. McDonough
President
New York Shipping Association, Inc.

James E. Benton
Executive Director
New Jersey Petroleum Council