

Symposium Series Number 3

A close-up, slightly blurred image of the American flag, showing the stars and stripes in detail. The flag is waving, and the colors are vibrant. The text is overlaid on the flag.

**The Role of “Home” in
Homeland Security**

**The Prevention and Detection
of Terrorist Attacks**

*The Challenge for State
and Local Government*

Symposium Series Number 3

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Homeland Security**

**The Prevention and
Detection of Terrorist
Attacks**

*The Challenge for State
and Local Government*

June 12, 2003



**The
Rockefeller
Institute
of Government**

Albany, New York

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FOREWORD

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

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

These symposia focus on the following four topics:

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

Speakers at each symposia are listed after this Foreword. Transcripts of each conference are or will be available on the Rockefeller Institute's website at www.rockinst.org or can be obtained in hard copy from the

Institute's publication office.¹ A book on the federalism issues involved in homeland security is planned for the spring of 2004.

This report contains the discussion at the third of these symposia, "The Detection and Prevention of Terrorism," held at the Rockefeller Institute of Government on June 12, 2003. Thomas Constantine, former superintendent of the New York State Police and administrator of the federal Drug Enforcement Administration, presided over a panel that included James McMahon, current superintendent of the New York State Police, and James Kallstrom, Senior Executive Vice President of MBNA America, Senior Advisor to Governor George Pataki for Counterterrorism, Director Of Public Security for the State of New York, and former Assistant Director in charge of the New York City office of the Federal Bureau of Investigation. While the discussion covered a wide range of homeland security issues related to law enforcement, four major points are worth repeating:

- Interdiction of terrorists before they can commit terrorist acts is among the most cost-effective means of dealing with terrorism. There are far too many potential targets to "harden," or protect them from attacks, effectively. Police action to identify and apprehend terrorists before they can act has proven to be an effective strategy both in this country and overseas in preventing large-scale attacks.
- Balancing the need to protect the country from attack and the need to protect citizens from unwarranted police attention is a difficult, ongoing undertaking. Recent terrorist attacks are the product of well-organized activity by groups that are frequently state supported and financed and are sophisticated in organization and logistics. The investigative and technical methods available to police to identify and apprehend these individuals have not expanded adequately to address this new form of terrorism. Such problems as identity fraud remain largely unaddressed.
- The appropriate roles of federal, state, and local law enforcement agencies in addressing terrorism are still in a state of some flux. All three speakers endorsed a "neighborhood

¹ The publications office may be reached by phone at (518) 443-5258; by fax at (518) 443-5832; by email at charbonm@rockinst.org; or by mail at 411 State Street, Albany, New York 12203.

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watch” model where the investigative initiative remains largely a federal responsibility, while state and local agencies are provided with sufficient intelligence and support to allow them to follow up on contacts made via arrests, traffic stops, or unusual events. Several of the September 11th hijackers had prior contact with local police, for example, but there was no method for identifying these individuals as “persons of interest” despite the fact that they were on foreign intelligence watch lists.

- Effective sharing of information and intelligence between law enforcement agencies remains a serious problem. Intelligence collected by different federal agencies remains “stovepiped” or retained within the agencies that collected it and there are few linkages across databases. In similar fashion, there is little sharing of intelligence between federal and local agencies. This situation has several causes, some reasonable and legitimate; others less so.

It is a pleasure to acknowledge the contributions of a number of people to the success of this symposium and the publication of this transcript. Funding was provided by Blue Cross/Blue Shield of New York. Courtney Burke of the Rockefeller Institute staff organized the symposium and, with Michelle Kelafant, managed the meeting’s logistics. Michael Cooper handled the layout and other production chores for this publication. In addition to serving as moderator, Tom Constantine provided much excellent advice on the selection of topics and speakers. Our thanks to them all.

James W. Fossett
Senior Fellow
Rockefeller Institute of Government

SYMPOSIA TOPICS AND SPEAKERS

Public Health — January 31, 2003

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

The Federalism Challenge — March 24, 2003

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

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

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

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

Training First Responders — September 11, 2003

- *James G. Natoli* is the New York State Director of Disaster Preparedness and Response. From 1994-2002, he served as the Director of State Operations under Governor George E. Pataki.
- *Penny Turnbull* is Director of Crisis Management and Business Continuity Planning at Marriott International.
- *Larry Reader* is special assistant to the President of Onondaga Community College, part of the State University of New York. Onondaga Community College has developed an A.A.S. degree in conjunction with the NYS Emergency Management Of-

* He takes over as director of the New York State Office of Public Security in August 2003

ficie. The Emergency Management curriculum is based on the FEMA Higher Education Project and is designed to be offered statewide by SUNY Community Colleges.

- *John V. Fenimore*, former Adjutant General, State of New York and Chairman of the New York State Disaster Preparedness Commission, will be the moderator for this session.

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Welcome — *Richard Nathan*



Richard P. Nathan

My name is Dick Nathan and I know a lot of the people in the room. I'm honored to be the director of the Rockefeller Institute of Government, which is the public policy research arm of the State University of New York. I report to the chancellor, Bob King. Those of you who have been here before, or people who are new to the Institute, we're delighted to have you join us.

Today's program is on a very important subject. This is the third meeting in four that we are having on the title and the subject "The 'Home' in Homeland Security." The point is what is the role of state and local governments in this challenging arena. Our expertise and a lot of our work is focused on American federalism and state and local government, so we see it as appropriate that this Institute should try to create a knowledge base on how you think about what the state and local governments should do, are doing, and can do in this field.

This isn't just a meeting, but it is also the basis for the creation of a knowledge base that can be shared nationally with other people who are looking at these same hard challenges, which are particularly difficult challenges in New York and in the Northeast. We will publish each of these proceedings. Jim Fossett and Courtney Burke, who are staff people in this field, are going to put the material from each symposium all together into a book, which the Rockefeller Institute will publish. So we think we have a good role, a federalism role that examines how state and local governments should operate and how they should be employed in this field.

The next and fourth of these symposia will be chaired by General Jack Fenimore, former Adjutant General of the New York State National Guard, and the subject will be "first responders." Chancellor Bob King has asked Jack and the Institute to take on a special project working on how the State University of New York can use its resources to provide training and support for local officials and first responders.

Introduction of Moderator — *Richard Nathan*

I'm going to turn the program over to Tom Constantine who has worked with us very closely to set up this meeting. A lot of people in this room know him and know his reputation. For five years, appointed by the President, he was head of the Drug Enforcement Agency, 8,000 special agents, 200 domestic offices, and 56 foreign offices. He's had experience in his field as a major and key person administrating large forces in the law enforcement field. Before that, he was Superintendent of the New York State Police, after thirty-four years of service as a member of the force and the first time in thirty years someone rose up from being a member of the force to becoming the superintendent. He was, in fact he currently still is, oversight commissioner for policing in Northern Ireland and is a public service professor at the State University of New York. He is going to be the chairperson for today's program and I thank him in advance for doing that.

Moderator's Opening Remarks — *Thomas Constantine*



*Thomas
Constantine*

Thank you, Richard, for those kind comments. What I appreciate about you and Jim and Courtney and the Rockefeller Institute is the fact that early on you recognized some important aspects of the issue that we were facing: that is the ability of levels of government to respond in manners and assets that they need to respond appropriately.

We're very fortunate today. We have two individuals, Jim Kallstrom on my immediate left and Jim McMahon, who is well known as the Superintendent of New York State Police. Both of these individuals are recognized not only nationally but internationally as experts in law enforcement and as experts in what to do about the issue of terrorism and homeland defense. One of the things that you learn, having served in government or in police organizations throughout the country and the period of time in Washington, is that there are so-called panels of experts who seem to show up nightly on television to discuss these issues. It seems to be that so many people who

have decided to read up on the issues, and and read every text, read every article are proclaiming themselves experts. When I listen to what they have to say and I listen to their conclusions, they're really counterintuitive to those of us in law enforcement. So we're very, very fortunate that we have two people today who do not have that problem; they have really lived it and been through it.

The Impact of September 11, 2001

I'd like to go back to what the symposium is really all about, from my impression. I had a number of meetings with Dick and Jim and Courtney, putting this together. To me, this symposium is all about September 11, 2001. There are many variables that affect us now; since that date, the reality is — it is all about that. I think many of us remember certain events in life: the assassination of President Kennedy, people walking on the moon, and September 11, 2001. I suspect you all remember for the rest of your life exactly where you were and what you were doing on that terrible day. I was in Northern Ireland, in Belfast. I'd just left a meeting with the chief constable, who was advised a plane had crashed into the World Trade Center. I was not surprised at that; Jim and I had an office down there for a long time in one of the buildings and I always thought that some day a general aviation plane or helicopter would hit that building because of the amount of traffic in the proximity to the building. Then I was told that the second building had been hit. It was obvious that something very unusual was going on. By the time I was able to get back to the hotel and get away from everybody, the Pentagon had been hit and the fourth plane had crashed in Pennsylvania.

I really didn't have the interest in talking with any media for about a day and a half. I just sat and watched it all on television. I wound up in a lounge on the eleventh floor of the Hilton Hotel in Belfast where David and I visit occasionally on our trips to Northern Ireland. There were only the two of us, two Americans; the other American was Richard Haas, who was Colin Powell's personal representative to Northern Ireland and has now just been named the director of the Council on Foreign Relations. We both sat there in shock and realized that we could not get home because of restricted air travel. We couldn't even get phone calls home. There were five people I knew, some of them fairly closely, who were killed.

When I came back to Boston, I recognized in talking to people that I had come back to a different country; I couldn't believe what I saw in the change in this country in the twelve-day period of time. I sat late that night with my son and a couple of other young FBI agents, all of whom worked in Boston while it was happening, and got a sense of the tremendous pressure that was being placed on people in law enforcement to try to address this. As I talked with them I knew that those who still serve, people like Jim McMahon, Wayne Bennett, and others in this room, were facing a formidable task in the future because we had entered a new era and the former traditional patterns of law enforcement probably would not be suitable.

The Challenge of Target Hardening

There are three distinct areas that come out of counterterrorism and homeland defense. I'll start with the first, which is prevention. You'll hear this referred to as "hardening the target." You can see it when you go to an airport; you can see it in various buildings; you can see the levels of security people, architects, and people in the security industry employ, trying to protect individuals or infrastructure from attacks. I have a sense that this becomes an almost impossible task. Look at the number of facilities, the numbers of reservoirs, the number of nuclear facilities, and the number of hydroelectric facilities. To protect them all to the level that they would not be vulnerable to attack seems to me to be a very big challenge.

Experience with Emergency Response

I'll skip the second and go to the third. The third is the response that I think will be covered in the next symposium: emergency responders and how they respond after the incident takes place. The firefighters and traditional emergency responders are more prepared than any of us to deal with terrorist events because they have been training in any number of events, for propane explosions, chlorine leaks, some type of a major catastrophe; they had mass casualty drills at the hospitals. So it really doesn't make a good deal of difference whether you have 200 people who are killed with a natural gas explosion in a building or

they're killed as a result of a planted explosive device. This is the area where we are most prepared. I also think that there is a need to be able to communicate more effectively and provide training that is more sophisticated.

Past Success with Prevention, Detection, and Interdiction

To me, the most important thing that we have is the ability to investigate and to prevent and interdict. This becomes a traditional police responsibility, to try to face the threat. The number of targets is infinite; the numbers of people who will do that are finite. The most classic example of our ability to investigate was in 1993, the first World Trade Center bombing, which both Jim Kallstrom and Jim McMahon had worked on and were knowledgeable about. To me this was a successful law enforcement effort.

The federal agencies, the state, and city were able to locate the individuals responsible for the bombing. Not only did they bring that investigation to a conclusion, by that investigation they prevented the second series of attacks, the attacks that were going to occur in tunnels and bridges and various buildings. This probably saved thousands of lives and then eventually enabled them to identify and apprehend Ramzi Yousef, which led to the prevention of a whole series of bombing attacks on eleven airplanes that was to be orchestrated out of the Philippines. So it was successful and that was the fairly traditional way of investigating and interdicting up to that point in time.

However, in the mid 1990s, when we look back now, we probably didn't recognize as clearly as we should have that we were dealing with an entirely new threat. We are now dealing with terrorists or terrorist cells who are either state-sponsored, state-supported, or state-protected and sometimes operating in virtual sanctuaries, all with the goal and an objective of sending people into the United States to kill citizens of the United States in mass numbers. I'm always taken by the speech of Tony Blair before the Labor Party shortly after that, who said, "Is there any doubt that those terrorists on September 11 could have killed 30,000 or 300,000? The dead would have been a better objective for them." I think that's a very correct perception.

There was also the bombing of the Towers in Saudi Arabia which the FBI investigated with some degree of frustration, although the orig-

inal investigative teams were able to gain a great deal of evidence and information. They ran into the problem: They were dealing with something that was state-sponsored and state-protected. The bombings in Kenya and Tanzania were orchestrated out of Afghanistan, which at that point in time was a sanctuary for terrorists. Then we had the second series of attacks on the U.S. and series of attacks in Yemen and the USS Cole. So is there a need for an improved and sometimes different strategy than the one that we used in the World Trade Center.

Intelligence Sharing Among Government

What has to be addressed is what is the role of the federal government, the role of the state government, and what's the role of local agencies in countering terrorism? Historically, federal agencies had the direct responsibility for dealing with threats emanating from other countries; that really was a Cold War model. It was espionage and it was the intelligence agency, the CIA or the DIA or the NSA, gathering information in foreign countries and providing it to the FBI in more of a counterespionage investigation than in counterterrorism investigations. That old model brings with it a problem that we all struggle with presently. That is, the information is classified; it's classified because of sources and methods. Because of this classification of sources and methods, only certain people have access to it and for a good reason.

I found myself disappointed in some police chiefs' superiors and friends of mine who testified before the United States Congress, extremely critical of the FBI but really not recognizing the complex, sophisticated problem that they face with sharing classified information and the difficulty that they had in being able to distribute it.

Challenges for State and Local Law Enforcement

1. Capacity for Counterterrorism

On the other side, one thing that we know with state and local law enforcement in this country is. It includes over 650,000 officers. They usually have much better knowledge of the local community; they make hundreds of thousands of criminal arrests every year and they make millions of traffic stops, all of which are very important. Beginning in the 1970s, law enforcement in the United States was either to-

tally precluded from doing intelligence or getting intelligence or was strictly limited in their ability to gain intelligence.

Most police agencies in this state and in this country are small and have twenty-five officers or less. It's virtually impossible for them to have a counterterrorism intelligence unit in agencies that are that small. Police agencies in this state and in this country have very limited resources. If you were to talk to Mark Whitman, Jack Nielsen, or some of the other police chiefs present at today's meeting, they would tell you that all they can do is to put uniformed patrols out during the day to be able to respond to citizens' complaints of burglaries or assaults, let alone be able to deal with issues of terrorism. They certainly would not have enough people to put twenty-four-hour guards and physical security around every vulnerable site in their city or town here.

2. Access to Technology

There are also many problems with technology. I always felt guilty about turning the state police over to Jim McMahan, not that I, as I will say later, was not impressed with his abilities, but that I didn't do enough to give him the things that were needed. We were in a budget crisis for three or four years, much like we're suffering today. As my boss told me, we've run out of the moderately bad ideas; we've now got to come up with the really bad ideas. So I had a choice, either put troopers out on the road or buy a new computer system. It was for me an easy choice, but in many ways it affected the capacity of the agency to be able to do it.

3. Legal Authority

Much of the legislation that was drafted dealing with the substantive acts that are part of the criminal endeavor, the procedures in which you deal with them or the regulatory authority that's available to you, were really drafted and considered for a different objective and a different time. They certainly were not drafted and considered with the recognition that there are very organized, very well-equipped, very well-funded cells of terrorism whose total objective is to kill as many Americans as they possibly can, either in the United States or in some vulnerable place overseas. Do we need changes in legislation? All of those are topics that to a degree, I think, will be discussed.

Introduction of First Speaker — *Thomas Constantine*

Let me introduce the first speaker. He is someone who I've known for a long time, since 1984, which was the first time that I met him. Even then it was just so impressive to me, his knowledge of issues. He started in the FBI in 1970, and worked his way all the way up to the ranks to be the special agent in charge of the special operations divisions in the New York City office. In February 1995 he was appointed to assistant director in charge of the New York division. His professional skills and his demeanor are extremely impressive to me.

Many of you will remember the fatal TWA flight coming out of New York City, crashing in the Sound and the difficulty of investigating that. Add in the difficulty of communicating to the public the cause of it in the face of great suspicion. Jim Kallstrom was the individual who every day went out in the most demanding public venues to respond to these questions in a way that was superior, especially given the timing of this event with the Olympics, which were just about to begin. I was home in the house because my wife had been seriously ill, so I was watching television twenty-four hours a day. I watched him and I said, "Thank God we have people like this at this point in time who have this capacity to understand, to investigate, and then to be able to communicate."

When September 11th occurred and I got back shortly after, I knew that this state, which has suffered more than any other state and certainly more than any other city from terrorism, would face a problem unique even to other states. I had great confidence in Jim McMahan and the state police to be able to do what they could. Then I got a phone call from Jim Kallstrom, in my office, asking me if I would just meet with him because the governor was going to appoint him as the director of the public security. I knew that he had a very, very substantial position in private industry and that he was going to take a leave of absence to be able to do that, to come back to the state. Much like the TWA flight, much like that same approach, he brought some sense of security and optimism to the future. And with that, I'll turn this over to Jim Kallstrom.

Speaker's Remarks – *James Kallstrom*



James Kallstrom

Good morning, everybody. It's a pleasure to be here and share some ideas with you. My friend Tom did a very good job of outlining the issues. I will talk for a few minutes about some of the details along the way and then give you all an opportunity to ask some questions and have some give-and-take from the audience.

Obviously on September 11th all of us will remember where we were. I was in a bank in Delaware. I'd been there a number of years and my wife called me and told me about the plane crashing into the Trade Center and described it as a rather large plane. Almost right off the bat a chill went down my back and I figured it was probably an act of terrorism, but I wasn't sure and then of course the second plane confirmed it.

Immediately the phone started ringing from the media wanting comment. The first questions were, "Wasn't this a gigantic failure of the FBI and the intelligence community?" My response after a little pause was, "I think it was a gigantic failure, if I could use the word 'failure'. Maybe a better word is lack of memory or short view or naiveté of our system, our entire system." There was plenty of blame to go around with all the agencies if blame's the right word.

Tom talked about the events that led up to this and I'll just go over them briefly again. I said to the reporters that morning that I was not surprised by what happened. I was shocked; I was outraged; I was emotional; I was upset. How can you not be upset watching people jump off the hundredth floor of the World Trade Center or be pushed out by the blast of heat and fall on people on the sidewalk? How can you not be shocked? How can you not be shocked, understanding the repercussions to the families, of the children watching their father or their mother being pushed out of the top of the Trade Center? Then an idea came into focus. We live in a very dangerous world and some have known this for a very long time, but to no malice aforethought I believe. This great country, America, I truly believe, was not able to deal with the signs of this coming threat adequately because we just didn't and don't react without a lot of body count, unfortunately.

Recent Experiences with Terrorism

1. The 1993 World Trade Center Bombing and Related Terrorist Plans

In 1993 the militant Islamic fundamentalists tried to bring down the World Trade Center. They talked about their escape route; they weren't going to martyr themselves. They were concerned about which way the buildings were going to fall. Their effort was to kill 30,000 people that day; they failed. While that was going on, another conspiracy that Tom also talked about involving the blind sheik, Sheik Rahman and others, was to blow up the Holland Tunnel, the Lincoln Tunnel, the federal building at 26 Federal Plaza, and to drive a van into the basement of the United Nations and blow that up also, a plot that was broken up by the good work of the terrorist task force.

Some of us remember that soon after Ramzi Yousef left New York the night of the World Trade Center bombing and flew to the Middle East. You might remember it took us four or five or six hours to actually figure out that a bomb went off in the basement of that building in the parking garage. The smoke, the inability to get to the scene, the danger of the floors that were blown out of the parking garage; we took hours to get to the seat of the explosion, ample time for departing flights out of Kennedy Airport. Ramzi Yousef ended up, among other places, in Manila in the Philippines and because of a little bit of luck, actually a lot of luck, a conspiracy came this close to happening. They started a fire in this flat, a chemical fire. Through the good work of the Philippine fire department and the national police in the Philippines and a couple of national academy graduates, a tragedy was averted.

The concept behind this terrorist plan was a ball of nitroglycerin, a cheap watch and wires and batteries, things that could easily go through security. In fact, back in those days you could drive a Mac truck through security. As a proof of this concept they took a one-tenth, one-twelfth size model of that little dastardly bomb, went on a Philippines Airline plane, and assembled the bomb enroute to an intermediary stop. They were not there to martyr themselves either. They put that device up against the bulkhead of the plane. It worked; it killed the Japanese citizen sitting in the seat. By a miracle, the plane did not crash, but the concept worked and they were within days of executing it.

2. Bombings in Saudi Arabia and Africa

You may remember the bombings of our barracks in Saudi Arabia on two occasions. You remember that after Desert Storm we kept a pres-

ence in Saudi Arabia, which was a big, gigantic prickly bush to the militants and how they bombed it and killed numerous Air Force personnel sleeping in the barracks. None of these events I've described to you have changed any policies in this country; I'll get back to that.

You probably remember the simultaneous bombings of our embassies in Africa, the heavy loss of life of Africans, mainly Muslims, the loss of life of diplomatic personnel, the great work after the fact of the FBI and the locals solving that case. And then soon after, the USS Cole, a modern warship that can engage twenty-five targets simultaneously, a command center equipped to run a major theater of battle, steams into the port of Yemen to take on fuel and is blown up by a nineteen-foot fiberglass scow. The loss of life, none of that changed our policy to any great extent.

3. World Trade Center and Pentagon Attacks

Then of course we bring the clock forward to the tragic day of September 11th when nineteen terrorists boarded aircraft in Newark and Washington and Boston and deliver intercontinental ballistic missiles into the Trade Center, the Pentagon, and potentially the White House or the Capitol Building. Instead, because of some work and the advent of cellular telephones and some heroism, the last plane ends up in Pennsylvania in a field. We all remember, I'm sure we do, the shock of that day where this militant fundamentalist hatred for the West and particularly the United States (particularly us, our kids, our wives, our unborn babies, everybody) a big exclamation point was put next to something that had been going on.

I only went back to 1993; I could have gone back to 1983 with the bombing of the Marine barracks in Lebanon, with numerous bombings of embassies in other places of the world, including Beirut. Numerous skyjackings — you might remember the TWA skyjacking and the execution of a young Navy person right on the tarmac.

Learning From Our Mistakes

So, ladies and gentlemen, this is not new; none of this is new; this is old. In the trial of the African embassy bombings, you should go back and pull the first hundred pages of the government's summation to the jury. In that summation is laid out the entire concept of the al-Qaeda terrorist network, its aims of destruction of our way of life, its mandate to its people for personal jihad against us. Apparently, few people read it.

I reflect upon all this so that we can learn by some of these mistakes that we make as a society. I believe we make them in the best sense; I believe we make them because of who we are, which is a wonderful thing. We're a wonderful country that has wonderful freedoms. We invite the rest of the world to come here. We make mistakes; we make foreign policy mistakes; we make all kinds of mistakes; we're human beings. Overall my belief is we're just a wonderful place to be but we're so naïve. Our inability to deal with these issues over time, in time, has now gotten to the point where we're discussing what we need to do better.

I'll just give you an example of what I'm talking about. There was an inability during this entire time to deal with real things that need to be fixed. Congress was polarized and did not always act. One example: in 1988 we knew that the FBI and others that had wiretapping authority in the United States, and wiretapping is something we do — it's a tool the law enforcement does to intercept illicit communications of drug dealers and murderers and terrorists and other people. We knew in 1988 that we were going to be out of the business, not because of the prohibition or change in the law but because of the change in technology in the United States, from analog to digital technology. We knew that in 1988. We decided to talk to the Congress and the executive branch and others that would listen to us in 1988, 1989, 1990, and 1991. Finally in 1994, we get a bill out of the Congress that mandates communications companies from abbreviating this rather large historic event; in 1994 we get a bill. Now this isn't changing my view of the bar on privacy in the United States. Others may disagree with me on that and that's fine. This isn't changing anything. This is taking the state police once cars were invented, taking them off horseback and putting them in cars. This is a reflection of the fact that phones are no longer tied to a cord. This is a reflection of the fact that we need to have the ability technically to isolate someone's conversations as opposed to everyone's conversations, not a heady issue. A bill was passed in 1994.

I'll let you guess when the first implementation of those provisions took place in the United States of America. If you guessed after 9/11, you'd be right. We just don't move quickly on reasonable things to protect ourselves. And every one of them in isolation has a good reason not to. But we can't break through the barrier of hypocrisy when we deal with some of these issues.

I think clearly there was a general degrading of our Central Intelligence Agency all that time, less emphasis on human intelligence, more emphasis on overhead, cleaner, less politically agitating. We're not go-

ing to get our human intelligence on terrorism in a nunnery on the top of some mountain in Sicily. I just think there was general naiveté of the danger that we faced, a growing crescendo of the proof of that danger and our lack of response. There's enough blame to go around. It's not political blame; it's just pretty much everybody asleep at the switch. We just didn't do much about it. We can all bring up classic examples of why we wouldn't and we have a tendency to throw the baby out with the bath water.

Breaking Down Silos in Intelligence Sharing

During that same period of time, the Attorney General guidelines that guide the FBI in terrorism investigations became tighter and tighter and tighter. There's a special court in Washington that pretty much is held in secret, federal judges who issue warrants and orders for wiretapping and other things against spies and against terrorists. A Chinese wall began to be built between agents and the FBI agents that do criminal work and agents that work counterintelligence or counterterrorism work. If you've read on this subject the last year or so, you'll see that generally that the Chinese wall was challenged by the administration as to the legitimacy and sense of keeping agents working on the same floor next to each other from talking about things that could save the lives of Americans. Well, I'll just tell you that wall gets higher and higher.

The decision of the appellate court that ruled on this issue said that the wall was never necessary in the first place. So during this whole period of time we built an obstacle to effective communication. We built an obstacle to allow us to connect dots. I don't say that as an excuse; I just say that is a reality of what happened. When I left the FBI at the end of 1997, I think it was just to the credit of the people that worked there and their intestinal fortitude and their guts and their attention to detail that we had as many successes in the United States as we did.

Now, let me say this: I shrink to no one on the notion that we have to support and fight for what this country is all about, our civil liberties, our freedoms, our ability not to be followed around unnecessarily. People died on the beaches of Normandy and in Vietnam and other places for our freedoms. I believe people in law enforcement feel as strongly about that as the people from the American Civil Liberties Union and elsewhere.

That's not the issue. The issue is can we get together and find and do reasonable things to protect our society and can we agree on some of these things? I think that's the issue, that's the discussion.

Finally, I think we're having that discussion in the United States. I think finally the executive branch, the Congress, the state governments, people of all ilk understand that we need to do things better. The stove-piping of the information, the silo of information in Washington is a legend. The siloing of information in the state is a legend. It's stovepiped and it's siloed for a lot of good reasons, not the least of which is privacy, not the least of which is classification, not the least of which is bureaucratic turf and a host of other reasons. But the reality is that none of the databases in Washington talk to each other. Top orders have been a sieve during this entire time. I know many of the leaders and their agents at the Immigration and Naturalization Service. They're wonderful people. The reality is, though, that service was not built with security on the first page of its priorities; it just wasn't. It had more to do with cheap labor. Maybe it had something to do with politics; maybe it had something to do with other issues, but it had nothing to do with security.

Border and Port Security

You can literally come in the United States with a Wheaties boxtop; I've seen it happen a million times. You can fly into Kennedy Airport undocumented or with phony documentation and just be released out into the public and 99.9 percent of those people are here for a reason other than terrorism. They're here for a better life for themselves and their family; they're here for the right reasons, but they're here illegally. It's that one-tenth of one percent that gets you.

Governor Ridge is at the port of New York this afternoon at two o'clock announcing the grant to the states of millions of dollars to deal with port security. Prior to 9/11, 95 percent of all international commerce flowing in and out of the United States come in these metal containers that hold all kinds of things.

They have manifests and who knows if those manifests are correct because those ships transit across the globe in and out of different ports. Prior to 9/11, security on those containers was a pair of plastic flex cuffs. There was no ability to interrogate the containers technically, no technology on the containers. The United States customs officials, local officials, others

unloading containers here in the United States had no way to know if those containers had weapons of mass destruction or, for that matter, an entire Al Qaeda company here in the United States. The containers were just put on trucks, put on trains, and sent all over the country.

There is an absolute epidemic of false identification in the world; there's an epidemic of false identification in the United States. Any fairly bright ten-year-old with a laptop can make any of our baseline documents that we use as entry into our society, driver's licenses, birth certificate, social security card, INS documentation...the list goes on and on. We have not put to good use any anticounterfeiting technology yet, although we're talking about it, into these devices, into these documents.

We let people board airplanes, ladies and gentlemen, with driver's licenses. Does anyone in this room believe that the person looking at that driver's license at the airport has any clue whether that is a valid document? Not only that, at the other end of the spectrum, our sons and daughters going to colleges and elsewhere acquire phony driver's licenses so they can go have fun at age eighteen, nineteen, and twenty in the pubs and bars around colleges and universities. I'm sure the state police would have some statistics on the carnage on the highways and byways of this country because of that.

Yet, in my view, we as a society have not begun to deal with this as an issue, a public policy issue. Police out on the highways shown driver's licenses have no methodology other than education to know if the documents they're being presented are real or not real, nor do the customs agents on our borders. The General Accounting Office, about six months ago, flew an investigative team, brought them across the Canadian border, brought them across the Mexican border, and flew them in from the islands into Miami with phony driver's licenses and birth certificates they got off the Internet. They were all successfully entered; there were no questions. Some of those driver's licenses were brought to a bouncer in a gin mill near a college and he made identification correctly of the false driver's licenses. So the lesson there is you can come here and be a terrorist but you can't get a drink. It's laughable, but it's so insane.

The Role of Federal, State, and Local Government

I say all of this not in a bad sense; I say it in a historic sense. These things I'm talking about now are issues that we're talking about in this

federal-state-local partnership, this partnership of the Congress, this partnership of the state legislature. I think the good news is we're going down the road to fix a lot of these things. The governor asked me to come back to the state and I was flattered and appreciative of the chance to play just a small, little role in the fight against terrorism, to come back and look at all the issues in the state, you know, all the state agencies. I'll be doing everything humanly possible in this state, realizing that heretofore the fight against terrorism was largely a federal issue. It's an issue of how we protect our borders, how we protect our ports, how we protect our gateway airports, how we protect the aviation security, how we protect our nuclear plants — the list goes on and on and on. How effective the FBI is in countering terrorism here and globally, how effective are intelligence apparatuses around the world.

But the reality is that an act of terrorism takes place locally; it takes place in some town, some county, some city, and it impacts on the citizens of some state and we have a vested interest in doing everything humanly possible, I believe, to make sure that it doesn't happen again.

When I met with the governor and his staff, we broke this into two areas of concern. The first and most important priority is to prevent the next attack. Do everything humanly possible not to have another event happen in the state, in the country, in some little hamlet here in this beautiful state of New York. That issue is largely intelligence; it's largely cooperation; it's largely flow of information and it's requires having an effective federal government to stop terrorists from coming into the United States. At 80,000 feet we'd solve this problem by keeping terrorists out of the country and finding the ones that are here. It is hard to do in a free society. Can we make it more difficult for them to come in? Yes, we can. Is that what I'm talking about? Yes, I am. Can we more effectively find the ones that are here? I believe we can. Can we do it within our Constitution and our privacy, enjoying the dignity and respect of what this country's all about? I believe we can.

I think the state and locals have to play a role; I'll talk a bit about that in a minute. The other side of that is how do we respond and how do we mitigate an act, if it happens? Important stuff, but clearly the first priority is not to have it happen, not to lose your sister or your mother or your family or your kids going on some day trip with their class somewhere. But of course if it does happen, mitigate the loss of life, mitigate the continuing damage to our morale, our economy, our society, and our people. Have the first responders have the right technology to understand if they're coming up against a weapon of mass destruction and

what to do with it so they don't render themselves dead on arrival. Do they have the right technology, the right training, and the right protocols? Do we have the right standards? Can we communicate, et cetera, et cetera?

Protecting Our Assets

1. Public Health

Things we looked at, obviously, were all the agencies in the state and were they doing everything humanly possible. I see Dennis Whalen sitting back here, who's one of my trusted and best friends in state government, one of the leaders of our health agency here in the state who does a wonderful job. Is our health department prepared? Do we have the right protocols? Are we communicating properly with the country health agencies? Have we thought about the ramifications of a smallpox outbreak, do we understand how we have to deal with that? Do we have plans to distribute the national medical pack that would arrive here from CDC if we had something like that? Have we thought through all those issues? Are we able to deal with Anthrax? We had a test of that my second or third week up here in the jar when Anthrax was actually found in the governor's office in New York City. We learned a lot of lessons about preparing ourselves for dealing with weapons of mass destruction.

2. Agriculture and Food Supply

The problem of agriculture and markets is something that probably doesn't make the headlines often unless you're a farmer or, you know, you think about it. We all interface with it every day, our entire life. But what about our food supply? What about the methodology of getting food from the farm to the shipper, to the processor, to the salad bar, to the restaurant? The literal ease that someone could infect our food supply, the ease with which somebody could fly in with something and drive up into some community and infect the food supply and the milk supply, the cattle, the impact that hoof-and-mouth disease would have on the economy of this country and this state. Almost instantaneously, understand the relative ease with which that could happen. Consider the water, the big major reservoirs feeding New York City, as well as the thousands of other water supplies throughout the state. Have we developed the technology, the ability to monitor? Do we understand the different protocols? Do we have a good reflection on what it would take to

impact those water supplies? Do we have the proper security and the proper response to deal with that?

3. Electric Power Supplies

What is the status of our infrastructure, the power grid of the state, largely and almost totally in private hands by great companies? The whole notion of the security of that grid, the preparedness to repel some sort of an attack against that grid, by a private company who has an obligation to its stockholders. You're asking them to do great things to protect it, a national security asset in every sense of the word, ladies and gentlemen, in my view. Can you think of anything more that's a national security asset than the power grid of the country? Yet it's not designated that way, to the point where discussions with people running the power grid could not even be done between my office and them in writing, for fear that those documents would show up in the newspapers. Some would argue that's a phony concern, but the reality is it's a real concern, that it's something we have to deal with.

4. Nuclear Power Plants

I think we recognized this as a country, years ago, when we founded the Nuclear Regulatory Commission to deal with nuclear power. We understood that we have to form a sense of making nuclear power a national security asset and then mandate certain security at nuclear power plants and have a methodology to keep some of that information sensitive from the public which I know stirs the heartbeat and the blood pressure in many. Nuclear power — a huge issue. How well do we protect the nuclear power plants? How are we to protect the nuclear power plant, Indian Point? You know, could a squad of al-Qaeda infantry attack and penetrate the security there? Could they get to the nuclear reactor? Could they get to the spent fuel rod? Could a jet crash into the power plant and cause some sort of a nuclear catastrophe? These are issues that are of great concern, issues that are hard to deal with.

5. Information Technology

Cyber — the ability of terrorists in foreign lands to impact our infrastructure, our businesses, our state government, our communications. Because when you think of it, everything is run by computers; computers open and shut valves; they manage the power grid; they manage the water supply; they manage all of our companies. There are thousands and thousands of pings on our cyber systems and databases every day

and we have to make sure that they can't cause a national economic catastrophe by dealing in the cyber environment.

6. Transportation Systems

Our National Guard — how many do we call up? Where do we put them? What do we do with the bridges and tunnels, our transportation system? How will we secure the Holland Tunnel, the Lincoln Tunnel, the George Washington Bridge, the myriad of major thoroughfares that are important to our economy, to our people, and at the same time not tie it up so that, you know, it has a major impact on our way of life? These are the questions that we found ourselves dealing with.

Using Local Law Enforcement

I'll talk just briefly about what we see as the biggest priority. There are 70,000 state and local police in New York State, the majority of which are departments. From the New York City PD, the largest in the world, to little, four or five-person police departments up on the border. The targets may be in New York City; they may be elsewhere. The terrorists could be anywhere; they could be up on the border; they could be in Iowa; they could be in South Dakota; they could be in Bangor, Maine. We need to have competent local officers, who have been provided proper training so that their eyes and ears work better at counterterrorism efforts.

The task to get all the cops in this state to be better forward observers, better observation posts for the FBI task force, not to replicate the FBI task force but as they do their daily routine, driving around the streets of their towns, so that things they're seeing start to mean something. Two days before 9/11, the Maryland State Police stopped one of the terrorists who went to Newark Airport and ended up in the fields of Pennsylvania, doing ninety-one miles an hour on route 95 north of the Baltimore beltway. The state and local police have the ability to check their own databases in state; they have the ability to check the national crime information center, which has warrants launched in it. There is no interface between state and local police, no real interface, and the myriad of databases and the stovepipe databases in Washington, the myriad of watch lists, and the myriad of information that's in INS or customs or other places. So our goal, and I think everyone's in general agreement we're working towards this end, is to make the state and local police a

different class of counterterrorism agents, with the ability to do more reasonable things at the point of contact.

So you move the clock forward; a New York State trooper stops somebody on the Taconic Parkway this afternoon for whatever reason because we've trained this person. There's a level of suspicion that the trooper feels there's something funny here for whatever reason, maybe the documentation, maybe things in plain view. That trooper can call in to some facility in the state that has training and proper security clearances, has conductivity with Washington, and quickly it can be determined whether there's any interest in this person from a counterterrorism standpoint. Then that trooper simply gets a green light or a red light in his radio car and doesn't drive away. That's the general concept — not the sharing of classified information in bulk, not bring another 70,000 state and local police into the task force but to be more effective neighborhood watch elements of the war on terrorism. Clearly, we think that is one of the biggest priorities, among many.

I think the good news is that we as a nation, Washington, D.C., most people, reasonable people, understand that we need to fight this fight, that we can do it within the Constitution, that we need to do it with what makes this country great. The reality though is we're going to be doing it for a long time. Ladies and gentlemen, there are thousands of people in the United States (I don't know the exact number, but it's a big number and we'll never know the exact number) that agree with the terrorists, that applaud from the sidelines and that's their right to. What event in the world moves them mentally from applauding from the sidelines to conducting their own personal jihad against you or your family or the airplane you're on or the bus you're in, or the shopping mall you visit? Determining that is a tough assignment for the FBI; that's the tough challenge.

The Challenge of Interdiction

That's a real challenge, to respect all of our rights, our freedom of speech, our freedom of assembly, our freedom of religion, the right to say outrageous things. That's the challenge. It's an increasingly difficult challenge in an open society; it's an increasingly difficult challenge in a country where we cannot control who comes in.

If we can learn to do this effectively, we will be successful and we will be proud of what we did as a country; we'll be proud of how we worked together; we'll be proud of how just plain folk and corporate folk and small business men and law enforcement at every level and federal law enforcement and everybody pulled together on the same laws. We'll be a stronger country for it.

I believe in our children and in many of us who maybe haven't thought about what freedom is all about and what it actually means. You start to understand that when you have to call someone and say, "Should I send my child to the class trip in Italy, or should I get on a plane, or should I make a hotel reservation in New York City, or should I do anything different?" You start to understand what it is and how important it is to live in freedom in this great country.

Thank you very much. I'll be happy to take your questions at the appropriate time. Thank you.

Introduction of Speaker — *Thomas Constantine*

I'll introduce Jim McMahon, who'll make the presentation and then we'll open this to questions for everybody. Much like my emotions when Jim Kallstrom was named, was a recognition of the fact that, the feeling in my mind that thank God, they had somebody like Jim McMahon and Wayne Bennett and others leading the state police. My heart also went out to them; I knew that both of them are extremely hard workers on normal days. I knew when I heard from people they were working fifteen, sixteen hours a day, seven days a week for months on end and I started almost to become concerned about their own individual health, being able to sustain that. But they had a belief this was a critical period of time. In some ways it's awkward introducing a friend of yours who you admire so much, to make sure that you get the words right and I hope I do in introducing Jim McMahon, a career officer who worked in New York State for thirty-seven years now.

A native of Rochester, Jim worked his way up the hierarchy at the New York State Police, through the ranks. He earned his experience and reputation as a trooper and a sergeant, lieutenant, captain, major, lieu-

tenant colonel, and colonel. And eventually had probably one of the most difficult jobs in the state police as field commander in charge of all uniform and BCI operations, made much more difficult by the fact that he was working for a superintendent who used to be field commander and knew all of the problems and was, to say the least, demanding. But more importantly or equally important is his role here in New York State. A lot of us don't recognize this is the largest full-service state police agency in the entire country and I think it's somewhere around the sixth or seventh largest police department in the United States today, spread out in a very decentralized fashion. Individuals who come from that agency have been recognized throughout the country for leadership roles in the state and provincial division.

In 2001, Jim had been elected to be the General Chair of the State and Provincial Division of the International Association of Chiefs of Police (IACP), overseeing all of the state police, highway patrols, the Quebec Provincial Police, the Ontario Provincial Police, and the RCMP in Canada. So when the meetings occurred with Governor Ridge, Attorney General Ashcroft, and Director Mueller of the FBI, Jim McMahon was the individual who was brought to Washington to be able to explain to people that there are peculiar problems for people in state and local law enforcement and it's important that they address this.

There was a feeling on the part of those currently in service in those agencies and those of us who had left, that this would become a federalized response to the problem and totally dealt with as a federal issue. We were also concerned that there was not a recognition of the fact that the most important asset that we have in preventing terrorism will not be the size of the wall that we build around any facility or community. It will be about how good our investigators are, how good is our intelligence information, how good are the laws they have to work with, and how sophisticated will they become in the ability to share that information with each other at all of the levels of government and then horizontally amongst all of them. Jim has taken the lead in this role. They've gone forward, as I said; in many ways it is very difficult. I'm sure it's very difficult now, given the financial condition of the state, even in the face of this terrorism issue. But we're very lucky, one, that he serves in that position, and secondly, that he would agree to come to here this morning along with Jim Kallstrom and talk to us.

Speaker's Remarks — James McMahon



James McMahon

Tom, I thank you for that very nice introduction. My most difficult job is following both Tom and Jim at the podium. They really gave a great overall picture of what's going on, of the instances where we should have known certain things from a law enforcement perspective.

I think we wouldn't be here today if it wasn't for the tragedies of 9/11. When you think of the 3,000 people killed, those were innocent people. The number of people that were left, the children that were left without a parent or both parents, as Jim talked about, having to elect whether to burn to death or jump off the building holding hands, was horrifying.

The emergency response and the overall response was really tremendous. Three hundred and forty-three fire department men and women killed, twenty-three New York City police killed, and thirty-seven Port Authority police officers killed. How do you memorialize that kind of tragedy at the World Trade Center site? I think the greatest memorial that all of us, whether we're citizens, whether we're in the emergency services, whether we're law makers, can do is to ensure something like this never happens again, that other innocent people, other emergency service people, don't have to lose their lives. That's the prevention aspect that Tom and Jim both talked about.

The state police were in the process of mobilizing and dispatching 500 people to New York City on 9/11. In fact, by midnight we had 500 troopers in New York City and we had 250 already out on post assignments at that time. So it was the largest, most complex movement we had had in our 85-year history. When Governor Pataki addressed the people of New York State for the first time on 9/11, he said, "We can never let that happen again." Prevention — we have to do everything humanly possible to make sure a tragedy like this doesn't occur again.

The Need for Balancing Prevention and Response

The response to New York City was really very good. We had practiced response in New York State. We all had incident command

system training; we had gone through drills, and experienced disasters. We had over twenty declared disasters statewide in the prior six or seven years, from ice storms, to the mud slides, to the fires on Long Island, to TWA 800. So we were very good at responding and that's where a lot of the money and the effort had been coming down from the federal level, so we were able to respond effectively.

On the other hand, there had not been that equal effort in money, support, and legislation for prevention. So what we've had to try to do since 9/11 is balance prevention with response. As Jim said, this is what the Office of Public Safety and our governor have been trying to do. If we're going to prevent it, there have to be resources there. Sadly though, I think, we're going to make a mistake. We're twenty-two months since 9/11, and there hasn't been another incident. We shouldn't be here still talking about why we have this big problem with immigration, why we have this big problem with fraudulent identification, or what we should be doing on it, why we have a mish-mash of license requirements and no national licensing requirements.

Because if these nineteen individuals came into our country at various times, what was the first document they wanted to get? A driver's license — it opened the door for everything else. Did they come to New York? No. New York had six points of identification. Where did they go? North Carolina, Florida. Did they know that it was very easy to get a driver's license, as Jim said? Walk in with an envelope with your name on it or something to get a driver's license. They lived in our communities; they used ATMs; they drove cars on our highways. As Jim said, one did get stopped just two days before in Maryland. But an Oklahoma trooper also stopped one. And they had contact with police agencies in Florida. So there is a complacency setting in.

State and Local Law Enforcement as Foot Soldiers in the War on Terror

On the other hand, the targets may not be in a rural community or suburban community, but these people, just as the nineteen terrorists did, were living in those communities, were shopping in the stores,

were driving cars in the communities. The contact they had was with state and local law enforcement. So what that boils down to is prior to 9/11, international terrorism was a federal responsibility in many ways, shapes, and forms. State and local — we're a part of it; we are now the foot soldiers in many ways.

The dangers are there; they're not going to go away and we can't become complacent. How do we use state and local law enforcement? How do we blend them in with our federal partners? I think we're working at it very hard in New York. There's still things that we need, legislation and state-of-the-art technology

There are so many of my colleagues here from county and local law enforcement. As police executives, I think that there's a huge challenge we're facing right now as we take on this role as the foot soldiers, especially from our perspective. If you think of it now, we have a crime rate that is back to where it was, violent crime rate, in the late 1960s. We've done a tremendous job working together to do that. Our highways are the safest that they've ever been. We've done a tremendous job working together, using collective resources, whether it was narcotics, violence caused by the narcotics crossing geographic lines, or whether it was the highway safety commissioners working together. However, there have been some slight increases lately in crime and alcohol-related highway fatalities, they're starting to tick up a little bit. So at a time that we're now facing terrorism, we must continue to work together on crime and highway safety .

Issues for State and Local Law Enforcement

1. Taking on a New Role in Counterterrorism During Tough Budget Times

On a local and state level, law enforcement had to take on this new responsibility, being involved in counterterrorism, at the same time that we are trying to perform our traditional duties and at one of the most severe budget times we've seen, at all levels, federal, state, and local, that I've seen in my career. How do we balance all these needs now? How do we continue to do that? Certainly cooperation is critical, being able to communicate is harder. So some of the keys, I think, that we face in this prevention area are the interoperability of communications which currently exist. The state is working hard at that but I believe there also has to be some kind of federal involvement.

2. Updating Communication Systems and Processes

The state is working very hard on the statewide wireless project, that hopefully will be able to connect all emergency services in New York State when it is up and running. An intelligence system that isn't stovepiped is needed so that people can talk to each other. But there also have to be linkages to the federal area. I know there were a lot of stovepiped systems as Jim talked about. Some of our federal counterparts have taken some awful hits in the media afterwards. But nobody wanted to look back and remedy these problems. Our Congress, nobody wanted to look back and see that they created those barriers and those stovepipes. So maybe it's time that those people start looking and saying, "How do we link to our state and local partners in all fifty states?" So that these people, who had the freedom to move around our country, if they're stopped in Maryland the police can find out if this information may be significant to somebody in California. That kind of information doesn't exist in stovepiped databases or paper files.

3. Informing Local Law Enforcement About Threats

As I talk about the initial responsibilities at the World Trade Center, the response was phenomenal. But when you think of the Anthrax that Jim talked about, there was probably a bigger fear of that in our society, because we were dealing with the unknown. We thought we had beat smallpox. Could any of us prior to 9/11 have thought these things would happen? Were we thinking that smallpox could be used as a weapon against us? That fear factor also set in with our emergency services — that's another challenge for us as police executives.

4. Adequate Equipment and Training to Deal With Weapons of Mass Destruction

The training, the equipment, and personal protection are other areas we have to address. We are trying to set up a weapons of mass destruction task force in New York State but we need the proper equipment, proper training for that, and a way to determine who needs to be in hot zones, who needs to get out, how do you protect the public. These are areas that really have to be addressed. There are concerns for our law enforcement officers. I had some troopers' wives actually writing me on the Anthrax thing and I thought, am I putting their husbands in jeopardy? Are they properly equipped for that? These are questions that local and state law enforcement have to answer, for the front-line troops in this war. And our legislature and people have to be involved on a national level, setting standards for personal protection

of our people. How do they protect themselves? How do we train them for these areas?

5. Adequate Manpower for All Vulnerabilities

Right after 9/11 certainly there was tremendous concern with the New York City water system, which originates in upstate New York. There was also great concern about nuclear power plants and the Canadian border. We had to detail a number of troopers to the border at the same time we had troopers in New York City while still working to keep our highways safe and our communities safe, working hand-in-hand with local law enforcement. Fortunately, the governor issued an executive order and we were able to rehire a hundred troopers who had retired in the last three years and invite each of the hundred troopers back. Normally that would take almost a year to process and run troopers through a twenty-six-week academy. And that helped fill the void. In the long term we need to consider if we need local or state law enforcement standing at locations which could be better served, perhaps more cost effectively, by some other kind of security or technology? So we should be addressing those issues because human resources are finite.

6. Who Should Pay for Security?

Every time that we go to an orange alert, we at the state and local level now have to fill a void between yellow and orange. Again, who pays for that? Is that a state, is that a local responsibility, especially when it's the federal government that pushes the alert from yellow to orange? What kind of pressure does that put on state and local law enforcement? And what is really necessary in those areas? How are we trying to address these areas in New York and utilize the 70,000 law enforcement officers and 543 police departments? I think we're doing something, a model that other states could use.

*How New York State Is
Dividing Responsibility for Counterterrorism*

On October 11, a little over a month after the World Trade Center tragedy, the governor created the Office of Public Security. One of the things we did, that the Office of Public Security did, in trying to mobilize state and local law enforcement, was to include chiefs and

sheriff's department from throughout the state, to hear their voice on this. They all had information that's important, especially the leadership of those departments. So we created in New York sixteen counterterrorism zones, geographic areas that follow the police training county regions, and are also based on vulnerability and geography.

Obviously, New York City is one counterterrorism zone. The one in this area is maybe a six- or seven-county zone. Buffalo, the center of vulnerability in Western New York, is a counterterrorism zone. The counterterrorism zones bring together the state, county, and local law enforcement in these areas with a leadership committee in each of these zones. The leader could be a sheriff and the two co-chairs could be a member of the state police and a police chief or police commissioner who rotate on a yearly basis. There's an executive committee at the state level that oversees the sixteen counterterrorism zones.

What these sixteen counterterrorism zones look at is the vulnerabilities of their areas and how the local law enforcement community can best address these vulnerabilities. Some hold drills or work with local business. To connect these counterterrorism zones, Jim Kallstrom and the governor created a counterterrorism intelligence network which will eventually be in every police department in New York State. There are more than 300 of these computers installed now, I believe forty more are going in this month. This computer system disseminates advisories to state, county, and local law enforcement from Jim Kallstrom's office. Our hope is that information will be fed down from the Department of Homeland Security and then provided to the local law enforcement. There is also a revised advisory which is being blast-faxed out to local government officials now. This is working now; it's being blast-faxed out now to them. Eventually we'll be able to provide advisories to businesses and corporations that are vulnerable too.

Border Security

We're making a lot of inroads, but the northern border is a very critical vulnerability. We've have a 450-mile border with Canada; most of it's water with Lake Ontario, the St. Lawrence River, the Niagara River. We have in some areas almost eighty miles of contiguous land, a land-to-land border, in some of our most rural areas in the north country. We have seventeen border crossings, two of them are two of

the top five border crossings in the United States — the Buffalo area with 3,000,000 passenger vehicles and a million commercial vehicles and Champlain up in our north country with 400,000 commercial vehicles and a million passenger vehicles crossing on a yearly basis.

With the volume of cargo coming through our borders only one to two percent of the cargo going to the United States is checked. Once that cargo comes into the United States, where does it usually end up? What's its next stop? Given the volume of commercial vehicle traffic — how do you inspect those trucks and what could be on those trucks? Could it be a dirty bomb?

We also have two of the top border crossings, which is also a huge vulnerability. Recognizing that, the governor authorized 120 additional troopers for the northern border initiative, to work hand-in-hand with the law local enforcement and the federal law enforcement.

One syndicated reporter alleged that there were a thousand Mohawk Indians on the St. Regis Indian Reservation involved in bringing illegal aliens across the border and that there were thousands of aliens coming across the line. I'm here to tell you it's not happening. Are there illegal aliens coming across our borders? Yes. Were they coming across before 9/11? Yes. Is it thousands? No. Are we all working together up on the Canadian border, including the tribal police on the Mohawk reservation? Yes. That article had to have been written by somebody who'd never been up there and it was an insult to what the legitimate tribal authorities and the police department on the St. Regis reservation were trying to do.

There is tremendous cooperation going on. There was information that the Canadians weren't cooperating — that's totally untrue; we're working together, sharing intelligence; we've got a joint intelligence center on the Canadian side that includes law enforcement from the United States, law enforcement from Canada. State police are working hand-in-hand with the federal border control, federal customs. The FBI has put additional resources up there; the DA has put additional resources up there and everybody's working together. One of the keys to that is what we call IBETs — they're called Integrated Border Enforcement Teams, there are fourteen of them in the country. Four of the fourteen IBETs are in New York State and this is where law enforcement, county, local, state, federal and Canadian come together and address border problems dealing with smuggling, not just terrorists. These have

been extremely effective in New York State, bringing people together, and addressing these issues.

Technology and Communication Issues

Technology, as I said, is extremely important, as is the ability to communicate. That's probably one of the number one issues that need to be addressed, interoperable communications. Emergency services, say it was the number one problem. Is that new? Every disaster that I've been involved in, natural or man-made, since I've been a trooper, that's been critiqued showed that there were problems with communications.

One of the technologies being put to good use is the VACIS, Vehicle Cargo and Identification System. This is a really large x-ray system that the trucks can drive through and you can look and get a very good view of what's in the truck. The federal government is putting those at the borders. Why is that important? Because you need to determine where you can use technology in place of human skills.

We also have to be able to balance law enforcement with commerce and freedom. How do we keep trucks moving? How do we keep commerce moving? How do we keep people moving back and forth, yet provide a secure setting on it? These are things that we struggle with. Law enforcement certainly is critical here.

Challenges for State and Local Law Enforcement

Let me end by mentioning some of the things that Jim talked about that are a federal responsibility. Again, it comes down to balancing responsibilities for law enforcement. You can't expect the law enforcement officer out there to understand every state's different license requirements. It's so easy to recreate a license or other form of identification today with computerization.

There need to be some standards. A pilot's license is a paper license. Are we really serious when twenty-two months later we haven't looked at changing the ease with which anyone can get or replicate a pilot's license? Governor Pataki and the Office of Public Security have come up with recommendations to try to correct this. We looked into how easy it

was to rent a plane right out here at the Albany Airport, what the requirements were, and what the licensing was. A lot needed to be fixed so we sent our recommendations to Washington. How long ago? It was a while and we have heard nothing in response to our recommendations.

So, as I said, we're doing a lot here in New York but there are a lot of things that can and should be done on the federal level, such as federal standards. These can impact on a trooper, a sheriff's deputy, or a patrolman or woman on the road.

The local law enforcement officers still have the responsibility to know about narcotics; they still have to know how to negotiate with some distraught person; they still have to know about arresting drunk drivers and arresting speeders and answering domestic complaints. All these regular tasks require mandatory training and now they have to learn counterterrorism.

How does information that the local or state law officer has play into a bigger system? This is still being worked out between the federal and local levels. As I said, we're creating that intelligence system in New York; it's going to be here in the Albany area. Hopefully, it will provide one-stop shopping for law enforcement. We're in the process of working with the Office of Public Security and state and local law enforcement to train law enforcement officers on what is intelligence, what information is important, how to collect it, how to use it, and how to create better tools.

These new skills require training time for state and local law enforcement officers. Training time means fewer police officers on the road or walking the local beat. Most police chiefs and sheriffs will tell you that we can't afford to have law enforcement off the road and directed toward counterterrorism responsibilities. So that's the balancing act in state and local law enforcement, trying to work together with our federal counterparts.

I have never seen the cooperation level of federal, state, and local law enforcement in New York State better than it is right now. When 9/11 happened, we only had one joint terrorist task force in New York State; it was in New York City, the one Jim Kallstrom had headed up that was so effective with the World Trade Center in 1993 and so many other incidents. Now we have one in Buffalo headed by the FBI. We have one in Syracuse, we have one in Albany, and we have one in New York City and they're becoming very effective. They were the ones that

did the Lackawanna-Six case, which started with a tip from the local community out there.

We are working together better. Are we perfect yet? No, but as I said, we are getting better each day at a time. The amount of complacency about terrorism still concerns me. Looking at this morning's paper, I read about the debate on whether we should extend the Patriot Act? Should we extend the Patriot Act, twenty-two months after 9/11. You heard Jim say, "There's thousands of people still out there that want to commit acts like this." Yet we are still talking about whether we should extend the Patriot Act on that. I don't understand that.

Governor Pataki initially passed legislation in New York on September 6, less than a week after the World Trade Center in 2001, that created the crime of terrorism in New York State and provided prosecutors and police officers in New York State, the city, the same laws to work with that are on a federal level. Roving wiretaps didn't go through, by the way; that part was yanked out. Our wiretap laws were written in the 1960s in New York State. As Jim said, that's when we had rotary dials, a wire coming into the phone. It doesn't work for cell phones, where some terrorists can change phones on a daily basis.

This has nothing to do with civil liberties; it has to do with bringing the wiretap laws in New York State into the 21st century. There weren't computers; there weren't cell phones; there weren't PDAs when the original wiretap laws were written. We would still have to get a court order to any type of surveillance. We are saying just give state and local prosecutors and law enforcement the opportunity to get an electronic surveillance order on an individual, not the instrument — simple. We can't get that idea passed through the legislature in New York State.

The governor's got a second piece of legislation, bipartisan legislation drafted with the State Attorney General. It would create crimes for chemical and biological terrorism — and even that legislation hasn't gone through. This points to the complacency with terrorism that I'm afraid is a problem. We can only do so much so we have to have tools at a state and local level.

If you looked at this morning's there is a picture of the bus in Israel which was bombed. That's is what is to come to this country if we remain complacent; it's real; it's out there; it's international and we're no longer separated by oceans here in the United States. State and local counterterrorism efforts will be very critical to prevention. Thank you.

Additional Comments – *Thomas Constantine*

What we'll do is to open up to some questions. Please state your name. I know sometimes it's awkward for people who feel uncomfortable, but it would help us a little bit for the record. Some of the things that you can't say when you're in government because it's just not appropriate, you can say when you're out of government. I'm now out of government so there are certain things that I can say on these issues.

I think there is a sense of the frustration. If you surveyed police officials as they've done at the Rand Corporation, study after study on this issue of terrorism, they're asked what are the most important tools and assets they need. One is interoperability of communication systems. New York City was a classic example of having the best assets available. You had the largest police department, the largest fire department. You had in essence one communication system, even though it was extended beyond its capacity.

If an event like 9/11 were to happen here in the Capital District or in Buffalo, you may have as many as thirty or forty different police agencies, all operating on different radio systems, unable to communicate with one another. Now other legacy systems; they're high band; they're low band; they're 800 megahertz; they're trunk systems. All these changes in communication go back to the issue of not having up-to-date legislation and laws that allow adequate surveillance.

When you go before Congress or some of the federal communication commissions and say, "Look, we want Spectrum available for public safety," you are now competing with the cell phone industry, the television industry, and anybody who is using any type of a wireless system, who is willing to spend billions and billions of dollars to buy out Spectrum. The shrinking availability of Spectrum makes it very difficult for local law enforcement to have access to what they need.

When Jim was talking, I couldn't help but think a little humorously. As a young narcotics detective, late one Friday afternoon we got a rush call at the Buffalo Airport. There were two kilos of heroin coming in from New York City to a big heroin dealer. So we arrived there, the Buffalo police, the state police, the Erie County Sheriff, the airport security and some other police department, rushed to the airport just in time to

see the alleged perpetrator jump in a car and take off — and each police department had different radio systems. When the alleged perpetrator pulled into a gas station it looked like a Monty Python movie — we all pulled into the gas station and were checking the tires and washing windows because we could not communicate. Things have not improved a great deal since then.

Another issue deals with the technical issues that Jim alluded to, when our phone systems in this country went from an analog system to a digital system. To do surveillance you have to go to a judge; he gives you an order and he specifically tells you what you can do or what you can't do. You have to report back to that judge virtually every week, to tell them how you are implementing that court order.

We were getting court orders but then we would go to the phone system and they would say, "Sorry, we don't have the capacity to assist you; we can't help you with this new system. So rather than voices, as you know, it digitizes information. It's really a jumble of letters streaming through a pilot.

Through the work of Jim Kallstrom and Louie Free of the FBI and wherever I could help them, we went from congressional office to congressional office, from Senate office to Senate office to advocate for changes. It was an uphill struggle for two reasons. One was, "it was going to cost the industry some money" and they weren't thrilled about that. Second, whenever you talk about the capacity to implement a court order to wiretap, the civil liberties community sees that as a threat and an infringement on privacy. So all of these myths and issues had to be overcome.

We had the same thing with encryption; I think Jim mentioned that we have a major problem today and I'm not sure how they're addressing it. You can purchase encryption on the computer, or get it for free. The encryption you get is minimum, 56-, sometimes a 128-bit algorithms. You cannot break a 128-encryption with the biggest computer in the country working twenty-four hours a day for months to get a text of a page.

We were up against the software industry and the computer industry had spent a fortune to lobby against any change in that law that would assist law enforcement because they wanted to sell their products overseas and if there was a possibility that a court could order that encryption to be turned over to the law enforcement, they saw that as a problem. I give a lot of credit to Diane Feinstein, a senator from Califor-

nia, who brought together in one room the FBI Director, herself, myself, Gates from Microsoft, Barksdale, Steven Case, and everybody else. We tried to explain to the Congressional representatives, “Look, we know with drug traffickers and terrorists, they are buying off the shelf sleeved encryption that goes on a cell phone. Once they do that, we are no longer aware of what they say to each other. We could have the most thorough court order in the world; we could have had great surveillances; we could have had great performance, but it won’t make a difference.

So as we look back on intelligence-sharing issues, those are the two most important things. Those are big fights that have to be made.

It’s easy to repress the memory of September 11; it’s easy to forget the horror of what we saw. I always thought *The New York Times* did a great public service by publishing a biography or a statement about each of the people who was killed. When you read that, it’s not a number: it’s a father; it’s a mother; it’s some young woman, some young man whose family had these tremendous hopes and dreams for. I was always humbled to see how many of those people had been in community service, had given of themselves and their lives for other people and their lives were lost.

I guess it’s human nature when we try to make these presentations and make these discussions, the people who have to impact us on policy, legislative or executive, I think it’s possible to forgive them; it’s possible to repress. I don’t think you can let people forget and let them repress it. My guess, sadly, is that we will suffer another major terrorist event sometime in the future despite our best efforts.

So what I’ll do is I’ll leave this open for questions. Again, if you wouldn’t mind, just mentioning who you are and who you would like to address the question to.

Questions and Answers

Question #1 from Bob Westphal:

My name is Bob Westphal. I work on sort of the biologic periphery of these issues. I’d like to ask Mr. Kallstrom this question. You spend a lot of money on technology, surveillance, detection, interdiction, and so forth. Much of the technology’s unproven and you all seem to believe as I do that it would be much better to spend our money on human intelli-

gence that would infiltrate the other intelligence, supply some imagination, and develop interdiction things. But there's no factory that makes such agents in any congressional district I'm aware of. So how are you going to get attention to achieve these kinds of results that I think are necessary?

Response from James Kallstrom:

I agree with the point you just made. One of the challenges in a job like mine, and I can only imagine what Tom Ridge's office looks like, is dealing with the myriad of thousands of technical proposals that come into your office to solve individual problems. Just having the staff to filter out and prioritize and read through intelligence and information is challenging. With a limited budget it's pretty easy because we can't afford to buy much of anything.

But there are a lot of things that can be solved with technology. I think we make a mistake generally, as a society, by thinking technology can solve everything. We forget the human part. With the great technology in this state, this tremendous investment in technology, through our university system and our centers of excellence — one of the tricks, I think, is to get that technology deployed quickly in the areas where it can be deployed. We're doing that right now in the water supply. There's some great technology of new ways of looking at screening of baggage and luggage and people that's a lot more effective.

So one of the things that I didn't talk about, one of the roles that I think myself and my staff play is to better equip the governor and the congressional delegation in the state to set their priorities on what federal legislation and federal funding comes out of Washington. So we spent an inordinate amount of time down in Washington jaw-boning what we think the issues are to our state. But you're absolutely right — we need that blend of common sense. A lot of people don't want to deal with the common sense, simple issues. They want to deal with the more esoteric issues and a lot of the solutions are in the common sense area.

Response from Jim McMahon:

I think Jim covered most of the response to the question. I think with the technology areas, certainly there's got to be some kind of intelligence systems or something that has an effect on the entire country. There's has to be some kind of a strategic plan for the federal level so that any intelligence or any technology that is purchased at a lower level, state or local, fits into some kind of plan. I think that plan doesn't exist yet on a federal level. We're going to keep having systems that

don't talk or you're going to have isolated geographic areas and that's no good.

Response from Thomas Constantine:

Part of the response is what Dick Nathan has done here at the Rockefeller Institute. Although it is obvious across the Capital District who's who, publishing a document expressing to people the policies and issues, what are our key and most important concerns on this issue, is important for raising understanding. Hopefully, we can cut through that buzz out there of people who say they're experts. Some of them are either being paid or they're trying to sell their wares as an expert so that they can become a high-paid consultant. I see a lot of that stuff. So I think something like this symposium, a think-tank approach with a document that comes out of here that is used to educate people, is good.

Question #2 from Ernie Steinberg:

If there's a major incident, it's going to be a police incident. If there's an explosion with hazardous materials, we don't know who caused it and what caused it. It could be that there's a public health element and there's a fire fighting element, a police element. If it's not yet clear, not been cleared as a police element, I guess the tradition would be that the coordination is through emergency management. Emergency management in New York State is a pretty small operation in some parts of the state. In the city of Buffalo it's just one person. Do you see any direction that's needed to give emergency management more capabilities in the future?

Response from Thomas Constantine:

I think you're correct. After an incident happens, after an explosion takes place, whatever the reason for the explosion may be, whether it's terrorism or some type of a natural disaster, there are very sophisticated incident command systems in place, in which the police and the fire, the emergency services and the hospitals have pretty much met and said, "These are the protocols and the way we would handle this." Unlike the police, who have to answer twenty calls a day, the fire and emergency services may only have one big event like that a week. They spend a lot of time in training, role-playing, in these mass casualty types of demonstrations. In those roles, the primary purpose of the police would be to protect the scene, keep order around the scene, and then it becomes the responsibility of the fire and the emergency services to try to reduce the

number of casualties or to deal with the people who have already been seriously hurt or unfortunately might have been killed.

I think they do a very good job of that. We've done very well with response. The secret is trying to do much more and invest much more to avoid that happening in the future. That's where the emphasis is, that's law enforcement's role or at least the best they can do. That's where you need this intelligence; you need the interoperable radio systems that I talked about. From what I could see over my career when I left, Jim had a much stronger background. Mine was mostly in narcotics and organized crime. Jim had a much better background than me in this whole emergency service capacity when he was field commander and he might be able to speak, I think, from better experience than myself.

Response from Jim McMahon:

That's a very good question. There's the prevention and the response. We had been much better at responding than we had in the prevention end of it here in New York State. And I think you'll see that the Department of Public Security budget on the federal level is balancing both of those and there will be funding coming up.

The governor's done a lot, and is not giving up on the response end of it, certainly. I think New York State probably was better off in the response area, the emergency management area, just because of the natural disasters we've had in the state. But what you've got to think of when you think emergency management is there's the local entities, the emergency manager in every county.

We have counties that have created their own emergency management office. Then the state provides the support service to them. From a terrorism standpoint, you know, it's like the weapons of mass destruction task force. It was actually created before 9/11. Those caches of equipment for terrorism and hazardous materials are going out to the hazardous materials teams in the county. There's going to be areas where some counties work together with each other so the supplies come down. But overarching the emergency management on a county level is state resources, the state emergency management office.

If, at some point resources run out, and there's some kind of a tragedy or disaster, terrorist or manmade, that's where the state provides additional resources. The Department of Agriculture in New York City is working with local officials on some issues. Another example is what happened in the north country in the ice storms. The

state sent additional people up there to support Franklin County, Jefferson County, and other areas, with the support of local operation because of the disaster for that period of time. That's all part of the statewide disaster plan.

To ensure that we're better prepared to assist and work with local government, the governor and Jim created what they call NYShield — you may have heard the governor talking about it. That's over twenty state agencies coming together to address terrorism. When you address the terrorism, it is pretty much the same response as it is for some kind of a natural or manmade disaster, especially the interfacing of resources. So under this NY Shield, the commissioners, myself, Dennis Whalen, people like that, we meet every two weeks. Jim Kallstrom comes up to Albany. And there's some subgroups working on agriculture, the food supply, working on health together, working on fraudulent documentation, things of that nature. So it isn't like the state is operating in a vacuum.

How will we support and work with local law enforcement, and not only law enforcement but also emergency services? So I think there's a lot going on and it doesn't mean there has to be this huge duplicating structure at a local level. As I said before, our job in local law enforcement right now with all these new things coming in and a tough budget, is how do we better use resources, how do we better cooperate. You don't need a huge duplicating system, whether it's in emergency management or law enforcement in a smaller geographic area, there's some kind of a state support system that can bring other people in, other experts in those areas.

Response from James Kallstrom

I think we're in fairly good shape. The one pressing need is money for technology. We have somewhere between a fifty and a hundred million dollar shortfall buying equipment for first responders of all shapes and sizes. Communications is a huge problem. Within the confines of those limitations I feel pretty confident that we can respond very well. We have a level of response. We're trying to make state and local police who sometimes will be the first people on the scene, give them some sense of training and some equipment to protect themselves. As that crescendo builds, the people that show up have better and better training, better and better equipment. So I think we're in pretty good shape. We can always use money though.

Question # 3 from Senator Michael Balboni:

Complacency and resources, Jim. Recently, the media in particular. Everybody else outside of this room doesn't get what people are telling them to do. I understand the impact of this. But the media pays less and less attention to this issue. In the federal 2003 budget they had a funding formula and in supplemental 2003 the funding formulas do not reflect vulnerability assessments. What can you do in your capacity to try and get Washington to understand better that this is really a continuing program that requires sustained appropriations? What can be done to shape the federal funding formulas so that they go towards the threats but also towards the localities?

Response from James Kallstrom:

That's a great question. I think probably half my time is spent trying to take these issues we're talking about, and figure out how they play in Washington from a funding standpoint, from a legislative standpoint. I spend a lot of time with the New York delegation, the Congress, the Senate and let them know personally, one-on-one in their offices, about why this is so important to the state, why it's so important to the communities that they live in and their family lives in, to try to have an impact on the federal priorities. It's a bit frustrating.

I think there has not been enough money put into homeland security. We need a lot of money for a lot of things. My concern is that we will lose our memory of what has happened with terrorism. It is easy to do with all the other priorities we have in our personal lives and our official lives. You want to forget about that tragedy but that would be the most tragic thing we could do as a country. We still have a terrorist network that's made up of just not al-Qaeda but many other groups that have global reach, that are still being funded.

We've had an impact on some of the funding for terrorist networks but they're still being funded; they can still operate pretty much at ease, at will. We have a lot of cooperation around the world but we're nowhere near stamping out international, radical, militant Islamic fundamentalist terrorism against us. We have a long way to go.

When you just look back historically at the radical schools that were funded by some of the oil-rich countries, Saudi Arabia in particular, where they've taken seven and eight-year-old kids and brainwashed them for ten years in those schools to hate the West and our way of life, you don't have to be that bright to figure out that means we have a long-term problem. It might come home in great focus. I hope it never

does but it will when the next event happens and we will then ask all the questions of our policymakers and our leaders, why did this happen? Why did they blow this place up in this little town or this big town? And why did this 1,000 or 10,000 people have to die?

It gets very personal when it's your family and it's the person next door. Or when you have to look the victims eyeball-to-eyeball, and explain to them why you're in a position of some responsibility and you maybe didn't do all that you could have done. I wish when I was the head of the New York office that I was a bigger pain-in-the-ass and yelled louder about what we knew this threat really was.

There are thousands of us that were in the government who knew, couldn't predict, didn't know for sure, but it was clear that something was going to happen. I can tell you one thing — 9/11 wasn't not figured out because of malice aforethought on any individual's part. People took that entire event personally. People were extremely upset. It wasn't for lack of professionalism; it was just that some of these things are hard to figure out.

My biggest challenge around the New York office, with close to 1,300 agents and all the issues we had, was just the total overflow of information every day and trying to figure out how to deal with the high-pressure hydrant of information. That's still largely what the problem with the federal government is. I want some of those nuggets of information that are important to cops on the street and surely are important to the public and important to corporate America, everybody. I'm talking about cops because they're the ones that patrol; they're the ones that see things. They know that hot dog vendor doesn't belong there, he's just showed up with that rental truck, a stranger. Or someone moving into this apartment maybe doesn't look or act right. They're the ones who have the first perception of something that isn't quite right. If we can buttress them with some intelligence, not by providing the intelligence, but by giving them better green lights, red lights, I think we'll be a safer community.

In the final analysis, most of these big cases come down to some breaks and some little innocuous thing. You may remember the Son of Sam case in New York. I was a young agent at that time and the key that broke that was a parking ticket that was written on a vehicle. So if you can churn enough information and you can have the right overlay of that information, the right expert system, the right key word searching,

the right ability to take the wheat from the chaff, we can be a safer society.

We're never going to close our borders. Can we do a better job? Instead of letting a Mack truck drive across, can we make it more difficult? I think we can. Can we insist that people carry certain documents that we can prove are legitimate? I think we should. Should we be respectful of people's rights? Yes, we should. These are the things we're talking about and working toward.

It's a great question; I think it's the most important thing the states can do, is to better shape the federal agenda. There's some things we can do, no question. We can make our cops more efficient and their eyes work better, their ears work better. We can make our public more efficient, extend neighborhood watch through the whole state. We can make our corporate security directors and our small business owners and our truckers and people on our highways more effective when we do all those things. In the final analysis, we've got to have a better methodology of identifying terrorists around the globe, keeping them out of our country. We need the understanding of the public; we don't need to throw the baby out with the bath water every time something happens that we're a little bit embarrassed about because we're human beings and mistakes will happen.

Question # 4 from Albany County District Attorney Paul Clyne

You mentioned early on that within constitutional limitations and, you know, we're not even talking about the Constitution. We need to build a consensus on getting law enforcement tools. Now I'm going to give you an example that was in the paper over the weekend. A group here in the Capital District, librarians and booksellers, were protesting certain aspects of the Patriot Act in that it grants law enforcement authorities access to reading lists of customers and book purchasers, people at the library. Now, from a law enforcement perspective, that's pretty potent information. I mean, if someone's reading about how to build nuclear bombs and is reading that book, you know it might be good to know or keep an eye on that person.

Yet there are people who find the prospect of giving law enforcement access to that type of information (and it has nothing to do with the Constitution) to be patently offensive. Now there's a political spectrum at work here. People have different views. What one person says is perfectly reasonable, another person's going to find patently offensive. So

my question is, in that political context, what do you think are going to be the factors that would essentially move the public to grant law enforcement the tools which law enforcement feels are necessary to do the job?

Response from James Kallstrom

Trust. Trust, confidence, respect. I mean, being a cop, being in law enforcement, being in the FBI is one of the toughest jobs in the United States. You have a degree in psychology, in psychiatry. You have to make instantaneous decisions that are correct. It's a pretty daunting challenge to come out of the FBI Academy and now every move you make is scrutinized.

Of course you have to be respectful of the citizens, whether they're lowlifes or whether they're highlifes, whether they're the chairman of the board of Morgan Bank or they're some drug dealer in the street. You have to treat people with dignity and respect and you have to do things that are right. I think the most important thing is the trust that we have in our people. I think the more trust that we have for people who are honest, who have a good heart, who are doing things for the public good, the more strength law enforcement will get from the public and therefore from the politicians.

It's a fine line. None of us want our daily activities chronicled by somebody, right? On the other hand, if someone's about to kill 50,000 people, hopefully we're not going to depend on some lead coming out of some library. Hopefully, we have something else. If it's a key piece of evidence, we want to have it. We have to focus on the bad guys. We have to be so careful of not overstepping our authority and not overstepping our bounds.

I was on a panel, part of the selection procedure for letting people come in the FBI and do the interview. We didn't necessarily want the person who was going to kick the doors in because they wanted to be a tough guy. That's the exact wrong person you want in law enforcement. So I don't know if I'm answering your question, but it's tough. It's tough to do those things. Every time you give someone a tool like that, you can always have abuse and you could do it a thousand times right and the one time that someone does it wrong, they get nailed. But you can't throw the baby out with the bath water. That's my biggest concern, that we don't dumb down the whole system and make it so ineffective so that it can't be proactive because of this mistake or that mistake.

We have to put people with great responsibility and great heart in these jobs. God bless them for being a cop or a police chief or an FBI director or a supervisor or running some FBI office. It's tough, tough to deal with.

Before 9/11 what was the whole nation focused on, or a portion of the nation? Gary Condit, right? They weren't reading the hundred pages on the embassy bombings, the government summation; they weren't reading that. I think we need to be more civic-minded. When I was in high school a long time ago we had a course called Civics and I think we need to introduce Civics into our citizenry in a bigger way. The importance of a citizen speaking out for reasonableness in their community, you know, to their legislators, to their neighbors, is so critically important.

Response from Thomas Constantine

When I testified before Congress, I always found that you had to find the balance, the balance where you're protecting the innocent from cruel acts and the innocent from being prosecuted. I don't know a lot about the Patriot Act. I've never analyzed the entire Act but let me go back to a concern that's been mentioned, that's a real concern in this state. As you know, we lack the ability to have a roving wiretap. What that means for people who have not been involved in it, it takes a great deal in the way of evidence and information to persuade a judge to give you a wiretap in this country and in this state.

Nobody gives in to this frivolous vision of surveillance. The statements are usually very thick. So you finally convince that judge that there is enough evidence there that the only way you're going to find out whether these two people are planning to murder, planning to distribute narcotics, or commit an act of terrorism, is the ability to intercept that communication. In these types of events they have to talk to one another.

So you go through all the work, you get the court order; you immediately get the telephone company, hopefully, to give you access to it, which is sometimes a challenge. And all of a sudden, the guy throws the cell phone away that day; you caught him on the wrong day. Now you have to go back and start all over again. It's the same person committing the same criminal acts with the same instruments and the evidence is only accessible through this corridor.

I'm more concerned about the library. I never heard about this. I would hope that before you get a chance to look at what people are do-

ing in those types of things, there should be some intervening, subpoena, some predicate that's got a chain or documentation to it so you don't have Tom Constantine deciding he wants to know what books his neighbor has read.

I'll tell you what I saw in the sixties as a cop. I saw this state go down the tubes with crime, to balance its weight to the criminal rather than the victim. I think that's now come back very strongly too and I think it's time to balance. We also have to be very careful as we do all this; we need help; you don't want someone saying ten years from now, "The real problem was the abuse by the government" and you wind up destroying your credibility. The reason we got into trouble in other years was abuse by people who preceded us; we're all guilty. So I think there's a need for balance. I don't know the Patriot Act, but I would be concerned as a citizen about how you look at people's civil liberties.

Response from James Kallstrom

If I was an FBI leader today and I had agents sitting over in the Albany Library looking through what people were reading and that's where I was getting my leads from, I would reassign all those people. On the other hand, if we had a case where we had some suspects and we were starting to build a case and it might be important to know that they had a particular book that described a particular methodology — then maybe it was a critical part of the investigation. It's the common sense rule.

The day I left the FBI, the last day of 1997, I'll paraphrase the Attorney General guidelines on opening up an investigation on terrorism. You basically have to have a showing that the person was connected with a known terrorist investigation, number one. Number two, you had to have a showing that the person had the mental capacity to carry out some act, interesting and difficult to ascertain. Number three, you had to have a showing that the person could get their hands on weapons or explosives or dynamite or something else to carry it out. You could not surf the Internet, you could not go in the library. I mean, pretty restrictive rules.

Response from FBI Special Agent in Charge Keith DeVincentis:

Well, I just wanted to add to what Jim said. I was agreeing about the part about creating trust on the part of law enforcement and hopefully they'll publish my letter that I just wrote to the *Times Union* about this issue of libraries. The second piece of that comes from the misconceptions about what the Patriot Act does and does not do. It does not give

the FBI, or anybody for that matter, unfair access to libraries or information. In fact, we can obtain library records but they are a business record. Business records have always been available to law enforcement through appropriate judicial process. So this is nothing new.

All the Act did was give the ability for the FBI to apply for a warrant to get library records. Mr. Kallstrom will tell you that is a difficult and arduous process because not only does the agent have to articulate what the probable cause is, but also he has to review information at our headquarters and then that is acted on by a federal judge who sits on the advisory board. So that's a pretty high standard of proof to obtain a record about what someone was reading or buying. There has to be, in my mind, a very clear-cut need for that. If everybody took a close look at the Patriot Act, what they'd find out is that generally speaking, no high-profile or any case in this country, for that matter, is made based on library records. That second piece of it is building trust and that second piece of it is an educational piece.

Questions # 6 from Paul Clyne

Keith Devincentis could know information about the USA Patriot Act because he's in the business. The point is, there's an article in the paper that citizens are reading and are appalled and offended by what they think the government is doing to them without really understanding the process. In order to build a consensus of what is reasonable versus unreasonable, I think you need an educated public. What can you do to get the public to be informed and have trust? What can you do to get the public to a position where they can understand the issues?

Response from Thomas Constantine

You go out and speak out on the issues. I used to meet with editorial boards. I used to sit down with them and lay out where we were and what we were and things like that. So at least if a reporter wrote a story and it did not include in the story the full investigation of all the facts, then it would be their responsibility to get the information.

I think we have run out of time. But before I finish up, I wanted to thank Jim Fossett and Courtney Burke. I hope you have the same feeling that I do. You couldn't find two better people in this country with knowledge about the issues of how to respond to terrorism to speak to us today. We're lucky in this state that they're willing to serve and be able to do things to protect us in the future and hopefully the next gener-

ation will be equally as good. With this, I'll turn it over to Dick Nathan to close it out.

Closing Remarks — *Richard Nathan*

Thanks. That was a really important set of presentations and we thank you for laying out the issues in a clear way and educating us all. Tom, we thank you especially for working with us to get people together for this session.

Let me remind everyone that we're going to publish transcripts for each of these symposia; there are four of them. The fourth one is going to be, as it turns out, on September 11, the second anniversary of the terrorist attacks, with General Jack Fenimore as a leader of that session on first responders. Jim Fossett and Courtney Burke will then put all the issues together in a book.

In addition to publicizing individually what we're doing, we're going to put out a collection of these papers, *The Federalism Challenge of Homeland Security* — because that is the expertise of the Rockefeller Institute. We will look at how state and local government and public management can work together on lots of our problems. We thank you for coming and we thank particularly Tom for being our leader today.

