



One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

October 26, 2007

The Honorable Michael Jackson
Deputy Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Deputy Secretary Jackson:

Thank you for your letter of October 19, 2007.

As you end your tenure at the Department, I am glad that you took the opportunity to initiate correspondence with me. Often the letters I have received from you have merely been responses to those that I have sent. So I am glad that as you prepare for your departure, you have taken this initiative.

However, I would be remiss if I did not point out that had you accepted this Committee's invitation to testify at our September 18, 2007 hearing entitled "*The Grades are In! — Is the Department of Homeland Security Measuring Up?*" addressing the U.S. Government Accountability Office's examination of the Department's operations, you would have had the opportunity at that time to address many of the issues that you now raise.

But getting to the specifics of your letter, let me first address the assertion contained in your letter that "there is not a single unfilled position among the most senior members of the DHS management team."

Clearly, we have some definitional differences on the meaning of the word "unfilled". As I have pointed out on numerous occasions, the Department has a troubling habit of appointing senior officials to take on additional roles when vacancies occur. Logic tells me that when one person holds two separate and distinct full-time jobs, neither job is "filled". Therefore, it would seem to me that the employee charged with these separate responsibilities will be unable to adequately perform in either. While the Department may call these positions "filled", I can only consider them "temporarily occupied".

So that you will not have to wonder about my concerns, I will provide you with some examples of the Department's apparent penchant for requiring people to temporarily occupy different positions simultaneously. For instance, take the case of Mr.

Scott Charbo. Mr. Charbo was hired as the Department's second Chief Information Officer. At the time, the Department had received the grade of "F" on the Federal Information Security Management Act scorecard. This unfavorable rating should have indicated the need to devote time and resources toward improving the performance metrics that led to this abysmal rating. However, despite this critical need, Mr. Charbo was required to wear the second hat of Undersecretary for Management. Given the Department's counting method, both positions would have been considered "filled" but, there is no way that the Department and the nation got 100% of the energy and attention needed for these critical positions.

Further, consider the case of Dr. Jeffrey Runge. Dr. Runge was appointed as the Department's Chief Medical Officer in September 2005. By March 2007, the Department announced that Dr. Runge would also be donning the second hat of Acting Assistant Secretary for the Office of Health Affairs. It should be noted that while serving as Chief Medical Officer, Dr. Runge also served as the Acting Under Secretary for the Science and Technology Directorate.

Also, I would be remiss if I did not mention that when you leave the Department on October 26th, the Department has an "Acting Deputy Secretary" waiting in the wings to fill your position—Mr. Paul Schneider, the current Under Secretary for Management. It is unclear at this time whether Mr. Schneider will retain the position of Under Secretary for Management while he fills in as Deputy Secretary. If so, he too will be occupying two separate but distinct positions, but each will be counted as "filled". Conversely, if he ceases to serve as the Under Secretary for Management, will the Department dual hat someone else to fill his critical position?

I should be clear that I have no doubt that the individuals mentioned above are capable. However, it would seem to me that any person, regardless of their individual talents would find it difficult to dedicate all the attention and energy needed to excel in two very different positions.

Thus, as you leave the Department, please see to it that the first order of business for your successor is to provide me with the names and titles of all of those persons you identified as "filling" positions in the DHS senior management team who are serving in an acting capacity.

Second, your letter questioned the reliability of the data used to compile our vacancy report. Simply put, that data was provided by the Department of Homeland Security. Over a period stretching several months, the Committee informally requested data on vacancies in the senior ranks of DHS. After those informal requests received no reply, the Committee sent a letter in April officially requesting the information. Over 30 days later, the Department responded to this formal request. The data provided was analyzed by Committee staff and the Congressional Research Service (CRS). Thus, the data that you dispute was generated by your Department and verified by CRS, the research arm of Congress.

Therefore, I am left to conclude that any alleged inaccuracies may simply be due to a variance in the interpretation of that data. A clear example of our interpretational differences is contained in your letter's assertion that "there is not a single unfilled position among the most senior members of the DHS management team" as illustrated on the accompanying chart entitled *DHS Executive Resources Overview*. This chart indicates that of the 722 authorized executive positions within the Department, only 609 currently are filled. You state that your conclusion, after reviewing the data, is that there are no vacancies. My conclusion is that the data supports a finding of a 16% vacancy rate. While I fully understand that potential candidates may be in the pipeline, it would be premature to count these positions as "filled" until those candidates become employees and those employees are actively functioning in their respective positions. I think that would be the common-sense understanding of the word "filled".

Finally, your letter stated that the Department is "ripe for superlative service". Let me be clear. I have no doubt that the approximately 180,000 rank-and-file employees who serve in the Department, while beset by one of the lowest employee satisfaction ratings in the Federal workforce, valiantly strive to deliver superlative service. My concern is that the leadership of the Department does not provide that same level of performance. So, as you depart, I want to provide you with a few examples of my experience with your *less than superlative service* at the senior level:

The Transportation Worker Identification Card (TWIC): By law, TWIC was originally required 5 years ago. However, the Department did not begin rolling out the card until 2 weeks ago. The Department's inability to roll out this enhanced security card in a timely manner can be directly linked to high turn over. By my count, at least four different people have been in charge of the program.

The Secure Border Initiative (SBI): The Department has repeatedly promised operational control of the borders through a combination of virtual and actual fencing for over 2 years. Project 28, which was lauded as the prototype program upon which operational control of the border would be achieved was initially scheduled to be complete by June 13, 2007. However, because of software integration issues and other technological problems, the project is still not functional four months after its scheduled completion date. Moreover, the Department has shown an inability to provide a complete, up-to-date picture of the problems that have plagued this program.

US-VISIT: US-VISIT was authorized as a program to allow for the verification of biometric data and thereby guard against the entry of those who may intend to do harm to this country. It was also promoted as a tool to alert authorities when individuals have stayed beyond the time permitted by their visas. This program was required in the Intelligence Reform and Terrorism Prevention Act of 2004. However, to date the Department has been unable to fully implement this biometric exit program. In May 2007, the Committee received the Department's

Strategic Plan for US-VISIT, nearly two years after it was required. That plan raised more questions than it answered.

National Infrastructure Protection Plan (NIPP) and the Sector-Specific Plans (SPPs): HSPD-7 required a “National Plan Critical Infrastructure and Key Resources Protection” (which would become the NIPP) by December 17, 2004. Instead, DHS issued an Interim National Infrastructure Protection Plan (NIPP) in February 2005. The NIPP, however, was not published until June 2006. The delayed publication of the NIPP and its accompanying SSPs undermine efforts to achieve real, tangible progress in protecting our Nation's critical infrastructure. Because 85 percent of the Nation's critical infrastructure is owned by the private sector, it is essential that the Department provide the private sector guidance on the requisite steps needed to protect our nation before--and in the aftermath of--a disaster.

The Office of Health Affairs (OHA): OHA is responsible for developing and implementing plans to enhance the medical readiness of first responders and contingency planning for those efforts. This office is also charged with the critical role of providing support after a weapon of mass destruction incident, and coordinating medical preparedness grants. To date, OHA has no strategic plan in place to fulfill these vital missions.

Surface Transportation Security: The security of rail and mass transit systems are of importance to millions of Americans who commute every day. Yet, the Department has been consistently late in distributing transportation security grants and has not completed a robust risk assessment for rail and mass transit systems. Further, the Department has not taken the preliminary step of requiring security training for frontline rail and mass transit workers.

Federal Emergency Management Agency (FEMA): As the GAO and the Department's own Inspector General have noted, workforce acquisition and retention are the main roadblocks to creating a robust FEMA. Yet the Department has failed to take a basic step to assure the retention of experienced personnel at FEMA. The Office of Personnel Management reported in a letter dated September 26, 2007, that in Fiscal Year 2006, FEMA failed to use its authority to offer retention bonuses to keep on board one single person. Allowing the continuation of this brain drain of seasoned emergency response personnel can only undermine efforts to set FEMA on the right path.

Office of Emergency Communications: The Post-Katrina Reform Act created, for the first time, a central office within the Department for the administration and policy consideration for emergency communications. The Department has missed Congress' February 1, 2007 deadline to report on the resources and staff needed for the establishment of the new Office of Emergency Communications. Most recently, the Committee learned that the previous Acting Director resigned after six months on the job. The Office of Emergency Communication is now headed

by Mr. Mike Roskind who is currently serving as that office's Deputy Director and Acting Director. Mr. Roskind has only been with the office since September 4, 2007.

To be sure, the examples listed above are by no means a complete recitation of the problems that remain at DHS. This short list along with the check list presented to Secretary Chertoff at this Committee's September 5, 2007 hearing entitled "*Holding the Department of Homeland Security Accountable for Security Gaps*," should serve as a roadmap of actions that the Department must take and deficiencies which must be addressed before the departure of the current administration. This Department, which has never undergone a Presidential transition, must begin now to put itself on track.

While I wish you the best in your future endeavors and understand the comfort that can be taken from resting on one's laurels, now is not the time for Department's leadership to rest. The American people deserve a Department that will effectively perform now and in the years ahead. We all deserve much more than we have received for the billions of dollars that the Department has spent. So as you leave, allow me to convey this message to those who remain—to quote Benjamin Franklin, "Never confuse motion with action."

Sincerely,

A handwritten signature in black ink that reads "Bennie G. Thompson". The signature is written in a cursive, flowing style.

Bennie G. Thompson
Chairman
Committee on Homeland Security