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DOE FOR THE 21ST CENTURY: SCIENCE, ENVIRONMENT, AND NATIONAL SECURITY MISSIONS

WEDNESDAY, FEBRUARY 24, 2016

House of Representatives

Subcommittee on Oversight and Investigations

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 11:30 a.m., in Room 2322 Rayburn House Office Building, Hon. Tim Murphy [chairman of the subcommittee] presiding.

Members present: Representatives Murphy, McKinley, Griffith, Flores, Brooks, Mullin, Cramer, DeGette, Schakowsky, Tonko, Kennedy, and Welch.

Staff present: Leighton Brown, Deputy Press Secretary; Charles Ingebretson, Chief Counsel, Oversight and

Investigations; A.T. Johnston, Senior Policy Advisor; John Ohly, Professional Staff, Oversight and Investigations; Chris Santini, Policy Coordinator, Oversight and Investigations; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight; Gregory Watson, Legislative Clerk, Communications and Technology; Andy Zach, Counsel, Environment and the Economy; Ryan Gottschall, Minority GAO Detailee; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; Chris Knauer, Minority Oversight Staff Director; Una Lee, Minority Chief Oversight Counsel; and Elizabeth Letter, Minority Professional Staff Member.

Mr. Murphy. Good morning. Today we will begin to examine how well the Department is prepared to meet its responsibilities for the 21st century in this hearing of the Energy and Commerce Subcommittee of Oversight and Investigations.

This includes what is necessary to enhance the performance of the Department's National Laboratory System, which harbors a technological tools and know-how for advancing our nuclear security as well as the nation's edge in important science, energy, and environmental missions.

Indeed, a strong national laboratory system, well managed and overseen, increases the prospects for a strong DOE mission performance across the board. I know from my own experiences with the National Energy Technology Laboratory, located in my district, which has developed carbon capture storage technology that has allowed the nation to achieve its lowest carbon emission rates in over two decades, the essential role our national laboratories can play to meet the nation's needs.

When it comes to the various missions for DOE, none surpass in importance the Department's critical responsibility for maintaining the nation's nuclear deterrent and technological superiority on all aspects of nuclear security.

This morning we will hear why enhancing and sustaining U.S. nuclear and technological leadership is vital for confronting the

complex challenges of the dangerous age we live in -- with potential adversaries modernizing their nuclear arsenals, with threats of Iran, other nation-states; with emerging new nuclear technologies and proliferation risks.

Unfortunately, we will also hear that efforts to place DOE's nuclear security operations on a sustainable track have been coming up short for decades. Part of the problem has been the complicated relationships through which DOE pursues its various missions. Most of its work is performed by contractors at the national laboratories and production sites.

The benefit of this contracting approach is that it harnesses the best scientific, engineering, and management expertise of industry and academia; the downside is that it creates difficult oversight and accountability requirements from DOE headquarters to the site offices to the contractor management to the operators in the field. In our hearing last summer on a radiological incident that began at the Los Alamos National Laboratory, we saw a vivid example of how oversight and contractor accountability breakdowns led to a costly $500 million incident.

The most dramatic effect to address the management problems in the nuclear weapons complex occurred in late 1999. Congress, in reaction to serious security, project management and safety issues, created the National Nuclear Security Administration, or

NNSA, as a semi-autonomous agency within DOE aimed at focusing mission oversight to improve mission performance. Yet the new agency did not improve oversight or accountability. In some respects, the complexity increased, with more offices, more audits, more lines of reporting; increasing costs, obscuring communications, confusing decision making accountability.

Problems persisted -- billion dollar cost overruns, delayed and cancelled projects, deferred maintenance, serious safety and security mishaps, and oversight failures at the Department, site office, and contractor level -- all documented in this committee's oversight.

Three years ago, in the wake of across-the-board oversight failures at NNSA's Y-12 site, Congress created the Congressional Advisory Panel on the Governance of Nuclear Security Enterprise. The independent, bipartisan panel examined and made recommendations concerning the management of NNSA's nuclear operations and alternative governance models.

Let me quote the panel's diagnosis, released just over a year ago. "One unmistakable conclusion is that NNSA governance reform, at least as it has been implemented, has failed to provide the effective, mission-focused enterprise that Congress intended. The necessary fixes will not be simple or quick, and they must address systemic problems in both management practices

and culture that exist across the nuclear enterprise."

That panel said the lack of sustained leadership focus on the nuclear security mission contributes to virtually all the observed problems. Other problems contributing to the failures include overlapping DOE and NNSA headquarters staffs and blurred ownership and accountability for the nuclear enterprise missions, and dysfunctional relationships between mission support staffs and between the government and its contractors operating the sites -- all issues very familiar to this committee.

Today's hearing will focus on the path to position DOE to take on its critical nuclear security responsibilities. A key element is to examine how to strengthen and sustain cabinet secretary's ownership of the nuclear security mission and reduce bureaucratic overlap.

We have four distinguished witnesses who can outline the road map for reform, the co-chairmen of the Congressional Advisory Panel who can explain what is necessary to cut a path forward to clarify roles, responsibilities and accountability, reduce duplicative offices, and improve the nuclear security mission; we will also hear from the co-chairmen of the congressionally chartered Commission to Review the Effectiveness of the National Energy Laboratories. This Commission, which released its comprehensive report this past October, identified challenges

across DOE laboratory system that relate to oversight, micro-management, and related problems we see most visibly in the nuclear weapons programs. In many respects, the thoughtful recommendations from these panels complement each other and can serve this committee as a guide for identifying what is necessary to address DOE governance and management shortcomings going forward.

So I thank all the witnesses for attending, and I now I recognize the ranking member from Colorado, Ms. DeGette, for five minutes.

Ms. DeGette. Thank you, Mr. Chairman. As you have heard me say before, I have been on this subcommittee now for, I am in my 20th year on this subcommittee, and unfortunately, the long view doesn't improve the situation regarding the NNSA. This agency was created more than a decade ago as a semi-autonomous agency within the Department of Energy because of the systemic and complex problems that were facing the labs and a belief that by somehow creating this agency it would solve the problems.

At the time, my mentor and the former chairman, John Dingell, and others, cautioned that this move would not solve the complex management and structural issues that faced the nuclear weapons complex and national labs, and would likely lead to greater problems, and lo, their prediction proved true.

Over the course of the next decade, this very subcommittee investigated and held hearings about the weapons labs, examining accidents, missing or mishandled classified materials, management and staff clashes, and mismanaged projects that would ultimately cost taxpayers hundreds of millions of dollars to fix. At one of those hearings, Chairman Barton said at, quote, NNSA was a management experiment gone wrong.

So here we are again today looking at ongoing challenges and issues facing the nuclear security enterprise in national labs and, more specifically, organizational and structural issues affecting the NNSA. What is different, however, is that rather than focusing on any particular mishap, we now today have a highly regarded group of experts who have authored two major reports with recommendations that can make the labs and the NNSA function better.

So at the outset, gentlemen, let me thank you for the work that you and your colleagues have done in this undertaking. Both reports, one that focuses on the labs as a whole and one that focuses on reforming the NNSA, offer an exceptional blueprint on what is needed to improve the functioning of the labs and the NNSA.

I am particularly interested in discussing the findings and recommendations by the Advisory Panel on the Governance of the Nuclear Security Enterprise. That panel, spearheaded by Admiral

Mies and Mr. Augustine, concluded what many of us have long believed: the current structure of NNSA is not working. As stated in the interim report, the NNSA experiment involving creation of a semi-autonomous organization has failed.

Mr. Chairman that is a sobering finding. NNSA is a critical agency, its weapons labs are responsible for the nation's nuclear deterrent, and as the panel pointed out, this is no time for complacency. That is because as the report also concludes, nuclear forces provide the ultimate guarantee against major war and coercion. It is time that Congress really rolls up its sleeves to address the multitude of problems that we have known about for far too long but have failed to correct.

The work of Mies-Augustine highlights several key areas where attention is needed. For example, the panel's final report concluded that the relationship between line managers and mission support staff at NNSA is broken and is damaging the management culture within the agency. The panel also found that there continues to exist, a dysfunctional relationship between the government and the contractors that operate NNSA sites which has created a dysfunctional form of oversight.

Finally, the panel concluded that the creation of NNSA as a separately organized, quasi-independent agency within DOE is not working. Again, I am particularly concerned about this last

finding. The panel closely examined the current arrangement of NNSA as a semi-autonomous entity within DOE. It concluded that the solution was not to seek a higher degree of autonomy for the agency, but to reintegrate it back into the DOE and place its mission on the shoulders of a qualified secretary.

Mr. Chairman, this is a very important hearing. I want to thank you for having it. But as I said it earlier this month at the hearing that we had on biodefense, we can't do justice with this topic with just one or two hearings. Today's panel reports, like the bioterrorism blueprint, offer us a road map for addressing the multitude of problems plaguing the labs and NNSA. I have seen this for 20 years now. We can't make progress if we don't conduct regular oversight of this agency and everything that it oversees.

So similar to our last hearing, I am asking that this panel follows through with the recommendations before us today and conducts aggressive oversight on all of these issues that are raised in these reports. NNSA's core mission is to develop and maintain the very tools and capabilities that keep our nation and allies secure. It is time we addressed these challenges, and what our panelists have provided to us are two of the best playbooks we have seen on these issues.

I will also say, like so many of the things this panel deals

with this is a completely bipartisan issue. And so I think what we could do working forward is we could really do a deep bipartisan dive into this. We could help implement some of these panel's recommendations, and if we do the result of that is increasing our nation's security and I think that is the most important thing we could do. I yield back.

Mr. Murphy. Well said. We don't have any more opening statements on our side. Do you have any more on your side?

Ms. DeGette. No.

Mr. Murphy. If not, we will proceed with our panel. But I also want to ask unanimous consent that the members' written openings statements are introduced into the record, and without objection, the documents will be entered into the record.

So I would now like to introduce the witnesses for today's hearing. The first witness today on the panel is the Honorable Norman Augustine. Mr. Augustine is the retired chairman and CEO of Lockheed Martin. He has held positions in government, industry, academia, and nonprofit sector. He has been chairman of the National Academy of Engineering; was a 16-year member of the President's Council of Advisors on Science and Technology. Mr. Augustine is here today in his capacity as co-chair of the Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise.

And we thank you, Mr. Augustine, for preparing your testimony and we look forward to your insights on these matters.

We also want to thank Admiral Richard W. Mies. I am a shipmate. I served in the Navy concurrently, and oftentimes this summer we would stand on the deck of the USS Ronald Reagan watching the submarine races at night. You can imagine the excitement of that because you are a submariner or two, right.

He is a distinguished graduate of the Naval Academy. Admiral Mies completed a 35-year career as a nuclear submariner in the U.S. Navy and commanded the U.S. Strategic Command for four years prior to retirement in 2002. Admiral Mies served as co-chair to the Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise, and we thank him for his service to our country and look forward to learning from your expertise today.

Next, I would like to introduce Dr. Jared Cohon, a co-chair of the Commission to Review the Effectiveness of the National Energy Laboratories. Dr. Cohon is also president emeritus of Carnegie Mellon University, where I have gotten to know him over the years and have a great deal of respect, and he currently serves as director of the Wilton E. Scott Institute for Energy Innovation. In 2012, Dr. Cohon received the national engineering award for the National Association of Engineering Societies, and

author, co-author or editor of more than 80 professional publications and a member of the National Academy of Engineering. We look forward to your testimony this morning.

And finally, we also welcome the Honorable TJ Glauthier, a former deputy secretary of the Department of Energy and current co-chair of the congressional Commission to Review the Effectiveness of the National Energy Laboratories. Mr. Glauthier is president of TJG Energy Associates LLC, where he is an advisor and board member for public and private organizations to the energy sector.

During his distinguished career, Mr. Glauthier has been awarded medals for distinguished service from NASA, Department of Energy, and the executive office of the President and Office of Management and Budget. We appreciate his time today, and once again thank all the witnesses for being here.

As you are all aware, this committee is holding an investigative hearing, and when doing so has had the practice of taking testimony under oath. Do any of you object to testifying under oath? And seeing no objections, the chair then advises you that under the rules of the House and rules of the committee, you are entitled to be advised by counsel. Do you desire to be advised by counsel during your testimony today? And seeing no requests for that, in that case would you all please rise, raise your right

hand, and I will swear you in.

[Witnesses sworn.]

Mr. Murphy. Thank you. And all the witnesses have entered they do, so you are now under oath and subject to the penalties set forth in Title 18 Section 1001 of the United States Code.

We are going to start off with Mr. Augustine for your five-minute summary of your written statement. Turn the mike a little bit closer to you and watch the lights there, because when they turn red that means your five minutes is up. Thank you, sir.

STATEMENTS OF NORMAN AUGUSTINE, CO-CHAIRMAN, CONGRESSIONAL ADVISORY PANEL ON THE GOVERNANCE OF THE NUCLEAR SECURITY ENTERPRISE; ADMIRAL RICHARD MIES, U.S. NAVY (RETIRED), CO-CHAIRMAN, CONGRESSIONAL ADVISORY PANEL ON THE GOVERNANCE OF THE NUCLEAR SECURITY ENTERPRISE; JARED COHON, CO-CHAIRMAN, COMMISSION TO REVIEW THE EFFECTIVENESS OF THE NATIONAL ENERGY LABORATORIES; AND, TJ GLAUTHIER, CO-CHAIRMAN, COMMISSION TO REVIEW THE EFFECTIVENESS OF THE NATIONAL ENERGY LABORATORIES

STATEMENT OF MR. AUGUSTINE

Mr. Augustine. Well, Mr. Chairman and Ranking Member, thank you very much for this opportunity to present the results of the Congressional Advisory Committee on the Governance of Nuclear Security Enterprise. And as you pointed out, Admiral Mies and I served as the co-chairs of that endeavor.

Our report was submitted about 15 months ago. It was put together by 12 members of our commission. It was unanimous. It drew upon many decades of experience of those 12 members. We reviewed thousands of pages of documents. We visited probably most of, if not all of the major facilities of the nuclear enterprise, and we had the benefit of a large number of witnesses that appeared before our group.

We should state at the outset in no uncertain terms that the

viability of America's nuclear deterrent today is not questioned in any way. It is absolutely sound and based successfully on the efforts today of science based stockpile stewardship. No nation should question it.

On the other hand, in spite of the enormous technical innovation capabilities of NNSA scientists, in spite of their contributions to nonproliferation efforts, in spite of the truly enormously successful efforts of the Naval Reactors organization of NNSA, the remainder of NNSA to a very large degree is highly inefficient and has been poorly managed for many, many years as you have stated in your opening remarks.

At the time we did our work, Secretary Moniz and General Klotz had been here only a brief time. I would have to say they've made a great deal of progress since they took their offices, but they have a very long way yet to go.

We thought it would be useful to describe four major events that have occurred since we submitted our report that we believe validate it further, the findings and recommendations we made. The first of these of course would have to be that Russia and China and North Korea and others around the globe have been providing convincing proof that like it or not America's going to be in the nuclear deterrent business for as long as any of us can see.

A particular concern in that regard is the deteriorating

firewall between conventional and nuclear warfare particularly as being espoused by Russia. Our nuclear deterrent forces are of the utmost importance in preventing strategic warfare and coercion that goes with it, and furthermore, our allies depend upon this nuclear umbrella, if you will, and should they have reason to doubt its viability they may well decide to provide their own nuclear capabilities, further leading to nuclear proliferation.

Secondly, the President's nuclear negotiations with Iran and the deep involvement of that in those negotiations of Secretary Moniz and the contributions made by the laboratories of the Department of Energy seem to reaffirm the importance of a close tie at the cabinet level of the Department of Energy given the importance of this issue and that this has been a very successful formula during this past year's negotiations.

Forty three percent of the DOE's budget pertains to the nuclear enterprise, and that would seem to suggest to us that it's all the more important that the Secretary of Energy have a background in nuclear matters as well as energy matters, furthermore that the Department be led by a person with scientific credentials and at the cabinet level.

Finally, the lessons of the so-called WIPP, or the Waste Isolation Pilot Plant, incident tend to underscore the need for

a better operating culture in the nuclear security environment. You're familiar of course that in February of 2014, a drum containing radioactive waste ruptured inside of the WIPP facility. The DOE's own after-action review reads very much like our report did some time before that. There was a complex wave of responsibilities pointed out, lapses of leadership and accountability. I was asked by Secretary Chu to investigate the Y-12 incident with which you're all familiar, and I found exactly the same sort of issues there. Finally, we would point out the need for your support in bringing about the reforms that are required in the NNSA endeavors. The words of one witness before our panel at that time said that the course to improve the nation's nuclear security enterprise seems clear and the National Nuclear Security Administration has not been on it. It will only be with your strong support and the President's strong support that we will be able to solve the sorts of problems that have been befuddling the nuclear security enterprise.

With that Mr. Chairman, with your permission I would turn to my colleague Admiral Mies who would describe some of the findings and the recommendations of our committee.

[The prepared statement of Mr. Augustine follows:]

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Mr. Murphy. Thank you. Your time has expired. We will now turn to Admiral Mies for five minutes.

STATEMENT OF ADMIRAL RICHARD MIES

Admiral Mies. Mr. Chairman and Ranking Member, let me add my thanks as well for giving the four of us the opportunity to testify. I'll try and briefly summarize the thrust of our recommendations in each of the five areas addressed in our report.

First, the first area is to strengthen national leadership focus, direction and follow-through. And at the root of all the challenges faced by the nuclear enterprise, frankly, is the loss of focus on the nuclear mission since the end of the Cold War. Bluntly stated, nuclear weapons have become orphans in both the executive and legislative branches. And this lack of senior leadership attention has resulted in public confusion, congressional distrust, and a serious erosion of advocacy, expertise and proficiency across the enterprise. Sustained national leadership attention is needed to rebuild the foundation.

Hence, our panel recommends first that the President adopt a number of new mechanisms designed to provide oversight and guidance to direct and align nuclear security enterprise-wide policies, plans, programs and budgets across the departments. Additionally, our panel recommends that Congress establish new mechanisms to strengthen and unify its oversight of the

enterprise. Such efforts should seek improved coordination across missions as well as between authorizers and appropriators and thus better synchronize the work of multiple subcommittees. These recommendations include adding the Senate Armed Service Committee approval to the confirmation and reporting requirements for both the Secretary and Deputy Secretary of Energy.

Our second area is to solidify cabinet secretary ownership of the mission. Again as has been previously stated, despite the intent of the NNSA Act to create a separately organized NNSA within DOE, the act as implemented has failed to achieve the degree of clarity in enterprise roles and mission ownership.

In retrospect, this should come as no surprise. No cabinet secretary could be expected to relinquish control over a mission that constitutes over 40 percent of his department's budget, a mission that involves significant environmental safety and security risks, and a mission that produces a capability critical to our national security -- a capability for which he or she is personally responsible to annually certify its safety, security and performance to the President.

In its deliberations, the panel explored a range of organizational options including the status quo and an independent agency, and we concluded that these were clearly inferior to placing the responsibility and accountability

squarely on the shoulders of the secretary. Hence, our recommendations are designed to clarify the secretary's responsibilities for all of DOE's missions and to clear away the redundancies, confused authorities and weakened accountability that have resulted in the attempt to implement a separately organized NNSA within DOE.

To achieve the right leadership structure, a cabinet secretary who sets policy and then an operational director who's empowered to implement the policy, our panel recommends amending rather than appealing the NNSA Act to replace the separately organized NNSA with a new office, an Office of Nuclear Security within the Department.

Additionally, we recommend that the secretary establish a management structure that aligns and codifies roles, responsibilities, authority and accountability across DOE and eliminates redundant and overlapping DOE and NNSA staffs. And finally, we recommend that the secretary and director do a comprehensive reform of DOE regulations to strengthen risk management and adopt accepted industry standards where appropriate.

In the third area, we focus on adoption of proven management practices to build a culture of performance, accountability and credibility. And as our report describes, NNSA is an

organization with many pockets of talented technically competent people operating within a dysfunctional culture. Our panel identified a number of management best practices based on high performing benchmark organizations that if implemented could bring about the needed reform, and prominent among them are a capable, empowered leadership with well defined roles and responsibilities.

Our panel's recommendations include adoption of industry best practices, strengthening program management and cost estimating expertise, simplification of budget controls, and development of a comprehensive plan to reshape the weapons complex and workforce. In the fourth area, we seek to maximize the contributions of the M&O organizations to perform a safe and secure mission execution.

Again that open collaboration and mutual trust that has historically existed has eroded over the past decade to an arm's length, customer to contractor and occasionally adversarial relationships, so our panel recommends a major reform of those relationships continuing on steps already begun by the current administration.

And finally, fifth, the fifth area is to strengthen partner collaboration to rebuild trust and a shared view of mission success. There's been a tremendous loss of credibility and trust

with other stakeholders, primarily DoD and Congress, through insufficient communications, collaboration and transparency. The enterprise can't succeed if they aren't aligned on major goals and priorities. So our panel recommends stronger collaboration between the Secretaries of Energy and Defense to foster better alignment and to strengthen the Nuclear Weapons Council and to increase the role of that Council in the drafting of Presidential guidance and an annual assessment to the NNSA.

I apologize for running over. In conclusion, there is little new in our panel's report. We inherited approximately 50 past studies and reviews of DOE and NNSA that reached very similar findings and recommendations regarding cultural, personnel, organizational, policy and procedural challenges that have historically existed within the DOE and now NNSA. And many of these continue to exist because of a lack of clearer accountability, excessive bureaucracy, organizational stovepipes, lack of collaboration, and unwieldy, cumbersome process.

What DOE and NNSA need are robust, formal mechanisms to evaluate findings, assess underlying root causes, analyze alternative courses of actions, formulate appropriate corrective action and effectively implement enduring change.

Let me just emphasize that our panel's findings and

recommendations emphasize the need for cultural change rather than simple organizational ones. I personally believe it was naive of Congress to think that by simply creating NNSA as a semi-autonomous organization they could legislate an enduring solution without addressing the more fundamental, underlying cultural problems. I believe we have a unique opportunity now under Secretary Moniz. He's an individual well qualified in national security with previous DOE experience who cares passionately about the nuclear security mission and who's surrounded by an exceptionally strong leadership team.

What is not needed is a congressional mandate for more studies. What we really need is congressional support to help enable Secretary Moniz to make the bold and decisive changes that are necessary so those changes can be institutionalized beyond his tenure. Thank you for your time.

[The prepared statement of Admiral Mies follows:]

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Mr. Murphy. I thank the gentleman. Because you are an admiral and not a commander I let you run over for a few minutes.

Dr. Cohon, I think you are going to testify for both yourself and on behalf Mr. Glauthier, so you are recognized now for your testimony.

STATEMENT OF JARED COHON

Mr. Cohon. I will indeed. Thank you, Mr. Chairman. And my understanding is I'll be granted ten minutes since I'm speaking on behalf of both of us?

Mr. Murphy. Yes.

Mr. Cohon. Thank you. Well, good afternoon, Chairman Murphy, Ranking Member DeGette, Vice Chairman McKinley, other members of the subcommittee, and others interested in the national energy laboratories. We're very pleased to be here to discuss the final report of the Commission to Review the Effectiveness of the National Energy Laboratories.

Congress created the Commission in the fiscal year 2014 Appropriations Act. The President's Council of Advisors on Science and Technology, or PCAST, developed a list of potential nominees, and the Secretary of Energy selected the nine commissioners from that list. The two of us, TJ and I, served as the co-chairs of the Commission for almost 18 months. We were privileged to serve with an outstanding group of commissioners with strong backgrounds in the science and technology enterprise of this nation.

We're pleased that it was a consensus report. We received excellent cooperation and support from DOE, other relevant

congressional committees, the White House, the national laboratories themselves, and many others. During the course of our work we visited all 17 national laboratories, heard from 85 witnesses in monthly public hearings in the field and here in Washington, and reviewed over 50 previous reports on this topic from the past four decades.

We entitled our report, "Securing America's Future: Realizing the Potential of the National Energy Laboratories." Our overall finding is the national laboratory system is a unique resource that brings great value to the country in the four mission areas of the DOE: nuclear security, basic science research and development, energy technology research and development, and environmental management. However, our national lab system is not realizing its full potential.

Our Commission believes that can be changed. We provide 36 recommendations that we believe, if adopted, would help the labs become more efficient and effective and have even greater impact, thereby helping secure America's future in the four mission areas of the DOE. Our most fundamental conclusions deal with the relationship between the DOE and the national labs. We find that the trusted relationship that is supposed to exist between the federal government and its national labs is broken and is inhibiting performance as you just heard from Admiral Mies. We

note that the problems come from both sides, the labs and the DOE.

We want to be clear though. We want to emphasize that this situation is not uniform across the labs. In particular, the labs that are overseen by the Office of Science generally have a much better relationship with the DOE than do those in other program offices. Many of our recommendations address this fundamental problem. We conclude that the roles need to be clarified and reinforced, going back to the formal role of the labs as federally funded research and development centers. Under this model, the two parties are supposed to operate as trusted partners in a special relationship with open communication.

DOE should be directing and overseeing its programs at a policy level specifying what its programs should achieve. The labs for their part should be responsible for determining how to carry them out -- how to carry out and to achieve what the DOE has identified. In doing so, the labs should have more flexibility than they do now to implement those programs without needing as many approvals from DOE along the way. In return of course, the labs must operate with transparency and be fully accountable for their actions and results.

This flexibility, in our view, should be expanded significantly in areas such as the ability to manage budgets with fewer approval checkpoints; managing personnel compensation and

benefits; entering into collaborations with private companies including small businesses without having each agreement individually approved and written into the lab's contract; building office buildings on sites that are not nuclear, not high hazard and not classified; conducting site assessments that are relied upon by DOE and others to minimize redundant assessments; and sending key personnel to professional conferences to maintain DOE's work in leading edge science and for their professional development.

In the congressional charge to us, we were asked to examine whether there was too much duplication among the national laboratories. We looked into this in detail and have included two recommendations in this area. The first regards the NNSA laboratories, where we conclude that it is important to the nation's nuclear security that the two design labs and their capabilities continue to be maintained in separate and independent facilities.

The second recommendation in this area regards the way the Department manages through the life cycle of R&D topics from conception to maturity. In our view, the DOE does a good job of encouraging multiple lines of inquiry into the early discovery stages of new subjects and they're good at using expert panels and strategic reviews to manage mature programs. However, at the

in-between stages, the Department needs to assert its strategic oversight role earlier and more forcefully to manage the laboratories as a system in order to achieve the most effective and efficient overall results.

Let me turn to some of our recommendations for how we believe Congress can help to improve the performance of our national labs. We'd like to cite four in particular here in our opening statement. First, we conclude that the Laboratory Directed Research & Development, or LDRD, is vitally important to the labs' ability to carry out their missions successfully, and we recommend that Congress restore the cap on LDRD funding to the functional level that it was historically up until the year 2006.

Second, to support strong collaboration between businesses and the national laboratories, Congress may need to take action to clarify that the labs have sufficient authority to enter into CRADAs and other forms of collaboration with domestic companies without DOE approval of each one.

Third, we urge Congress to continue to recognize the importance of the role of national labs in building and operating user facilities for use by a wide range of researchers in universities, other federal agencies and the private sector.

Fourth, there does seem to be a serious shortfall in funding for facilities and infrastructure at the national labs. However,

the scope and severity of that shortfall are not well defined. We recommend that the Congress work closely with DOE and OMB to agree, first, upon the size and the nature of the problem, and then upon a long term plan to resolve it through a combination of additional funding, policy changes and new innovative financing mechanisms.

We'd especially like to highlight our final recommendation. We found that in our past four decades there have been over 50 previous commissions, panels and studies on the national labs, as you know well. It's our view that Congress and the Administration would be better served by some sort of standing body of experienced people who could provide perspective and advice on issues relating to the national laboratories without having to create new commissions or studies every time.

Since releasing our report in late October, we've been very interested in what actions DOE is taking to follow up on our findings and recommendations. We're encouraged that Secretary Moniz and the current lab directors seem truly committed to reforming the relationship between DOE and the national labs to restore trust and transparency. In the past few days, the secretary has sent to Congress his response to our report. Overall, he is quite supportive of our recommendations and he and his staff have provided a very thoughtful and detailed explanation

of actions they have taken and are taking in a continuing way in every area of our report.

We the Commission are encouraged by these actions and intentions, but we recognize, as do you, the problems that the labs have developed over many years and they won't be reversed quickly. We urge the Congress to support all of the efforts that the secretary and future secretaries have taken and will take, and to hold them accountable for meaningful changes in all of the areas that we've addressed.

We do want to add one final comment before closing. As I just noted a little while ago, we recommended the creation of an independent standing body which would provide oversight of the implementation of our recommendations and ongoing advice to Congress as well as to the secretary. The secretary's response to Congress indicates that he plans to utilize existing committees including the Secretary of Energy Advisory Board, or SEAB, rather than create a new independent body.

The Commission supports this for creating advice and ongoing advice to the secretary, but notes that no existing body including SEAB can provide the independent advice to Congress which we envision. On behalf of our nine commissioners, we want to thank you for this opportunity to serve the country on this important Commission. We hope our work will be helpful, and we're happy

to answer questions and to discuss our findings and recommendations. Thank you very much.

[The prepared statement of Mr. Cohon follows:]

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Mr. Murphy. Thank you. I thank all the panelists, and I will begin by recognizing myself for five minutes of questions. First, for Mr. Augustine and Admiral Mies, the members of the advisory panel you chaired reflected a broad range of views and substantial experience with DOE, defense, and other nuclear matters; do I have that correct?

Mr. Augustine. Yes, sir.

Mr. Murphy. Okay. And the advisory panel made findings and recommendations that were unanimous; they were a unanimous vote?

Mr. Augustine. Yes, sir.

Mr. Murphy. And Mr. Augustine, you say in your testimony that DOE governance and practices are inefficient, and in some instances ineffective which puts the entire nuclear enterprise at risk. Can these deficiencies be fixed and the benefits of DOE's technical and engineering abilities be fully leveraged by, sustained by leadership alone?

Mr. Augustine. I'm sorry. I didn't hear the last sentence.

Mr. Murphy. Could the abilities be fully leveraged and sustained by leadership alone?

Mr. Augustine. I would say not. Leadership is of course absolutely essential. There are also organizational issues that have a bearing, and there are many government practices, government-wide practices that I think contribute to the problems

that have been encountered in NNSA. As an example, one of the main failings, in my view, has been the lack of accountability. When I was involved in the Y-12 investigation, the people, the company that was in charge of the issues at the time was fired. The senior management was fired. I haven't to this day been able to find out what happened to the people in the government. They sort of just moved from one job to another. That's partly because of the civil service rules that were set up with very good reasons, but there are constraints that make it very difficult to impose accountability to the government.

I spent ten years working in the government, most of my career in industry, some in academia, and it is very hard to provide the leadership in government. Having said that I think that leadership is absolutely critical, but there are a lot of other things that need relief. The lack of a capital budget is one that comes to mind immediately.

Mr. Murphy. Is the key then as you are saying, and Admiral Mies, I would like a comment on this too that could you comment about what needs to be done with leadership; that -- as soon as this gets fixed here. We can put a man on the moon; we can't make a microphone work in a congressional hearing room. Sorry. I am going to do my best.

So Admiral Mies, your panel's unanimous finding is that

NNSA's current governance structure failed to accomplish what Congress intended, so you recommended essentially reintegrating NNSA more fully back to the DOE umbrella. So looking at what needs to be done structurally and leadership wise, I mean, leadership, Congress can't necessarily mandate that someone be a good leader, but we can identify a number of things as mentioned as accountability in there. So, but in what you are saying, what are the benefits of doing this?

Admiral Mies. What are the benefits of doing this?

Mr. Murphy. Yes, if we --

Admiral Mies. Well, I think the benefits to a certain degree should be obvious to all of us based on the 50 previous reports and their findings and recommendations.

I would just comment first of all that the national security enterprise to begin with is much, much larger than just NNSA and it encompasses both, Congress, the executive branch, White House, elements of DoD and the broader DOE, not just NNSA. And so again, building a structure that promotes greater collaboration and coordination across the enterprise is really critical. As Norm indicated, leadership, first of all, is probably the most important element.

But as we indicated in our report, most of the problems are cultural not organizational, and simply changing the wiring

diagram and changing the NNSA Act alone is not going to deal with the fundamental problems of a very risk-averse and entrenched bureaucracy. And so there are a lot of cultural issues that I think need to be addressed that can improve the technical competency, the collaboration, the relationship between the M&Os and the federal workforce in a much more collaborative way than presently exists. So again I think it's addressing those cultural changes.

To build on Dr. Cohon's testimony, I would tell you that as a sign of the secretary's commitment to institutionalizing some of the reforms he's asked both Dick Meserve and I to co-chair a subpanel of the Secretary of Energy's Advisory Board to oversee not just our report, but all of the previous past reports' findings and recommendations on how the Department is responding to them.

Mr. Murphy. Thank you. I will let Ms. DeGette go next because I only have a few seconds left, but I will come back to that later. Ms. DeGette, five minutes.

Ms. DeGette. Thank you, Mr. Chairman. One of the major conclusions of the Mies-Augustine report is that the current NNSA governance model has failed to provide the effective mission focused enterprise that Congress intended. I would like to walk through some of those key findings with you, gentlemen, so I can understand how this affects NNSA's ability to accomplish its

mission. Now I only have five minutes so I am going to appreciate yes or no answers.

Mr. Augustine, your interim report states, quote, one unmistakable conclusion of the panel's fact finding is that as implemented the NNSA experiment in governance has failed, end quote. Is that correct?

Mr. Augustine. Correct.

Ms. DeGette. And in fact, your report concluded that the NNSA Act, which intended to create a separately organized NNSA within DOE, did not achieve the intended degree of clarity in enterprise roles and mission ownership; is that correct?

Mr. Augustine. Yes. I believe that's true.

Ms. DeGette. And in fact, the creation of the NNSA has caused a number of structural issues between it, the DOE and the weapons labs; is that correct?

Mr. Augustine. I believe that's true.

Ms. DeGette. For example, your report found that there is still an overlapping of staffs between the NNSA and the DOE. This can lead to problems with oversight, blurred ownership and accountability when it comes to managing the nuclear enterprise. Is that correct, Mr. Augustine?

Mr. Augustine. Yes. That is our view.

Ms. DeGette. Now I could go on here, but your report

concludes, quote, significant and wide ranging reform is needed to create a nuclear enterprise capable of meeting the nation's needs. That is one of the key findings in your report, isn't it, Mr. Augustine?

Mr. Augustine. Yes, indeed.

Ms. DeGette. So, let us talk about how to begin fixing those problems. The panel recommends that the nuclear enterprise would be most effective in performing its mission if led by an engaged cabinet secretary with ownership of the mission Department wide; is that correct?

Mr. Augustine. Absolutely.

Ms. DeGette. Now in other words, Mr. Augustine, the current relationship among NNSA, the Secretary of Energy, and DOE headquarters is not meeting the mission of the nuclear energy enterprise, therefore we should bring NNSA back into DOE under the secretary; isn't that correct?

Mr. Augustine. That is our belief.

Ms. DeGette. So, Mr. Augustine, in your testimony you talk about the President's nuclear negotiations with Iran to underscore the importance of having a qualified DOE cabinet secretary be in control of the nuclear enterprise. And we clearly saw this, I think you mentioned this, under Secretary Moniz.

Tell us why having the NNSA led directly by a full cabinet

secretary is so important for the country's nuclear mission and for our national security.

Mr. Augustine. Very briefly, the nuclear mission is one of the most important missions that our country engages in. Given that it should be represented at the highest levels of our government if it's to be impactful. Two, if the enterprise is spun off as an independent, self-standing entity, it's our belief that we'll have neither the authority, the presence nor the ability to attract and keep top level people. It needs a seat at the cabinet table, and it also needs to draw upon the other labs in the DOE.

So we looked at four different options. We believe the one we've described is clearly the best. That's our unanimous findings.

Ms. DeGette. So thank you. Admiral Mies, something that you have said now twice in your testimony today really struck me. What you said is that it doesn't -- you can't just fix this by fixing the structure. You have to fix the culture, correct?

Admiral Mies. Yes.

Ms. DeGette. Now, so here --

Admiral Mies. I mean --

Ms. DeGette. Okay, hang on a minute. Here is the thing though. If you have overlapping ownership, if you have

overlapping and unclear accountability, if you have a lack of clear leadership from the top from a cabinet secretary who knows what he or she is talking about, then that only helps feed the culture, isn't that right? So I would say fixing the structure will begin to help fixing the underlying culture.

Admiral Mies. Certainly they go together, but I think ultimately the ownership, the leadership-ownership of the mission and also the cultural changes that are necessary not just within NNSA but DOE wide --

Ms. DeGette. Right.

Admiral Mies. -- are critical to the successful more effective implementation of the mission.

Ms. DeGette. I totally agree with you. Thank you. I thank all of you. And I didn't get a time to talk about to you other gentlemen, but maybe we will talk about you later. I really think that this is important that the panel follow through on both of your panels' recommendations. Thank you.

Mr. Murphy. The gentlelady's time has expired. I now recognize Mr. Cramer from North Dakota for five minutes.

Mr. Cramer. Thank you, Mr. Chairman. Thanks to the panel for your expertise and for being with us and for the very hard and good work that has been done. It is hard to get to one or two points.

I might just say as a point of reference, my interest besides oversight and just concern for the entire situation is of course that North Dakota hosts two-thirds of the nuclear triad but we do have submarine named after us, so at least we would like to take all three. But I want to get a sense of the urgency of all of this, because obviously there is a lot of work that has gone into this. It is very comprehensive; a lot of good recommendations. The leadership stuff, I think we could spend a lot of time just talking about the leadership issues, but we all view it through the lens of a particular person or a particular administration, and you are dealing with structure that hopefully enhances culture.

Tell us about the urgency. What if these recommendations or some of these proposals aren't enacted? What would be the most important ones and in what order that we would have to get to like tomorrow if we could? Could somebody sort of give us a sense of the urgency of each or all of these recommendations? And whoever wants to take it first can go for it.

Mr. Glauthier. Sure. I'll be happy to since I haven't -- is this on? All right. I haven't had the opportunity to speak earlier. I think that the culture change that Admiral Mies talked about underlies all of the things that we're dealing with and if we don't get this relationship right, we run the risk of the life

extension programs, for example, for nuclear weapons getting off track. There's been a significant amount of progress in the last year getting them back on schedule, but that depends upon some individuals. And it really has been a difficult project to manage those things.

Our recommendations are that we need to return the whole system to the FFRDC model, and that is the relationship of the laboratories and the M&O contractors to the government needs to be the one that Jared Cohon described in the testimony, whereas the government is specifying what it is that needs to be done, what the mission needs to accomplish, and then give the laboratories more flexibility, more freedom to carry it out, but being transparent and accountable.

And we don't have that relationship right now, and as a result it risks not being effective. Too many people are in charge and therefore nobody's in charge. And it also is less efficient and we're spending more money than we would need to do if we get this right.

Mr. Cramer. Others? I mean that was very well said, although I could apply it to several agencies and divisions of agencies, but critically here. So on my urgency point then this is the start. This would be the start that perhaps could lead to all kinds of other benefits obviously.

I want to get to the oversight issue a little bit too then, because we are just -- and I appreciate Ms. DeGette's point of the oversight, because some of what you are talking about is certainly on the advisory side. I appreciated the emphasis on existing advisors, okay, but maybe not in this sense, we need independence.

What I worry about, and I think what a lot of Members of Congress worry about, is that advisory committees, advisory councils, commissions within agencies tend to adopt the bureaucracy rather quickly. And as Members, the independence is a really big deal because we don't want to be overly duplicative, then that sounds overly duplicative. We don't want to have duplication, but at the same time this independence thing is a really big deal, I think, and it gives us a sense of comfort if we know that they are advising us with the same clarity and expertise and honesty as they would be advising the secretary or anybody else. And I don't assume that anymore. I think that is just maybe human nature, but yes, sir?

Mr. Cohon. If I could speak to that?

Mr. Cramer. Please.

Mr. Cohon. I'm very glad you raised it and that Ranking Member DeGette raised it. I think it's a critical issue. As you've heard several times and as you know well, there have been

more than 50 studies of the energy laboratories in the last 40 years. Furthermore, as we learned in our review of those studies, each subsequent commission or committee made basically the same recommendations because the last ones hadn't been implemented.

One thing we can predict almost with certainty is if you don't do something else you'll create another commission pretty soon and the same thing will happen, so this is exactly why we proposed what we did. Now we don't have an answer as to how one should situate such a commission or where you put it. National Academies was one institution that we identified as a potential home for it. It's hard to figure out, but I'm very glad you raised it and stressed what you did. Independence is the key, and I think Congress and the nation need it.

Admiral Mies. I would like to make one comment about the independence. I think, I have recently been asked to join the Secretary of Energy's Advisory Board, and I can assure you under the leadership of people like John Deutch it has not adopted any of the bureaucratic culture within the Department. It is clearly independent. Its members represent a diverse population of expertise much like our Commission. So I think you should have at least confidence that the secretary has an advisory board who really is giving him independent advice.

I would also give you an analogy as a submarine commander.

On a submarine I had three major departments -- an engineering department, a weapons department, and a navigation department -- and I don't think I could have successfully run a submarine if one of those departments was semi-autonomous.

And I think again one of the cultural issues is the lack of codified roles, responsibilities, authority and accountability within a department, and putting the responsibility squarely under the ownership and accountability of the secretary, to me, like the captain of a submarine, makes eminent sense.

Mr. Murphy. Thank you. Now I will recognize Mr. Tonko for five minutes.

Mr. Tonko. Thank you, Mr. Chair. Welcome, gentlemen. A key finding of the nuclear security panel is that the intent of the NNSA Act to create a separately organized NNSA within DOE has not worked as originally intended. This has led to a number of structural problems within the nuclear enterprise. For example, the act as implemented has, and I quote, made organizational changes designed to insulate NNSA from DOE headquarters without specifying the secretary's roles, without stipulating the relationships between NNSA and DOE headquarters staffs, and without requiring actions to shift the Department's culture toward a focus on mission performance.

And so, co-Chair Augustine, to fix some of these structural

problems the panel concluded the NNSA should be brought back under the Secretary of Energy and led by a knowledgeable and engaged cabinet secretary. The panel also explored a range of other options such as making the NNSA a separate independent agency, but the panel concluded that each of the other approaches had their own significant weaknesses.

So my question is, can you briefly explain what other alternatives the panel explored and what were their weaknesses?

Mr. Augustine. I certainly can. There were four options, basically; none are perfect, unfortunately. One option is to create a totally independent NNSA as an agency like a NASA, for example. Another option is to leave things as they are, which I need say no more about the feelings of that. Another option is to put NNSA within the Department of Defense. And our view there is the Department of Defense has so many things on its platter today, furthermore, much of what NNSA does ties in with the rest of DOE. We discarded that option.

And so you come back to the one of why not make it a real part of DOE? Today it's sort of half on half pair. It needs to be either, the best option we can see is to make it part of DOE. Put DOE in charge. Put a leader in there that understands nuclear matters and give them the authority to run NNSA. The second best option would be, in our view, to make it an independent agency,

but we view that as a very inferior second best option.

Mr. Tonko. Thank you. And again to our co-chair, co-Chair Augustine, what do you mean by further isolating the nuclear enterprise? In your statement you talked about that further isolation. What happens if the nuclear enterprise, and mainly we mean NNSA and the weapons labs, are isolated from DOE or a cabinet secretary?

Mr. Augustine. I think with regard to the latter, the isolation from a cabinet secretary is that they don't have a seat at the highest levels of the government, and we think their mission is so important that they should have that seat. The other problem with the isolation is it requires one to create a whole new level of bureaucracy if you will that already exists, or a support structure that already exists within the DOE and that the NNSA shares much of what the other DOE labs do, the four NNSA labs, the other 13 labs. And so it seems to us there's a very natural tie.

And I think Admiral Mies and I would be very careful to say that this is not perfect. It's complex, but it's by far the best option we can think of.

Mr. Tonko. Thank you, and admirable -- Admiral Mies, admirable too.

Mr. Augustine. Same to you.

Mr. Tonko. NNSA isn't -- thank you. That's to your credit. NNSA is in charge of the development and testing of this nation's nuclear defense capability. It is critical that we understand the important role NNSA plays in keeping our nation secure and therefore understand the recommendations that your panel made in its final report.

So what is at stake if we do not adequately address the ongoing structural problems between DOE and NNSA that you have uncovered?

Admiral Mies. Well, I think, within DOE, because you have a semi-autonomous organization, separately organized NNSA, it's neither fish nor fowl. It's not autonomous enough to have complete autonomy to determine its own direction, but it's just autonomous enough to upset a lot of the people in DOE outside of NNSA who support the secretary.

And as Norm and I indicated, in the Department of Energy NNSA controls 43 percent of the Department of Energy's budget. What secretary or secretary's immediate staff wants to allow that to be autonomous and not under the secretary's direct control, particularly when it involves such a critical element of national security? And particularly when the secretary has to personally certify every year to the President the safety, security and performance of our strategic stockpile? So again, I think

there's a structural issue.

But I would argue to, and this is my point about culture. That professional, well qualified, technically competent people can overcome organizational deficiencies, but no amount of reorganization can compensate for an entrenched, risk-averse bureaucracy with a lack of technical competence and a lack of professionalism. And so the cultural changes to me are critical, because if you have an organization of well qualified, professionally competent people they can overcome some of the organizational inefficiencies that exist, and I think that's true of every organization.

Mr. Tonko. Thank you for your insights, and with that I yield back, Mr. Chair.

Mr. Murphy. Thank you. I now recognize Mr. Griffith of Virginia for five minutes.

Mr. Griffith. Thank you, Mr. Chairman. I appreciate this. This is an important hearing, and I apologize to all of you. I have been in another important hearing and have just arrived, so forgive me if I tread on some territory, although I think I am in an area that will be a little different than what you have been asked before.

I am going to ask all of you, if you will tell me briefly the answer when I get there, much of the focus on DOE's national

security programs is directed toward the work undertaken at the three labs overseen by the NNSA. However, a number of other labs also support vital national security activities.

Does the Department recognize the role of the non-NNSA labs in supporting the national security mission and are those labs incorporated into the process? In other words, are they in the loop for some of the things where they may have an expertise that the three NNSA labs do not have as much expertise or where they have overlapping expertise? Whoever wants to answer it.

Mr. Glauthier. All right. Okay, sure. Yes, there is a real strong effort to make sure that those labs are involved in the joint assessments of the mission needs and the like. A couple of the examples would be Oak Ridge in Tennessee and the Pacific Northwest Lab up in Washington State, both very actively involved in the nuclear weapons programs and all, and the national security nonproliferation programs too. There's a lot of that sort of integration and that's one of the things that Norm Augustine just mentioned we would lose if you moved the NNSA laboratories out, but those other labs are still in the Department of Energy.

Mr. Griffith. Yes, I do appreciate that. And it is part of why I asked the question, because while as the crow flies I may be a good distance away from Oak Ridge, my district is in the Tennessee Valley Authority region so we want to make sure we take

care of that.

In your opinion -- I will just continue if I might, and feel free to jump in if you have something to add. But in your opinion, do you believe the labs work together effectively to support the DOE mission overall? Are you aware that the labs are working cooperatively to present joint mission research to Congress? What else do you believe that the labs should be doing to support the DOE mission?

Mr. Glauthier. This is an area that we did spend a good deal of time looking at. We think that the labs are very actively involved in supporting the mission or the missions of the Department. But we also are concerned that there are times that the laboratories do not share as much information with each other and with the Department of Energy as they should, and that in early stages of new technology or new issues in exploration you want a lot of new ideas explored, you want a lot of people to do a lot of things independently, but as that matures and becomes a program area or an area of more importance, the Department needs to step in and assert more leadership in terms of where we're going to conduct that research, what are the degrees of coordination that you want among the laboratories and all, and right now the Department has let that go on too long. There are some activities that this secretary has begun to try to integrate that

more and he's got some cross-cut activities he talks about as making some progress, but that's an area that we call out for increased attention of the Department and the Department needs to step up to its responsibilities in those areas.

Mr. Griffith. Well, I appreciate that. The labs have been described as the nation's crown jewel in reference to basic and applied science work they do. Do you believe, and it sounds like you do, but do you believe the national labs have a unique role and their work is not duplicated elsewhere? I am talking about all the labs, not just the three.

Mr. Glauthier. Yes, we certainly do, and have come to that conclusion and think that it's important as you look at all those missions, which the national defense mission, the nuclear's, the role is an important one, but also the whole role in innovation for the country and the role in working with the private sector and with the universities and the basic research support. These are all very important and they are ones that we do not feel are duplicated, but rather they complement the other agencies and other roles of the government.

Mr. Griffith. Now I have got about 50 seconds left and I have a long question here, so I am going to skip the question and just say, what else do you think can be done to bring about that process where the labs are working together and what should the

DOE be doing to facilitate that?

Mr. Glauthier. Well, I'll go ahead, and since I've got the microphone here. I think it's the relationship of the openness and working in partnership that is really key. And that's a partnership not just with the Department of Energy and the labs, but among the labs as well, and that actually is better now than it has been for years. I think that again this secretary deserves some credit for this, and this set of laboratory directors do too. So continuing to support the Laboratory Directors' Council, supporting their work together as a group is very important.

Mr. Griffith. Well, I appreciate that. If I could take just a minute, Mr. Chairman, I used to be a small town lawyer. And it sounds like what you are saying is, is that you ought to do something maybe by Skype or by the Internet. But we had a group, most of the lawyers in town were in one-, two-person law firms, and I think the big one was three, and every Wednesday when I was practicing and to this day, the lawyers that were available would congregate at the local watering hole, Mac and Bob's on Main Street, and share ideas and best practices and what was working and what the judges were looking at and that kind of thing.

Sounds like that is what you want to do for the labs, is give them an opportunity to say what is working best and where we are going so that we can make this process more efficient.

Mr. Glauthier. Yes. And they are learning a lot from each other and actually improving the whole system. Did you want to add something?

Mr. Cohon. If I'm able to add something -- thank you. I just wanted to add something to what TJ said, which goes to your last question but ties back to your very first one. That is, one of the things that we recommended, our commission recommended, was that each of the lab create an annual report, yet another report, but this one focused on a very high level attempt to integrate all that the lab does. The big multipurpose labs, Oak Ridge is a great example, gets their support from many different offices within DOE, and there's not been enough effort to try to understand the whole of what Oak Ridge does. That would be a very valuable thing to do for the laboratory and for DOE.

So it goes back to your point about whether we recognize all that the non-weapons labs do for the weapons program, yes, but going from the other direction I'm not sure we always recognize all that the individual labs do, taking it in totality especially the big multipurpose ones.

Mr. Griffith. Thank you very much, I do appreciate it. Mr. Chairman, with that I appreciate your indulgence and yield back.

Mr. Murphy. The gentlemen yields back. I now recognize Ms. Schakowsky of Illinois for five minutes.

Mr. Schakowsky. Thank you, Mr. Chairman. Like Representative Griffith, I want to apologize, such a prestigious panel. I too was at another hearing, this time with the Secretary of HHS, and so I apologize for missing not only your testimony but some of the questioning that has been done. So I am hoping -- you know how it goes, sometimes everything has been asked but not everybody has asked it; I may be in that situation.

But I did want to talk about some of the accidents that have happened and what we may have learned. The major consequences, there have been major consequences because of the WIPP accident and we understand from the Department of Energy that limited operations might resume in December, had to be shut down. But it could cost over half a billion dollars to fully remediate this site. So, Mr. Augustine, first of all, let me ask what are the lessons that we have learned from the WIPP accident and how do they relate to your report's finding and recommendations?

Mr. Augustine. I think the lessons I've learned from each of these incidents are very similar. The first is that someone has to be in charge that's qualified to be in charge. That person has to have the authority to cause what needs to be done to be done. They have to have accountability which they can pass down through the system.

One of the greatest feelings in government in my view, and

as I said, I think before you came in, I spent ten years in government and I'm very proud of that but accountability is very hard to find in our government. So I think it was TJ who said that everyone tends to be responsible for everything and no one tends to be responsible for anything.

And we often try to solve the problem with organizational change, and that's needed in this case in our view, but that won't begin to solve the problem. This would be a problem that's relatively easy to solve in the corporate world; it's very hard to solve in the government. But basically what's needed is qualified people, people to talk with leadership --

Mr. Schakowsky. What would be done in the private sector?

Mr. Augustine. Well, the private sector, when you're trying to bring about change and I've lived through a lot of that you have basically three kinds of people, one who are excited about change and view it as an opportunity, others who can go along with it, and those who will fight it. You fire the ones who are going to fight it. It's as simple as that. You can't make change with people that are going to fight it. And you can't do that. I spent four years, five years to get rid of one person in the government and finally succeeded, and there was plenty of reason. And there's just not the accountability in government. It's built in.

Mr. Schakowsky. I wondered if anyone else wanted to answer that. Yes, go ahead.

Mr. Glauthier. I think the Y-12 incident may be an interesting example.

Mr. Schakowsky. I was going to raise that one as well, yes.

Mr. Glauthier. Okay. I think it goes to what is the responsibility that you're giving to a contractor or a laboratory. And if the responsibility is to keep the facility, be secure and safe, then they should take that and look at all of the aspects of what it does, what they're required to accomplish that. Instead, if we tell them their responsibility is to follow a set of checklists and to be able to do all these things and to be sure that they have their inspections that check off all the boxes every time somebody comes around, then we're missing the real focus of that.

And I think that is one of the problems that we have in the Department of Energy that there is a lot of attention to specific directives and rules and approvals and not enough focus on what the real objective is in these programs. And you should be giving the people at the laboratories the responsibility and accountability for actually carrying out the specific actions and roles.

Mr. Schakowsky. Right.

Admiral Mies. I would like to add to that. One of the observations in our report is that most of the contracts, particularly the NNSA contracts, involve a significant amount of the fee being award fee not fixed fee. And because of the award nature, there is a whole body of federal oversight people who are responsible for kind of grading how the M&O contractor is performing to earn that award fee. And frankly that process has become very wasteful and ineffective in terms of the things that the people are overseeing. It involves more with contract compliance rather than with mission executions, successful mission executions.

So if you look at Y-12 as just one example, in the run-up to Y-12 for a long period of time there were 600 or more alarms per day -- nuisance, false alarms, or nuisance alarms in the command center. And over a long period of time that built a culture of complacency with the security force such that when an alarm occurred the people did not respond like you would like to have them respond.

And as a result of that it's no surprise, essentially, when you have a real security incident with a nun and two elderly assistants that the response is not what you would have liked. I would argue that on the contractor side you had a problem in that you had two separate contracts, a contract for a security

and a contract for the M&O contractor, and so there was a bureaucratic seam there which didn't necessarily have accountability centered in a single organization. And you can criticize that.

But more to the point, how could all of those federal overseers not have gone into the command center and noticed the frequency of alarms over a long period of time and reported that and taken some degree of action to encourage the M&O contractor and the security contractor to address those issues? There is a very ineffective and wasteful transactional oversight system that has evolved, and one of our recommendations is do away with award fees, go to fixed fees that really are commensurate with the M&O contractors' responsibilities and the risk and financial risks they take, reputational and financial, but hold the M&Os accountable.

Mr. Schakowsky. Well, I just want to thank you. My time has long expired, but thank you for the good work that you have done and the reports that you have issued. I appreciate it and the recommendations.

Mr. Murphy. Okay. The gentlelady's time has expired. Each of us is going to ask a couple more questions. I don't know if any of the members do, but I know that Ms. DeGette and I do. So let me ask this, first, Dr. Cohon.

As former president of Carnegie Mellon, you understand how to ensure an effective organization and you did a great job there. But the report before us talks about alignment of responsibilities and accountability. A success here would seem to involve this structural reporting component and this leadership component which we spent a lot of time talking about; am I correct on that?

Mr. Cohon. [Non-verbal response.]

Mr. Murphy. So, can you have one without the other and still have a fully effective laboratory? I mean, obviously we want to set up, make sure there is a system that has the flexibility, rewards innovation, gets people to speak up as opposed to just saying I am not going to say anything. We have had so many hearings here. General Motors, devastating consequences of just people not even speaking up when they saw something going wrong and they refer to as a "Gentle Motors shrug."

We had hearings about Volkswagen where somebody changed something in some piece of software and the next thing you know, one day they couldn't meet the standards for diesel engines and the next day they could. And I think it was Mr. Collins of New York who pointed out, did he at least get a patent? I wondered, did he get employee of the month? Did anybody give him a free parking space for that? No one seemed to know in the organization.

So you have to have this leadership and accountability. So how critical is this lab leadership for ensuring this increased focus and performance of the laboratory research and development in particular?

Mr. Cohon. I think it's a wonderful question, Mr. Chairman. I'm glad you're focused on that because I think it's key. It goes to this issue of culture that Admiral Mies talked about and the relationship question between DOE and its laboratories.

To answer you I want to pick up on something that TJ Gaulthier was saying before in response to the question about the incidences that have occurred. I think he said something very important, and let me put it in a different way.

We visited all 17 labs, and one of the really interesting thing was to me, but it shouldn't be a surprise, is how proud people are to work at these laboratories. They have a real sense of mission. They have a real sense that they're contributing to the advancement and safety of this nation. They're extremely proud of that. That's what we're buying, by the way, by having this relationship that we've created for 16 of the labs where it's privately run, but government owned. We're buying into that unique culture that each laboratory is able to create. That's key, I think, to success. And certainly leadership is part of that. You have to have leaders who understand that and know how

to promote it and to sustain it.

But just to underscore what TJ was saying, you're much less likely, I think, to have someone put the wrong thing in a barrel on its way to WIPP if they are invested in their mission and they understand what they're doing as opposed to relying on a check sheet with someone trying to do it completely by compliance. So what you put your finger on, I think, is key to the success of the labs in every way, both in terms of their mission and being compliant.

Mr. Murphy. I want to talk about one specific lab, the National Energy Technology Lab is the one in my district. I understand Secretary Moniz issued his reply to your recommendation to study whether NETL should be converted to a government owned contractor operated laboratory, he said so this week. And the secretary basically said there can be ways to improve management and performance within the current model and we will pursue that. Now do you agree that NETL performance may be enhanced by some of the tools provided to similar defense labs?

Mr. Cohon. I do. I admire the secretary's response. I think it's correct, and I especially appreciate the fact that he understood what motivated our Commission. We care less about the specifics of how the National Energy Technology Laboratory is organized, what we care about it is the increased focus on R&D

and making it more visible and giving the lab more flexibility. And in both regards I think the secretary's response is very good.

Mr. Murphy. I want to say for the record, multiple times I have visited the National Energy Technology Labs near Pittsburgh, and I do agree with you. Highly motivated people proud of their work and oftentimes wondering, we are doing great work here, why isn't anybody paying attention to it? How do we get this to go up the chain of command, because that itself a stovepipe. Or when I see what they have done that deals with methane released on unattended wells; when they say we have advanced a lot with coal technology, carbon sequestration, we can do this; when I hear about just a wide range of other things going on there it is pretty amazing to me.

I know one of our issues -- and we will review this. I have been talking to my colleague Ms. DeGette about some of the recommendations, legislative recommendations, and we will review that carefully. But it still comes down to this point we have realized over the years, we cannot legislate character and we cannot mandate morality and we sure as heck can't litigate common sense, but that requires a certain type of leadership.

But the accountability, generally what happens in a federal office is about the only person that has accountability for whether they stay or not is the leader, so many other people are

there and there is some things we have to make sure we deal with. So I thank you. Ms. DeGette for five minutes.

Ms. DeGette. Thank you. Well, I don't have so much questions as an observation, which is this agency, the NNSA, was formed in large part because of the issues that these two commissions have identified. I have here, I was sharing this with the chairman, some minutes of one of the many hearings we had. This hearing was almost exactly 16 years ago. It was March 14th, 2000.

And at that time the chairman, it was the chairman of the Energy Committee of Energy and Commerce said, the history of poor security and safety practices at these sites, however long it may be, is still recent enough to caution us again letting the NNSA become a self-regulating entity. This was two weeks after it was passed. And that of course was Fred Upton, now the chair of the full committee here.

Then, the chair of this subcommittee, Oversight and Investigations, said even before the NNSA passed, a number of concerns were expressed by both Congress and the Administration. For example, and then it goes on and on, then, to talk about we have heard both Senator Rudman and the GAO refer to a culture in -- does this sound familiar, Admiral? -- a culture in DOE which seems to espouse a bureaucratic form of elitism and resistant to

substantive change. That was Cliff Stearns who was the chairman several chairmen ago of this committee.

Now everybody on the Energy and Commerce Committee realized the set of problems that we had at these labs before the NNSA was passed. We realized the culture, we realized the problems, but what happened was in response to the Wen Ho Lee case and some other really high profile cases coming out of Los Alamos and WIPP and other places, Senator Rudman and others thought, well, this will be super great to have a semi-autonomous agency. The members of -- and what happened was this agency was established in the dead of night. No good ever happens as near as I can tell when you go over to the other body and then you establish something in the dead of night in a conference committee. But that is exactly how this agency was established.

And members of the Energy and Commerce Committee realized at that time, sadly, it would be like a comedy, one of those congressional comedies, if it didn't deal with our nation's nuclear security. And here we are 16 years later identifying the same culture problems, identifying the same organizational issues.

And so I don't really -- I think we are just kind of lucky that nothing has happened. I mean, we did have the nun and the other people. We have had some other breaches, but something

really, really serious could happen. And it is time that we really work in partnership with all of you and your committees to make this happen.

The proposed legislation that you put as an appendix to your report that is a good start. And I really have talked to the chairman and his staff about undertaking a serious effort because it is my opinion, I think we all are saying the same thing, is when you have a culture that is an embedded culture in these agencies, you have to have strong leadership to change that culture. And so that is what we are all saying. That is what we don't have, and we look forward -- I hope you are not sick of us yet, because we intend to make this a continuing relationship. And I yield back, Mr. Chairman.

Mr. Murphy. Thank you. Mr. Griffith, do you have any final questions?

Mr. Griffith. I do not. Thank you.

Mr. Murphy. Thank you. If I could sum up what they just said, I put up two of my favorite cartoons here. This is based upon the quote by George Santayana that those who cannot remember the past are doomed to repeat it. One is an elderly man sitting next to and talking to a young man in a library and he says, those who don't study history are doomed to repeat it, yet those who do study history are doomed to stand by helplessly while everybody

else repeats it.

Or imagine two high school students walking out of school one day and one student holding his report card says, I failed history again. I guess those who don't learn from history are doomed to repeat it. Another one there too.

We certainly don't want that because as was asked by some of the folks before and it says so clear in your co-chair reports, this can create a dangerous situation. And although we may look at it with some -- note it to the history also becomes farce if we don't learn from it, these can be tragic consequences and we have to do that.

I really thank you all for the effort you have put into this. This is very valuable and we will continue to talk about what we do with this and have more briefings and hearings on this. I do want to ask the unanimous consent that the documents of this binder, which is for the committee, be introduced into the record and to authorize staff to make any appropriate redactions. So without objections, the documents will be entered into the record with any redactions the staff determines are appropriate.

[The information follows:]

**********INSERT**********

Mr. Murphy. So, in conclusion, thank you all again this very distinguished panel, and I want to thank the witnesses and members that participated in today's hearing. I remind members they have ten business days to submit questions for the record and ask that the witnesses all agree to respond promptly to the questions.

So with that this subcommittee of the Energy and Commerce, Subcommittee on Oversight and Investigations, is adjourned.

[Whereupon, at 1:03 p.m., the subcommittee was adjourned.]