

LOSS OF NATIONAL SECURITY INFORMATION AT THE LOS ALAMOS NATIONAL LABORATORY

JOINT HEARING
BEFORE THE
SELECT COMMITTEE ON INTELLIGENCE
AND THE
COMMITTEE ON ENERGY
AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED SIXTH CONGRESS
SECOND SESSION
ON
LOSS OF NATIONAL SECURITY INFORMATION AT THE LOS ALAMOS
NATIONAL LABORATORY

JUNE 14, 2000



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JOINT OVERSIGHT HEARING TO RECEIVE TESTIMONY REGARDING THE LOSS OF NA- TIONAL SECURITY INFORMATION AT THE LOS ALAMOS NATIONAL LABORATORY

WEDNESDAY, JUNE 14, 2000

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committees met, pursuant to notice, at 10:20 a.m., in room SH-216, Hart Senate Office Building, Hon. Richard C. Shelby (chairman of the Select Committee on Intelligence) and Hon. Frank Murkowski (chairman of the Committee on Energy and Natural Resources) presiding.

Select Committee on Intelligence Members Present: Senators Shelby, Lugar, Kyl, Roberts, Allard, Bryan, Baucus, and Robb.

Committee on Energy and Natural Resources Members Present: Senators Murkowski, Domenici, Nickles, Craig, Campbell, Thomas, Bunning, Gorton, Burns, Bingaman, Akaka, and Lincoln.

Also Present: Senator John Warner, Chairman, Committee on Armed Services.

Chairman SHELBY. The committee will come to order.

Today, the Senate Intelligence Committee joins with our colleagues on the Committee on Energy and Natural Resources to receive testimony on the most recent of what appears to be an endless stream of security lapses that will soon touch just about every one of our most significant national security agencies.

The Intelligence Committee alone has held hearings on or conducted inquiries into the following: One, missile technology transfers to the People's Republic of China; two, the People's Liberation Army's attempts to funnel funds into our political process; three, Russian listening devices planted in a conference room within the Department of State; four, missing laptop computers at the Department of State; five, the disappearance of highly-classified information from the Secretary of State's very own offices; six, the Wen Ho Lee case; seven, the gross mishandling of classified information by former Director of Central Intelligence John Deutch; eight, endless leaks of classified information that turn up in the press almost on a daily basis; and now this, which has the potential to be one of the most significant breaches of security in recent memory.

Time after time, representatives of this Administration have come before Congress and they have tried to minimize the importance of these breaches. They tell us that they're serious about se-

curity and that things are being done to address what they perceive to be minor problems. But I submit to you, this is no minor problem.

They dismiss congressional criticism as political opportunism. They find comfort in their own rhetoric as they tell us to rest easy, be careful, be quiet. They ignore laws passed by the Congress and signed by the President because they don't like them or they want them changed. When things go wrong, Administration officials dutifully take, quote, "responsibility" for the losses. But it seems that accountability always rests on the shoulders of the career employee forced to labor in an environment of carelessness and contempt for the safeguards that we have spent a generation developing and perfecting.

Accepting responsibility is a meaningless gesture unless you're willing to be accountable. In the United States of America, ultimate accountability, I believe, rests with the people. Members of Congress must account for themselves every time a constituent calls their office or writes them a letter. Members also account to the people they represent every time they ask for their vote.

The United States Congress is a mechanism through which the American people exercise their right to petition their government. And when you appear before the Congress, you're speaking, in a sense, to the American people. When you refuse to appear before the Congress, Mr. Secretary, you're telling the American people, I believe, that you refuse to answer to them, that you're above that. As you can see, Mr. Secretary, there's an empty chair, an empty chair at our witness table. It's your chair. You should be here today, of all people.

We invited Secretary Richardson to appear before our two committees to explain to the representatives here of the American people why some of their most sensitive nuclear weapons information appears to have walked out the door. Apparently Secretary Richardson has decided there's something more important to do than account to the American people. It's probably fitting that the Secretary has absented himself from the hearing, because it appears to me that despite his assurances before this committee and to the public to the contrary, he's been absent at the Department of Energy as our nation's secrets seem to be mishandled, if not vanished. Perhaps if the Secretary would spend more time ensuring the safety of our nation's nuclear treasures and less time trying to get the Vice President elected President, we would not be here today.

Nevertheless, sometime before April the 7th of this year, someone removed from the Los Alamos National Laboratory or misplaced two computer disks containing volumes of this nation's sensitive nuclear weapons information. It appears that the Department of Energy doesn't know who took them, when they took them, where they went, or where the disks are.

Appearing before the Committee to explain how this could happen and what they're doing to find the disks are T.J. Glauthier, the Deputy Secretary of Energy; Dr. John Browne, the Director of the Los Alamos National Laboratory; Ed Curran, the Director of the Department's Office of Counterintelligence, and General Habiger, Director of the Department's Office of Security and Emergency Operations.

I will first turn to Senator Murkowski, the distinguished Chairman of the Energy Committee, for any opening remarks, and then to the distinguished Vice Chairman of the Intelligence Committee, Senator Bryan, followed by other members. Senator Murkowski.

Chairman MURKOWSKI. Thank you very much, Senator Shelby. And I'm very pleased to join the Intelligence Committee today. As you know, I served on that committee for eight years and was Vice Chairman. So I'm very familiar with the valuable role that the Intelligence Committee and its members play in our national security issues.

I'm also pleased that you're picking up the bill, I guess, for this high-priced room. As you know, we have modest quarters in the Energy Committee—

Chairman SHELBY. I thought you—

Chairman MURKOWSKI [continuing]. And you folks have a little hideaway downstairs. But in any event, I think it's important that we share in this. As you know, Senator Shelby, we have the obligation of oversight in confirming the Secretary of Energy and the Deputy Secretary. We share a role on some of the nuclear matters with the Armed Services Committee as well. So it's appropriate, I think, that we have this overview today.

And the hearing, of course, as you've indicated, is on the loss of national security information at the Los Alamos National Laboratory. One can almost do a comparison of the area around Los Alamos. I can only conclude that our national security is going up in smoke in some way of comparison, as a consequence of the disaster they had out there. You know, you can lose your car keys, but it's pretty hard to explain how you could lose the technology that's evidently on these hard drives.

According to press reports, the missing computer hard drives contain the so-called safe and arming information DOE's nuclear emergency search team has on all nuclear weapons, both ours and theirs. The missing hard drives also have significant intelligence information on the Russian nuclear weapon program. Of course, our fear is that if this material is in the hands of sophisticated terrorists, could they arm a nuclear device or disarm one from this particular sensitive information? I hope we can address that question today, because that surely is a grave concern.

Now, even if those hard drives were merely misplaced and not lost through espionage or whatever, it points out that the Department of Energy has yet to take seriously the protection of national security information. Last year, in the wake of the Wen Ho Lee scandal, Congress created the National Nuclear Security Administration to get DOE's security under control. This Administration, both Secretary Richardson and President Clinton, fought us every single step of the way; make no mistake.

Even after the law was enacted, the Administration went about undermining Congress, the Senate's efforts, by subverting the new organization wherever they could. They dual-hatted DOE employees, even though that was not allowed or proposed under the new law. They put DOE officials outside of the NNSA in charge of NNSA activities, even though that was not allowed nor was it in the intent of the law that we passed. They delayed and delayed the naming of the head of the NNSA, demanding that Congress make

changes in the law or else they would simply not implement it, and hence ignore it.

All along, our Secretary, Secretary Richardson, has claimed that there was no need, no need for drastic action because he has the labs under control and the national security is adequately protected. Well, clearly it isn't true and that's not the case. We have again learned the hard way that the DOE security is still shamefully inadequate.

The Secretary must bear the responsibility. It isn't the case this time of something that happened on somebody else's watch. This happened on Secretary Richardson's watch. Clearly security at the Department of Energy is not under control and won't be until the new head of the National Nuclear Security Administration, General John Gordon from the CIA, is confirmed and in full charge of the semi-independent National Nuclear Security Administration. It's unfortunate, but we've seen a hold on his nomination for some time. I understand that hold has been released.

I'm very disappointed—and I share this with Senator Shelby—that Secretary Richardson declined our request to testify. While I look forward to the statement by Deputy Secretary Glauthier, I think it's appropriate that the Secretary should have been here. But we look forward to hearing his explanation as to what happened and what the DOE is doing to correct it.

I hope that the Secretary, through the Deputy Secretary, can respond to the following question: What did Secretary Richardson know? When did he know it? And why isn't the Secretary here to answer that question? And Senator Shelby, I would, as we go back and forth, defer to my good friend, the ranking member of the Energy Committee, at an appropriate time, because Senator Bingaman should be recognized as well.

Chairman SHELBY. Okay. Senator Bryan.

Vice Chairman BRYAN. Thank you very much, Mr. Chairman. And I appreciate the opportunity to participate in a joint hearing with our colleagues from the Energy Committee to discuss this most recent situation.

The Intelligence Committee was informed of this problem last Friday, June 9th. That is more than a month after it was determined that the two missing hard drives were conclusively established as having disappeared, the circumstances of which is the focus of this hearing.

The lab director himself was not notified until the 31st of May, two weeks—three weeks after this circumstance was established. And the FBI was not notified until June 2nd. I'm told that Secretary Richardson himself was not notified until June 1st. The delay is inexcusable. We will want to pursue that in the line of questioning. In the first instance, it makes it very difficult for the FBI, because the trail gets somewhat cold after a period of three weeks, to perform its responsibility. Clearly this committee and others—the lab director and the Secretary himself—ought to have been notified in a timely fashion.

For reasons that are inexplicable to me, there appears to be a culture of indifference to security that has taken root in the national laboratory system. It did not originate with this Administration. It has been longstanding. And apparently there is a misguided

belief that concern for national security and protecting our nation's most sensitive information is somehow irreconcilable with the goal of pursuit of excellence in science. I find that absolutely baffling. But there is substantial evidence that the belief exists.

Over a span of literally two decades, we've learned about one security misstep and breach after another at the labs. In the 1990s, the General Accounting Office produced two comprehensive reports on the total inadequacy of security procedures at all of the facilities, and dozens of reports have followed since, from the GAO and elsewhere, cataloguing breakdown after breakdown at Los Alamos, Livermore, Sandia and elsewhere.

We have tried to respond here in the Committee by authorizing more money and more people to improve security. The track record of our authorization bills of the 1990s confirms our good faith in attempting to address these problems. And before that, in the late 1980s, our former Committee colleague, Senator John Glenn, repeatedly cast a harsh light on lax security practices at these institutions.

The Department of Energy is the caretaker of some of the most sensitive classified information that our government has. The Los Alamos lab has for decades participated in the development of many critical national security capabilities. The American people have depended on our weapons labs to ensure their safety throughout the nuclear era.

We all hope that when these proceedings and others that I'm sure will follow are concluded and that all of the facts are fully explored, that either we will find that this information was temporarily misplaced and has been found or, at a bare minimum, be able to conclude that it could not have fallen into the wrong hands. Right now, however, we have no choice but to assume and to fear the worst.

So, Mr. Chairman, I join with you and others in these two committees to look forward to hearing our testimony today from our distinguished panel of witnesses and to ascertain the facts as to why notification was not made more promptly, and secondly, the security procedures that surround this disappearance of these two highly-sensitive pieces of information.

I thank you.

Chairman SHELBY. Senator Bingaman.

Senator BINGAMAN. Thank you very much, Mr. Chairman. I'll just make a brief comment. I do believe we're dealing with a serious security lapse, as I understand the situation. I'm anxious to hear the witnesses explain to us how they see the situation and how we have gotten to this point.

I think we have the right people here to testify. Mr. Curran and General Habiger are well respected by this Committee and certainly throughout the intelligence community, and I'm anxious to hear their views. John Browne, of course, as the Director of the Laboratory, is well thought of in that position, and T.J. Glauthier is the individual in the Department of Energy who has been assigned the responsibility of investigating this for the Secretary. So, I very much appreciate them all being here.

Mr. Chairman, let me just indicate that if we are going to really get to the facts in this case, which I hope we can today, we may

well want to go into a closed session at some fairly early point—I would assume when we get into questions and answers. Some of these questions about potential damage that this could result in to national security, questions about the detailed security procedures that are followed in the Laboratory—these are items which I doubt we can handle in an open session, and I hope we will go into a closed session if it becomes obvious that that is the appropriate course.

Thank you very much.

Chairman SHELBY. Senator Craig.

Senator CRAIG. Mr. Chairman, thank you very much. Gentlemen, thank you for being before this joint hearing today.

Mr. Chairman, I have in my hand a program of an event that is going on in our city today here in Washington called the "Energy Efficiency Challenge for the Next Administration." I see by that program at 8:30 this morning Frank Murkowski, Chairman of the Senate Energy Committee was to speak, has spoken, is now here. I see that at 12:30 today the luncheon address is going to be given by the Secretary of Energy, Bill Richardson, and I am told he is confirmed to be there.

Now, it's obvious that he isn't here. He was invited. He was asked to be here. It is important that he should be here. I guess it's more important to be before the National Press Club than it is a joint hearing of the United States Senate Intelligence and Energy and Natural Resources Committees.

Senator Bryan spoke about a culture that has failed. This Congress recognized that failure a year ago. And Senator Pete Domenici, who is with us this morning, led the effort to change that failure, and a good many people here helped. And we created the National Nuclear Security Act, and this Administration said "no thank you."

What are they saying today? Mr. Glauthier, what will you say today? All reports that we now have indicate that this could be the greatest breach of intelligence that we have ever experienced, or at least it has that potential. We need answers. The American people need answers. Senator Shelby is absolutely right. All we know now is that the security efforts at our national laboratory are as empty as that chair is. And if that's the answer you give us, then things must change.

Thank you very much, Mr. Chairman.

Chairman SHELBY. Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman. Well, it's clear that a pattern of absenteeism on the part of the people whose mission it is to protect American secrets has gone up. While, we still don't know the damage done by the recent devastating fires in New Mexico, it seems our nation lost more than a wealth of natural resources to the flames near Los Alamos.

I won't repeat what my colleagues have already said about that empty chair with Honorable Bill Richardson, but I would bet money that he's watching the monitors somewhere, and I would say this to him, as I would say to this committee, we should have subpoenaed him, Mr. Chairman, because I think he has an obligation to be here to help us sort through this thing. The Congress

and the American people have a right to ask what the devil this Administration is doing to us.

Published reports indicate very sensitive emergency nuclear weapons data is missing from the site, and more seriously, no one knows if it's stolen, misplaced, destroyed, or what. In any case, we're not talking about a few notes, and we're not talking about the Federal Register. We're talking about hard drives, emergency plans for nuclear incidents that are vital to the defense and safety of literally every American.

This latest security breach by the Department of Energy points to a chronic and severely damaging breakdown in this Administration's public protection policies that demand attention. I don't think we can be forceful enough, Mr. Chairman. We're missing military plans that are so important to the safety of nations, that their loss amounts to a security threat I don't think that we've faced since the Soviets moved nuclear tips missiles into Cuba years ago. Even more disturbing is the fact that the loss of these secrets went unreported for ten days.

Every time we've done a hearing in the Energy Committee, Mr. Chairman, we've been faced with foot dragging, with delays, with no-shows, with a number of difficult responses from the Administration. They clearly have not been here to help us get through this very difficult issue. Their excuses continue to go on.

Now I don't think, frankly, that polygraph tests or a couple of forced retirements or two are going to make the change. It seems to me that we have to reconfigure our whole security process to ensure the safety of Americans. I don't know if we're going to get any answers today either, but I know one thing: Harry Truman said it right years ago when he said, "The buck stops here." And very clearly, the buck stops with this Administration, their lapse, and their lack of security measures to protect America.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Thomas.

Senator THOMAS. Thank you, Mr. Chairman. I'm anxious to hear the witnesses, so I'll say that I think that the Chairman and our colleagues have certainly identified the importance of the issue, the potential impact and damage that could result, the need to identify the facts, and to assign responsibility and fix the problems. So, I'll stop there, Mr. Chairman. I'm anxious to hear from the witnesses.

Chairman SHELBY. Senator Domenici.

Chairman MURKOWSKI. Senator Domenici has joined us, and we're pleased to see you back looking so well, Pete.

Senator DOMENICI. Thank you. Thank you very much. This is my first day at work. I wish it wasn't this kind of hearing.

But, let me first say to John Browne, and through you to all of the wonderful people at Los Alamos National Laboratory, that I have great empathy for what you're going through—a rather incredible fire that affected everyone's lives, and then some of us don't believe it, but this kind of incident throws a great weight on the shoulders of many hundreds of very good people and great scientists. And I just hope they understand that between us we're going to get to the bottom of this and we're not going to destroy the lives of innocent people in the process. But we must do something to find out what happened.

Now having said that, I am absolutely astonished that we are where we are. This kind of hearing about that kind of event should have had one witness at this table, and they've all said it—the Secretary of Energy should be here—but I'm speaking of one person who should have been in charge of this Department as it pertains to nuclear weapons. Eight months ago, the Congress of the United States passed a law after serious debate—eight months—that created within this Department an semi-autonomous agency, and if you read the statute, it's utterly simple. It says there will be a director who is qualified, who will hence run this Department. And the only tie-in to the other Department of Energy, which is full of bureaucracy, and rules and regulations, the only tie-in will be the new director will be responsible to the Secretary; otherwise he will run it in an autonomous manner.

Now frankly, what the Secretary likes or doesn't like, or what the President likes or doesn't like, all fell when the President signed the bill, and indeed, he signed it. But he signed it hypocritically, because as he signed it, he said the Secretary can run it, which is clearly not what the law said. And that was not yesterday; it was eight months ago. And we still don't have that semi-autonomous agency and another incidence occurs.

I'm not suggesting he would have found it, but somehow or another we were lucky as a nation. A most distinguished American appeared saying he'd take the job. If you read his resume, you'll wonder why in God's earth he would take it. A four-star general, Deputy Director of the CIA, in numbers of scientific jobs, including working at Sandia National Laboratory, security advisor to a couple of Presidents, and he's still sitting here languishing, waiting to be approved.

Prior to him getting here, the Administration took an incredible amount of time to approve a man with this kind of record in the so-called clearance process. Well, I wonder if the clearance process, really is what was holding him up, or for some reason we just, as a government under the leadership of the President and Secretary Richardson, a good friend of mine, just decided it would be their way, not Congress' way.

Now frankly, I have no axe to grind with you, General Habiger, none with you, Ed Curran from the FBI. But essentially, we were told that you were going to take this job and we didn't need to set up a new agency, and no need bothering the record. We were assured that nothing like this could ever happen again. We were told you'll fix it. Every security need that we have will be met. And I think both of you probably felt that you were busy about doing that.

I say to the American people that if we don't have this nominee in this seat, occupying it within a week, that we are again deciding that we're going to let the Secretary and this Administration get by without complying with a formidable law of this land. And I submit it doesn't matter how great you are, General, or you, Mr. Ed Curran, you can't do the job.

I mean, we have been told you can't do the job by the most distinguished committee of the Federal government, that is the committee that is in charge of giving the President advice on this, when they said—I wish I would quote it, but I won't—they said

don't tell us that we can fix it with new personnel. That's what they said essentially. We need to change a dysfunctional, overburdened department.

Now, I look forward to that event occurring, Mr. Chairman, and I believe we should insist day by day that we vote on General Gordon on the floor of the Senate, and we should approve him. He's been nominated. What are we waiting for? We're waiting because somebody wants to hold him up. I don't think they'll hold him up after today's hearings.

I mean, it's incredible that anybody would hold him up for any reason. And it's too late now, but at least we could have assurance that he's gonna start—he won't get it done—start working on putting that together. Many of the members of this group right here work hard on that, not just me, certainly many, and many not on this Committee. And we deserve to have our law implemented, not the law that the Secretary thinks is the law, or that the President would like to be the law—that's irrelevant. The law is pretty clear, and they ought to follow it.

Chairman SHELBY. Senator Allard.

Senator ALLARD. Mr. Chairman, I think what's happened at Los Alamos labs pretty well speaks for itself, just seeing what happened there. I'm certainly delighted that you're going ahead and having these hearings. We must have these hearings.

These are serious breaches of our national security. I'm furious about it. I'm as concerned as anybody on this Committee about what has happened. But this is a deep-seated problem, and I think you and Senator Murkowski and Senator Craig have all touched on it, and I'd like to associate myself with your remarks.

But, you know, I read in a news account that General Habiger stated that these people, those people with access to these elements of national security are dedicated, loyal Americans, and I'm not questioning their loyalty, but I am questioning the security practices.

And I wonder, I seriously wonder, if we don't have better security at our Wal-Mart stores than you do at Los Alamos Labs. At least when there's cash missing out of the cash register, you know about it immediately. And here's a vault that apparently did not have the standard security procedures in place or we would have known about it immediately. And I'm anxious to hear how they're going to address that question.

There are some other very simple questions I think that must be answered. Where's the accountability? Who is in charge of their security? How did the tapes get misplaced or stolen? What are the underlying causes for this most recent incident?

I reflect back on the markup that we had on the defense authorization bill in my Subcommittee on Strategic Affairs in Armed Services, and there was a persistent call within my Committee to weaken the NNSA, the National Nuclear Security Agency, which was established under the leadership of Senator Domenici from New Mexico. And the Administration was driving those amendments in the Committee, and the Administration has to be held responsible for the lack of security throughout, not only in the Department of Energy, but throughout. We are persistently getting cases of lack of national security.

And as I see it, there appears to be a prevailing disregard for U.S. national security not only at the Los Alamos installation, but throughout this Administration. And I hope that, at a minimum, we begin to arrive at answers to some of these questions today.

Chairman SHELBY. Senator Lugar.

Senator LUGAR. Mr. Chairman, I thank you again for calling the hearing. I applaud your work in bringing before our committee in secret sessions the bipartisan commission who had examined security breaches. And as a result of that work and through the leadership of Senator Domenici, Senator Murkowski and others, we came to a conclusion, which is, in the classic sense, our oversight function.

It is apparent to me that, for reasons that are inexplicable, the President of the United States, Secretary Richardson, perhaps others, disagreed with our judgment, even, as has been pointed, they signed into law those judgments that were arrived at in a very strong bipartisan way to help the security of this country.

Now, one focus of today's hearing and subsequent events is clearly the culpability of the President and the Secretary. They have clearly defied what we wanted, what we thought was in the best interest of the country, and in a reckless gamble, they lost. This is a very, very severe problem for the country, for which they bear responsibility, and for which they have not yet answered.

Now, secondly, and it may be, as Senator Bingaman has pointed out, that we will need to examine how serious the breach is. The difficulty of trying to do this in this forum is obvious, but it's important that it be done. Clearly, the Administration, the administrators who are before us now, must clearly be evaluating what we have lost and what our problems may be. We will need to do that too in our oversight function. And I trust that you and Senator Murkowski and the others who have relevant jurisdiction will follow through, and I will support those activities.

Chairman SHELBY. Thank you. Senator Roberts.

Senator ROBERTS. Mr. Chairman, I'd like to quote from the principal recommendation from the President's Foreign Intelligence Advisory Board in its June 1999 report to President Clinton. I'm quoting: "Real and lasting security and counterintelligence reform at the weapons lab is simply unworkable within the Department of Energy's current structure and culture. To achieve the kind of protection that these sensitive labs must have, they and their functions"—and this is underlined—"must have their own autonomous operational structure, free of all other obligations imposed by DOE management."

And that's the principal recommendation from the President's own Foreign Intelligence Advisory Board, and it's summed up very well in regards to the comments by Senator—I think it was Murkowski and Bingaman, Lugar and Domenici. I also would like to associate myself with the remarks of Senator Murkowski and I think also Senator Bingaman in reference to the seriousness of this matter.

I have the privilege of being the chairman of the Emerging Threats Subcommittee of the Senate Armed Service Committee. We asked many, many witnesses to come in over the past two years to describe what keeps you up at night in terms of national secu-

rity risks. And they focused on cyber-attacks, and they focused on biological attacks. What they did not focus on was, is the DOE a national security risk?

Now the question I have, and we may have to go to closed session, and I think the question the American people have in their mind is just how serious there is to the extent and in the detail possible in open session to describe the ways in which these missing materials could be used by a foreign country or a terrorist group.

For example, could they be used, as the Senator from Alaska has already asked, to assist a nuclear weapons program, to assist a terrorist to arm a U.S. or any other nuclear device, or to design or build a nuclear weapon, or to assist in any other kind of terrorist act, perhaps to better understand our U.S. weapons or to develop any counter-measures or for any other purpose?

That's the question that seems to me that is paramount in my mind, and as Chairman of the Subcommittee, we may have to go ahead and hold some closed hearings on that matter as a result of this matter.

I thank the Chairman for holding the meetings, and I too wish the Secretary were here.

Chairman SHELBY. Senator Kyl. Senator Bunning, excuse me.

Senator BUNNING. Thank you, Mr. Chairman.

Chairman SHELBY. Sorry.

Senator BUNNING. I'd like to associate my remarks with those of Senator Pete Domenici, because I think he hit it right on the head.

I am looking at a report on the chronological dating of when the two hard drives were discovered missing: The last time they were seen was April 7th. When the search resumed after the fire and all the things that intervened was May 24th, and when the Congress of the United States was notified. It's unbelievable that the Department of Energy and others in control of the investigation—whether it be the FBI, who was notified on June the 2nd and all others—would hold the secret of these things that were missing that could be critical to the national defense and national security of the United States of America.

It's inconceivable that you would do such a thing to the American people, you that are in charge of our security and our national security.

What else is more important? What does the Constitution say? What is more important than the national security of the United States of America?

My feelings are like all others: dismay that the Secretary of Energy would not appear. I imagine the best way, and I'll leave that up to our Chairmen, is to have him testify by subpoena in front of a closed session of these committees. But it's disgraceful that he's not here.

Chairman SHELBY. Senator Kyl.

Senator KYL. Thank you, Mr. Chairman, and gentlemen. It's obvious that you're seeing the frustration of members of the Senate that has welled up as a result of this incident, which isn't merely because there is missing sensitive information from the laboratory that may well have been stolen, but, as is obvious, because of the foot-dragging of this Administration ever since the PFIAB, the

President's Foreign Intelligence Advisory Board, made its strong recommendations that a semi-autonomous agency be created, and the Congress did that. And the President signed it into law. The problem is that the Administration, through Secretary Richardson, kept fighting it, even though it was the law.

One reason I was a bit late is I've just been on the telephone with Chairman Warner on some telephone conversations, and there is an agreement now for a vote on General Gordon. He will be confirmed by the Senate today, and I would guess that it will be unanimous, Mr. Chairman, after having been held up for several weeks by Democrats in the Senate, probably doing the bidding of Secretary Richardson, trying to get a better deal, as Senator Allard said, in the legislation pending before the Senate Armed Services Committee, to change the law that was signed by the President last year.

As Senator Lugar said, that was a reckless gamble. And they lost. But I'm sure Senator Lugar would be willing to amend his statement and say we all lost. And that's the problem when you play games with national security, which is precisely what's been going on here.

Now, for those who might be tuned in, the confirmation we're talking about is of General John Gordon, an extraordinary public servant, as Senator Domenici pointed out, who was finally, at the first week of May or so, nominated by the President to become the head of this semi-autonomous agency that we're talking about, the agency that will have the primary jurisdiction over the security of our nuclear laboratories. And it is critical that General Gordon take over, because, as competent as most of the people at the dais are, and I've known John Browne, for example, for a long time; he has made great contributions to the national security of this country as head of the Los Alamos Laboratory—and General Habiger and Ed Curran. These are people who have the best interest of the country at heart, and they are competent.

But it is evident that the Senate Republicans are right when we say that's not enough and that the PFIAB, just quoted by Senator Roberts, was right when he said you can't expect these people to do it all themselves. It can't be done. You need a semi-autonomous agency which is up and working with the head of it. And that's what we've been trying to do ever since the first espionage story broke over a year ago.

So as much as I respect some of you who are at the table today, it's clear that what you have been doing is not enough. And that's why it is so critical that we get on with the job of making this semi-autonomous agency work.

Unfortunately, Secretary Richardson, who is not here today, isn't going to be able to answer some of our questions. One of the things I was going to ask him is about his statement made last year. His attitude is "Not to worry, I'm in charge. We don't need a semi-autonomous agency. Bill Richardson is in charge." He said last year, and I'm quoting, "Americans can be reassured our nation's nuclear secrets are today safe and secure," end quote. That's Secretary Richardson.

Now, just a final point. One of my colleagues just began to explain what was really at stake here. What's missing, and may well

have been stolen, is information about how to disarm our nuclear weapons and those of perhaps some other countries whose nuclear weapons could be stolen and used by terrorists. It's information that would be very useful, if someone wanted to build a nuclear device, to know how our nuclear devices work, certainly.

But it's also important, if you're a terrorist, you have possession of a stolen nuclear device, and you want to be sure that the American NEST team, the emergency team that would go out with these lost computer disks to disarm such a terrorist nuclear weapon, it's important for you to know how they would go about doing that so that you can booby-trap your stolen nuclear device and thus prevent them from succeeding in disarming your terrorist weapon.

That's of concern to the American people. And for those of us who have been supporting missile defense for a long time, having to answer the charge by our opponents that "No, the real threat here is a stolen nuclear device, a suitcase nuclear weapon—that's the thing we really ought to worry about," I've always said, "Yeah, we need to worry about both."

It turns out that the guardian of our nuclear security here, Secretary Richardson—"We can be reassured our nation's nuclear secrets are today safe and secure"—wasn't minding the store when it came to protecting that part of our ability to deal with these kinds of terrorist weapons. And that's why, gentlemen, you see such great frustration here by those of us who, like you, want very much to ensure the security of our nation.

And, Mr. Chairman, both Chairmen, I appreciate very much your holding this hearing today.

Chairman MURKOWSKI. Thank you, Senator Kyl. We've been joined by Senator Lincoln, who's a member of the Energy Committee. Good morning. Please proceed.

Senator LINCOLN. Good morning. Thanks to both of the Chairmen here today. I don't have an opening statement but will make my observations, as everyone else has.

There's no doubt that there's an ongoing and enormous disconnect somewhere between what we, the Congress, and Secretary Richardson here in Washington are directing to be done and what's being implemented out in our nuclear labs. And from all of the accounts that we've gotten, I think we certainly have reason in the Congress to be concerned.

We're pleased that you're here today. We've read a lot about it in the papers and look forward to hearing the detailed chain of events of what's happened and exactly where we are in implementing the security changes that Congress demanded last year. There definitely is some explanation due.

And I would say to the Chairmen, both Chairmen, that if it necessitates us going into a closed-room session, I hope that we will do that to get down to the bottom of this. That is certainly our responsibility and job here in dealing with those in the administration at Los Alamos and in the Energy Department. And I hope that we can accomplish that, at least the beginnings of it, here today. Thank you.

Chairman SHELBY. Senator Lincoln, I just wanted to say to you and the others here, we're going to keep this hearing open as much as we can. We have nothing to hide. There's no need at the mo-

ment to discuss the secret details. If it gets to that—and it will ultimately—we will go into a closed session, as has been suggested.

Senator LINCOLN. All right, thank you.

Chairman SHELBY. I've already introduced our panel. We'll start with Dr. John Browne, Director, Los Alamos National Laboratory. Dr. Browne.

STATEMENT OF DR. JOHN BROWNE, DIRECTOR, LOS ALAMOS NATIONAL LABORATORY, U.S. DEPARTMENT OF ENERGY

Dr. BROWNE. Chairman Shelby, Chairman Murkowski, members of the committee, let me start by first acknowledging that this is a very serious security incident and I don't take it lightly.

I also want to start by saying that I am accountable for all the actions in my laboratory and the people that work at my laboratory. I'm accountable for all the policies, procedures and security systems. I'm accountable for training my people, for making them aware of their security responsibilities and for continuing that training, to retrain them to make sure they are up-to-date.

But I also want to point out that a fundamental principle to all security is the individual's responsibility. I have to make sure that each individual in my laboratory understands their personal responsibility, once we can demonstrate that all of the policies, procedures and systems are in place, to help them do their job. We can't excuse them. If they ignore these policies, if they are negligent, we have to hold them accountable as well.

I want to give you a personal observation. When I was told about this incident, I had the same reaction that I think all of you had. And I asked myself and the people around me the same question: How could this have happened at Los Alamos after everything we've been through in the last year?

We have made real security improvements. We had intense scrutiny by members of these committees. We had people come out from the government and audit us intensely, and those reports are available. Nonetheless, it still happened. How could that happen? My mood changed from being extremely disturbed to extremely angry to where I am today, which is frustrated. And I think that's what I sense the members of this committee feel as well.

So how did it happen? Let me briefly give a few aspects of the chronology, and I'll save a lot more of the detail perhaps for the questions and the answers. On Sunday, May 7th, the Sierra Grande fire was threatening Los Alamos National Laboratory and the Los Alamos town site. The flames were leaping hundreds of feet in the air. I remember standing on the bridge that crosses the canyon between the town site and the laboratory and thinking, "We're going to lose the town, and I hope we don't lose the laboratory as well."

We went into our emergency operations center and began directing the operations. That evening we got a call from some members of this team who said they needed to get into their vault to remove some of the material that's in their tool kit so that they could be ready to respond to a national emergency and not be prevented from getting that access if the fire worsened.

So we authorized them to go in and to pick up this material. It was at that point that they noticed that these hard drives were

missing. Mistake number one: They did not pick up the phone and call me or anybody in my chain of command. We were at the emergency operations center that entire evening, throughout the night. We were accessible. I assure you, we would have acted promptly if we had known about it.

As you know, the fire raged across that whole area for over two weeks. We shut down the laboratory. No one was allowed into the Los Alamos site. It was guarded by our security force and by the state police of New Mexico, so security was maintained at our site for the entire time that the laboratory was shut down. And we can demonstrate that through records of our alarm systems and our electronic access systems to all of our vaults.

After two and a half weeks, we began to let people back into the laboratory. This team, recognizing that they had lost the two hard drives, began to search again on May 24th. Mistake number two, in my opinion: They did not let me know again at that point. That's in violation of both DOE and laboratory policy. They should have let us know again immediately, once they were back into the laboratory, that these hard drives were missing.

They looked for one week before they exhausted their search. And on May 31st, they informed their line management and our security division, after our security people did a confirmation search, they informed my associate director for nuclear weapons on June 1, who informed me. I told our security division to call DOE in Albuquerque, which is our chain of command for security. They did so. And that same day, June 1, we sent in a formal report which told the Department of Energy what was missing.

At that point, I ordered the laboratory turned upside-down. I said, "Search everywhere. Multiple people should be brought in. Don't let everybody check their own safe. Let's have several people check every safe, every office. We believe these things are just missing, so let's find them." And we literally checked every classified area that we could think of, and then we did it again. We did it for three days over the weekend.

We interviewed. We did over 200 interviews of 86 people who potentially could have accessed this information. At that point, early on June 5th, I asked the Department of Energy formally—Deputy Secretary Glauthier—if he would take over this investigation, because we had run out of ideas at Los Alamos. We had hit a brick wall. We needed help. And they immediately responded to us by sending General Habiger and a team of DOE security experts as well as members of the FBI to our laboratory.

Let me just mention a few things and then conclude my remarks. First of all, it's been mentioned that the fire did occur. I'm not going to use the fire as an excuse for this. I will say that during that period, people were under great stress. All of us knew someone who lost a home. We were all evacuated, including myself and my family. If you don't think that's a stressful time, I assure you that you have to experience it.

Nonetheless, we can't excuse errors. But people do make mistakes when they're under stress. My assumption was that someone made a serious mistake during this period. And I still am hoping that, in fact, that mistake will be found out and that we can move on.

At this point I'm taking a series of actions, and I would defer to the questions perhaps to explain all the actions I've taken. I am not taking this lightly. We are continuing to do lots of things at our laboratory to demonstrate accountability for our responsibilities of running this laboratory. And I'll be happy to answer any of your questions in detail.

Thank you, Mr. Chairman.

Chairman SHELBY. Mr. Secretary.

**STATEMENT OF THE HONORABLE T. J. GLAUTHIER, DEPUTY
SECRETARY OF ENERGY, U.S. DEPARTMENT OF ENERGY**

Mr. GLAUTHIER. Thank you, Mr. Chairman and Chairman Murkowski, other members of the committee. We do appreciate the opportunity to appear before you today and to try to address this question of the disappearance of classified information at the Los Alamos lab.

I'm joined today by Dr. Browne, as you've just heard, the director of the laboratory; also by General Gene Habiger, who is our Director of the Office of Security and Emergency Operations; by Ed Curran, who is the Director of our Office of Counterintelligence; and by General Tom Giocondacando, who is the acting deputy administrator of the NNSA for defense programs.

As soon as we learned at headquarters about this security incident on June 1st, Secretary Richardson tasked me to head up the Department's effort to find out what happened at Los Alamos Laboratory, including the determination of accountability and recommendations for disciplinary action and changes in security procedures.

I've been working intensively since we first learned of the problem with DOE security chief Gene Habiger, with the counterintelligence office through Ed Curran, with the acting deputy administrator of defense programs Gioconda, and with the lab director, John Browne, to oversee this investigation. We also immediately contacted the Federal Bureau of Investigation, which has initiated a criminal investigation of this matter in cooperation with the Department.

Let me say at the outset that the Department of Energy has not and will not tolerate security lapses by our employees and contractors, and that the leadership at the Department of Energy is extremely concerned about what has happened at Los Alamos Lab.

While it is true that this problem evolved during a fire of catastrophic proportions, we are particularly angry at how long it took the lab to notify the Department of Energy about this incident. The Department is required to be informed of such problems within eight hours of their discovery. The contractor informed us three weeks after the initial discovery.

Frankly, if one of these people had discovered his car stolen from the garage, they would have reported it to the authorities immediately—would not have waited one day, much less three weeks. And this is national security information we're talking about here. It's not somebody's car in their garage.

I can assure you that personnel will be held accountable and that disciplinary action will result from this incident. Secretary Richardson is very committed to that. I am committed to it. You've heard

from John Browne. I think everyone involved in the management is committed to making sure this is done.

As you know, the Secretary put tough security measures in place after his arrival at the Department, including selected General Habiger as the Department's security czar and fully implementing PDD-61, the President's counterintelligence order for DOE. He has worked tirelessly to respond to the security problems that arose last year, and we think we have an excellent team in place for situations such as this. We are pleased that the Senate appears ready to confirm General John Gordon to be the Under Secretary for National Nuclear Security, and our first administrator for the National Nuclear Security Administration.

We've set high standards for security. We will demand to know why the lab was not able to meet these standards. We plan to hold them accountable.

In our briefings to the Congress on this matter, there have been a lot of questions about the timeline on this incident, so let me go through it quickly.

May 7th, as you heard from John Browne, it was determined by laboratory employees that the disk drives were missing. By way of background, these two drives were used by the NEST team, Nuclear Emergency Search Team, which is trained to respond to nuclear accidents or terrorist acts. The disks contained very sensitive technical data. May 7th, as the evacuation of the town was under way and the evacuation of the laboratory was beginning, the NEST team discovered as they were preparing to take their emergency materials off-site, they discovered the missing disks. As you heard, they did not report it.

May 8th to May 22nd, the laboratory was closed down because of the Sierra Grande fire.

May 22nd to 24th, the employees began to return to the laboratory and a search was begun for the missing hard drives. Still no reports to management.

May 31st, the laboratory manager, John Browne, was informed about the loss.

June 1st, then, DOE headquarters was alerted to the loss.

On June 2nd we had our first meetings, we had our first video conference with the people at Los Alamos, and we notified the FBI about the reported loss. We also alerted Secretary Richardson on June 2nd. That was a Friday. Over the weekend, we alerted the National Security Council, who was traveling with the President abroad, and we expanded our efforts.

On Monday, June 5th, we had another video conference with the people at the site and at the Los Alamos and at the Albuquerque field office. We decided to dispatch General Habiger and an FBI team to Los Alamos to manage the inquiry as a joint DOE-FBI inquiry. That was done and they arrived on Tuesday and begin their joint effort.

On June 12th, this Monday, General Habiger returned to brief the Secretary, and a decision was made to turn the investigation over to the FBI. Currently, the FBI, with the full cooperation of DOE, is conducting a criminal investigation into the matter.

Let me emphasize, this is an ongoing investigation. All the facts are not in yet. And it is at a very sensitive stage. Let me also summarize actions we have taken relating to this matter.

First, the laboratory has suspended work and has conducted a thorough search of offices and classified work areas, including an affirmative inventorying of all classified materials and computers. The laboratory has tightened access to its vaults and computers. We have asked for a damage assessment from the Central Intelligence Agency. The University of California has placed six management employees from the Los Alamos lab on administrative leave pending a review of their responsibilities and actions. And polygraphs of lab employees will begin today.

We will be considering additional security measures and we are eager to hear quickly from the University of California about what actions they are prepared to take to meet the accountability and security positions that we put in place over the last 18 months. I will be briefing the Secretary regularly as this investigation proceeds.

Finally, the Secretary has announced that former Senator Howard Baker and former Congressman Lee Hamilton will be conducting a thorough investigation and an assessment into the circumstances surrounding the security incident at Los Alamos and will make the necessary recommendations for corrective measures. This assessment will be done expeditiously and will be conducted in a manner so as not to interfere with the FBI investigation. Senator Baker and Congressman Hamilton have agreed to this assignment and will report to both President Clinton and to the Secretary. We trust that Senator Baker and Congressman Hamilton will help us get to the bottom of this in a bipartisan and unbiased manner.

The most important point to leave you with is that the FBI and DOE investigations are continuing, that every effort is being made to find out what happened and to recover the missing disks. The Department of Energy security team is responding to this very serious incident in an aggressive and expeditious manner. We will continue to keep you and the other key Congressional committees informed of developments.

Let me ask General Habiger to comment on his view, his efforts in this investigation, if I might.

Chairman SHELBY. I was going to call on him anyway. General.

**STATEMENT OF GENERAL EUGENE HABIGER, DIRECTOR,
OFFICE OF SECURITY AND EMERGENCY OPERATIONS, U.S.
DEPARTMENT OF ENERGY**

General HABIGER. Thank you, Chairman Shelby, Chairman Murkowski. I appreciate this opportunity to come before you and the joint committee to discuss with you our continuing investigation as to the events surrounding the issues at Los Alamos.

I want to echo the Deputy Secretary's sentiments that we will not tolerate security lapses at the Department of Energy. This sentiment was made very clear to me by Secretary Richardson when I came on board almost one year ago. This sentiment has also been clearly articulated in numerous security initiatives we have issued over the past year, to include timely reporting of security concerns.

I wish to briefly expand on Deputy Secretary Glauthier's chronology of events to include that Mr. Ed Curran and I met with FBI officials in Washington on Monday the 5th of June and agreed to immediately begin a joint investigation. On the very next morning at 0700, our joint FBI-DOE team began our investigation. We immediately began a series of interviews and searches at Los Alamos and at Lawrence Livermore, because there was an exercise that took place there the first week of May.

We have conducted to this point over 100 interviews, initiated numerous physical searches, and as indicated by Deputy Secretary Glauthier, we begin the conduct of polygraphs today. This investigation is no longer joint, but is now headed by the FBI. We continue to work with and support the Bureau to provide any assistance they may require.

I wish to close by saying that upon hearing of the incident, the Department of Energy moved out swiftly and decisively to determine what happened to this sensitive information. These efforts continue as we meet today.

Thank you, sir.

Chairman SHELBY. Mr. Curran.

STATEMENT OF EDWARD CURRAN, DIRECTOR, OFFICE OF COUNTERINTELLIGENCE, U.S. DEPARTMENT OF ENERGY

Mr. CURRAN. Mr. Chairman, I have no prepared statement, but I certainly agree with the remarks you made in the opening statement that the sooner a situation of this gravity is reported, the better opportunity you have to find out what has occurred. The delayed reporting in this particular situation is certainly alarming.

When we heard about it, we brought in the FBI and we received outstanding cooperation with the FBI. Our focus at this point is to obviously find out what happened to these disks. There's a limited number of people who have direct access to this information. Hopefully, when we get through the first phase of this where these people have been interviewed intensively, they will be polygraphed—hopefully we will have a better understanding and direction where we're going in this, but I certainly agree that if it had been reported sooner, we would have had a—be in a lot better position.

Chairman SHELBY. Thank you. Last August—do you want to say something, Mr. Secretary—

Mr. GLAUTHIER. Mr. Chairman, I'd like to request that General Gioconda be able to join us at the table for the questioning period. General Gioconda is the acting administrator, deputy administrator for the defense programs in the NNSA, and is responsible for the Los Alamos Lab.

Chairman SHELBY. We'll grant that request. We'd like to keep this chair empty because we're hoping Secretary Richardson's going to reconsider declining to appear sooner or later. So, if you can bring him up with another chair or something, that would be fine.

Last August, the DOE Office of Independent Oversight and Performance Assurance conducted a security inspection of the Los Alamos National Lab. They also did some other inspections. The inspection resulted in a satisfactory rating. Sandia and Lawrence Livermore National Labs received marginal remarks in similar inspections conducted last summer.

Maybe I should ask Dr. Browne this first and then any of you could comment. Describe in detail the procedures governing access to the—what do you call it, the X Division vault?—and access to and removal of materials stored there in Los Alamos? In other words, who does this? Who has access to this? What procedures were in place? How old are these procedures? Especially in view of the other problems of security, have these procedures changed in the last year or so? When you sign, pick-up something, do you sign out like you would at the local rental store if you rented a shovel or a grill? They certainly know who's got it. Could you go into that, Dr. Browne?

Dr. BROWNE. Let me first—

Chairman SHELBY. I think this is important.

Dr. BROWNE. It's very important. Let me start with the access to the general area. I believe you visited us.

Chairman SHELBY. We did.

Dr. BROWNE. And we showed you that area last—

Chairman SHELBY. Some of the Senators.

Dr. BROWNE. That's correct. The general Q-cleared area, if you remember, you have to have a badge and a what we call biometric read-in, where your hand is read to make sure you're identified. That gives you first access to where Q-cleared information, secret restricted data can be discussed.

The next level of security takes you into the confines of the division in question, X Division, and that requires, again, a badge read, and one has to be on an access list to get into the Design Division. There are over a thousand people on that list. That's one of the questions that you had at the time and that we still have. There are a large number of those people who require access because of their job duties, like our protective force, hundreds of our protective force, who have to get in there quickly if something happened. The firefighters would also have to fall in that category.

Chairman SHELBY. But whose getting in there every day? That's what we're getting at.

Dr. BROWNE. Every day, the people who are getting in there are the members of the X Division and other technical divisions who work on the nuclear weapons programs. So that number is more on the order of five or six hundred people. You don't have that many in there every day.

X Division is a division of about three or four hundred people that are associated with nuclear weapons design and theoretical studies, okay? So there are about three or four hundred that live in there. They have their offices behind this limited access area.

Once you're in that area, then you get to the vaults. And there are several vaults in this area. One has to be on an access list, approved access list, for those vaults.

In this vault in question, there are 83 people who had access to that list. Twenty-six of the 83 had access on the basis of their needs, without being escorted. In other words, if the vault was alarmed after working hours, they had to have a password, they had to be able to identify to the control guard station who they were, have the password, and get into this vault. They also had to know the combination to two locks on the vault door.

Chairman SHELBY. Let me ask a follow-up. We know—you've led us in to who could get into the vault.

Dr. BROWNE. That's correct.

Chairman SHELBY. Now, you've got several vaults there, and we won't go into all the details. But guarding a vault or protecting a vault, do you have someone that would protect the inventory? And if I were cleared as a scientist to go in there, to check out a disc, you know, to do research or whatever, would I have to sign out, like you would a book or anything else?

Dr. BROWNE. The——

Chairman SHELBY. And if not, why not?

Dr. BROWNE. There is custodian for the vault, and for the people who don't have routine access, the ones who have to be escorted in, they do have to sign in that they've been in the vault. If those people remove something, the custodian could be aware of it. For the 26 people, that's not true. For the 26 people, they're like the librarians in a library. In other words, they're the ones that are responsible for the information in there. Ten of those——

Chairman SHELBY. Are they the scientists or the custodians?

Dr. BROWNE. Well, they're the scientists, but they really are the owners of this. And they're the people on the NEST Team that have to have access immediately, because they're on call 24 hours a day. They don't sign out the hard drives, because they need to—the way the procedures work now, they need to be responsible for quickly grabbing their tool kit, if you want to put it in those terms, which include the hard drives, and be out of the laboratory and onto airplanes in a very short notice.

Chairman SHELBY. But isn't that one of your problems, because you don't have internally—I'm just asking just some information—you don't know exactly who got that yet? In other words, I didn't come in and sign it or initial it that I got two discs so-and-so at 7:07 a.m. on a certain morning, and you bring it back. I mean, isn't that just common sense?

Dr. BROWNE. Well, Secret RD data is, as you know—and this came up in last year's hearing—was the accountability, the detailed accountability, for secret restricted documents, was eliminated in the early '90s. And I personally think that that has had an effect.

Chairman SHELBY. Was this during this Administration?

Dr. BROWNE. It actually started at the tail end of the last Administration——

Chairman SHELBY. Okay.

Dr. BROWNE [continuing]. Was enforced in the beginning of the present Administration, in early 1993.

Chairman SHELBY. Are you basically saying the security procedures were relaxed?

Dr. BROWNE. Correct.

Chairman SHELBY. Okay. Senator Bryan—Senator Murkowski. Excuse me.

Chairman MURKOWSKI. Thank you.

Let me see if I got this right. On May 7th the fire was moving towards the lab. Is that right, Dr. Browne? And somebody needed to get into the vault to ensure that you had access to this, in case

the labs were endangered. But there was a request made to remove one set of the hard drives.

Dr. BROWNE. That's correct.

Chairman MURKOWSKI. Who okayed the request?

Dr. BROWNE. That was my deputy director for operations.

Chairman MURKOWSKI. Your deputy director for operations okayed it. Was that done with your knowledge?

Dr. BROWNE. He told me about it that evening.

Chairman MURKOWSKI. That evening. And then did he go in with this group?

Dr. BROWNE. No. As a matter of fact, the people who are authorized to go in and pick up that information out of the vault are the ones on this access list—in other words, of the 26. He is not authorized to go into that vault.

Chairman MURKOWSKI. Okay. He's not authorized, but he can give them authorization. And facts indicate that they went in then and found them, meaning two hard drives, missing.

Dr. BROWNE. That's correct.

Chairman MURKOWSKI. How do you know when they were there last if you don't have a check-out mechanism and so forth?

Dr. BROWNE. We do know when they came out because we had to verify that there was no one in the building, because we evacuated the laboratory.

Chairman MURKOWSKI. No, you're missing my question. You said that they were there and they were gone. How do you know when they were there last?

Dr. BROWNE. Oh. That's part—

Chairman MURKOWSKI. Did you do an inventory?

Dr. BROWNE. That's part of the ongoing inquiry as to when they were last officially found or validated. The people involved—and I guess I can ask General Habiger to help me out here in terms of how much we can say in the open, but my understanding is, about a week before May 7th, one of the members of the NEST team remembers checking this bag in which the materials were kept, and, although he cannot say for sure—he didn't sign a piece of paper that said they were—there he said he knows that they were not missing.

Is that a fair statement, General Habiger?

General HABIGER. Just let me—it was April the 27th, and we, as we began our inquiry, indicated that they were probably there. The FBI is very meticulous. The last time that we are absolutely sure that they were there was on April 7th.

Chairman MURKOWSKI. And how do you know they were there on April 7th?

General HABIGER. Because we have an individual who did an inventory and certified, not in writing but during the interview, that he did, in fact, see the disks. On April the 27th, another member of the NEST team, one of the 26, went in and did an interview, but a very meticulous individual, who said, "I don't recall seeing the disks, but if they weren't there, I would have reacted appropriately."

Chairman MURKOWSKI. But that's hardly a question here because they didn't respond appropriately when this team didn't notify you until sometime after they had gone back initially on their

own and done a search. So, you know, the appropriate measures here are really questionable, let alone the lack of documentation.

And, you know, how can the Department of Energy and you on behalf of Secretary Richardson, Mr. Glauthier, come before this committee and suggest that you had taken control of security, and then I notice in your press release announcing this, it wasn't announced by the Department of Energy; the press release came out from the Los Alamos Lab. I don't know, Dr. Browne, who decided to put out the press release, but is it normal for Los Alamos to issue this kind of a press release that's normally done by the Department of Energy headquarters, or are you trying to distance yourself from Los Alamos, Mr. Glauthier? That's certainly what it appears to be to this Chairman of this Committee.

You've given assurance that you had control of security, and now you're saying, "Well, we took the necessary steps." You didn't take the necessary steps, or this wouldn't have happened. And to suggest that suddenly today you're supporting the nomination of General John Gordon, I find extremely ironic, when yesterday, the day before, you were opposed to moving ahead this nomination. How quick you turn around.

I see my time is up, Mr. Chairman, but I hope that I'll have another round. I join with you in just being flabbergasted at this.

Senator DOMENICI. Are we going to vote on General—

Chairman SHELBY. We are. We're going to vote, and if Senator Murkowski will go ahead and vote, I will stay here and we'll just continue the hearing. Is that okay?

Chairman MURKOWSKI. I understand that we've asked for some more time to discuss this matter on the floor, but we're under a unanimous consent agreement that's been objected to.

Chairman SHELBY. They're voting now. They're actually in the vote.

Chairman MURKOWSKI. And so we're going to vote. I'm just telling you the background.

Chairman SHELBY. Yes, absolutely.

Chairman MURKOWSKI. So we clearly were not given time for debate. I will go vote and come back immediately, and we can continue this important hearing.

Chairman SHELBY. We'll continue the hearing.

Senator Bryan.

Vice Chairman BRYAN. Well, thank you very much.

You know, it strikes me that this really isn't nuclear science. We're talking about some fundamental basic security procedures.

Dr. Browne, if I understand your testimony, you're saying that if you were one of the 26 people who can enter the vault without escort, that those people are free to remove the contents of that vault at any time and are not required to sign in or out. Am I correct?

Dr. BROWNE. That's correct.

Vice Chairman BRYAN. I have to tell you, that sounds like a real bonehead security procedure to me. I don't impugn the integrity of these people. I don't know who ultimately will bear the responsibility, if we ever find out who removed the disks. But what in God's world is the rationale for that? This is highly sensitive stuff. We've

all agreed on that. I cannot conceive of not requiring some kind of a sign-in or sign-out procedure for those 26 individuals.

Dr. BROWNE. As I tried to point out, I think—and it's a personal opinion—that the government made a mistake in the early '90s for eliminating accountability for secret documents across the government. We actually preferred at our laboratory when we had bar-coded strips on all our classified information so that we knew who the document was assigned to. If you transferred it, we transferred it from person to person. That went away. It made our lives harder.

Vice Chairman BRYAN. And you say that that began in the previous Administration and was ultimately implemented at the beginning of this Administration.

Dr. BROWNE. It was implemented over a several-year period, correct.

Vice Chairman BRYAN. Again, because our time is limited, give me the encapsulized—if one was asked to justify that change which allowed this access without any recorded entry or exit or any requirement to identify material removed, what is the ostensible justification? Give me the best case as quickly as you can, Doctor.

Dr. BROWNE. Well, I think the best case is that these people have security background investigations, they have Q clearances, they're inside a limited access area. You know, the best I can do is to have human reliability programs.

Vice Chairman BRYAN. I have to tell you, I think that's a systemic failure. I mean, I find that to be both astonishing and alarming that that could be considered adequate procedure. Now, my time is limited. Let me pursue the issue of notice.

Dr. Browne, you weren't notified for 24 days after it was finally determined on May 7 that it was missing. Were you outraged?

Dr. BROWNE. Yes. Absolutely.

Vice Chairman BRYAN. What did you say and what did you do?

Dr. BROWNE. I don't think I'd want to repeat what I said.

Vice Chairman BRYAN. All right. That's encouraging. I mean, can you give some assurance that heads are going to roll and that blood will flow in the streets? Somebody is responsible for not notifying you, and I would be just incensed if I were you because ultimately it reflects on you. You had no knowledge for 24 days.

Dr. BROWNE. There is a review committee from the University of California, an independent review committee at my laboratory right now with some outstanding people whose names you'd recognize—former military people, former FBI people, security officials—looking into the chain of command, starting with me. President Atkinson is holding me responsible as well as my chain of command—

Vice Chairman BRYAN. But President Atkinson is—

Dr. BROWNE. He has taken action to—

Vice Chairman BRYAN. And he is? Sir, I have to confess my ignorance.

Dr. BROWNE. Oh, excuse me. He's the President of the University of California, I apologize. He's my direct boss.

Vice Chairman BRYAN. Let me just say, Dr. Browne, I have great respect for the academic institutions of this country. I am a graduate of the University of California's law school in San Francisco. But it gives me no confidence, sir, when you tell me that there is

an academic group looking at this. I think that is inherently the cultural problem that we have, and I would hope that at the end of the day that there will be people who will be fired and terminated, because this kind of judgment is not just on the margin. I think it's the kind of judgment that is so fatal that there ought to be people terminated for not notifying you and other people along the chain who failed to notify the FBI, failed to notify this committee. We weren't notified until more than a month after this was determined.

I know my time is about ready to expire, and we'll look forward to your answer.

Dr. BROWNE. Mr. Chairman, could I make just one quick comment?

Chairman SHELBY. Sure. Doctor Browne, go ahead.

Dr. BROWNE. This review committee is not academic. It is Admiral Bob Wertheim, who many of you know is very distinguished. It has James Gear, former deputy of the FBI, and it has Dr. Francis Sullivan from the Institute for Defense Analysis. I don't think—

Vice Chairman BRYAN. I appreciate that clarification. I would stand, however, Mr. Chairman, with my comments with respect to the university perspective on security, which I think is inherently part of this cultural resistance to attaching the kind of priority that I think ought to be attached to security, and I thank the Chairman.

Chairman SHELBY. Senator Bingaman.

Senator BINGAMAN. Thank you very much. Thanks for the testimony.

General Habiger, you referred to the investigation also looking at an exercise that occurred out at Livermore in the first week of May. Could you describe what that was and why you thought that was something you ought to be looking at?

General HABIGER. Yes, sir. There was an exercise—there are regular exercises, primarily for training for the NEST team. The NEST team will go to other locations, they'll practice deploying, they'll be provided a device and they'll go through the procedures of how they would handle a real emergency. In this case, it was going to be an exercise with a simulated device at Lawrence Livermore. That occurred the first week in May.

There was a lot of confusion in the last week of April as to who was going to go, how they were going to get there, what equipment they were going to take, and when we first got on scene at—or, before we even left on Monday afternoon, the 5th—

Senator BINGAMAN. This was the 5th of June.

General HABIGER. June, yes, sir. I could not be assured in any way, shape or form what was going on at Livermore. So I dispatched two of my DOE people, who met up with two FBI agents from the San Francisco office, who went to Livermore, conducted 10 interviews, conducted extensive searches, and we concluded, after the interviews and after the searches, that, in fact, when the Los Alamos team went to Livermore, they did not, in fact, take any of the equipment.

Senator BINGAMAN. So in your opinion today, at least, you believe that these hard drives did not wind up at Livermore?

General HABIGER. Yes, sir.

Senator BINGAMAN. When the group went to get this material on May 7th, were they intending to obtain these hard drives or were they intending to obtain other things and just, in the course of that, noticed that these particular hard drives were gone?

Dr. BROWNE. That's correct. They were trying to obtain their entire tool kit that they wanted to have accessible, if the fire worsened, so that if they were called out on an emergency, they would have it available to them. When they looked at their tool kit, they noticed these two drives were missing.

Senator BINGAMAN. But as far as you can determine, that's the first indication that any of these 26 people had that these drives were not where they ought to be?

Dr. BROWNE. That's correct.

Senator BINGAMAN. What is the FBI doing that the DOE hasn't already done, or that the lab hasn't already done, by way of investigation? I mean, are they just going over the same ground again, or are they doing something else?

Mr. CURRAN. No, sir. I think initially the DOE review was a cursory interview of most of these people who had access to it. When the FBI got out there on Monday, you are doing in-depth interviews of these people. You are looking at forensics for their computers, what's on the tapes or the drives, the damage that could be done. It's a typical espionage investigation that's being conducted at this point.

Senator BINGAMAN. And is there also a review going on of the procedures? I know Secretary Richardson has asked two of our former colleagues here in the Congress to do an overview of what happened. But is there someone with real managerial experience and expertise in security procedures who is reviewing the security procedures and making an assessment there?

Mr. GLAUTHIER. If I might, there really are activities at at least three different levels that are taking place. I think Dr. Browne mentioned that there is a group that the University of California has assembled, a panel, to review their procedures and make recommendations. We look forward to hearing what those recommendations are.

But that's not sufficient. We are not going to just stay with that. The independent group, Senator Baker and Congressman Hamilton, we talked about; we are asking them to take a broad look at all of our policies and procedures.

But in addition, we are looking to our own operations, to General Habiger, who is the Director of our Security and Emergency Operations Office, to give us detailed recommendations. We are looking to General Gioconda and the Defense programs to give us recommendations. And the Secretary has asked me to then help pull those together in order to decide what comprehensive set of actions we need to take.

Dr. BROWNE. Senator, could I add a comment to that?

Chairman SHELBY. Sure, go ahead.

Dr. BROWNE. In addition, the University of California has what's called a Laboratory Security Panel that they formed after last year's events. They brought in a team of people from outside the academic fields, people who are former military or former intelligence people, former law enforcement people. That's headed by an

Admiral Tom Brooks, who many of you know. Admiral Brooks is coming out to the laboratory on Monday as a follow-up to the special panel that Admiral Wertheim is leading. And the intent is to do just what you said, Senator—is to look in depth at the laboratory's practices.

We may have policies and procedures, but the question is, are the practices following them.

Senator BINGAMAN. I'll stop with that, Mr. Chairman. Thank you very much.

Chairman SHELBY. Senator Allard.

Senator ALLARD. Mr. Chairman, thank you. I hope I don't repeat some of the questions that have been asked, and I think Senator Bryan did ask some questions in regard to this, and maybe it will be repetitive, but I think it's worth at least to check it out a little bit further.

I want to be specific on the security end of the vaults. My understanding is that in other areas where we have highly classified material, the information, whatever, is taken out, and whoever is stationed at the vault door keeps a record of who goes in and at what time and what they took out and what they bring in and at what time. And when I made the comment I think Wal-Mart has greater security, what I'm referring to is when they take out their cash drawer, there's an inventory done at the time the cash drawer is exchanged so that you can hold that particular employee responsible if there is cash missing. I understand that many other areas where we have secure installations they do that, they actually run a quick inventory.

Do you have any procedure like this in place at the vaults? It seems to me a rather fundamental and elementary kind of procedure. And I'd like to have a response to that.

Dr. BROWNE. Senator, that's the procedure for Top Secret information which we have in place at our installation and throughout the DOE and the government. The comment I made earlier is that throughout the government, Secret data is no longer accounted for in this country, period. I don't care what agency you go into, there is no accountability for Secret data.

Senator ALLARD. Well, this is—okay, let me ask you this. Were there any cameras recording who entered and exited the vault?

Dr. BROWNE. My understanding, from all the security experts, is that it's bad practice to have video cameras because technical countermeasures would indicate that that's more of a vulnerability than it is—in other words, it's a liability to have an extra device like that. And if you look at vaults, you'll find they don't have video cameras.

Senator ALLARD. Okay. So your response—coming back to my original question—is, there is nobody there at the vault monitoring who goes in, what time, and what is checked out, and there's no inventory when there's a change of post at the vault?

Dr. BROWNE. There is a custodian for this vault, and there are individuals who require escort into the vault—that's 57 people in this particular case. There are an additional 26 who have unlimited access to the vault because of their programmatic responsibilities in this area, this response area. They have a personal identification number that they enter into a system so that they have positive

control of their entry into the vault. The documents themselves do not have accountability labels on them because that's now how the government does Secret documents.

Senator ALLARD. In all the agencies that have Secret documents, even the most highly classified documents, like what we have in the vault, they don't do business that way. Is that right?

Dr. BROWNE. The documents in the vault are Secret Restricted Data; they are not "Top Secret."

Senator ALLARD. Okay.

Dr. BROWNE. Top Secret information is accounted for the way you suggest.

Senator ALLARD. Okay. So these hard drives that are missing are classified as "Secret," not "Top Secret"?

Dr. BROWNE. Correct.

Senator ALLARD. I see. And your Top Secret is in another vault?

Dr. BROWNE. That's in a SCIF, a sensitive compartmented information facility.

Senator ALLARD. Okay.

Now, there was a question I think that was answered earlier, why the loss was not reported to DOE Headquarters until almost a month after the drives were discovered missing and not reported to General Habiger during his visit on May 19th. I think you addressed some of that in your comments. But I want to follow up with that and ask: What were the positions of those placed on administrative leave as the result of these failures?

Dr. BROWNE. The people are the ones in direct management line of command between me and the level of the incident—in other words, everyone from my position down to the level at which the incident occurred.

Senator ALLARD. And they represent then the most senior Los Alamos officials who were aware of the loss but failed to report it to Habiger and the DOE Headquarters?

Dr. BROWNE. The most senior people found out about this at the same time I did. There were several individuals in this chain of command who were aware of the information on May 7th and did not report it.

Senator ALLARD. Okay. Now who is on—this is another question I want to direct in a little different area—who is on the commission appointed by Secretary Richardson to investigate their loss? Do we know that?

Mr. GLAUTHIER. The panel that Secretary Richardson has named is really headed just by the two individuals I named, Senator Baker and Congressman Hamilton. At this point, there are no other members. They will have a small staff to support them. And they have accepted that assignment, and we expect them to work in a matter of the next few weeks to do this.

Senator ALLARD. And what is their charter?

Mr. GLAUTHIER. To review the overall incident and focus particularly on the procedures and the practices and give us recommendations about changes that we ought to make.

Senator ALLARD. And how do you plan on coordinating their efforts with the FBI investigation?

Mr. GLAUTHIER. They have been instructed to carry this out in coordination with the FBI so that while it will be done expedi-

tiously, it will not conflict in any way with the FBI investigation, which is of course being given the top priority.

Senator ALLARD. Okay.

And I have a question now for General Habiger. What is the basis of your testimony before the House that the two drives were likely lost or misplaced and not stolen?

General HABIGER. I'd rather go into that in closed session, if I may, sir.

Senator ALLARD. Okay, we'll wait till closed session.

Now, let me follow up on this classification a little bit. Apparently every classified document this Committee receives gets a number and is tracked every time it leaves our security office vault here in the Senate, no matter the classification. Why can't this be implemented—why can't, you know, the lab and other agencies implement these procedures?

Dr. BROWNE. We certainly could. We had it in place before. And we actually, at that time, when it was being implemented, thought it was a mistake, and said so.

Senator ALLARD. And so when were these—when was this procedure discontinued?

Dr. BROWNE. It was discontinued in the period of 1991 through 1993. It was over a several-year period. Different documents with different types of markings went from accountable formally, like you said with bar-code type of numbers, to unaccounted for. That doesn't mean they aren't controlled in the sense that you have responsibility for them, but they don't have markings with serial numbers, et cetera.

Senator ALLARD. And you personally objected to those being—

Dr. BROWNE. I wasn't Director at the time, but I know our laboratory did object at the time. We thought it was a mistake.

Senator ALLARD. And under whose direction was that?

Dr. BROWNE. That was Director Sig Hecker at that time.

Senator ALLARD. At that time. Okay.

Mr. GLAUTHIER. Senator, can General Habiger also respond to this?

Senator ALLARD. Yes. I'd appreciate that response.

General HABIGER. Senator Allard, one of the first things that I observed during the first two days out at Los Alamos was the Department of Energy needs to revisit the classification levels for encyclopedic databases, which this was one of. In other words, there's just such an amount, large amount of very sensitive data on one piece of electronic media that we need to review our procedures, and we are going to do that.

Senator ALLARD. Mr. Chairman, I see my time has expired.

Chairman MURKOWSKI. I want to go through the rest of the Senators. We're going to be joined by a couple. But I didn't quite get an answer, Dr. Browne, to the role of the NEST team. And you said when the fire came, they were under instructions to take measures to ensure that if a lab was burning or shut down, the two hard drives would be in the hands of this NEST team if there were an emergency at such time where they had to disarm a nuclear device. That was standard procedure. They knew that.

Dr. BROWNE. Correct.

Chairman MURKOWSKI. They initiated the request. And your deputy okayed the request.

Dr. BROWNE. That's correct.

Chairman MURKOWSKI. And they are a conscientious group.

Dr. BROWNE. Correct.

Chairman MURKOWSKI. But then you told us that they couldn't find the two hard drives. Now, if they're such a conscientious group and they have a job to do, and they were doing their job, which was to ensure that there was a transition of this technology if the lab is burned, and suddenly they couldn't do their job because they couldn't find the two hard drives, they couldn't do their job.

Dr. BROWNE. What they—

Chairman MURKOWSKI. That is a breach of your policy which says they have to do their job. And I just cannot understand why it wasn't notified to your deputy and to you that the whole purpose of their activity was jeopardized because the tapes were gone.

Dr. BROWNE. They took—

Chairman MURKOWSKI. So the national security interest of this country was jeopardized during that two weeks when this group of responsible people couldn't find and didn't report. You're telling us that?

Dr. BROWNE. Not true. There are multiple copies of these hard drives. They took two other hard drives and assembled them into a complete NEST tool kit and relocated it to another secure location so that they would be able to respond.

Chairman MURKOWSKI. So—

Dr. BROWNE. So I believe they were responsible there. I will say that they should have notified me. I cannot explain their behavior for not notifying me or my deputy.

Chairman MURKOWSKI. Thank you. Let's see. In the order of trying to follow the attendance, it appears that—Mr. Roberts, followed by Mr. Bunning. Somewhere on this scene is Senator Burns, but that's the order we'll follow. Please proceed.

Senator ROBERTS. Okay, thank you, Mr. Chairman.

I'd like to get to the "when" of it again, and this is a follow-up of the question asked by Senator Murkowski in regards to the last time that the hard drives were basically inventoried. You have on the time line April 7, the last time the two missing computer hard drives are confirmed to have been seen. I'm a little troubled, or I'm a little confused, as to the difference between "have been seen" and "the last time inventoried." Can you help me on that? I guess it would be Dr. Browne.

Dr. BROWNE. Yes. Inventoried, obviously, refers to when someone goes through and, I think, would formally check off on a checklist that you both saw it, touched it, and put your signature that, in fact, it was there.

Senator ROBERTS. Yes.

Dr. BROWNE. That's how I would interpret that.

Senator ROBERTS. Right.

Dr. BROWNE. My understanding, and I'd like General Habiger's help on this, because it's part of the investigation, is the April 7th date is not that type of inventory, correct?

General HABIGER. That's right.

Dr. BROWNE. It is an affirmation by an individual that he saw and touched the hard drives, but he didn't sign a statement—

Senator ROBERTS. When was the last time that that happened, when somebody signed a statement?

Dr. BROWNE. Yes. That was right after the January 1st Y2K period when we inventoried a lot of our classified information. There was an affirmation and a true audit at that point.

Senator ROBERTS. My recommendation to you is that you put a "January 1" at the top of the chronology indicating that's the last time it was inventoried. I think there's a big difference between the inventory—what, definition—as opposed to, you know, "have been seen."

What confidence do you have that the nuclear materials have not been illegally removed and then replaced in the past without the knowledge of your officials? And that gets back to the security measures that we have in place.

Dr. BROWNE. Well, the individuals who are involved in this program have moved these hard drives as part of their responsibilities many, many times in the past, and we have never had a situation where we lost accountability. I cannot confirm that someone wouldn't have copied that information. That's always possible. But I doubt that that's the case, just given the fact that these people are associated with such a secure, sensitive program.

Senator ROBERTS. I would imagine that that would have been my attitude up to this point. I'm not, you know, trying to cast any aspersions, but I think we've got to certainly close down every possible occurrence.

If this data is so important—and I think we all agree that it is—why is it not classified Top Secret; i.e., critical to national security, as opposed to Secret?

Dr. BROWNE. Yeah, I don't have an answer for that, Senator.

Mr. GLAUTHIER. Senator.

Senator ROBERTS. Mr. Secretary.

Mr. GLAUTHIER. Yes. That was really what General Habiger was beginning to address a moment ago.

Senator ROBERTS. I see.

Mr. GLAUTHIER. One of his recommendations is that we ought to consider this kind of encyclopedic database, which has such comprehensive national security information, consider elevating the security level at which it's classified.

Senator ROBERTS. Well, that's my second suggestion.

Can you help me, Mr. Secretary, again? What are Lee Hamilton and Howard Baker going to do? Let me preface my remarks by saying that I can't think of a better example of a bipartisan and respected former member of Congress than Lee Hamilton. His expertise on foreign policy is second to none. And I think he's now with the Woodrow Wilson think tank, as I recall. And Howard Baker, obviously in the same category. We refer to him in Kansas as "Mr. Nancy Kassebaum." [Laughter.]

Senator ROBERTS. What are they going to do? Are they going to have a staff? I mean, what is it that they can do over and above the recommendation by the Foreign Intelligence Advisory Board to the President? I'm not sure what they're doing. Are they going to have a staff? Are they going to—you know, what's the deal?

Mr. GLAUTHIER. The recommendations from the Foreign Intelligence Advisory Board were a year ago.

Senator ROBERTS. Yes.

Mr. GLAUTHIER. And, of course, we've seen legislation passed since then; we've taken steps to implement that. They will be reviewing what we are currently doing, and the current practices and procedures and the observations that come out of these other investigations. The statement in the announcement yesterday is that they will conduct a thorough investigation and assessment into the circumstances surrounding the security incident at the Department of Energy's Los Alamos National Lab, and will make the necessary recommendations for corrective measures. We're expecting them to provide a bipartisan, senior-level perspective on this that is something beyond what we get from the people who are actually involved day to day in the programs.

Senator ROBERTS. We had a bipartisan, senior-level advisory when we just confirmed, you know, General Gordon. And we had a bipartisan senior advisory recommendation when we passed the law. I've got a suggestion for Howard and for Lee to the Department of Energy: Simply obey the law. Hello? I'm not too sure that—I'm all for Howard and Lee; I think they're great people. But I'm not trying to pooh-pooh this effort. I suppose that that's an option.

Let me get—and please tell me—I know my time has expired, but that's never stopped me before, so I won't do that.

Chairman MURKOWSKI. We're going to try and limit members to time, in all fairness. So—

Senator ROBERTS. In all fairness. Okay. But to the extent and the detail possible in open session—and please inform me if you'd rather do this in a closed session—and I'm going back to the emerging threats responsibility I have on the Armed Services Committee and I think what's on the minds of all American citizens and I said this before—how could the missing materials be used by a foreign country or a terrorist group?

Now, Senator Kyl went into this to some extent, and it gets to the seriousness of this and why this should be a Top Secret matter, to assist in a nuclear weapons program, to assist a terrorist, to arm a U.S. or any other nuclear device, or design or to build a nuclear weapon, or to assist in any other kind of terrorist act, to better understand U.S. weapons, et cetera, et cetera. That's the thing I think that is so absolutely crucial here, as opposed to all these press reports about a hard drive and whether or not it's serious or not. It's damn serious.

Mr. GLAUTHIER. Senator, we agree. We'd like to address that in a closed session, if we could.

Senator ROBERTS. All right. Thank you very much. That has to be addressed.

Chairman MURKOWSKI. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

If the people at this table would raise their hand in response to this, I'd appreciate it. How many of you were here when we had a hearing on the Wen Ho Lee problem?

General HABIGER. What were the dates of that, sir? Because I—

Senator BUNNING. No, no, I know you weren't here, General.

General HABIGER. Okay.

Senator BUNNING. You weren't here, because I was holding up your nomination.

General HABIGER. Yes, that's right. [Laughter.]

Senator BUNNING. I say that only because that was the way we could get Bill Richardson to testify, see. That was one of the reasons.

Let me go back to the chronology here, because I really have a problem with it. It says that on June 1 Director Browne was notified of the loss. Is that correct?

Dr. BROWNE. That's correct.

Senator BUNNING. And then it says that on June 1st, Los Alamos officials formally notified the Energy Department. Is that also correct?

Dr. BROWNE. Yes, it is.

Senator BUNNING. Then why wasn't the Secretary of Energy immediately notified?

Mr. GLAUTHIER. The initial notification went to the Albuquerque office and was sent on paper, hard copy, to us.

Senator BUNNING. Yoo-hoo! Answer my question. Why wouldn't the Secretary of Energy be notified if we have such a breach of security at Los Alamos, immediately?

Mr. GLAUTHIER. He was notified within hours on the same day that I became aware of it and that our people actually became aware of it at the Department.

Senator BUNNING. Well, then, what, in your own release—this is your release—

Mr. GLAUTHIER. Yes.

Senator BUNNING [continuing]. It said that the Secretary of Energy was briefed on June the 12th. What day is it today?

Mr. GLAUTHIER. The 12th was the briefing he got after General Habiger had been at the laboratory for a week, conducting a joint investigation with the FBI. Secretary Richardson first was briefed on this on June the 2nd.

Senator BUNNING. And he didn't react?

Mr. GLAUTHIER. Yes, he did. He tasked me to lead this effort. He directed us to work aggressively on this. And we notified the FBI.

Senator BUNNING. But didn't red lights off at all in your mind that we have just had a major breach of national security, and that there was a possibility that we could have some problem with this?

Mr. GLAUTHIER. Yes, it certainly did. And we reacted very quickly at that point.

Senator BUNNING. It seems to me that you didn't do that. I mean, according to your own paper that you have written up, if I were the Secretary of Energy and somebody notified me that we have had this breach, I would do more than say to you, "Go, you, and examine it. Figure it out."

Mr. GLAUTHIER. He also had us notify the National Security Council, and he spoke directly to the National Security Adviser to the President. And we worked with the FBI immediately.

Senator BUNNING. And you thought it was so important that three days later, you notified the President of the United States?

Mr. GLAUTHIER. Oh, the President was notified that weekend. That's right.

Senator BUNNING. You wouldn't notify him immediately if it were a breach of this sort?

Mr. GLAUTHIER. He was notified within——

Senator BUNNING. Three days later.

Mr. GLAUTHIER. I think the secretary discussed it with him.

Senator BUNNING. These are your own papers that I'm examining here. In other words, you wouldn't notify the President of the United States if somebody stole something like this, or thought there was a theft?

Mr. GLAUTHIER. We notified the Deputy National Security Adviser to the President immediately and went through the chain of command. It was the next day or two days later before the President personally discussed this with the Secretary.

Senator BUNNING. You see my problem is that when we had the Lee problem, we have the same people trying to handle this problem that handled the Lee problem, only with additional people from within the Department of Energy.

The Congress of the United States spoke on this matter and told you that you weren't getting the job done, to do it differently. And you didn't pay attention to us. In fact, you did exactly the opposite. You said you could do it from within. Now, that isn't you speaking; that's the Secretary of Energy speaking. These people, all these Senators up here, and the House of Representatives passed a law that told you to do it differently, and you didn't pay attention.

And now today, because of all the scrutiny we are getting, we finally have confirmed someone to head it up. In so doing, I had to give up a hold on his deputy, which he has no choice of. I can't believe that there is a deputy appointed that this general we have just confirmed, has to accept. What kind of foolishness is that?

Mr. GLAUTHIER. We appreciate your confirmation of General Gordon. And you recall that Bill Richardson convened a special panel to select candidates and he is the one who put this name forward to the President. We are very pleased to have him joining us.

Senator BUNNING. Thank you, Mr. Chairman.

Vice Chairman BRYAN. Mr. Chairman, are we going to observe these time limits, I think, to be fair to all of our colleagues?

Chairman MURKOWSKI. I sent a note to him.

Senator BUNNING. I just got notice of my time.

Chairman MURKOWSKI. And he is too far away for me to reach out——

Vice Chairman BRYAN. And too big.

Chairman MURKOWSKI. And Senator Bryan is next. And I might add that the vote on General John Gordon was 97-0, so you have a new Energy czar.

Senator Bryan.

Vice Chairman BRYAN. Mr. Chairman, I am not sure that I am next. I have had one round of questions. I don't know that Senator Domenici has.

Chairman MURKOWSKI. You are next.

Vice Chairman BRYAN. I am next? I beg your pardon. Okay. I am delighted. Thank you.

Dr. Browne, let me begin where I left off with you, sir, and that is you explained that at the end of the last administration, that there was a policy to relax or loosen up security procedures. Am I correct on that?

Dr. BROWNE. That's correct.

Vice Chairman BRYAN. And what was your role at that time within the Department?

Dr. BROWNE. I was at the Los Alamos National Laboratory. And I was responsible for our Department of Defense-sponsored programs, not our nuclear-weapons but our non-nuclear weapons programs.

Vice Chairman BRYAN. And what was the rationale for the policy change?

Dr. BROWNE. I can't say for sure. My memory would say that it had to do with the fact that it was the end of the Cold War and people were feeling like perhaps we could open up more. But one would have to go back and see the actual documents that began this process.

Vice Chairman BRYAN. So this was a policy undertaken in the previous Administration and implemented and carried forward in the present Administration; is that correct?

Dr. BROWNE. That's correct. There were various stages to it.

Vice Chairman BRYAN. General Habiger, what date did you report for duty in the position that you currently hold?

General HABIGER. The 16th of June, sir. That's when I accepted the position.

Vice Chairman BRYAN. Of last—

General HABIGER [continuing]. Year.

Vice Chairman BRYAN. Last year?

General HABIGER. Yes, sir.

Vice Chairman BRYAN. Now, you have heard Dr. Browne explain what I have to tell you is an utterly bizarre and unbelievable procedure, that 26 people have access to and from this vault, and they remove materials and are never required to sign in or sign out. You're the fellow that was in charge of the security. What's your response to that, sir?

General HABIGER. Well, sir, I would tell you that, if you go to many of the offices of these 26 individuals and look at what they do, day in and day out, you'll find the same kind of data that they are working on in their offices, so that the kit itself that's stored in the vault, is obviously a compilation of a lot of data. These individuals are working with this kind of data on a day-in and day-out basis.

One of the initial observations that I made, after going out there last week, was the fact that we need to look at and come up with procedures so that we know when people, like those 26 individuals, have access, when they go into the vault.

Vice Chairman BRYAN. But General, it seems to me, with all fairness—I'm not a security person, but a fellow with a room temperature I.Q. ought to be able to look at that procedure and say that's pretty loose, that's pretty open. I mean, there must be some reason that those particular hard drives were placed in a vault as opposed to just leaving them on the top of the desk of these 26 people who had this unlimited access. If you're talking about improving secu-

urity, would it not improve security to the vault if you had a sign-in/sign-out procedure and asked such individuals to identify what they were taking out, and conversely to when they returned it, to sign in that they had returned it?

General HABIGER. Yes sir. And that's one of the things we'll be looking at as part of the procedural aspects when this is over.

Vice Chairman BRYAN. General, let me just say, I think part of the frustration—and I realize that a lot of this has been political theater, and the President and Secretary Richardson have been the object of much of the criticism here; I think it goes deeper—I think that the Secretary and the Administration were failed very badly by some of their subordinates.

I can't conceive of why this would not have been at least one of the recommendations made early on. And I have to question, with all due respect, what other security procedures are in existence at Los Alamos that have similar laxity. I have no confidence in the procedures that have been established. My time is up. I will yield.

Chairman MURKOWSKI. No, you've got a few more seconds there. Go ahead. Ask your question.

Chairman SHELBY. That's a fine question and I think he ought to respond to that question.

General HABIGER. May I respond?

Vice Chairman BRYAN. General, by all means.

General HABIGER. Sir, I take exception to that. As Dr. Browne pointed out earlier, ten years ago we had rules that information of this type would have been Top Secret. And the kinds of things you are talking about would be in place today. Those rules change. When I became the commander-in-chief of Strategic Comment, I was astounded in 1996 when I found out those rules had changed.

Vice Chairman BRYAN. But I guess what I would say, General, this is the year 2000. You've been on assignment since June of, or at least June 16th is when you accepted, I don't know when you reported.

General HABIGER. The fifth of July, sir.

Vice Chairman BRYAN. The fifth of July. I have to tell you, and my time is up—perhaps we'll get another round—what I would be interested in knowing, and I realize that you can't respond to this because my time is up, is precisely what recommendations were made, what procedures were changed. This kind of strikes me as being fairly simple and elementary in terms of improving at least one aspect. And again, I'll yield back my time and thank the Chairman.

Chairman MURKOWSKI. Before I call on Senator Domenici, I just want to respond for the record to the statement that was made on behalf of the Secretary by Mr. Glauthier. I'm sure you recall this treatise—Science at its Best; Security at its Worst. It was developed by a panel led by the respected Senator Warren Rudman. Your offices and the Secretary chose not to follow the recommendations in here. The significance of that I think speaks for itself.

Now you're suggesting that the contribution of the respected Senator Howard Baker and Representative Lee Hamilton can somehow do this job for you when you didn't follow the recommendations of this committee. So, I don't know how many times you think you

can lead this horse to water, but as far as I'm concerned, you've lost your credibility.

Senator DOMENICI.

Chairman SHELBY. I believe it's Senator Campbell first.

Chairman MURKOWSKI. Is it? Excuse me. I'm sorry.

Senator CAMPBELL. I thank you, Mr. Chairman. It's interesting you mentioned horses. You know I'm Indian on my dad's side, and in the tribal wisdom of the Lakota Indians, passed on from generation to generation, there's a saying that says when you discover you're riding a dead horse, the best strategy is to get off.

And I compare that with what we often do in government. Some times when we have a dead horse in government, we appoint a committee to study the horse, or threaten him with termination for a whole host of things—maybe reclassify him as impaired, or hire an outside contractor to ride the dead horse, or harness several together to see if they pull a little better. Or maybe we just simply promote the dead horse to a supervisory capacity.

In my view, this security system is a dead horse. And we're tinkering around the edges and we ought to get off this thing. I don't think government has a corner on security, very frankly.

In my private life, Mr. Chairman, as you know, I'm a jeweler. If you go to New York and you buy expensive diamonds, I can tell you the security is phenomenal. I mean, a door system where you're in an enclosed, monitored room, and from the day, in fact from the minute you go in until the minute you leave, you're taped, you're on videotape. I mean, we see that in banks, in fact, and we see it even in Wal-Marts and 7-11s.

I can't understand what good a sign-in/sign-out does, or if you have a list of people, if you don't have any way of monitoring those people. They might be perfectly honest—I'm not trying to discredit them—but on the other hand, most people in private industry recognize the weakness of having somebody alone.

Is there a system now in which they are put on a tape from the time they go in to the time they leave these record rooms? Maybe I ought to ask that to General—John Browne, excuse me, John.

Dr. BROWNE. Senator, that's not the case because it's my understanding that although this is clearly done in places like you're referring to in the private sector, in government Top Security vaults this is not done because it's viewed as a vulnerability that one can access information from the video itself, and the technical countermeasures people don't like you to have video monitors in such highly secured areas. At least that's my understanding. I'm not a security expert, but this is what my security people have told me. I asked exactly the same question.

Senator CAMPBELL. You're basically saying somebody might steal the tape, and that would be a breach of security—

Dr. BROWNE. No, I think beyond that. I think it's beyond that in terms of tapping into the signals.

Senator CAMPBELL. Does it violate anybody's—

Dr. BROWNE. No, no—

Senator CAMPBELL [continuing]. Civil rights, or job description or anything if you did do that?

Dr. BROWNE. It's not a civil rights issue. It's an issue of the vulnerabilities associated with that kind of information being fed from a highly secure facility out to somewhere else.

Senator CAMPBELL. Let me just ask maybe just two more quick questions. Do the people, those 26 that you mentioned that have access and they have to have, I guess, pretty ready access, are they in there alone or do they go in there in groups of two and three, or anything of that nature?

Dr. BROWNE. It varies, but they can go in alone. They are permitted to go in alone. They do have passwords, so you know when they go into the vault after hours, and they go—

Senator CAMPBELL. I don't question their integrity, but I know in the former Soviet Union in cases like that nobody went in alone. They were always accompanied by usually three people and a group went in. And a lot of times they were not completely known to each other either. They weren't personal friends that went into these secured areas.

Let me ask maybe just one other question, Mr. Chairman, and that's I think to Mr. Curran. And I don't know if you can answer this in an open session like this or not, Mr. Curran, but are you making any contingency plans now in case these tapes, these hard drives are not located?

Mr. CURRAN. Yes sir.

Senator CAMPBELL. In the worst case scenario, somebody's got them. And whoever has them, I would guess they're not our friends, and they have no intention of doing something that we're gonna like. So, you are making some contingency plans now, just in case.

Mr. CURRAN. Yes sir, but I cannot go into details in this open session.

Senator CAMPBELL. Is there anything you can say to this Committee in an open forum like this?

Mr. CURRAN. Only that we're acknowledging what you're saying is a serious issue and action is being taken to address that.

Senator CAMPBELL. I thank you. Thank you, Mr. Chairman. My time's up.

Chairman MURKOWSKI. Senator Domenici.

Senator DOMENICI. Mr. Chairman, both Chairmen, acting, and the Democrat ranking member. First let me, let me say this. In my opening remarks, I did not say, nor do I say right now, that this is Bill Richardson's, Secretary Richardson's problem—I mean that he caused it. What I am saying is that there should have been a reorganization of the Department, and we don't know what might have happened if six months ago if the quality of the general that we're putting in was put there with the authority Congress gave him.

And I will make that point until this thing is resolved, that we don't need another one before we put in place what one of the most serious commissions that the government appoints recommended that we do. You know, they only had two recommendations. One was to create a semi-autonomous agency, no dual-hatting, none of the things the Secretary wants to keep power in the Secretary and put his people in double positions—or, they said, take it out of there totally and create a totally independent entity like NASA.

Now, if you don't think they were serious about some basic change being needed, then you don't need any more than that. And there are still people in the Department—and you might be among them, acting Mr. Deputy Secretary, and you, General Habiger—I don't know about you, Edward but I think there are still people there that don't want what Congress said we ought to do because they think they can do it under the current system.

Now let me tell you, if it could be done under the current system, the distinguished general sitting there with all kinds of great service to the United States Government, should be as responsible for this as Dr. John Browne. You told us when you took the job you would be responsible for this and you would be accountable for it, because we said "Who is ultimately accountable?" And we never could find out under this diffuse system.

So, today, you know, if I wanted to, I would say to you, why, why would you not tell the Senate, as Dr. Browne did, I am accountable for this? You had sufficient time to make changes like this. There is no question about it. In my opinion, this process, on this particular secured item, is absolutely fallacious. It will be fixed. You don't need a genius to figure out you can't have 28 people walking in and out, no matter how great they are, without signing in and out. And no matter what the problem is, that's gotta be fixed.

I mean, that's a simple thing. They might not be the ones that removed it, but at least you would have a time of entry and a time of departure, and they would have signed up. Now we've got to talk to them about did they, when did they. You would know that going in if you had that little thing fixed. Who was responsible for getting things like that fixed?

And I say it to you, General, and to you, Mr. Curran, former FBI agent, it's just as much your job right now under this structure to go out in the laboratories in this country and find out how to fix things like this. You're just as responsible for that as the lab directors because you told us that's what you would do. I told you you won't do it, because you're just another new box with a great new title, and a wonderful background, plunked into a Department that is dysfunctional. And I believe that today.

And if you wanted me to, I could cite you three areas that have nothing to do with security, wherein this General Gioconda, who I've learned to know and respect, just can't get the laboratories and the Department of Energy together to get problems solved because the Department is too dysfunctional in terms of working these problems. And if you push me, I'll tell you what they are. They are as serious—I'll give you one—as the manufacture of pits, for the future nuclear weapons of the United States. We cannot get that problem solved because between the Army, between the Defense Department, you and the laboratory, you just can't get it done. I bet you anything if you have General John Gordon running the Department of Energy that problem would have been solved two years ago if he were in charge.

Now let me, let me just close by saying I believe you bear a heavy responsibility since you took the jobs and are supposed to be responsible, and the Secretary has the same responsibility for having put you in and said that will work. It obviously didn't work.

Now, John Browne, I think you are to be commended. You did not you did not come up here and try to chisel on us. Your first words were "I am accountable. I am accountable." You said it five times. I didn't hear that from any of them. They are just as accountable in my opinion. And what we ought to do is decide to give this General Gordon enough latitude where he can tell us in six months, or eight months, or a year, that he's looked at every one of these kind of problems and he has recommendations in advance—because this one stands out. If somebody would have been looking at it—I say to you, Dr. John Browne—they would have found it.

And you all can answer what I've said, but I don't want to place explicit blame on anyone, but I think just as we blame John Browne and the laboratory, we can say you were responsible too. And I submit you won't find these kinds of problems in the other areas unless, unless somebody has the authority to do it top to bottom, and that cannot be done under the current structure, in all deference to your superb talents.

Mr. GLAUTHIER. Thank you for your comments, Senator. I think I can speak for my colleagues here that we do feel accountable and we do feel that we are also under scrutiny as part of this process here and part of the ongoing review. We agree with you that having General Gordon in this job is going to help give more direction, more attention and more leadership to these programs, and we welcome the addition and his confirmation today.

Having said that, we also think it's very important that there be some independent oversight of the NNSA, and that offices like General Habiger's office and Ed Curran's office need the ability to review what is going on in these programs and to be able to advise the Secretary and others about that. And we think that, with all the best intentions, the programs do not do the best job when they're just run on their own, and they need some additional leadership.

You mentioned pit production. I would hope that we can get on top of the safety problems that led to an exposure of plutonium of several workers recently, which is the kind of thing that safety procedures have just not been followed as well as they should be. There are any number of ways in which independent oversight is needed in an operating program.

Senator DOMENICI. Mr. Chairman, I don't want to get into an argument about the legislation, which I helped draft, but I will tell you there is ample opportunity in that law, signed by the President and not carried out by anyone, either he or the Department—there is ample room for independent investigations of safety and otherwise within the existing law that we're asking him to follow through on.

I yield.

Chairman SHELBY. Senator Domenici, you'll recall, as has been said here, that we appreciate your leadership on this legislation. But a lot of us supported you, worked with you on it.

Senator DOMENICI. Absolutely.

Chairman SHELBY. And you are absolutely right. We thought that you, of just about anybody I know in the House or the Senate, had a real detailed knowledge of all the labs. You'd spent a lot of

time on it from the Energy Committee, from the Appropriations subcommittee that you chair, and from the Budget Committee. You have attended various meetings of the Intelligence Committee at our request. And I think that is a failure.

Gentlemen—this is my second round now—I believe we use the word accountable, yes. Are you accountable? Absolutely. But the Secretary is accountable. He's the leader. He's the designated leader, appointed by the President of the United States, confirmed by the Senate. He is the leader here. Are you accountable? Yes. But what about responsibility, responsibility? Some people use accountability and responsibility interchangeably. Some don't. But I believe with accountability there comes responsibility.

Now, I want to touch on something. I thought what Senator Campbell was bringing up was very, very important. We want to know step by step what happened at the labs since all the problems that were exposed, you know, dealing with security at them, before Mr. Curran took his post, before the General went out there, took his post, all of this. So I'll start with you, Mr. Curran. What steps, if any, were taken dealing with this section—is it Section X? Is that what you call it, Dr. Browne?

Dr. BROWNE. Division.

Chairman SHELBY. Division X—where some of our most vital nuclear secrets are. What steps were taken in the last year, since you've been on the job, to ensure that the procedures were changed? In other words, the security was better; that we didn't just have false security but we changed the whole procedure. What changes did you make or recommend be made, if any?

Mr. CURRAN. Chairman Shelby, again, I've been testifying here for a year and a half. I am the Counterintelligence Director.

Chairman SHELBY. I know that.

Mr. CURRAN. I'm not a former FBI employee. I'm an employee of the FBI who's detailed to the Department of Energy.

Chairman SHELBY. I know that.

Mr. CURRAN. I was requested to come to the Department of Energy almost two and a half years ago to review their counterintelligence program. I did that at the request of the Presidential Decision Directive. We wrote a report. We provided that report to the Secretary, to the President and to your committee. We made 46 very serious recommendations to improve the counterintelligence program at the Department of Energy. Your committees in Congress have supported that effort by providing us with the ample money and resources to put trained professional people into the laboratories.

Chairman SHELBY. And outward support.

Mr. CURRAN. And outward support. We have changed the organizational structure within management. The counterintelligence people have direct access to the laboratory director. We've held the laboratory director accountable for the people who visit his sites, what they do at those sites and the activities they conduct. We're 95 percent through with those 46 recommendations. I just want to make it clear, I'm in charge of counterintelligence and not the classification and security.

Chairman SHELBY. General, what have you done, if anything, dealing with Division X since you've been on board to make sure

that our most vital secrets are protected inside that vault? Were any procedures changed? Or have you not gotten there yet?

General HABIGER. Mr. Chairman, let me tell you that before I came on board, Secretary Richardson aggressively pursued a cyber-security program to change the way things could be downloaded or uploaded.

Chairman SHELBY. We understand that.

General HABIGER. So that was very aggressively done.

Chairman SHELBY. But my reference is to—

General HABIGER. Yes, sir.

Chairman SHELBY [continuing]. Who's checking out these disks. In other words, have you or somebody under you, responsible to you or the Secretary, gone into Division X, which is our most sensitive area, one of the most, and said, "Gosh, these procedures, they don't work; it's too lax. You know, something's wrong here"—in other words, to try to prevent what we think may have happened?

General HABIGER. Mr. Chairman, let me just say, we put out a total of almost 30 new policies in the past nine months relating to improving security and security awareness.

Chairman SHELBY. General, I'm not interested in policies. I want to know what you did dealing with Division X. Have you seen—have you been out there, one? Secondly, have you reviewed personally the policies dealing with this highly-classified material, how it's handled in Division X? Have you talked to Dr. Browne, who is the director of the labs, about this before all of this incident happened?

General HABIGER. I've been to Division X.

Chairman SHELBY. Okay.

General HABIGER. I've seen their procedures.

Chairman SHELBY. What do you think of their procedures?

General HABIGER. It was in the context of the way things are classified today. As a matter of fact, the rules were changed about how we handled Secret information in 1992. The basic problem—and you go back to the Rudman report, sir, with all due respect—the basic problem is the individual. The individuals, we hire them—quality people, we hope. We train them. We do background investigations on them. We train them some more, and then we certify them accountable and responsible for handling classified information. That's the line of defense that we need to work on.

Chairman SHELBY. That's very important. But I want to go back to the basic procedures in Division X of how X, Y or 1-2-3 disk, or whatever you want to name them, are handled. Have you changed the policy—not policy—the procedure of how Division X worked as far as security is concerned? Obviously not.

General HABIGER. No, sir.

Chairman SHELBY. You haven't.

General HABIGER. We have not, because—

Chairman SHELBY. Why haven't you?

General HABIGER. Because there was no reason to do that.

Chairman SHELBY. No, wait a minute. You're saying there's no reason to do so when we've been hearing from Dr. Browne and others how lax this was, a backward procedure, a lax procedure, where people could just go in and get something, and no one knew basically who got what?

General HABIGER. Senator, they can go into their offices and get similar kinds of classified information.

Chairman SHELBY. Okay.

General HABIGER. The bag was in the vault to be in a central location so it could be immediately deployed.

Chairman SHELBY. Well, do you believe this is an answer to anything, that they could do so and so? What we're talking about is the procedure. Like it's been said before, if you go rent a tool at one of the national rental places—I've done it; I rented a drill one time. Why, they knew what drill I had. They knew when I was bringing it back. I had to sign for it. If I hadn't have brought it back at the end of the day, they would have known that I had checked it out. But you don't even have those basic procedures, as I understand it, in Division X.

General HABIGER. Sir, on the 15th of May of 1992, there was no requirement to check out that tool.

Chairman SHELBY. But what I'm asking you, sir, what have you done since you've been there to change this? That was one of your responsibilities, as I understood it. And we supported you. We wanted—

General HABIGER. And I made a lot of changes.

Chairman SHELBY. But you didn't make that basic change. And today is it the same procedure in Division X?

General HABIGER. Sir, that same procedure is in place across the entire DOE complex.

Chairman SHELBY. Well, it is sad. It's a sad day for security—a sad, sad day.

General HABIGER. And let me say, not only the Department of Energy, but the entire federal government, including the Department of Defense.

Chairman SHELBY. Well, it's a sad day. Mr. Secretary.

Mr. GLAUTHIER. I'd just add that there are a number of other changes that have been made. And one of the things we were most concerned about at the time of the general's joining us was cyber-security and electronic access.

Chairman SHELBY. I understand.

Mr. GLAUTHIER. And the changes that we've made in terms of ensuring air gaps and the security of the computer systems from electronic access have been implemented well. What we're talking about today is a different kind of access, physically taking a drive. It's going to take us time to work through all these things. But we share the concerns you're expressing about how to make sure we are improving and increasing the level of—

Chairman SHELBY. Mr. Secretary, what's it going to take, honestly, basically? What's it going to take to alert the Department of Energy to the real problem here, after all the problems of espionage or alleged espionage or something like that, the missing disks and other things? What is it going to take? I mean, we all believe this is inexplicable, honestly.

Mr. GLAUTHIER. One of the most serious recommendations that we're considering right now is one of whether this kind of information should be classified at a higher level to guarantee a bunch of greater kind of security.

Chairman SHELBY. Well, why don't you do that? I mean, why would there be a debate whether some of our most vital secrets should be classified at—I'd hope at the highest level?

Mr. GLAUTHIER. Well, the recommendation has just come to us, and we're in the process of trying to understand why has it been classified at this level and what interests of other parties, the Defense Department and others, need to be part of that decision process.

Chairman SHELBY. It sounds like bureaucracy at work rather than what's important to the national security of this nation.

Senator Murkowski.

Chairman MURKOWSKI. Thank you, Senator. Mr. Glauthier, I wonder if you could advise us why the Secretary isn't here this morning.

Mr. GLAUTHIER. Yes. As you probably know, the Secretary offered to come before your committee next week if that had been possible, but the interests of the committee were to try to meet today. He indicated that he would send me because he has tasked me to lead this effort and put me directly in charge of working with the people you see here and the other agencies, like the FBI.

So I'm here to try to give you as much information as we have now. And the Secretary will, I'm sure, be willing to meet with you when there's more information available and when he can add to this.

Chairman MURKOWSKI. He's going to meet with committees on Thursday but not today—tomorrow.

Mr. GLAUTHIER. I'm not sure of that. I don't know exactly.

Chairman MURKOWSKI. He offered tomorrow, but not today.

Mr. GLAUTHIER. Well, I know he had offered for next week.

Chairman SHELBY. What's he doing? Excuse me, Senator, if you'll yield. What's he doing today that's more important than dealing with the problems of national security, the possible loss of some of our most vital secrets? You know, whoever the Secretary would be or whatever he'd be the secretary, or she, of, it seems to me that this is of vital importance, and yet we have an empty chair today. I think he's not accountable. Of course, we've said that, obviously, he's not.

Mr. GLAUTHIER. Well, the thing he did want to do is be sure that you have in front of you the panel of people who have all the information that we can share with you right now. So he has tried to be sure that we're doing that.

Chairman SHELBY. Where is he, though? You know, Harry Truman is someone who's already said, when he was President, that you're really accountable, you're really responsible. And I think, when I was a young man, I would read about him. And I said I might not agree with him, but I thought he was honest and I thought he was responsible. I don't believe the Secretary is responsible.

Mr. GLAUTHIER. The Secretary does take this very seriously and he does consider himself responsible and accountable, Senator.

Chairman SHELBY. We can tell. Thank you.

Chairman MURKOWSKI. Well, I think we're all of the opinion that, you know, the responsibility starts at the top and works down. So it's disappointing that the Secretary isn't here. He bears

the responsibility. He gave us the assurance that the security czar wasn't needed, that he was firmly capable, under his organizational structure, ensuring that our security interests were protected. And clearly that didn't happen.

And, you know, now we're supposed to be satisfied with the appointment of Senator Baker and Congressman Hamilton. And yet, when we reflect on the contribution of Warren Rudman and his report and the realization that you didn't follow them, what do you expect us to believe? And what do you expect the American public to believe? And how do you think they're going to react?

Mr. GLAUTHIER. We're going to be as open with you as we can be. We will share with you our assessments as we go through this and the recommendations that come forward and the actions that we'll take. We do want to see changes. We want to see accountability, disciplinary action and changes in procedures.

Chairman MURKOWSKI. Well, I don't know about the rest of the members of the panel, but I'm not satisfied with that. I might have been somewhat more satisfied the first time we had an issue associated with a security breach. And, of course, that was the Wen Ho Lee case. There were great efforts by the Committee, the Members and others, to try and address this. It was objected to by the Secretary—is that not correct—our efforts to appoint an energy czar in general terms, because the Secretary felt that this was an infringement upon his responsibility?

Mr. GLAUTHIER. The Secretary actually agreed with the idea of trying to bring in another under secretary but disagreed on some of the specific provisions, the ways in which it would be done.

Chairman MURKOWSKI. Well, unfortunately, the Secretary made a bad call there. He would have had, you know, some good insulation. And he doesn't have that insulation now. The Secretary is naked on this issue, because the Secretary bears the responsibility and he provided us with the assurance and then neglected, under the intention of the legislation, to move on the appointment of General John Gordon. Those are the facts.

Tell me, gentlemen, with the hard drives that are misplaced or lost, would a terrorist with some sophistication have the capability to arm or disarm a nuclear device with this information?

Mr. CURRAN. I think we would have to answer that in a closed session.

Chairman MURKOWSKI. I don't know why. I mean, the information is gone, and I'm just asking for a yes or no. Somehow—

Mr. CURRAN. We don't know that the information is in the hands of any terrorist group.

Chairman MURKOWSKI. I didn't ask you and suggest it was in the hands. I said if it were, with some sophistication, would these people, if they had it, could they arm or disarm a nuclear missile, a nuclear capability?

Mr. CURRAN. I think we would be able to respond to that in detail, but I think the response should be in a closed session, sir.

Chairman MURKOWSKI. Well, can you tell me why? Because clearly it's missing. How is the national security breached by well, perhaps they could, or no, they couldn't?

Mr. CURRAN. Sir, it's—

Chairman MURKOWSKI. Go ahead—

Mr. CURRAN. The information on there is being presently analyzed to determine what impact it would have on various aspects of our national security. I am not in a position to respond to that in detail, but there are people who can respond to you in detail——

Chairman MURKOWSKI. I'm not asking——

Mr. CURRAN [continuing]. And handle those exact questions.

Chairman MURKOWSKI. I'm not asking for any details. I'm simply asking, you know what's on these disks. We are told in your press releases in general terms that this is of significance relative to a nuclear disarmament and armament. And I gather that you refuse to respond as to whether or not this information, if in the hands of parties, could allow them to arm or disarm, is that correct?

Mr. CURRAN. The NEST Team has the responsibility to respond to any national nuclear emergency. The information they have available to them has to give them that capability. If you need more detail as to the capability and who, we'd be more than happy to give that to you.

Chairman MURKOWSKI. I take it your answer is yes.

Chairman SHELBY. Senator Murkowski——

Chairman MURKOWSKI. Let me just finish here because I have one more question and then I'm going to be through. And that is associated again with the chronology that Dr. Browne advised us on and said that when they were concerned in advance of the fire, the NEST Team went in to remove two of the hard drives. And they had to get permission to do that and they went to your deputy and your deputy gave them permission. Then, they couldn't find them. But you indicated in later questioning that they went and found two others. So, I gather there's a duplication.

Dr. BROWNE. That's correct.

Chairman MURKOWSKI. Now, in taking the two others, did they need permission from your deputy?

Dr. BROWNE. That information was under their control. My deputy gave them permission to enter an area that was evacuated. He gave them—they told them why they had to get into this evacuated area——

Chairman MURKOWSKI. For the first, for the first——

Dr. BROWNE. For the first one——

Chairman MURKOWSKI. Right. Okay.

Dr. BROWNE. And they were going in not to get the hard drives, to get the entire tool kit, the entire tool kit because they wanted to remove that. So, when they discovered that the hard drives were missing, they wanted to have a complete set so that they could respond if needed.

Chairman MURKOWSKI. And so they took another complete set?

Dr. BROWNE. No, they took the—they took the set that was incomplete and they added two hard drives to it. That's my understanding.

Chairman MURKOWSKI. Did they request permission to do that?

Dr. BROWNE. No. They do not need permission from the laboratory to do that because that is part of their responsibility to the national——

Chairman MURKOWSKI. You said they needed permission the first time to take the things that were missing, so they were miss-

ing, so then they recreated what they had to have, but you're saying they did not request or need permission for the second round?

Dr. BROWNE. They needed permission to get into that building and access that vault. We had to be able to know that they were in that area because from a human safety perspective, if we didn't know they were in there and that building caught fire and they were—

Chairman MURKOWSKI. But the problem is obvious. You don't know what was taken because you don't have a system that identifies things being removed and I'm not sure you really ever knew when you last had it, as evidenced by your testimony, which is indeed unfortunate, and I think represents a terrible inconsistency in security, because you've indicated that you think the last guy that was in there that looked at it remembered it being there. That's hardly adequate security.

I thank you, gentlemen. I think at some point in time we're going to have to ask a few of these questions in a security environment.

Chairman SHELBY. Let me say, Senator Murkowski, I've talked to staff. We're going to continue this hearing next week in a closed session. I think that would be in order. This stuff is very sensitive. Senator Campbell.

Senator CAMPBELL. Thanks, Mr. Chairman. Frankly, I am just so bewildered by the magnitude of this, I don't even know what to ask.

But, putting it in my own frame of reference, I taught high school years ago, and I remember when kids wanted to go to the bathroom they would get permission and sign-in and sign-out. It just seems to me that when we're talking about nuclear secrets, there's got to be a better system of monitoring who gets what and who takes a look at what. And I'm not a high-tech person, and maybe the things that I was just thinking about don't even exist, but aren't there systems of monitoring through fingerprints or retina scanning or something else that can take the place of just signing in and signing out? I would ask anybody on the panel if there's not some more sophisticated system to monitor.

Dr. BROWNE. Senator Campbell, we have committed to installing what are called biometric techniques where you can read very accurately a person's palm print, and that's very difficult for someone to defeat. We use it in other places to get into the laboratory. We're committed to add it to our vault.

Senator CAMPBELL. It lets them in and out, but included in that system you can tell when they went in, when they went out?

Dr. BROWNE. Correct. Correct.

Senator CAMPBELL. Well, we're making some progress so I guess it's a little better security than checking out the drill or the shovel that you were talking about, Mr. Chairman. But, I noted—I don't know. Maybe I'm on the wrong track here, but it seems to me when we're talking about secrets, there's different levels—classified Secret, Top Secret and so on, that we have a system now in place where we kind of start from the bottom. And if one is stolen and it's pretty valuable, then we better upgrade it. And if something at the Secret level gets stolen, then we upgrade that to Top Secret.

And using that horse analogy that I used a little while ago, that's like adding additional training to increase the dead horse's per-

formance. I mean, it's out of the barn and it's gone. I'm not sure what all good that does for those particular secrets, because they've done been swiped. And I just, you know, I don't even know where to go with this line of questioning. I just hope that we're going to be able to do something before something is done to us with the people that may have these in hand now.

But I do note the presence of a good friend and a gentleman that's been involved in certainly our nation's security for a good deal longer than I have, and I would rather yield to him because I know he's—

Chairman SHELBY. Senator Warner has joined us. I know he's been busy on the floor conducting a bill, but our distinguished Chairman of the Armed Services Committee knows a lot about this, a former Secretary of the Navy, Senator Warner. Thank you.

Senator WARNER. Thank you, Mr. Chairman. You and Senator Murkowski invited me to join you this morning and have a hearing with the Armed Services Committee. We're at the moment scheduled tomorrow morning, and I just announced on the floor of the Senate that that will be postponed until Wednesday.

I did so, Mr. Chairman, for the following reasons. One is that the Department of Energy obviously is working around the clock to assess facts and information. I think it's important that we keep a continuity of Congressional oversight, certainly here on the Senate side. I'm not, having not been here this morning because I was managing the defense bill on the floor, I have no way of assessing the progress you've made, but I assume progress has been made. And I have personally called up Secretary Richardson, with whom I spoke just a few minutes ago, and he has agreed to appear on Wednesday before the Senate Armed Services Committee.

Chairman SHELBY. Are you going to invite us too?

Senator WARNER. We will work on that Mr. Chairman. We're certainly reciprocal in the invitations. I'll do what I can on that. Our Committee, you know, under Rule 24 does have the specific jurisdiction over the laboratories and the question of security of nuclear systems.

So I've just come to advise you of that important development. The Secretary is quite willing to come, and he has clearly indicated he needed time to work with basically this group before you and others to gather that information, which hopefully will enable the Senate, indeed the Congress, to have further information on this critical problem. The same witnesses that have appeared before you today—that is, General Habiger, Mr. Curran, and I think one other—will be before our committee. Dr. Browne I think will be likewise. We'll have the same group of witnesses, basically.

Chairman SHELBY. Senator Warner, we've also announced that because of the sensitivity of some of this that we're going to convene a hearing of the Intelligence Committee next week. We will not—

Senator WARNER. I think that would be advisable.

Chairman SHELBY [continuing]. Deal with the classified end of this. We will invite you to join us, as always. You spent a lot of time on the committee.

Senator WARNER. Yes, I've spent many years as Ranking Member.

Chairman SHELBY. Thank you. Gentlemen, we thank you for your testimony, and we will be in touch with you as to the time and place—you know the place—of the next hearing. The Committee is adjourned.

[Whereupon, at 1:00 p.m., the Committees adjourned.]