

Testimony of
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Chairman Feinstein, Senator Kyl, members of the Committee, I am honored to be here today. I am speaking to you as a former Commissioner on the Interagency Commission on Crime and Security in U.S. Seaports. President Clinton established the Commission by Executive Memorandum on April 27, 1999. I served on the Commission as the Commerce Department representative in my capacity as Assistant Secretary for Export Enforcement.

Senator Bob Graham was instrumental in the creation of the Commission. Chairman Feinstein testified before the Commission on February 16, 2000 at a hearing in San Francisco. Senators Hollings and Graham introduced legislation implementing many of the Commission's recommendations. That legislation passed the Senate on December 20 as the Port and Maritime Security Act of 2001.

Today I would like to highlight the Commission's recommendations that are most important for this Committee and that are not completely addressed in the Port and Maritime Security Act. Let me begin by providing some context for the Commission's study. The Seaports Commission was looking at terrorist threats in connection with the events celebrating the New Millennium. We were concerned about how wide open our seaports are compared to our airports. In most cases, there is easy access to the seaports.

Criminal activity at the seaports is a big problem. The Commission found that significant criminal activity was taking place at most of the 12 seaports surveyed. One of the cases my former office investigated involved a riot control vehicle that was exported to China as a fire truck. The vehicle resembled a tank and had a turret for spraying pepper gas. It was exported in a container, and no one knew at the time of export what was inside. If someone can smuggle a tank through a seaport, it does not make us feel secure about catching chemical weapons or a nuclear bomb.

The Commission found that the state of security at seaports generally ranged from poor to fair, with a few exceptions where the security was good.

The Commission made recommendations that, if implemented, would go a long way in combating terrorism at our seaports. I will discuss some recommendations on physical security, cargo security and data needs.

First, concerning physical security, the Commission provided recommendations on minimum physical security standards covering fences, lights, gates, restrictions on vehicle access, restrictions on carrying firearms, the establishment of a credentialing process, considering criminal background checks for those with access to sensitive areas of the port, and development of a private security officer certification program. The Port and Maritime Security Act provides for the development of Maritime Facility Security Plans that would address these physical

security issues. To develop and implement these complex plans is likely to take a long time. While there is authority for interim security measures, there are no standards for these measures. An alternative might be to immediately put in place minimum standards identified by the Commission and permit waivers if a seaport had a good reason not to implement a particular requirement.

For example, we could immediately put in place a restriction on carrying guns at seaports. It makes no sense to prohibit nail clippers at airports, but allow guns at seaports. Of the 12 seaports surveyed by the Commission, not a single one restricted firearms. To my knowledge, this situation has not changed. The Seaports Commission, composed of officials from federal agencies involved in law enforcement at the seaports, recommended restrictions on firearms except for law enforcement personnel.

Another example of a basic physical security requirement that could be immediately implemented is the restriction on private vehicle access to the ports. At many ports, access is virtually uncontrolled. At one of the ports I visited, we saw a line of vehicles parked right beside the vessel. We were told that these were the dockworkers' vehicles parked there for convenience. At the time, we were concerned that the vehicles could be hiding places for smuggled drugs. Today we must consider the possibility that a car bomb or a "dirty nuclear weapon" could be hidden in those vehicles.

Now I would like to turn to recommendations concerning cargo security. We need better information about cargo transiting the ports. On the import side, information is often vague and import entries may be filed 5 days after arrival. On the export side, information is likewise often vague and is required 10 days after export. As the Seaports Commission noted, consolidated shipments often contain no information on what is included in a container, listing the cargo as "various" or "assorted merchandise."

The Port and Maritime Security Act would tighten up on timeliness by requiring that information on imports must be provided prior to importation and information on exports must be provided within 24 hours of when cargo is delivered to the marine terminal operator. However, the legislation does not address the specificity of information. A concern with providing more detailed information is that it would allow high value cargo to be targeted for theft by those with access to the information.

One solution might be to tighten up on existing requirements. The Seaports Commission studied compliance issues. In a 1999 study, Customs found a 53% discrepancy rate for ship manifests in terms of the number of containers on board. Over half of the vessels had either more or fewer containers on board than were reported.

There are numerous instances of people being smuggled in containers. Customs Commissioner Bonner reported in a recent speech that Italian authorities found a suspected Al Qaeda operative locked in a shipping container bound for Canada. Inside the container, the suspect had a bed, a bathroom, airport maps, security passes and an airport mechanic's certificate.

Unfortunately, it is a common occurrence for illegal aliens to be smuggled into the United States in containers. The Seaports Commission catalogued literally hundreds of these situations. It used to be that these individuals were smuggled relatively short distances, mainly into the Port of Miami, but this is not the case any more. In Los Angeles, Immigration arrested 30 illegal aliens

in containers that had come all the way from China.

Clearly, we do not have a handle on how many containers are transiting our seaports or on what is in those containers. The Seaports Commission found that lax compliance and non-compliance may be related to penalties. The maximum penalty for incorrect information is \$1000. The Seaports Commission noted that carriers appear to treat the penalties as a cost of doing business. If the Congress legislated higher penalties, compliance probably would improve.

Last, I would like to mention data issues. In analyzing crime at the seaports, the Seaports Commission encountered a lack of data. The Seaports Commission recommended that databases be modified to ensure the collection and retrievability of data relating to crime at the seaports. The Port and Maritime Security Act does not address this issue. The Congress could task an agency with responsibility for data gathering and provide the necessary resources. With better data, law enforcement agencies could identify patterns and weaknesses at particular ports.

I would like to close with a statement in the Commission's report: "A terrorist act involving chemical, biological, radiological, or nuclear weapons at one of these seaports could result in extensive loss of lives, property and business, affect the operations of harbors and the transportation infrastructure, including bridges, railroads and highways, and cause extensive environmental damage." We need to take action now to reduce the risk of future catastrophes. Thank you for inviting me to testify on this important subject.