

[H.A.S.C. No. 112-156]

**Y-12 INTRUSION: INVESTIGATION,  
RESPONSE, AND ACCOUNTABILITY**

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HEARING

BEFORE THE

SUBCOMMITTEE ON STRATEGIC FORCES

OF THE

COMMITTEE ON ARMED SERVICES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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HEARING HELD  
SEPTEMBER 13, 2012



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## **Y-12 INTRUSION: INVESTIGATION, RESPONSE, AND ACCOUNTABILITY**

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
SUBCOMMITTEE ON STRATEGIC FORCES,  
*Washington, DC, Thursday, September 13, 2012.*

The subcommittee met, pursuant to call, at 2:07 p.m., in room 2118, Rayburn House Office Building, Hon. Michael R. Turner (chairman of the subcommittee) presiding.

### **OPENING STATEMENT OF HON. MICHAEL TURNER, A REPRESENTATIVE FROM OHIO, CHAIRMAN, SUBCOMMITTEE ON STRATEGIC FORCES**

Mr. TURNER. I think you are all aware that votes are going to be called soon on the House floor.

I think everyone is aware that the structure of today's hearing is we are going to have opening statements from myself and my ranking member, Loretta Sanchez, and then we will be going into closed session for the questions and answers. And so we will both then commence to offer our opening statements.

I would like to welcome everyone to today's hearing on the recent security breach at the Y-12 National Security Complex.

As we all know from the press accounts, in the predawn hours of Saturday, July 28, three nuclear disarmament activists trespassed onto the grounds of the Y-12 complex in Oak Ridge, Tennessee. The activists, including an 82-year-old Catholic nun, who is present with us today, cut through several fences and entered the high-security "Protected Area" surrounding the Highly Enriched Uranium Materials Facility, HEUMF. The activists defaced an exterior building with spray paint, human blood, posters, crime scene tape, and other items before eventually being stopped and detained by members of the protective force. Reportedly, even once on the scene, the initial protective force member apparently did not respond with appropriate urgency.

This level of intrusion in the perimeter of a supposedly highly secure nuclear weapons facility is unprecedented, and it is absolutely unacceptable. It is outrageous to think that the greatest threat to the American public from weapons of mass destruction may be the incompetence of DOE [Department of Energy] security.

I want to say that again.

Because I have had hearing after hearing—I have participated both on this committee and with the Oversight and Government Reform Committee where we have raised the issue repeatedly of the security at these facilities. There is no margin for error for security at these facilities, and it is outrageous to think that the

greatest threat to the American public from weapons of mass destruction may actually be the incompetence of DOE security to be unable to keep these facilities secure.

Now I have just recently thanked one of the protesters for bringing this to light, to thank God that we did not have the security threat that could have been. If the facility had actually been under attack and all of these systems had failed, we would have had an absolute catastrophe. Instead, we have an embarrassment, but, thank God, an exposure of the issues and the problems of DOE that I know Members of Congress have been complaining about for a decade, because I have been one of them.

Let me be clear: I rank this failure alongside the Air Force's unauthorized shipments of nuclear weapons to Barksdale Air Force Base in 2007 and nuclear weapons components to Taiwan, which was reported in 2008.

From our oversight of these incidents, the subcommittee is intimately familiar with how systemic failures—coupled with a lack of leadership attention—can lead to massive failures in a business with room for none.

The 2007 Air Force incident revealed deep and systemic flaws throughout the Air Force enterprise that allowed that incident to occur. It also revealed that both on-the-ground personnel and senior leaders in the Air Force had taken their eyes off the ball when it came to nuclear weapons. Tellingly, we saw Secretary of Defense Gates take strong action to hold these people accountable and fix the system.

As the Y-12 investigations proceed, I expect to see similarly strong actions with regard to the July 28 incident and the leadership, management, and oversight failures that enabled it to occur.

I have deep reservations regarding NNSA's [National Nuclear Security Administration] nuclear weapons security posture going back many years. Some of my first direct encounters with nuclear weapons occurred in the early 2000s. A visit to Y-12's old nuclear facilities and a ride-along with NNSA's Office of Secure Transportation left me deeply concerned that we were not paying sufficient attention to the security of our nuclear weapons, and my concerns have been borne out by what we saw in this incident.

And let's remember, it was because of massive security problems and mismanagement at DOE that led this committee to create NNSA in 1999. This Y-12 incident is just one more indicator that the creation of NNSA has not fixed the problem. Twelve years later and the entire nuclear weapons enterprise, from the budget process to facilities construction and now even basic security, is fundamentally broken.

Ranking Member Sanchez and I spoke earlier, and we agreed that the system is broken. The ranking member and I have pledged to conduct a subcommittee investigation and ensure we get to the root causes of this failure.

We both want strong and effective Federal oversight of the nuclear enterprise, and we want the responsible Federal and contractor officials to be held accountable. This must never happen again. We must make it clear that these failures cannot be repeated and those responsible are held accountable. Ms. Sanchez and I will demand it.

Perhaps most troubling to me is that we have heard that there were many indicators of problems with Y-12 security prior to July 28 that include sky-high false- and nuisance-alarm rates, cameras that were broken for 6 months, and huge maintenance backlogs of security critical equipment.

Some of these indicators go back several years, and many of them were reported to NNSA's Y-12 site office on a daily or weekly basis. But no one reacted. No one at the contractors, NNSA, or DOE followed up on these indicators and forced corrective action. I am simply shocked by the failure to recognize a near meltdown of critical security lapses that were known well before this incident occurred. And, again, thank God that it wasn't an actual attack on the facility.

It appears that the Federal overseers were focused on the wrong things. There was plenty of paperwork but no recognition of or action on these problems. This is mind-boggling and may be the new textbook definition of "missing the forest for the trees."

Here are some basic questions:

Who knew that these cameras were out for so long?

Who knew that the false alarm rates were so high?

Who knew about the huge backlog of security maintenance and the overreliance on compensatory measures?

Who should have known these things who did not?

And did anyone do anything to fix them?

And, if they haven't, have they been fired and why not?

As far as I can tell, the only individual who has been fired is the Y-12 protective force officer who initially, if belatedly and incompetently, responded to the alarms. And he may get rehired as part of a union protest.

Others at both contractors and NNSA have been reassigned or allowed to retire. This does not fit my definition of accountability and certainly does not follow the example set 4 years ago by Secretary Gates.

Some more complex but equally important problems involve the bifurcation of responsibility and accountability for security at Y-12. Shortly after the July 28th incident, NNSA decided the dual prime contracts at Y-12—one for the protective force and one for the broader management of Y-12—resulted in less effective security. Two contractors were responsible for security, and they didn't communicate or coordinate like they needed to. NNSA fixed this problem immediately after the incident by making one a subcontract to the other.

However, this bifurcation of responsibility and accountability for security also exists on the Federal side. Both DOE and NNSA have security offices responsible for setting security policies, conducting oversight, and ensuring effective security is in place. So far, we have yet to see NNSA and DOE recognize the problems in their own house, even though they immediately recognized it in their contractors.

Instead, I am seeing a lot of bureaucratic finger pointing between NNSA, DOE, and the two contractors at Y-12. This bureaucratic backstabbing is also now playing out in the *Washington Post*, with details of supposedly classified reports being leaked to the press. That leaking alone is deeply troubling, and I expect our witnesses

to tell us what they are doing to track down where this was leaked from and end it. All of this is just another indication that the system is broken.

There is something deeply and fundamentally wrong with the culture in the Forrestal building. If this type of bureaucratic warfare had erupted at DOD after the Minot and Taiwan incidents, Secretary Gates would have had those people terminated immediately.

I am going to place the remaining portion of my opening statement in the record so that I can make certain my ranking member has sufficient time to enter hers.

I just want to conclude with this.

This is outrageous, unacceptable, and absolutely has to be fixed. The American public expects that we would have the highest level of security. There is a staff member on this committee who opined that the day-care center on Capitol Hill may be more protected than our nuclear weapons were on that night at Y-12. It is unacceptable. There are people who had responsibility for it, and they should be held accountable. And, the system needs to be fixed.

[The prepared statement of Mr. Turner can be found in the Appendix on page 13.]

Mr. TURNER. I turn to my ranking member, Loretta Sanchez.

**STATEMENT OF HON. LORETTA SANCHEZ, A REPRESENTATIVE FROM CALIFORNIA, RANKING MEMBER, SUBCOMMITTEE ON STRATEGIC FORCES**

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you before us.

Since our last hearing to examine NNSA management and the risks for nuclear safety and security, we had this intrusion of Y-12 and the inadvertent spread of technetium at one of our nuclear weapons laboratories. These are but two recent occurrences that highlight the continued need and the importance of closely examining safety and security reforms, and we need to address what risks are there.

I'd like to thank Chairman Turner for consistently, over this past year in particular, focusing this committee on the oversight issues as they relate to what we are going to discuss today. Because, I do believe that we have clearly an unacceptable problem with respect to management of security and safety. And, we need to fix these problems.

I join the chairman in welcoming Deputy Secretary Dan Poneman and Deputy Administrator Neile Miller to help us take a closer look at the recent security breach at Y-12. I thank DOE Inspector General Gregory Friedman; DOE's Chief Health, Safety and Security Officer Glenn Podonsky; and Acting Chief and Associate Administrator for the Office of Defense Nuclear Security at NNSA Jeff Harrell, who are here and available for questioning but not necessarily sitting right in front of us.

So I think it is pretty historical, this issue that happened on July 28. Thank God it was peace activists, and thank God it was Sister Rice who was coming through these fences—four perimeter fences—at what most of us would expect to be one of the most secure sites in the world.

This is a problem. Not only did they penetrate the security, but once they were able to reach the central storage facilities for nuclear weapons grade uranium, the security response didn't know what to do and wasn't very good at taking a look at what was going on and following procedures, most importantly, that weren't as laid out as all of us thought they would be and, of course, nonfunctioning equipment, communication deficiencies, all sorts of problems that we now are going to take a look at.

It is clear that taxpayers in particular and even just from a safety standpoint Americans need much more than what we saw on that night. So, as Chairman Turner emphasized, we are extremely concerned about the deficiencies that came to light.

First, the contractor's poor performance is inexcusable. From the Department of Energy Inspector General Report, we know that one of the cameras had been left out of service for approximately 6 months. And what we learned yesterday, in the testimony given yesterday, that some of the cameras actually worked, but they were simply turned off and that people who were coming to be the safety net didn't know which cameras were on or that even cameras were off. That's a major problem.

On top of these glaring deficiencies, reports last week revealed possible cheating by the contractor on the security inspection tests that had been ordered as part of the DOE response to the Y-12 intrusion.

Secondly, the abysmal failure by the contractors, I am concerned about a weakening of the Federal oversight process that appears to have promoted a "hands-off" approach.

At the NNSA level, it appears that site officials knew about several of these deficiencies and yet did not force the contractors to take the much-needed corrective actions. The DOE-IG [Department of Defense Inspector General] report notes with reference to over-reliance at Y-12 on the use of compensatory measures to address equipment failures that directly impacted security readiness.

Moreover, as baffling as the deficiencies brought to light by this intrusion are, last year's performance evaluation of B&W [The Babcock & Wilcox Company] Y-12—the draft of which is written by the contractor and merely reviewed by the NNSA officials—gave B&W Y-12 a stellar review. More specifically, B&W Y-12, responsible for delaying the repair cameras for months and failing to do the required maintenance that would have reduced the rate of false alarms, received as a rating of excellent for its safeguards and security work, contributing to B&W Y-12 receiving \$51 million in incentive fee for fiscal year 2011.

Last year, in an initiative to address concerns of excessive and overly burdensome oversight, the Department of Energy streamlined and eliminated many DOE safety and security directives despite questions about the impact that would have. Questioning this initiative, the GAO [Government Accountability Office] noted in April of 2012 "that the benefits of this reform are unclear because the DOE did not determine if the original directives were in fact burdensome and the reform did not fully address the safety concerns."

Mr. Chairman, we have votes on the floor. You and I both know that. I would like to put forward the rest of my statement for the record.

But, truly, we have to take a look at what happened here. I think there is a lot of blame to go around, and we need to correct these issues. And if somebody is not doing their job, we need to figure out how to get it right.

So I thank you for having this hearing. We have the responsibility, and now we have the chance to get this right. We cannot fail the American people.

Thank you.

[The prepared statement of Ms. Sanchez can be found in the Appendix on page 17.]

Mr. TURNER. I thank my ranking member, Ms. Sanchez.

She has reiterated that Members of Congress for a long time have had no confidence in DOE and NNSA in providing security for these facilities, but we had only a feeling, no proof. We now have proof. So this is an issue that has to be addressed.

Secretary Poneman, I am going to give you 3 minutes to summarize an opening statement. We will then return after votes with the remainder of the subcommittee with us and go into a classified briefing to receive additional details.

Secretary Poneman, 3 minutes.

**STATEMENT OF HON. DANIEL B. PONEMAN, DEPUTY  
SECRETARY OF ENERGY, U.S. DEPARTMENT OF ENERGY**

Secretary PONEMAN. Chairman Turner, Ranking Member Sanchez, with your permission, I will summarize and submit my full statement for the record.

Thank you for the invitation to appear before you here today to discuss this very, very important issue. We appreciate the interest and engagement of this committee, and we recognize the important oversight role that you fulfill. We share your commitment to ensure that all of our offices and operations are delivering on our mission safely, securely, and in a fiscally responsible manner.

As the recent incident at Y-12 demonstrates, the Department has fallen short of our own expectations and faces continuing challenges in our goals of continuous improvement. The recent incident, as Secretary Chu has made clear, is unacceptable; and we have taken swift and decisive action to identify and address the problems it revealed across the DOE complex.

Regarding physical protection, we have taken the following immediate steps to improve security: Cameras have been repaired and tested, guard patrols increased, security policies have been strengthened, the number of false and nuisance alarms have been greatly reduced to provide more confidence in the intrusion detection system.

We have addressed leadership issues. The top six leaders at the management and operating contractor and protective force contractor were either allowed to retire or relieved of their duties at Y-12. Five members of the protective force were fired, demoted, or suspended without pay.

On the Federal side, the Chief of Defense Nuclear Security for the NNSA at headquarters has been reassigned pending the out-

come of a review. We have also reassigned the most senior Federal security official who was at the site at the time, also pending the outcome of our internal reviews.

We have taken steps to deal with the problems that were revealed in our contracts at Y-12. Security functions at the Y-12 site have been brought under one contract, as you noted, Mr. Chairman, to ensure continuity of operations and line of command.

A formal show cause letter was issued to the contractor that covers the entire scope of operations at Y-12, including security. This is a first step toward potentially terminating the contracts for both the management and operations site contractor and the security subcontractor. Past performance, including these deficiencies and terminations, will be considered in the awarding of future contracts.

When it comes to the protective forces, we immediately acted to improve the security culture at Y-12. The entire site workforce was required to undergo additional security training. Nuclear operations at the site were suspended until retraining was complete. The former head of security from Pantex moved to Y-12 to lead the effort to reform the security culture at the site.

Site managers at all DOE facilities with nuclear material were directed to provide their written assurance that all nuclear facilities are in full compliance of the Department's security policies and directives, as well as internal policies established at the site level.

We will continue to investigate. We will leave no stone unturned, Mr. Chairman and Ranking Member Sanchez, as we investigate what led to this unacceptable incident at Y-12; and we will aggressively review security across all our sites. We can go into the details of those reviews when you come back. I know you have to vote.

In conclusion, the series of personnel and management changes that I have just described were made to assure the highest level of security at the site and across the DOE complex. To manage this transition, we have brought some of the best security experts from our enterprise to Y-12 to act quickly to address the security shortcomings at the site. We are also working to make the structural and cultural changes required, appropriately, to secure the facility.

The Secretary and I intend to send a clear message: Lapses in security will not be tolerated. We will leave no stone unturned to find out what went wrong, and we will take the steps necessary to provide effective security at this site and across our enterprise.

And I thank you for your time.

[The prepared statement of Secretary Poneman can be found in the Appendix on page 20.]

Mr. TURNER. We will be adjourned for our classified briefing.

[Whereupon, at 2:25 p.m., the subcommittee adjourned and entered a closed briefing.]



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**A P P E N D I X**

SEPTEMBER 13, 2012

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**PREPARED STATEMENTS SUBMITTED FOR THE RECORD**

SEPTEMBER 13, 2012

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**Statement of Hon. Michael Turner**  
**Chairman, House Subcommittee on Strategic Forces**  
**Hearing on**  
**Y-12 Intrusion: Investigation, Response, and Accountability**  
**September 13, 2012**

Good afternoon and welcome to today's hearing on the recent security breach at the Y-12 National Security Complex.

As we all know from the press accounts, in the predawn hours of Saturday, July 28, three nuclear disarmament activists trespassed onto the grounds of the Y-12 complex in Oak Ridge, Tennessee. The activists, including an 82-year-old Catholic nun, cut through several fences and entered the high-security "Protected Area" surrounding the Highly Enriched Uranium Materials Facility (HEUMF). The activists defaced an exterior side of the building with spray paint, human blood, posters, crime scene tape, and other items before eventually being stopped and detained by members of the protective force. Reportedly, even once on the scene the initial protective force member apparently did not respond with appropriate urgency.

This level of intrusion into the perimeter of a highly secure nuclear weapons facility is unprecedented—and it is completely unacceptable. It is outrageous to think that the greatest threat to the American public from weapons of mass destruction may be the incompetence of DOE security.

Let me be clear: I rank this failure alongside the Air Force's unauthorized shipments of nuclear weapons to Barksdale Air Force Base in 2007 and nuclear weapons components to Taiwan, which was reported in 2008.

From our oversight of those incidents, this subcommittee is intimately familiar with how systemic failures—coupled with a lack of leadership attention—can lead to massive failures in a business with room for none.

The 2007 Air Force incident revealed deep and systemic flaws throughout the Air Force enterprise that allowed that incident to occur. It also revealed that both on-the-ground personnel and senior leaders in the Air Force had taken their eyes off the ball when it came to nuclear weapons. Tellingly, we saw Secretary of Defense Gates take strong action to hold these people accountable and fix the system.

As the Y-12 investigations proceed, I expect to see similarly strong action with regard to the July 28 incident and the leadership, management, and oversight failures that enabled it to occur.

I have had deep reservations regarding NNSA's nuclear weapons security posture going back many years. Some of my first direct en-

counters with nuclear weapons security in the early 2000s—a visit to Y-12’s old nuclear facilities and a ride-along with NNSA’s Office of Secure Transportation—left me deeply concerned that we were not paying sufficient attention to the security of our nuclear weapons.

And let’s remember: it was because of massive security problems and mismanagement at DOE that led this committee to create NNSA in 1999. This Y-12 incident is just one more indicator that creation of NNSA hasn’t fixed the problems—12 years later and the entire nuclear weapons enterprise, from the budget process to facilities construction and now basic security, is fundamentally broken.

Ranking Member Sanchez and I spoke earlier, and we agreed that the system is broken. The Ranking Member and I have pledged to conduct a subcommittee investigation and ensure we get to the root causes of these failures.

We both want strong and effective Federal oversight of the nuclear enterprise, and we both want the responsible Federal and contractor officials to be held accountable. This must never happen again. We must make it clear that these failures cannot be repeated and those responsible are held accountable. Ms. Sanchez and I will demand it.

Perhaps most troubling to me is that we have heard that there were many indicators of problems with Y-12’s security prior to July 28. These include:

- Sky-high false- and nuisance-alarm rates;
- Cameras that were broken for 6 months; and
- Huge maintenance backlogs of security critical equipment.

Some of those indicators go back several years, and many of them were reported to NNSA’s Y-12 site office on a daily or weekly basis. But no one reacted. No one at the contractors, NNSA, or DOE followed up on these indicators and forced corrective action. I am simply shocked by the failure to recognize a near meltdown of critical security lapses that were known well before this incident occurred.

It appears that the Federal overseers were focused on the wrong things. There was plenty of paperwork but no recognition of—or action on—these problems. This is mind-boggling, and may be the new textbook definition of “missing the forest for the trees.”

Here are some basic questions:

- Who knew that these cameras were out for so long?
- Who knew that the false alarm rates were so high?
- Who knew about the huge backlog of security maintenance and the overreliance on compensatory measures?
- Who should have known these things?
- Did they do anything to get it fixed?
- Have they been fired?

As far as I can tell, the only individual that has been fired is the Y-12 protective force officer who initially—if belatedly and incompetently—responded to the alarms. And he may get rehired thanks to his union’s protest.

Others at both contractors and NNSA have been “reassigned” or allowed to retire. This does not fit my definition of accountability,

and certainly does not follow the example set 4 years ago by Secretary Gates.

Some more complex but equally important problems involve the bifurcation of responsibility and accountability for security at Y-12. Shortly after the July 28 incident, NNSA decided the dual prime contracts at Y-12—one for the protective force and one for the broader management of Y-12—resulted in less effective security. Two contractors were responsible for security, and they didn't communicate or coordinate like they needed to. NNSA fixed this problem immediately after the incident by making one a subcontract to the other.

However, this bifurcation of responsibility and accountability for security also exists on the Federal side: both DOE and NNSA have security offices responsible for setting security policies, conducting oversight, and ensuring effective security is in place. So far, we have yet to see NNSA or DOE recognize this problem in their own house—even though they immediately recognized it in their contractors.

Instead, I'm seeing a lot of bureaucratic finger-pointing between NNSA, DOE, and the two contractors at Y-12. This bureaucratic backstabbing is also now playing out in the *Washington Post*, with details of supposedly classified reports leaked to the press. That leaking alone is deeply troubling and I expect our witnesses will tell us what they are doing to track that down and put an end to it. All of this is just another indication that the system itself is broken.

There is something deeply and fundamentally wrong with the culture in the Forrestal building. If this type of bureaucratic warfare had erupted at DOD after the Minot and Taiwan incidents, Secretary Gates would have had those involved terminated immediately.

Continuing with the status quo—doing more of the same—isn't going to resolve the root causes of NNSA and DOE's long history of security failures. Dozens of reports and other indicators show the system itself is broken, in addition to leadership, management, and personnel failures.

As one example, an independent study of NNSA security conducted by Admiral Rich Mies back in 2005 found that many of the problems their study identified, "are not new; many continue to exist because of a lack of clear accountability, excessive bureaucracy, organizational stovepipes, lack of collaboration, and unwieldy, cumbersome processes."

As the sole authorizing committee with jurisdiction for the nation's nuclear security activities, we take this incident very seriously. We must understand the details of what actually happened during this incident and the failures that allowed it to happen. We must also understand what corrective actions are being taken, who is being held accountable, and the ongoing investigations. And, as I mentioned, the Ranking Member and I are in lock-step about this. There are no politics here.

To enable this in-depth discussion, we must get beyond the press accounts and discuss sensitive details. Therefore, with agreement of the Ranking Member, after opening statements from the witnesses we are going to immediately transition into a classified ses-

sion. We want a full and vigorous discussion—and this can only take place in a closed session. The subcommittee will continue to conduct rigorous oversight of this matter in the months ahead, and we anticipate further subcommittee oversight activities in the future.

Today, we have two of the senior officials responsible for ensuring nuclear security at DOE facilities. They are:

- The Honorable Daniel B. Poneman, Deputy Secretary of Energy, U.S. Department of Energy; and
- The Honorable Neile L. Miller, Principal Deputy Administrator, National Nuclear Security Administration.

Thank you to our witnesses for appearing today—we look forward to your testimony and the detailed discussion during the subsequent briefing. I know we all want to make sure this doesn't happen again—because next time it may not be an 82-year-old nun.

I'd like to note that during a recent office visit with Deputy Secretary Poneman, he agreed that DOE, NNSA, and its contractors would fully cooperate with the subcommittee's investigation. I thank him for that commitment and look forward to our continuing discussion.

**Statement of Hon. Loretta Sanchez**  
**Ranking Member, House Subcommittee on Strategic Forces**  
**Hearing on**  
**Y-12 Intrusion: Investigation, Response, and Accountability**  
**September 13, 2012**

Since our last hearing to examine NNSA management and the risks for nuclear safety and security, we have had the intrusion at Y-12 and the inadvertent spread of technetium at one of the nuclear weapons laboratories. These are but two recent occurrences that highlight the continued importance of closely examining what safety and security reforms are warranted and what risks must be addressed. I would like to thank Chairman Turner for focusing our Subcommittee on these important oversight issues this year and for the opportunity to delve into what have become clearly unacceptable management problems that have plagued a broken system.

I join the Chairman in welcoming Deputy Secretary Dan Poneman and Deputy Administrator Neile Miller to help us take a closer look at the recent security breach at Y-12. I thank Department of Energy Inspector General Gregory Friedman; DOE's Chief Health, Safety and Security Officer Glenn Podonsky; and Acting Chief and Associate Administrator for the Office of Defense Nuclear Security at the NNSA Jeff Harrell, for being available to answer our questions in the closed briefing that will follow this open hearing.

On July 28, a historically unprecedented intrusion whereby three peace activists, including an 82-year-old nun, were able to penetrate, without being intercepted, four perimeter fences, at what is expected to be one of the most secure sites in the world. Not only did they penetrate the security zone but were able to reach the country central storage facility for nuclear weapons-grade uranium, as the security response was inexplicably hampered by nonfunctioning equipment, communication deficiencies, and numerous failures to follow prescribed procedures for responding to alarms and security breaches.

It is clear that we owe the taxpayers and the security of our country stronger oversight and stricter accountability on nuclear safety and security.

As Chairman Turner emphasized, we are extremely concerned about the deficiencies that came to light and about whether security readiness is ready for prime-time given the serious gaps in contractor implementation and Federal oversight.

First, the contractor's poor performance is inexcusable. From the Department of Energy Inspector General Report, we know one of the broken cameras had been left out of service for approximately 6 months. Some cameras as was revealed in yesterday's congressional hearing were inoperable simply because the switch was turned off. Security guards were not aware of which cameras were nonoperational at the time they assumed their post. The false alarm rate was on the order of hundreds of false alarms a day.

On top of these glaring deficiencies, reports last week revealed possible cheating by the contractor on a security inspection test that had been ordered as part of the DOE response to the Y-12 intrusion.

Second, beyond the abysmal failure by the contractors, I am concerned about a weakening of the Federal oversight process that appears to have promoted a “hands-off” approach:

At the NNSA level: It appears NNSA site officials knew about several of these deficiencies and yet did not force the contractors to take much-needed corrective actions. The DOE IG report notes with reference to overreliance at Y-12 on the use of compensatory measures to address equipment failures that directly impacted security readiness, “federal officials [stated] that with the advent of NNSA’s contractor governance system (Contractor Assurance System), they could no longer intervene . . . to address growing maintenance backlogs.” This raises serious questions about competency, and about whether there has been a growing trend of relegating much decisionmaking authority to the contractor despite glaring performance failures that underlay a lack of security readiness.

Moreover, as baffling as the deficiencies brought to light by this intrusion are, last year’s performance evaluation of B&W Y-12—the draft of which is written by the contractor and merely reviewed by NNSA officials—gave B&W Y-12 a stellar review. More specifically, B&W Y-12, responsible for delaying the repair of cameras for months and failing to do the required maintenance that would have reduced the rate of false alarms, received an a rating of “excellent” for its Safeguards and Security work, contributing to B&W Y-12 receiving \$51 million in incentive fee for FY 2011.

With regard to DOE: Last year in an initiative to address concerns of excessive and overly burdensome oversight, the Department of Energy streamlined and eliminated many DOE safety and security directives despite questions about the impact. Questioning this initiative, the Governmental Accountability Office (GAO) noted in April 2012 “that the benefits of this reform are unclear because the DOE did not determine if the original directives were in fact burdensome and the reform did not fully address safety concerns.”

As another example, in a revised executive order (DOE Order 227.1) last year loosening contractor accountability, DOE reduced the requirements on the contractors for implementing corrective actions to address deficiencies identified by the independent Health Safety and Security Office.

Furthermore, GAO has noted that the DOE directives reform effort gave “the NNSA site offices, rather than DOE’s Office of Independent Oversight staff, responsibility for correcting problems identified in independent assessments.”

Third, and a final point: Independent oversight remains crucial to ensuring security readiness that is up to the task of protecting weapons-usable material.

We have heard the refrain in previous hearings this year that Federal oversight was overly burdensome. And the authors of the NAS report testified before our Subcommittee that “A great deal of work that has been accomplished over the years in safety and security has required extensive effort by the NNSA and the laboratories. We believe these efforts have been strengthened to the point

where they no longer need the current level special attention to assure high quality results in laboratory operations.”

However, as brought to light in the *Washington Post* yesterday, it was independent oversight by the Department of Energy 2 years ago that sounded the alarm on lax security at Y-12, and found that “security cameras were inoperable, equipment maintenance was sloppy and guards were poorly trained.”

I remain deeply concerned about efforts that could weaken Federal safety and security oversight, including controversial provisions on nuclear safety and security in the FY 2013 House National Defense Authorization bill. The recent IG report noted that an NNSA official stated that “they had been instructed not to evaluate and report on ‘how’ the contractors were conducting business, but to focus instead on ensuring that the mission was accomplished.”

This incident should inject urgency in the need to ensure that Federal officials have direct access to the contractors in charge of security. It is also the latest indicator that overseeing how security is provided remains crucial to avoid another potentially more serious accident.

This will require strong leadership, access to the contractor and independent expertise.

The silver lining in this appalling event at Y-12 is that these were not terrorists bent on attacking the facilities, that the new HEUMF facility is extremely robust, as opposed to the nearby 60-year-old 9212 facility, and finally that we did not have a trigger-happy guard mistakenly kill an 82-year-old nun.

But this is a wake-up call about the serious deficiencies in safety culture and woeful gaps in oversight that allowed this situation to occur.

We have the responsibility—and now the chance—to get this right. We cannot afford to fail again.

**Statement of  
Hon. Daniel B. Poneman  
Deputy Secretary  
U.S. Department of Energy**

**Before the  
Subcommittee on Strategic Forces  
Armed Services Committee  
U.S. House of Representatives**

**September 13, 2012**

Chairman Turner, Ranking Member Sanchez, and members of the Subcommittee, thank you for the invitation to appear before you today to discuss the Department of Energy's oversight of the nuclear weapons complex and the recent security incident at the Y-12 National Security Complex (Y-12). We appreciate the interest and engagement of this Committee and recognize the important oversight role that you fulfill. We also share the Committee's commitment to assure that all of our offices and operations are delivering on our mission safely, securely, and in a fiscally responsible manner — from Washington, DC, to California, from every naval reactor to every warhead, from production to clean-up, from deterrence to nonproliferation.

**Introduction**

Dating back to its origins in the Manhattan Project during World War II, DOE and its predecessor organizations have consistently pursued the development of atomic energy for peaceful and defense purposes, while also safeguarding the health, safety, and security of the public. The Department remains committed to this goal and is deeply informed by its historical legacy, including decades defending the nation through our critical national security responsibilities to sustain a safe, secure, and effective deterrent while combating the proliferation of nuclear weapons to foes and terrorists. We are also committed to fulfill our obligation to clean up the legacy of the Cold War at Environmental Management sites across the country. Thus, nuclear safety and security have been integral to our vital and urgent mission from its inception. We continuously seek to improve our performance in those areas. As the recent incident at Y-12 demonstrates, the Department has at times fallen short of our own expectations and faces continuing challenges in our journey of continuous improvement. This recent incident, as the Secretary has made clear, is unacceptable, and we have taken and will continue to take steps not only to identify and correct issues at Y-12, but across the DOE complex. I will address this incident, and our response, in more detail later in this testimony.

Since its creation in 1999, the National Nuclear Security Administration (NNSA) has served as a separately-organized entity within the U.S. Department of Energy, entrusted with the execution of our national nuclear security missions. Living up to the challenging demands of executing our mission safely, securely, and in a fiscally responsible manner requires daily management through strong, effective, and efficient relationships with our Management and Operating (M&O) contractors. Congressional oversight, in conjunction with oversight by the DOE Office of Health Safety and Security (HSS), our internal, independent oversight body, as well as that of the DOE Inspector General, the Defense Nuclear Facilities Safety Board (DNFSB), and the Government Accountability Office (GAO), contribute to the safety and security of DOE facilities.

The protection of all Department of Energy (DOE) assets — our people, technology, and physical assets, including both nuclear and non-nuclear facilities and other resources — is of integral importance to our mission. The Secretary and I know that, and understand our responsibilities to that mission, in its entirety. Indeed, we have reflected our commitment through our Management Principles, which provide that:

- We will treat our people as our greatest asset;
- We will pursue our mission in a manner that is safe, secure, legally and ethically sound, and fiscally responsible; and
- We will succeed only through teamwork and continuous improvement.

The Secretary has expressed a consistent, unwavering commitment to maintain safe and secure work environments for all Federal and contractor employees. In that spirit, we are determined to assure that the Department's and contractors' operations do not adversely affect the health, safety, or security of workers, the surrounding communities, or the Nation.

DOE's mission includes diverse operations, involving a variety of nuclear materials and processes. We recognize our unique obligations as a self-regulated agency to establish and meet exacting standards for nuclear safety, to maintain robust nuclear safety performance, and to provide rigorous and trustworthy oversight and enforcement of those nuclear safety standards. We must also maintain a safety culture that values and supports those standards, and assures that individuals can freely step forward to voice their concerns related to our safe execution of our mission. Indeed, we encourage them to do so. Only through these actions can we provide adequate protection of our workers, the public, and the environment, while sustaining the public trust and confidence crucial to our ability to fulfill the mission.

To achieve our mission, DOE must strive to excel simultaneously as a self-regulator, as an owner, and as an operator of the facilities in our national security complex. Each of these roles is vital and must be executed with integrity.

#### **Roles and Responsibilities for Nuclear Safety and Security within DOE**

The Secretary and I bear ultimate responsibility for nuclear safety and security at DOE facilities. Under our direction, line managers have the authority and the responsibility for establishing,

achieving, and maintaining stringent performance expectations and requirements among all Federal and contractor employees, at DOE labs and other facilities.

Line management is reinforced by the DOE Central Technical Authorities (CTAs), who are responsible for implementing nuclear safety requirements effectively and consistently, providing authoritative nuclear safety guidance, and establishing goals and expectations for subordinate personnel and contractors.

The Department's Office of Health, Safety and Security (HSS) has three discrete functions. First, HSS, in close collaboration with CTAs and line management, is responsible for the development of DOE nuclear safety policy, Federal Rules, Orders, and the associated standards and guidance, as well as for reviewing safety issues complex-wide. The second HSS function is to develop and assist in the implementation of safeguards and security programs that provide protection to national security and other vital national assets entrusted to DOE. The third function is to conduct independent oversight and regulatory enforcement that is independent from line management. On behalf of the Secretary, HSS independently and regularly evaluates contractor and Federal personnel safety and security performance and recommends needed improvements. HSS has broad enforcement authorities in the areas of nuclear safety, worker safety and information security, to include issuance of Notices of Violation and imposition of civil penalties, for contractor violations of Departmental regulations in those areas (for NNSA contractors, HSS recommends enforcement actions to the NNSA Administrator for action). The independence of HSS, which reports directly to the Office of the Secretary, affords HSS the autonomy to exercise its oversight and regulatory role without potential conflicts of interest with those line managers who are subject to its oversight.

By statute, the Defense Nuclear Facilities Safety Board also plays a pivotal role in providing recommendations as well as oversight of safety issues for the Department. The Board makes recommendations to the Secretary of Energy, and the Secretary takes the recommendations fully into account whenever making decisions regarding matters under the Board's jurisdiction.

#### **Safety through Standards, Managing Risk, and Integrated Safety Management**

The Department's approach to nuclear safety is founded on a demanding set of standards that capture knowledge and experience in designing, constructing, operating, deactivating, decommissioning, and overseeing nuclear facilities and operations. DOE applies validated national and international standards to the maximum extent possible, because these standards reflect broad input from a large and diverse group of experts. As our management principles state: "We will apply validated standards and rigorous peer review."

Our management principles also require that we "manage risk in fulfilling our mission." This is essential to a robust safety culture, as demonstrated by the 2010 Deepwater Horizon oil spill, which vividly demonstrated the inadequacy of a mere "check-the-box" mentality when it comes to smart decision-making in a complex and hazardous operational environment. Since DOE expects scrupulous compliance with its requirements, managers and workers must recognize

and embrace their personal accountability to meet safety standards, while avoiding a tendency for rote compliance with requirements. In some cases, it may be necessary to raise a hand and ask if another approach could offer a smarter way to assure safety. This questioning attitude must be encouraged.

Integrated Safety Management (ISM) serves as the touchstone of our nuclear safety program. DOE policy requires the Department systematically to integrate safety into management and work practices at all levels so that missions are accomplished while protecting the public, the workers, and the environment.

#### **Contract and Project Management**

The Secretary and I are also dedicated to strengthening contract and project management. Indeed, we cannot succeed in advancing our goals for the Department if we fall short in this effort. And, to be clear, safety and security are integral to effective contract management. Safety and security are key performance standards and elements of every contract and extensive oversight is required to ensure stewardship as well as legal and regulatory requirements are met. When we have a safety or security problem, we must fix it, which may lead to increased costs and delays. So building safety and security into the fabric of our programs and our projects from the start and continuously monitoring adherence to safety standards is not just the right thing to do from a moral perspective, and not just the necessary thing to according to our governing laws and regulations,, but it is also the smart thing to do, as stewards of our responsibilities to the Nation and its taxpayers. Our recent experience at the Hanford Waste Treatment Plant bears this view out, and shows that we must pay particular attention to ensure technical and safety issues are promptly reported and resolved, as contract mechanisms and project management actions there may have created circumstances where nuclear safety issues were not appropriately managed.

Pursuant to a request within the Conference Report accompanying Fiscal Year 2012 appropriations legislation, DOE has conducted reviews of five nuclear facility construction projects that each have estimated total project costs in excess of one billion dollars, to determine if they are being managed in a way that could pressure managers or contractors to meet project performance objectives at the expense of adherence to nuclear safety requirements. In that report, submitted in May 2012, we reviewed our acquisition policies and processes to determine if there are systemic issues that might hinder technical and safety issue resolution.

The review found that over the last four years the Department has taken important steps to improve its project management processes, fortifying the foundation for implementing a strong nuclear safety culture at hazardous projects. While the Department has already implemented a number of project management and safety integration improvements, we recognize the importance of proactively seeking additional improvements, such as continuing to strengthen the capability and technical expertise of our federal and contractor staff responsible for project

implementation and execution. We identified several other areas for further improvement, which are detailed in the report.

#### **Y-12 Incursion Incident**

On Saturday, July 28, 2012 at 4:30AM three individuals trespassed onto the Y-12 National Security Complex and defaced a building at NNSA's Y-12 National Security Complex in Oak Ridge, Tennessee. The intruders traversed Y-12's Perimeter Intrusion Detection and Assessment System (PIDAS). The intruders' movement was detected, but initially went unchallenged. The Protective Force's delayed response allowed the intruders to vandalize the outer wall of the Highly Enriched Uranium Materials Facility (HEUMF). Following the initial delay, the Y-12 Protective Force detained the intruders. The intruders were later transported offsite.

This incursion and the poor response to it demonstrated a deeply flawed execution of security procedures at Y-12. In response to the incident, we acted swiftly to identify and address the problems it revealed.

These actions — either directly or through the contract for the site — included the following immediate steps to improve security:

- The former head of security from Pantex moved to Y-12 to lead the effort to reform the security culture at the site
- Security functions at the Y-12 site have been brought into the M&O contract to ensure continuity of operations, and moving toward an integrated model going forward;
- The Chief of Defense Nuclear Security for NNSA has been reassigned pending the outcome of a review;
- Six of the top contractor executives responsible for security at the Y-12 site have been removed — including the president and acting president of Wackenhut's Oak Ridge Division;
- The leadership of the guard force has been removed, and the guards involved in this incident have been removed or reassigned;
- The Plant Manager and Chief Operating Officer retired 12 days after the incident;

- Nuclear operations at the site were suspended until re-training and other modifications mentioned above were completed;
- The entire site workforce was required to undergo additional security training;
- Cameras have been repaired and tested, guard patrols increased, security policies have been strengthened, and all personnel have been retrained on security procedures;
- The number of false and nuisance alarms have been greatly reduced, to provide more confidence in the intrusion detection system;
- The Department's Chief of Health, Safety and Security was directed to deploy a team to Y-12 in support of NNSA's efforts;
- Site managers at all DOE facilities with nuclear material were directed to provide their written assurance that all nuclear facilities are in full compliance with Department security policies and directives, as well as internal policies established at the site level;
- A formal "Show Cause Letter" was issued to the contractor that covers the entire scope of operations at Y-12, including security. This is the first step toward potentially terminating the contracts for both the site contractor and its security subcontractor. Past performance, including deficiencies and terminations, will be considered in the awarding of future contracts;
- A senior federal official was deployed to ensure oversight over contractor security operations;
- An assessment was initiated led by Brigadier General Sandra Finan to review the oversight model and security organizational structure at NNSA headquarters;
- An independent HSS inspection of Y-12 was ordered; and
- HSS was directed to lead near-term assessments of all Category I sites to identify any systemic issues, enhancing Independent Oversight performance testing program to incorporate no-notice or short notice security testing, and conducting comprehensive Independent Oversight security inspections at all Category I sites over the next 12 months, using the enhanced program of performance testing.

The series of personnel and management changes I have just described were made to provide the highest level of security at the site and across the DOE complex. To manage this transition, we have brought some of the best security experts from our enterprise to Y-12 to act quickly to redress the security shortcomings at the site. We are also working to make the structural and cultural changes required to appropriately secure this facility. The Secretary and I intend to

send a clear message: lapses in security will not be tolerated. We will leave no stone unturned to find out what went wrong and will take the steps necessary to provide effective security at this site and across our enterprise.

The initial review of this event has resulted in the identification of multiple issues, collectively indicating that systemic failures and a security culture of complacency directly led to the series of events leading up to the protester incursion. Many of these problems and issues should have been known or corrected by officials at the site, NNSA, and according to the Inspector General, those responsible for approving and implementing the Contractor Assurance System. Chief among these problems include the following:

- Maintenance of critical security systems for the protection of Special Nuclear Materials (SNM) was not conducted as a priority to accomplish mission needs;
- The alarm response expectation of the on-duty Protective Force supervisor were inconsistent with written response plans and post/patrol instructions;
- Protection of SNM competed with other priorities; i.e., new construction projects;
- Appropriate communication protocols were not followed and the response to the intrusion detection alarms were poorly executed; and
- Management oversight of contractor's performance was inadequate.
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- HSS is revamping its testing protocols for security systems with regard to frequency and notice.

#### **Conclusion**

In conclusion, the security of our Nation's nuclear material is a central responsibility of the Department. We must always remain vigilant against error and complacency and have zero tolerance for security breaches at our Nation's most sensitive nuclear facilities. The incident at Y-12 was unacceptable, and it served as an important wake-up call for our entire complex. As a result, NNSA will use this event to review the security at all of our NNSA sites. The Department is taking aggressive actions to ensure the reliability of our nuclear security programs, and will continue to do so.

Mr. Chairman and distinguished members of the Committee, safety and security are integral to the Department's mission. DOE embraces its obligation to protect the public, the workers, and the environment. We continuously strive to improve upon our safety and security standards and policies to guide our operations, and we hold line management — and ourselves — accountable. We seek to foster an open and supportive safety and security culture, where we

actively seek opportunities to enhance the safety and quality of our operations. We depend on our highly-trained workforce to identify errors and opportunities for improvement, and we strive to integrate safety and security at all levels within our organization. We support a vigorous and active advisory, oversight, and enforcement effort through organizations outside of line management, such as HSS and the Defense Nuclear Facilities Safety Board, to provide further assurance that we are protecting the public, the workers, and the environment.

We view these commitments as central to our core mission in support of the President and to the Nation. We feel the weight of the history of so many distinguished Americans whose stewardship of our nuclear enterprise contributed greatly to our success in deterring aggression throughout the Cold War, and continue to defend our freedoms and oppose our potential adversaries to this day.

I would be pleased to answer any questions from the members of the Subcommittee.

**DANIEL B. PONEMAN**  
**DEPUTY SECRETARY OF ENERGY**



Daniel B. Poneman was nominated by President Obama to be Deputy Secretary of Energy on April 20, 2009, and was confirmed by the United States Senate on May 18, 2009. Under the leadership of Secretary of Energy Steven Chu, Mr. Poneman also serves as Chief Operating Officer of the Department.

Mr. Poneman first joined the Department of Energy in 1989 as a White House Fellow. The next year he joined the National Security Council staff as Director of Defense Policy and Arms Control.

From 1993 through 1996, Mr. Poneman served as Special Assistant to the President and Senior Director for Nonproliferation and Export Controls at the National Security Council. His responsibilities included the development and implementation of U.S. policy in such areas as peaceful nuclear cooperation, missile technology, space-launch activities, sanctions determinations, chemical and biological arms control efforts, and conventional arms transfer policy. During this time, he also participated in negotiations and consultations with governments in Africa, Asia, Europe, Latin America, and the former Soviet Union.

After leaving the White House, Mr. Poneman served as a member of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction and a number of other federal advisory panels.

Prior to assuming his responsibilities as Deputy Secretary, Mr. Poneman served as a principal of The Scowcroft Group for eight years, providing strategic advice to corporations on a wide variety of international projects and transactions. Between tours of government service he practiced law for nine years in Washington, D.C. - first as an associate at Covington & Burling, later as a partner at Hogan & Hartson - assisting clients in regulatory, policy and transactional matters, international arbitration, commercial real estate financing, export controls, and sanctions and trade policy.

Mr. Poneman received A.B. and J.D. degrees with honors from Harvard University and an M.Litt. in Politics from Oxford University. He has published widely on national security issues and is the author of *Nuclear Power in the Developing World* and *Argentina: Democracy on Trial*. His third book, *Going Critical: The First North Korean Nuclear Crisis* (coauthored with Joel Wit and Robert Gallucci), received the 2005 Douglas Dillon Award for Distinguished Writing on American Diplomacy. Mr. Poneman is a member of the Council of Foreign Relations.

Mr. Poneman lives in Virginia with his wife, Susan, and their three children.

**Neile L. Miller**

*Principal Deputy Administrator, National Nuclear Security Administration*



Neile L. Miller is the Principal Deputy Administrator for the National Nuclear Security Administration (NNSA). Her nomination by President Obama was confirmed by the U.S. Senate on August 5, 2010.

As Deputy Administrator and Chief Operating Officer, she focuses on matters of management and policy across the NNSA enterprise to define a coherent vision for achieving the President's nuclear security agenda.

Ms. Miller started her career at the Congressional Research Service working on nuclear nonproliferation issues. She later joined the White House Office of Management and Budget as the program examiner for the Department of Energy's radioactive waste management programs and for the Nuclear Regulatory Commission. She subsequently returned to OMB to serve as a senior program examiner in the National Security Division of OMB, where she was responsible for overseeing NNSA programs and the Defense Department's Cooperative Threat Reduction program.

Prior to her appointment, Ms. Miller held several key leadership positions within DOE, including the Department's Budget Director from 2007 to 2010. Earlier in her career she was the Associate Director for Resource Management in the Office of Nuclear Energy, and the Associate Director of International Nuclear Cooperation in the Office of Nuclear Energy.

In the private sector, Ms. Miller worked for Cogema, Inc. and as a consultant, with clients that included DOE, Sandia National Laboratory, and the Government of the Federal Republic of Germany. She also served as policy and communications officer in the Nuclear Energy Agency of the Organization for Economic Cooperation and Development in Paris.

Ms. Miller earned her undergraduate degree in political science from Vassar College and her Masters degree in International Affairs from the Georgetown University School of Foreign Service.

She lives in Chevy Chase, Maryland with her husband, Dr. Werner Lutze, and their two sons, Max and Daniel.



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**QUESTIONS SUBMITTED BY MEMBERS POST HEARING**

SEPTEMBER 13, 2012

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### QUESTIONS SUBMITTED BY MS. SANCHEZ

Ms. SANCHEZ. In the past few years, NNSA issued security directives (NAPs) that replace DOE directives. The NAPs were intended to allow more flexibility in implementing security requirements and reduce the costs of security; they provided less rigorous requirements in certain areas such as maintenance of alarm systems and gave more authority to lower level managers to accept risks. Meanwhile, NNSA has favored a system with less independent oversight and instead relied more on the contractor self-assessments and the contractors ability to establish effective safety and security programs and manage risk.

Our House NDAA bill also gives more authority to NNSA, blocking independent on safety and security. We heard from several laboratory directors about burdensome regulations and excessive oversight were hindering productivity at the laboratories.

- Is it your view that NNSA sites conduct effective oversight?
- Do contractors have too little independent oversight, or too much?
- Do you believe that the incident is the result of overly burdensome security requirements, as some have claimed?
- Do you think that NNSA has gone too far in delegating responsibility for making security decisions to its contractors?
- In light of the Y-12 incident, are you concerned that new NAPs may be inconsistent or have fewer requirements than DOE regulations? Will you direct NNSA to rescind these NAPs or allow them to go forward?
- Should independent oversight be strengthened?

Secretary PONEMAN. The Y-12 incident and subsequent Office of Health, Safety and Security (HSS) Independent Oversight inspection identified numerous examples of inadequate Federal oversight by line management and ineffective contractor assurance systems. For example, we learned that NNSA Federal oversight and assessment activities did not effectively evaluate all safeguards and security areas, and the ensuing analyses did not provide an adequate basis to conclude that Departmental assets were being protected at the required levels. We also learned that NNSA performance measures (used to help influence decisions regarding contractor award fees) did not accurately depict actual contractor performance. Self-assessments conducted by both site contractors generally provided more information about the status of processes than of the actual effectiveness of security measures that were in place “on the ground.” Contractor self-assessment reports often contained insufficient information regarding security program implementation, failed to identify deficiencies, or lacked the analyses to support conclusions. Consequently, reports did not accurately inform NNSA and contractor line management of the effectiveness of existing security programs to support decisions regarding future security activities. Weaknesses in contractor, site office, and NNSA Headquarters Defense Nuclear Security oversight and assurance systems essentially presented NNSA senior management with an inaccurate picture of the overall health of the protection program at Y-12, thereby missing the opportunity to identify early indicators of problems that might have mitigated the security breach. While these deficiencies were especially pronounced at Y-12, HSS Independent Oversight reviews at other sites have also concluded that contractor assurance systems have not sufficiently matured and that weaknesses persist in NNSA Federal line management oversight.

We believe that rigorous, performance-based, independent oversight is a critical element of DOE’s approach to self-regulation, particularly for high consequence facilities and activities such as nuclear operations and nuclear security. The Government remains responsible for these facilities and for the potentially dramatic adverse consequences of failures in nuclear safety and nuclear security, and the Government provides our contractors billions of dollars of indemnification for nuclear accidents. Consequently, we have an obligation to ensure that those contractors are operating these facilities safely and securely. While DOE (including NNSA) line management has the primary responsibility for managing and overseeing contractor performance, our HSS Independent Oversight office has no responsibility for the mission and activities being reviewed. Consequently, HSS is able to provide the Secretary and me, along with line management, objective and unbiased feedback on

performance. We believe that our contractors currently receive an appropriate level of independent oversight.

No, the Y-12 incident was not at all the result of overly burdensome security requirements. Over the period of 2009–2010, the Department went through a systematic review to reform all of its safety and security directives. The outcome of that effort was the development of a more concise set of non-duplicative requirements and directives that produce effective protection and efficient operations. Our safety and security regulations and directives identify the necessary requirements to protect workers, the public, the environment, and national security assets. They also provide contractors the flexibility to meet the requirements in the most efficient manner, and are streamlined through consolidation or elimination of duplicative or unnecessary provisions.

The Y-12 incident was partly the result of overly broad delegation of inherently governmental risk acceptance authority to the contractor, which was made without effective Federal review. This inappropriate delegation of responsibility to the contractor was enabled by inappropriate and/or ambiguous provisions in NNSA Policy documents (NAPs). At Y-12, the contractor “cognizant security authority” appeared to be unconstrained, with Federal officials deferring to the contractor for most decisions impacting the site security mission.

A number of concerns were identified with security NAPs. In some cases, they provided a less rigorous standard of protection than Departmental directives or were not consistent with Governmentwide security requirements. In other cases, they provide for an inappropriate degree of delegation of risk acceptance authority to contractors. The Secretary and I believe, and the NNSA Administrator agrees, that there should be a single set of DOE security directives governing all Departmental operations, including those of the NNSA. The Administrator will rescind the security NAPs so that they will no longer be applied as a substitute for Departmental requirements. A revised version of NAPs may be utilized to provide additional implementing instructions, consistent with Departmental directives, to NNSA sites.

Yes. The Secretary has re-emphasized the importance of HSS Independent Oversight as a critical element of the Department’s governance approach, and past GAO reviews have pointed to the importance of and need to strengthen independent oversight. The Secretary has also directed HSS Independent Oversight to undertake more rigorous inspections, to include force-on-force performance testing of the protection of special nuclear material at all Category I sites over a 12 month period. For many years, HSS Independent Oversight has implemented a rigorous force-on-force performance testing program that has been regarded by the U.S. Nuclear Command and Control System staff as a model for Federal agencies with nuclear security missions. The Secretary has also directed HSS Independent Oversight to further enhance that program by expanding the scope and variety of performance testing methods utilized to assess the readiness of DOE/NNSA site protection systems against a broader spectrum of threats and adversary capabilities. Performance testing methodologies will include no-notice and limited notice testing to obtain a more realistic assessment of site response capabilities.

Ms. SANCHEZ. As GAO asked, why does HSS not have the power to enforce its own recommendations?

Secretary PONEMAN. The role of the HSS Independent Oversight office is to conduct appraisals to evaluate the performance of DOE line organizations and contractors, and to identify deficiencies where they are detected. HSS Independent Oversight may also provide recommendations to DOE line management on approaches to addressing the deficiencies. DOE line management and its contractors are required by Departmental directive to evaluate deficiencies identified by HSS Independent Oversight, including identifying the reasons for the deficiencies, and to develop and implement corrective actions plans for problems identified as “significant deficiencies”. Our DOE field offices and contractors are accountable to the head of their respective program offices, such as the NNSA Administrator, and ultimately to the Secretary and me for ensuring that problems are adequately and promptly addressed. HSS Independent Oversight has the authority to monitor implementation of those corrective measures and to report back to senior program office officials and to me if there are any concerns as to responsiveness or effectiveness of actions. This arrangement appropriately places the responsibility and accountability for corrective actions with DOE line management, with HSS Independent Oversight serving to monitor the effectiveness of actions on behalf of the Secretary and Deputy Secretary.

Ms. SANCHEZ. Please provide any report or analysis that Department of Energy/NNSA may produce on whether security should be transferred to the Department of Defense, including costs, legal issues, and whether the deficiencies that led to the failures would/could be avoided if security was shifted to the military?

Secretary PONEMAN. The Department of Energy (including the NNSA) has not produced any report or analysis on the subject of transferring responsibility for security to the Department of Defense.

Ms. SANCHEZ. How would the House National Defense Authorization provisions impact Federal oversight of security operations? What are the benefits and risks of these provisions? Please provide your views on these provisions.

Secretary PONEMAN. The Department of Energy, including the National Nuclear Security Administration (NNSA), strongly oppose certain sections of the bill because they would unduly restrict the authority of the Secretary of Energy, weaken safety standards, and/or fundamentally alter the nature of the relationship between the Department and its contractors.

Sections 3113 and 3133 would excessively restrict the authority of the Secretary of Energy to oversee the management and operations of the NNSA. They would restrict the Secretary's ability to select the most appropriate oversight mechanism for its contractors. While we recognize that performance-based standards are an effective tool and may be sufficient for some low hazard/consequence activities, we believe that the Department must retain the ability to select the oversight mechanism that best protects national security interests for a given project, particularly for high hazard/consequence activities, such as operation of nuclear facilities or protection of special nuclear materials. The bill hampers our ability to tailor our approach to the needs of the Government. Limiting the Department's ability to oversee contracts as appropriate may lead to more inefficiency and waste, not less. The fact that the Department's mandate is to provide adequate protection for its workers and the public while managing unique hazards as it conducts high-consequence activities, such as nuclear safety and security, makes it particularly important that the Department retain the ability to use all necessary tools to fulfill its mission. We believe that independent oversight of safety and security standards, by an organization outside the line management chain that does not have conflicting priorities, is an important protection for the health and safety of our workers and the public. Given the nature and complexity of its mission, and, in particular, its obligation to preserve and protect America's national nuclear safety and security, the Department must address a number of unique, complex safety and security issues. We believe that it is essential for the Department to retain flexibility to safeguard against those unique risks, using all of the tools that science and our experience in this area afford. The proposed bill limits our ability to determine how best to execute the Department's mission safely, securely, and effectively.

Section 3115 would mandate that the NNSA alone establish and oversee health, safety and security at its facilities. Independent oversight of safety and security is an important protection for the health and safety of our workers and the public. The provision would also exempt the NNSA from the Department's existing process to enforce and ensure accountability for meeting safety and security requirements. Similarly, the bill would restrict the Department's ability to prescribe health and safety regulations regarding non nuclear activities that are more stringent than Occupational Safety and Health Administration standards, by requiring waivers to permit use of more stringent standards. While we believe in the importance of streamlining regulatory burdens, we believe that the Department must be able to prescribe a safety regime that meets its unique needs without having to use waivers to do so.

Ms. SANCHEZ. NNSA knew about the alarm rate, the broken cameras, and the overreliance on compensatory measures.

- Why did site officials not intervene to fix these failures in a timely manner?
- Why were compensatory measures allowed to become in effect an indefinite solution?

Ms. MILLER. NNSA did not know all the details of the situation. Please see answers below.

Site officials did not intervene because they lacked perspective on the impact that broken PIDAS cameras and an excessive number of compensatory measures would have on overall system effectiveness. They were involved in neither setting maintenance priority for the PIDAS cameras nor the approval of compensatory measures because local implementation of the NNSA directives in effect at the time placed those decisions with the contractor.

From the contractor's perspective, compensatory measures were often less expensive and the incentive to repair was not sufficiently high to require immediate action. From a site office perspective, the contractor was viewed as following a process in line with NNSA policy and expectation. At the same time, the site vulnerability analysis team was used to assign case specific compensatory measures and did not look at the broader implications of individual decisions.

Ms. SANCHEZ. In the past few years, NNSA issued security directives (NAPs) that replace DOE directives. The NAPs were intended to allow more flexibility in implementing security requirements and reduce the costs of security; they provided less rigorous requirements in certain areas such as maintenance of alarm systems and gave more authority to lower level managers to accept risks. Meanwhile, NNSA has favored a system with less independent oversight and instead relied more on the contractor self-assessments and the contractors ability to establish effective safety and security programs and manage risk.

Our House NDAA bill also gives more authority to NNSA, blocking independent on safety and security. We heard from several laboratory directors about burdensome regulations and excessive oversight were hindering productivity at the laboratories.

- Is it your view that NNSA sites conduct effective oversight?
- Do contractors have too little independent oversight, or too much?
- Do you believe that the incident is the result of overly burdensome security requirements, as some have claimed?
- Do you think that NNSA has gone too far in delegating responsibility for making security decisions to its contractors?
- In light of the Y-12 incident, are you concerned that new NAPs may be inconsistent or have fewer requirements than DOE regulations? Will you direct NNSA to rescind these NAPs or allow them to go forward?
- Should independent oversight be strengthened?

Ms. MILLER. The Y-12 incident and subsequent Office of Health, Safety and Security (HSS) Independent Oversight inspection identified numerous examples of inadequate Federal oversight by line management and ineffective contractor assurance systems. For example, we learned that NNSA Federal oversight and assessment activities did not effectively evaluate all safeguards and security areas, and the ensuing analyses did not provide an adequate basis to conclude that Departmental assets were being protected at the required levels. We also learned that NNSA performance measures (used to help influence decisions regarding contractor award fees) did not accurately depict actual contractor performance. Self-assessments conducted by both site contractors generally provided more information about the status of processes than of the actual effectiveness of security measures that were in place “on the ground.” Contractor self-assessment reports often contained insufficient information regarding security program implementation, failed to identify deficiencies, or lacked the analyses to support conclusions. Consequently, reports did not accurately inform NNSA and contractor line management of the effectiveness of existing security programs to support decisions regarding future security activities. Weaknesses in contractor, site office, and NNSA Headquarters Defense Nuclear Security oversight and assurance systems essentially presented NNSA senior management with an inaccurate picture of the overall health of the protection program at Y-12, thereby missing the opportunity to identify early indicators of problems that might have mitigated the security breach. While these deficiencies were especially pronounced at Y-12, HSS Independent Oversight reviews at other sites have also concluded that contractor assurance systems have not sufficiently matured and that weaknesses persist in NNSA Federal line management oversight.

We believe that rigorous, performance-based, independent oversight is a critical element of DOE’s approach to self-regulation, particularly for high consequence facilities and activities such as nuclear operations and nuclear security. The Government remains responsible for these facilities and for the potentially dramatic adverse consequences of failures in nuclear safety and nuclear security, and the Government provides our contractors billions of dollars of indemnification for nuclear accidents. Consequently, we have an obligation to ensure that those contractors are operating these facilities safely and securely. While DOE (including NNSA) line management has the primary responsibility for managing and overseeing contractor performance, our HSS Independent Oversight office has no responsibility for the mission and activities being reviewed. Consequently, HSS is able to provide the Secretary and me, along with line management, objective and unbiased feedback on performance. We believe that our contractors currently receive an appropriate level of independent oversight.

No, the Y-12 incident was not at all the result of overly burdensome security requirements. Over the period of 2009–2010, the Department went through a systematic review to reform all of its safety and security directives. The outcome of that effort was the development of a more concise set of non-duplicative requirements and directives that produce effective protection and efficient operations. Our safety and security regulations and directives identify the necessary requirements to protect workers, the public, the environment, and national security assets. They also provide contractors the flexibility to meet the requirements in the most efficient

manner, and are streamlined through consolidation or elimination of duplicative or unnecessary provisions.

The Y-12 incident was partly the result of overly broad delegation of inherently governmental risk acceptance authority to the contractor, which was made without effective Federal review. This inappropriate delegation of responsibility to the contractor was enabled by inappropriate and/or ambiguous provisions in NNSA Policy documents (NAPs). At Y-12, the contractor “cognizant security authority” appeared to be unconstrained, with Federal officials deferring to the contractor for most decisions impacting the site security mission.

A number of concerns were identified with security NAPs. In some cases, they provided a less rigorous standard of protection than Departmental directives or were not consistent with Governmentwide security requirements. In other cases, they provide for an inappropriate degree of delegation of risk acceptance authority to contractors. The Secretary and I believe, and the NNSA Administrator agrees, that there should be a single set of DOE security directives governing all Departmental operations, including those of the NNSA. The Administrator will rescind the security NAPs so that they will no longer be applied as a substitute for Departmental requirements. A revised version of NAPs may be utilized to provide additional implementing instructions, consistent with Departmental directives, to NNSA sites.

Yes. The Secretary has re-emphasized the importance of HSS Independent Oversight as a critical element of the Department’s governance approach, and past GAO reviews have pointed to the importance of and need to strengthen independent oversight. The Secretary has also directed HSS Independent Oversight to undertake more rigorous inspections, to include force-on-force performance testing of the protection of special nuclear material at all Category I sites over a 12 month period. For many years, HSS Independent Oversight has implemented a rigorous force-on-force performance testing program that has been regarded by the U.S. Nuclear Command and Control System staff as a model for Federal agencies with nuclear security missions. The Secretary has also directed HSS Independent Oversight to further enhance that program by expanding the scope and variety of performance testing methods utilized to assess the readiness of DOE/NNSA site protection systems against a broader spectrum of threats and adversary capabilities. Performance testing methodologies will include no-notice and limited notice testing to obtain a more realistic assessment of site response capabilities.

Ms. SANCHEZ. NNSA announced a return to incorporating security operations within one prime contract that would also cover operations.

- Please provide a copy of the analysis that preceded this decision.
- How will the change to the contracting structure fix these problems? What risks, challenges or uncertainties does it create?
- Will the prime be allowed to sub-contract security operations? Why not?
- How will the new contracting structure allow for strengthened Federal oversight over security operations?
- Will NNSA/DOE be able to have access to the security contractor?
- Are there any expected cost savings? How much?

Ms. MILLER. The decision to assign the WSI contract under B&W at Y-12 until the new contract is awarded was made to promptly address issues at the site.

The change in contract structure will ensure full integration of all aspects of the safeguards and security program under a single management structure. The July 28, 2012, security breach at Y-12 exposed weaknesses in integrating critical security functions where the separate incumbent contractors shared responsibilities for the overall safeguards and security program.

The prime contractor will not be allowed to sub-contract security operations in the combined Y-12/Pantex contract. This restriction was made to ensure that NNSA has direct oversight of the entire breadth of Security operations.

Consolidating security work with plant operations will facilitate more streamlined and focused Federal oversight by eliminating the need for the Government to manage multiple contracts that require integrated activities at one site.

Yes, the decision to preclude subcontracting Security operations was done to ensure that NNSA has direct access to the entire breadth of Security operations.

Previous NNSA analysis has indicated that enveloping security services within the M&O contract will likely result in increased costs to the Government; however, the potential risks associated with a diversified contractual approach in the current Y-12 environment required an immediate remedy.

Ms. SANCHEZ. Please provide any report or analysis that Department of Energy/NNSA may produce on whether security should be transferred to the Department of Defense, including costs, legal issues, and whether the deficiencies that led to the failures would/could be avoided if security was shifted to the military?

Ms. MILLER. NNSA has not produced any report or analysis regarding the subject of transferring responsibility for security to the Department of Defense. This effort would require collaboration between both organizations to properly address and respond appropriately to the question.

Ms. SANCHEZ. How would the House National Defense Authorization provisions impact Federal oversight of security operations? What are the benefits and risks of these provisions? Please provide your views on these provisions.

Ms. MILLER. The Administration strongly opposes sections 3202, 3115, 3113, and 3151. These provisions severely hamper external, independent oversight by the Defense Nuclear Facilities Safety Board; move regulatory authority from independent offices and agencies to the NNSA Administrator; require a weaker standard of contractor governance, management, and oversight; and eliminate DOE's flexibility to determine the appropriate means of assessing the unique risks that it confronts in its facilities. By lowering safety standards for the nuclear weapons complex and reducing requested funding for health, safety, and security, these provisions would weaken protections for workers and the general public.

Sections 3113 would excessively restrict the authority of the Secretary of Energy to oversee the management and operations of the NNSA. This section would restrict the Secretary's ability to select the most appropriate oversight mechanism for its contractors.

The term "performance-based standards" is referenced under section 3113, states with respect to a covered contract, means that contract includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes. The definition listed in section 3113, does not accurately reflect the NNSA performance-based approach, which is being implemented to include a comprehensive and detailed method with performance testing evaluation of specific security operations and activities to determine security program effectiveness. Additionally, NNSA must retain the ability to select the best oversight mechanism given its high security hazard/consequence activities, such as operation of nuclear facilities and protection of special nuclear materials. The fact that the NNSA's mandate is to provide adequate protection for its workers and assets while managing unique hazards as it conducts high-consequence activities (e.g., nuclear security) makes it particularly important that the NNSA retain the ability to use all necessary tools to fulfill its mission. The proposed bill limits our ability to determine how best to execute the NNSA's mission securely and effectively.

Within the NNSA, we recognize a need for a Headquarters security assessment element between the site level and the independent oversight provided by the Office of Health, Safety, and Security. NNSA is establishing a Performance Assessment Division within the Office of Defense Nuclear Security for security assessment of contractors and Federal field organization performance, including no-notice and/or short notice evaluations. The division will also assess training effectiveness, policy implementation, and the proper execution of vulnerability assessments. This entity will be used to verify that security programs are properly implemented and provide a nuclear security enterprise viewpoint to NNSA senior leadership.

Section 3115 would mandate that the NNSA alone establish and oversee health, safety, and security at its facilities, which would deprive NNSA of an essential function provided by the HSS Office of Independent Oversight. The Office of Independent Oversight is an important independent element, which assists in the inspection process of our facilities and assets. The provision would hamper existing function to enforce and ensure accountability for meeting security requirements. Similarly, the bill would restrict the NNSA's ability to prescribe health and security regulations regarding non-nuclear activities that are more stringent than Occupational Safety and Health Administration standards by requiring waivers to permit use of more stringent standards. We believe that the NNSA must be able to prescribe a regime that meets its unique needs without having to use waivers.

Ms. SANCHEZ. What was the cost of shutting down Y-12 site following the incident, and was there any impact on schedule for programs?

Ms. MILLER. The actual cost accounted for by Y-12 was approximately \$2.9M primarily for the fully burdened labor rates of those people who could not perform their primary/alternative duties during the shutdown. B&W Y-12 made up any schedule challenges created during the security shutdown and completed all primary deliverables scheduled for the year. While they made up the schedule using overtime as needed, the overtime costs for the year were considerably less than programmed for the year in the rates. This was accomplished by the contractor reducing overtime throughout the year in an effort to create savings. When the security event happened, they were executing at less than 50% overtime compared to

planned rates based on prior years. The overtime needed to get back on schedule did not exceed planned annual overtime rates.

