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4 ``DOE'S NUCLEAR WEAPONS COMPLEX: CHALLENGES TO SAFETY,
5 SECURITY, AND TAXPAYER STEWARDSHIP''
6 WEDNESDAY, SEPTEMBER 12, 2012
7 House of Representatives,
8 Subcommittee on Oversight and Investigations
9 Committee on Energy and Commerce
10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 10:05 a.m.,
12 in Room 2123 of the Rayburn House Office Building, Hon. Cliff
13 Stearns [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Stearns, Terry,
15 Burgess, Blackburn, Scalise, Gardner, Griffith, Barton,
16 DeGette, Schakowsky, Castor, Markey, Green, Christensen, and
17 Waxman (ex officio).

18 Staff present: Nick Abraham, Legislative Clerk; Carl

19 Anderson, Counsel, Oversight; Charlotte Baker, Press
20 Secretary; Sean Bonyun, Communications Director; Matt Bravo,
21 Professional Staff Member; Karen Christian, Deputy Chief
22 Counsel, Oversight; Andy Duberstein, Deputy Press Secretary;
23 Heidi King, Chief Economist; Krista Rosenthal, Counsel to
24 Chairman Emeritus; Alan Slobodin, Deputy Chief Counsel,
25 Oversight; Peter Spencer, Professional Staff Member,
26 Oversight; Alvin Banks, Democratic Investigator; and Tiffany
27 Benjamin, Democratic Investigative Counsel.

|
28 Mr. {Stearns.} Good morning, everybody, and welcome our
29 witnesses to the Oversight and Investigation Committee.
30 Today's Subcommittee on Oversight and Investigation will
31 review challenges to safety, security, and taxpayer
32 stewardship in the Department of Energy's nuclear weapon
33 complex.

34 DOE is responsible for securing and maintaining the most
35 dangerous materials on the planet, including nuclear
36 warheads. This is one area that must have effective
37 oversight.

38 This committee, principally through the work of this
39 subcommittee, has a long history of bipartisan scrutiny of
40 the Department of Energy's oversight and management of the
41 contractors that are charged with running DOE's nuclear
42 weapons programs and operations. And the lessons from our
43 committee's past investigations and related GAO, Inspector
44 General, DOE's oversight reports should guide our bipartisan
45 review of the current situation.

46 My colleagues, chief among these lessons is that
47 independent and effective oversight is simply essential and
48 necessary. The safety and security risks involved in
49 overseeing the Nation's nuclear facilities are enormous, and
50 this committee must be vigilant about maintaining the

51 exhaustive oversight that the committee has traditionally had
52 in this area.

53 DOE, through its National Nuclear Security
54 Administration or NNSA, manages programs that involve high-
55 hazard nuclear facilities and materials, the most sensitive
56 national security information, and complex construction and
57 environmental cleanup operations that pose substantial
58 safety, public health, and environmental risks.
59 Interestingly, all of these programs are carried out by
60 contractors, both at the national labs and at DOE's weapon
61 production facilities.

62 These contractors and their federal managers, spending
63 billions of taxpayers' dollars on dangerous nuclear projects,
64 require rigorous oversight. Today we will review what DOE
65 has done in recent years to reform its oversight and program
66 management. I welcome our witnesses from DOE, the DOE
67 Inspector General, and the GAO, who will help us in examining
68 this important issue.

69 When government vigilance is not sufficiently rigorous,
70 problems obviously occur. The case in point is a recent
71 security failure at the Y-12 National Security Site in Oak
72 Ridge, Tennessee, this past July. By all accounts
73 contractors and site managers' failures at Y-12 allowed one
74 of the most serious security breakdowns in the history of the

75 weapons complex.

76 But Y-12 is but the latest in a string of failures.
77 Over the past decade we have seen security breaches and
78 management failures at Los Alamos National Laboratory in New
79 Mexico. GAO testimony will remind us all of one, 5-year
80 period after 9/11 in which 57 security incidents occurred,
81 more than half of which involved a confirmed or suspected
82 release of data that posed the most serious rating of threat
83 to the United States security interest.

84 In another example investigated by this subcommittee in
85 2008, the Lawrence Livermore National Lab gave itself passing
86 marks on its own physical security, and the NNSA federal
87 onsite managers gave it a passing mark, too. Only when DOE's
88 Office of Independent Oversight actually tested the security
89 independently was it evident that the lab deserved the lowest
90 possible rating for protective force performance and for
91 physical protection of classified materials.

92 On the safety front, the experience has been no better.
93 From 2007 to 2010, the Lawrence Livermore Lab has multiple
94 events involving uncontrolled worker exposure to beryllium,
95 which can cause a debilitating and sometimes fatal lung
96 condition. During this period the lab determined it was
97 compliant with DOE's safety regulations. It took an
98 independent department oversight review to determine that the

99 contractors' program violated the regulations.

100 Now, this past May the DOE Inspector General reported
101 that Sandia National Laboratories had not held its line
102 managers accountable for implementing an important system for
103 preventing and reducing injuries. Neither the contractor nor
104 the federal site manager had addressed problems that had been
105 identified in this program for more than a decade.

106 For more than 20 years GAO has designated DOE contract
107 management oversight relating to the weapons complex as high
108 risk for fraud, waste, abuse and mismanagement. We have seen
109 examples of this multi-billion dollar cost increases and
110 schedule delays in important NNSA construction projects.

111 In the meantime, directors of the national laboratory
112 and others claim that federal oversight is too burdensome and
113 intrusive and that DOE should back off and let the
114 contractors operate as they see fit. Our friends at the
115 Armed Services Committee have moved legislation through the
116 House that would dramatically limit DOE's ability to conduct
117 independent, internal oversight over its program management
118 and the contractors.

119 I recognize that NNSA has not been delivering all that
120 is expected of it, but this committee, given its
121 jurisdictional and longtime policy interest in effective DOE
122 management has to diagnose the problems for itself

123 independently. We need to examine the facts, follow the
124 evidence, identify what works and what doesn't work, and
125 identify a clear path to ensuring safe, secure operations, in
126 the interests of taxpayers, and of course, our national
127 security.

128 [The prepared statement of Mr. Stearns follows:]

129 ***** COMMITTEE INSERT *****

|
130 Mr. {Stearns.} With that I recognize the ranking
131 member, Ms. DeGette.

132 Ms. {DeGette.} Thank you very much, Mr. Chairman.

133 I want to echo the chairman's remarks about this
134 subcommittee having a long bipartisan history of asking tough
135 questions about the safety and security of our Nation's
136 nuclear facilities. I am really pleased we are continuing
137 with work today.

138 I am glad that members of this subcommittee have the
139 chance to develop a greater understanding of how NNSA is
140 doing a securing our nuclear facilities and to learn what can
141 be done to improve the safety and security of those who live
142 or work near those facilities.

143 I have been on this committee for almost 16 years now,
144 and since that time we have had almost 20 or over 20 hearings
145 on nuclear issues at our national labs. In fact, many of the
146 witnesses here today are regulars in front of this committee.
147 I know the importance of safe and secure nuclear facilities,
148 and I know what is at stake when something falls through the
149 cracks or when the contractors at the sites aren't being
150 carefully watched.

151 About 10 years ago this subcommittee began the first of
152 a series of hearings on shocking security issues at Los

153 Alamos National Laboratory in New Mexico. Chairman Barton
154 will remember the trip that we took there to look at that
155 facility and to see the shocking lapses that we saw.

156 What we covered were serious pervasive issues with the
157 management, culture, and the security and safety of the site.
158 We attacked those problems head on, demanding answers and
159 forcing NNSA and DOE to work harder to secure their
160 facilities, and as a result the agency implemented new
161 security procedures and increased oversight of the labs.

162 But obviously NNSA has more work to do and frankly, this
163 committee has more oversight work to do. In recent weeks we
164 have seen new safety and security issues arise at two
165 locations in the Nation's nuclear weapons complex. Late last
166 month the Los Alamos Lab informed the public that they were
167 investigating an inadvertent spread of a radioactive
168 material, Technetium-99, by employees and contractors at Los
169 Alamos. While DOE indicated that there was no danger of
170 public contamination, approximately a dozen people were
171 exposed, with some tracking of the radioactive material
172 offsite.

173 This safety lapse comes on the heels of a bizarre but
174 very serious security breach at the Y-12 uranium facility,
175 where an 82-year-old nun, an 82-year-old nun, and two others
176 were able to breach the secure parameter and vandalize a

177 supposedly-secure building containing dangerous nuclear
178 material.

179 These safety and security incidents show very clearly
180 the need for strong and robust oversight from this committee
181 and others of security issues at our nuclear facilities.

182 In 2004 and 2005, our willingness to bring serious
183 nuclear safety issues into the public view and to demand that
184 DOE and its labs be held accountable for their actions made a
185 significant difference. DOE is better than it used to be.
186 There is an entire office dedicated to the health, safety,
187 and security of all DOE facilities, but recent events tell us
188 there is more serious work left to be done.

189 So, Chairman, that is why it is absolutely necessary for
190 DOE and others to remain a strong oversight role over NNSA
191 facilities. From this committee to the DOE Office of Health,
192 Safety, and Security, to the Inspector General, to GAO, to
193 the Defense Nuclear Facilities Safety Board, to other outside
194 organizations, strong, independent oversight from agencies
195 and groups forces NNSA to take better care of our nuclear
196 facilities. Without good oversight serious issues, what we
197 identified and fixed, and the results could be disastrous. I
198 can't think of any reason we would want to decrease our
199 oversight of these facilities, inhibit the ability of
200 oversight to review site actions, or reduce accountability

201 for those responsible for keeping nuclear sites safe.

202 At a time when terrorists and hostile nations have an
203 ever-increasing pool of physical and cyber weapons in their
204 arsenals, we need to constantly adapt and focus our efforts
205 to protect nuclear facilities. I hope that this hearing will
206 provide us with the information that our colleagues on both
207 sides of the aisle need so we can come together to improve
208 the safety and security of these nuclear facilities. There
209 have just been too many close calls to ignore. Constant
210 vigilance is required. When it comes to our Nation's nuclear
211 facilities, there can never be enough oversight, and that,
212 Mr. Chairman, is why I appreciate you holding this hearing
213 today, and I yield back.

214 [The prepared statement of Ms. DeGette follows:]

215 ***** COMMITTEE INSERT *****

|
216 Mr. {Stearns.} I thank my colleague, and I recognize
217 the gentleman from Texas, Mr. Barton, for 2 minutes.

218 Mr. {Barton.} Thank you, Mr. Chairman. When an 82-
219 year-old pacifist nun gets to the inner sanctum of our
220 weapons complex, you cannot say job well done. She is in the
221 audience. Would you please stand up, ma'am? We want to
222 thank you for pointing out some of the problems in our
223 security. While I don't totally agree with your platform
224 that you were espousing, I do thank you for bringing up the
225 inadequacies of our security system, and thank you for being
226 here today.

227 Mr. Chairman, that young lady there brought a Holy
228 Bible. If she had been a terrorist, the Lord only knows what
229 could have happened. We have had numerous hearings in this
230 subcommittee and full committee on security at our national
231 laboratories and especially our weapons complexes.
232 Apparently that message has still not gone forward about what
233 needs to be done.

234 What doesn't need to be done, though, is just give the
235 contractors an atta boy and a pat on the back. If there is
236 ever a time for more aggressive oversight, this is it, and I
237 applaud you and the ranking--subcommittee member, Ms.
238 DeGette, for doing that today, and with that I yield to Mr.

239 Terry the balance of my time.

240 [The prepared statement of Mr. Barton follows:]

241 ***** COMMITTEE INSERT *****

|
242 Mr. {Terry.} Thank you.

243 Mr. {Upton.} The gentlelady can sit down if she likes.

244 Mr. {Terry.} Well, it is--I have to congratulate the
245 contractors of NNSA for accomplishing something based upon
246 their mind-boggling incompetence that hasn't happened here in
247 a while, and that is uniting Republicans and Democrats in our
248 desire for change and reform and more oversight.

249 The security of U.S. nuclear weapons stockpile cannot be
250 overstated. NNSA was created to keep the DOE from being
251 overstretched, yet it appears that all of their duties were
252 left with contractors where little oversight could or would
253 be done. The last 5 years has seen a significant
254 deterioration in security at the complexes as a result of a
255 decrease in how contractors interact with federal officials.
256 There must be an understanding that the taxpayer owns these
257 complexes, and they have not gotten their monies' worth.

258 Failures in both the safety of the laboratories and
259 protection of the weapons themselves has been repeated across
260 the complex, and I believe there is bipartisan support for
261 more oversight. The unprecedented breakdown at Y-12 acted as
262 a test of our security system, and it appears to be an all-
263 out failure. I struggle to understand how the gentlelady
264 that was introduced, an 82-year-old nun, can get through the

265 Fort Knox of nuclear weapons facilities, and what does that
266 say for the complex as a whole?

267 A major concern of the Y-12 breakdown is the disunity
268 between maintenance and operation contractor and the security
269 personnel. When cameras had been inoperable for 6 months,
270 this tells me that even the most basic level there is no
271 communication within the facility, no oversight, and I
272 understand there is a point where too much oversight can
273 become inefficient and hinder progress in a nuclear--progress
274 in nuclear testing. I believe that we are ultimately here
275 today to do--is find a balance where citizens can be certain
276 that the nuclear materials are pure and scientists continue
277 to work in their most efficient manner.

278 That is what we are here to do today. Hopefully we can
279 find that balance, and I will yield to the gentlelady from
280 Tennessee.

281 [The prepared statement of Mr. Terry follows:]

282 ***** COMMITTEE INSERT *****

|
283 Mrs. {Blackburn.} I thank the gentleman, and I thank
284 the Chairman for the hearing, again. Indeed, there has been
285 a lot of emphasis and a lot of focus on the July 28, 2012,
286 incident that occurred at the Y-12 facility and the security
287 complex there, and the nun who has stood and been recognized
288 and two other anti-nuclear activists cut through that fence,
289 got into, through the parameter. They did this seeming to
290 not be noticed. Despite setting off multiple alarms, a
291 delayed response to WSI security personnel gave these
292 protestors time to hang banners, splash blood and paint
293 messages on the facility that contains over 100 tons of
294 weapons-grade, highly-enriched uranium. We are appalled. We
295 are appalled.

296 WSI's slow response, lack of regard for security
297 protocols, along with their check-the-box mentality is
298 completely unacceptable, especially when you take into
299 account the sensitive material they are paid to protect
300 against potential terrorists and nations, states capable of
301 using deadly force during a security breach.

302 While I understand that security changes have now been
303 made at the Y-12 facility since the incident to ensure that
304 it never happens again, we need to seriously review
305 classified DOE reports from 2010, that the Washington Post

306 reported on this morning, where investigators found, and I am
307 quoting, ``Security cameras were inoperable, equipment
308 maintenance was sloppy, and guards were poorly trained.``
309 And you knew this 2 years ago? Two years ago.

310 These criticisms are the very same ones that may have
311 led to the July 28 security breach. Mr. Chairman, the
312 incident demonstrates the great importance of the hearing
313 today. I fully believe it is important for the committee to
314 review the entire working relationship between the NNSA, DOE,
315 and the security contractors across the country at all of our
316 nuclear weapons complexes.

317 I yield back.

318 [The prepared statement of Mrs. Blackburn follows:]

319 ***** COMMITTEE INSERT *****

|
320 Mr. {Stearns.} The gentlelady's time has expired.

321 The gentleman from California, Mr. Waxman, is recognized
322 for 5 minutes.

323 Mr. {Waxman.} Thank you, Mr. Chairman. This is one of
324 those hearings that we occasionally have in Congress where we
325 say together, Democrats and Republicans, we are shocked. We
326 are shocked that something like this could happen, but we
327 then blame others and don't accept responsibility for
328 ourselves. We have oversight jurisdiction in this committee
329 to be sure this sort of thing doesn't happen, and we know DOE
330 has oversight responsibility, and we expect them to do their
331 job, and you would think that reasonable people would
332 understand that this is a high priority for this country.
333 This is a wake-up call if there ever was one with--this is a
334 quote from the New York Times. ``With flashlights and bolt
335 cutters the three pacifists defied barbed wire as well as
336 armed guards, video cameras, and motion sensors.''

337 Well, this security lapse is incredible. We have to do
338 everything in our power to ensure that no one else breaches
339 our security and particularly that none of our enemies view
340 this as an opening, that this will show that this is a
341 weakness that they could exploit.

342 Well, given this wake-up call you would think members of

343 Congress or any reasonable person would suggest that rolling
344 back security and safety requirements at the nuclear safety--
345 NNSA facilities or promoting reducing oversight of these
346 facility would be outrageous. They wouldn't think of such of
347 thing, yet that is what the Republican Congress did. We have
348 a National Defense Authorization Act, H.R. 4310, that passed
349 the House in May, and that bill weakens protection for our
350 nuclear laboratories and facilities. The bill lowered
351 standards at NNSA sites, and they limited the ability of the
352 Department of Energy and the Defense Nuclear Facilities
353 Safety Board to address concerns and propose solutions to
354 these problems.

355 Well, we went along with that, our committee leadership,
356 and the Authorization Bill to lower our oversight for these
357 kinds of breaches. This effort to weaken oversight of
358 nuclear facilities makes absolutely no sense, and this issue
359 most recently of our guest today, an 82-year-old nun,
360 breaching the security at the sensitive Oak Ridge Nuclear
361 Facility and splashing blood on a building that holds
362 enriched uranium before she was arrested, illustrates why we
363 need more oversight and more activity to stop it, not less.
364 Sometimes I think that people are so anxious to save money
365 that they cut off their nose to save their face. We need
366 oversight.

367 We need to spend the money to do this, and all those
368 people who have been telling us we can't afford this and we
369 can't afford that because we got to give more tax breaks to
370 the upper income ought to think through whether that point of
371 view makes sense. We need multiple layers of strong
372 oversight at our nuclear facilities. We can't simply assume
373 that NNSA and its contractors are making appropriate security
374 and safety decisions.

375 That reminds me of Hurricane Katrina. Good job. Great
376 job, Brownie, as President Bush said to his appointee who
377 knew nothing about emergency preparedness. He was put in his
378 job because he was a crony of the President at that time.
379 The ability of DOE, this committee, and other oversight
380 experts to ask the tough questions is absolutely vital to
381 holding labs and facilities accountable. We cannot leave
382 nuclear facilities exposed to national disasters or threats
383 from hostile enemies. We have to make sure that those who
384 manage nuclear materials are putting safety and security
385 first.

386 Now, we are lucky that it was just this very nice nun
387 and others who came to express their point of view that
388 gained access to a secure area next to highly-enriched
389 uranium facilities. It could have been much worse. We can
390 all view this as a warning call. We have to look closely at

391 our nuclear facilities. Make sure they are strong, that
392 there are strong, effective oversight mechanisms in place to
393 protect them from danger. We cannot remove or repeal the
394 protections that already are in place.

395 Mr. Chairman, there is some things we don't agree on,
396 but I think we can all agree that strong oversight of our
397 nuclear arsenal and our nuclear facilities and laboratories
398 is an absolute necessity, and it is time for Congress not
399 just to hold hearings and say, oh, my gosh, what happened,
400 but to realize that when we make cuts to this exact kind of
401 surveillance, we are going to end up paying the consequences
402 for it. Happily the consequences were not as severe as they
403 might have been, but let this be a warning call to all of us.

404 Yield back my time.

405 [The prepared statement of Mr. Waxman follows:]

406 ***** COMMITTEE INSERT *****

|
407 Mr. {Stearns.} The gentleman yields back. I would just
408 say to the gentleman this full committee always puts safety
409 and security first when we are dealing with this very
410 important issue, and it has always been bipartisan.

411 With that let me welcome our witnesses here this
412 morning, and we have the Honorable Daniel B. Poneman, Deputy
413 Secretary, U.S. Department of Energy, the Honorable Thomas P.
414 D'Agostino, Under Secretary for Nuclear Security and
415 Administrator, Nuclear--National Nuclear Security
416 Administration, U.S. Department of Energy, Mr. Glenn S.
417 Podonsky, Chief Health, Safety, and Security Officer,
418 Department of Energy, the Honorable Gregory H. Friedman,
419 Inspector General, Department of Energy, and Mark E.
420 Gaffigan, Managing Director, Natural Resources and
421 Environmental Team, Government Accountability Office.

422 As you know, folks, the testimony you are about to give
423 is subject to Title XVIII, Section 1001, of the United States
424 Codes. When holding an investigative hearing like this, this
425 committee has a practice of taking testimony under oath. Do
426 any of you object to testifying under oath? No? Okay.

427 The chair then advises you that under the rules of the
428 House and rules of the committee you are entitled to be
429 advised by counsel. Do you desire to be advised by counsel

430 during your testimony today? No?

431 In that case, would you please rise and raise your right
432 hand?

433 [Witnesses sworn]

434 Mr. {Stearns.} All right, and with that we welcome you,
435 again, and you will give your 5-minute summary of your--Mr.
436 Poneman, we are going to start with you. Go ahead.

|

437 ^TESTIMONY OF THE HONORABLE DANIEL B. PONEMAN, DEPUTY
438 SECRETARY, U.S. DEPARTMENT OF ENERGY, ACCOMPANIED BY THE
439 HONORABLE THOMAS P. D'AGOSTINO, UNDER SECRETARY FOR NUCLEAR
440 SECURITY AND ADMINISTRATOR, NATIONAL NUCLEAR SECURITY
441 ADMINISTRATION, U.S. DEPARTMENT OF ENERGY, AND GLENN S.
442 PODONSKY, CHIEF HEALTH, SAFETY AND SECURITY OFFICER, U.S.
443 DEPARTMENT OF ENERGY; MARK E. GAFFIGAN, MANAGING DIRECTOR,
444 NATURAL RESOURCES AND ENVIRONMENT TEAM, GOVERNMENT
445 ACCOUNTABILITY OFFICE; AND GREGORY H. FRIEDMAN, INSPECTOR
446 GENERAL, U.S. DEPARTMENT OF ENERGY

|

447 ^TESTIMONY OF DANIEL B. PONEMAN

448 } Mr. {Poneman.} Thank you, Mr. Chairman, and in the
449 interest of time I would request that my full statement be
450 submitted--

451 Mr. {Stearns.} By unanimous consent, so ordered.

452 Mr. {Poneman.} Thank you, sir. Chairman Stearns,
453 Ranking Member DeGette, and distinguished members of the
454 subcommittee, thank you for the invitation to appear before
455 you today to discuss the Department of Energy's oversight of
456 the nuclear weapons complex and the recent security incident
457 at the Y-12 National Security Complex. We appreciate the

458 interest and engagement of this committee and recognize the
459 important oversight role that you fulfill. We also share the
460 committee's commitment to ensure that all of our offices and
461 operations are delivering on our mission safely, securely,
462 and in a fiscally-responsible manner.

463 Since its creation in 1999, the National Nuclear
464 Security Administration has served as a separately-organized
465 entity within the U.S. Department of Energy, entrusted with
466 the execution of our nuclear security missions. Living up to
467 the challenging demands of executing our mission safely,
468 securely, and in a fiscally-responsible manner requires daily
469 management through strong, effective, and efficient
470 relationships with our management and operating contractors.
471 Congressional oversight, in conjunction with oversight by the
472 DOE Office of Health, Safety, and Security, our internal
473 independent oversight body, as well as that of the DOE
474 Inspector General, the Defense Nuclear Facilities Safety
475 Board, and the Government Accountability Office contribute to
476 the safety and security of DOE facilities.

477 As the recent incident at Y-12 demonstrates, the
478 Department has at times fallen short of our own expectations
479 and faces continuing challenges in our goal of continuous
480 improvement. This recent incident, as the Secretary has made
481 abundantly clear, is unacceptable, and we have taken and will

482 continue to take steps not only to identify and correct
483 issues at Y-12 but across the DOE complex.

484 In response to this incident, we acted swiftly to
485 identify and address the problems that it revealed. These
486 actions either directly or through the contract for the site
487 included the following immediate steps to improve security.
488 In the realm of physical protection, cameras have been
489 repaired and tested, guard patrols increased, security
490 policies have been strengthened, and all personnel have been
491 retrained on security procedures. The number of false and
492 nuisance alarms have been greatly reduced to provide more
493 confidence in the intrusion detection system.

494 In terms of the professional force onsite, nuclear
495 operations at the site were suspended until retraining and
496 other modifications mentioned above were completed. The
497 entire site workforce was required to undergo additional
498 security training. The former head of security from our
499 Pantex facility moved to Y-12 to lead the effort to reform
500 the security culture at the site.

501 The Department's Chief of Health, Safety, and Security
502 was directed to deploy a team to Y-12 for an independent
503 inspection. Site managers at all DOE facilities with nuclear
504 material were directed to provide their written assurance
505 that all nuclear facilities are in full compliance with

506 Department security policies and directives as well as
507 internal policies established at the site level. Security
508 functions at the Y-12 site itself had been brought into the
509 management and operations contract to ensure continuity of
510 operations and moving toward an integrated model moving
511 forward.

512 In the area of leadership changes, the plant manager and
513 chief operating officer at the site retired 12 days after the
514 incident. Six of the top contract executives responsible for
515 security at the Y-12 site had been removed. The leadership
516 of the guard force has been removed, and the guards involved
517 in this incident have been removed or reassigned. The Chief
518 of Defense Nuclear Security for the National Nuclear Security
519 Administration has been reassigned pending the outcome of our
520 internal reviews, and a formal show cause letter was issued
521 to the contractor that covered the entire scope of operations
522 at Y-12, including security. This is the first step towards
523 potentially terminating the contracts for both the site
524 contractor and its security subcontractor. Past performance
525 including deficiencies and terminations would be considered
526 in the awarding of any future contracts.

527 In the area of reviews, the HSS Organization that Ms.
528 Podonsky leads was directed to lead near-term assessments of
529 all Category 1 nuclear material sites to identify any

530 systemic issues, enhancing independent oversight performance
531 testing program to incorporate no notice or short notice
532 security testing and conducting comprehensive, independent
533 oversight security inspections at all Category 1 four sites
534 over the next 12 months using the enhanced program of
535 performance testing. An assessment was initiated led by
536 Brigadier General Sandra Finan to review the oversight model
537 itself and the security organizational structure at NNSA
538 headquarters that some of the members have already commented
539 in their opening remarks.

540 The series of personnel and management changes that I
541 have just briefly outlined were made to provide the highest
542 level of security at the site and across the DOE complex. To
543 manage this transition we have brought some of the best
544 security experts from our enterprise to Y-12 to act quickly
545 to address the security shortcomings at that site.

546 We are also working to make the structural and cultural
547 changes required to appropriately secure this facility. The
548 Secretary and I intend to send a clear message. Lapses in
549 security will not be tolerated. We will leave no stone
550 unturned to find out what went wrong, and we will take the
551 steps necessary to provide effective security at this site
552 and across our enterprise.

553 Mr. Chairman and distinguished members of this

554 committee, safety and security are integral to the
555 Department's mission. DOE embraces its obligation to protect
556 the public, the workers, and the environment. We
557 continuously strive to improve upon our safety and security
558 standards and the policies that guide our operations, and we
559 hold line management and ourselves accountable.

560 Thank you for the opportunity to discuss this vital
561 mission. I look forward to answering your questions both
562 here and in a classified setting as appropriate.

563 [The prepared statement of Mr. Poneman follows:]

564 ***** INSERT 1 *****

|

565 Mr. {Stearns.} Thank the gentleman.

566 Mr. Gaffigan, your opening statement.

|
567 ^TESTIMONY OF MARK E. GAFFIGAN

568 } Mr. {Gaffigan.} Mr. Chairman, Ranking Member DeGette,
569 members of the subcommittee, good morning. I am pleased to
570 be here to discuss safety, security, and project management
571 oversight of the nuclear security enterprise. In summary, in
572 each of these areas I would like to briefly discuss some of
573 the challenges, the current status and progress in these
574 areas, and some potential paths forward.

575 Regarding safety, let me start by noting that thankfully
576 through the efforts of DOE, NNSA, and its contractors, the
577 stockpile has remained safe and reliable. However, safety
578 problems do occur, and we have identified them in the past.
579 We have attempted to find the contributing factors to these
580 problems and note that they fall into three key areas; lax
581 attitudes towards safety procedures, inconsistent and
582 unsustained corrective actions, and inadequate oversight.

583 Currently, DOE has instituted a safety reform effort to
584 review opportunities to streamline requirements and eliminate
585 directives that do not add value to safety. While we applaud
586 DOE's efforts to improve safety requirements, going forward
587 we believe that DOE can make a stronger case in safety reform
588 by ensuring that changes are based on sound analysis of the

589 benefits and costs with good measures of their success.

590 In addition, future efforts should strive to address
591 areas of concern in quality assurance, safety culture, and
592 independent federal oversight.

593 Regarding security, our work in the past has sought to
594 understand past failures that have led to security incidents
595 that have posed the most serious threat to national security
596 and led to shutdowns of facilities like Los Alamos and
597 Lawrence Livermore.

598 Both GAO and the DOE IG have identified common themes
599 that led to these problems, including an over-reliance on
600 contractor assurance and corrective actions that are not
601 sustained.

602 As with safety, DOE has instituted a security reform
603 effort to ensure effective, streamlined, and efficient
604 security without excess federal oversight. While there may
605 be opportunities for more efficient security policy and
606 oversight, our past work has shown that excessive federal
607 oversight is not the problem.

608 As demonstrated by the July incident at Y-12, the recent
609 IG report cites an all-too-familiar finding that contractor
610 governance and federal oversight failed to identify and
611 correct early indicators of multiple system breakdowns that
612 allowed the security breach.

613 While DOE and NNSA are undertaking many actions in
614 response to this incident, the real challenge going forward
615 is to sustain the security improvements that will invariably
616 be made at NNSA sites. This will require leadership,
617 improved contractor assurance systems, and strong,
618 independent federal oversight.

619 Lastly, regarding project management, NNSA continues to
620 experience significant costs and schedule overruns on its
621 major construction projects. To name a few, the National
622 Emission Facility at Lawrence Livermore, a \$2.1 billion
623 original estimate grew to \$3.5 billion and was 7 years behind
624 schedule. CMMR, Chemistry and Metallurgy Research
625 Replacement Nuclear Facility at Los Alamos originally
626 projected to cost less than \$1 billion. The last estimate
627 before this project was put on hold was \$3.7 to \$5.8 billion,
628 a six-fold increase with a scheduled delay of 8 to 12 years.

629 This is why NNSA project management is on GAO's high-
630 risk list. We believe that NNSA has made some progress. We
631 believe they have a strong commitment and top leadership
632 support and have developed and implemented corrective action
633 plans to address these concerns. Going forward we believe
634 NNSA needs to demonstrate its commitment to sufficient people
635 and resources and demonstrate on a sustained basis the
636 ability to complete major construction projects on time and

637 on budget.

638 However, not to be forgotten, 80 percent of NNSA's
639 budget is devoted to operations and maintenance activities
640 and is not construction related. We recently raised concerns
641 with NNSA's process for planning and prioritizing its work,
642 including the need to more thoroughly review program
643 estimates. We have recommended going forward that they
644 update the requirements for review and cost estimates and
645 reestablish independent analytic capability.

646 Mr. Chairman, that concludes my opening remarks. I
647 would be happy to address any questions you or the members
648 may have.

649 [The prepared statement of Mr. Gaffigan follows:]

650 ***** INSERT 2 *****

|
651 Mr. {Stearns.} I thank the gentleman, and Mr. Friedman,
652 welcome, again, for your opening statement.

|
653 ^TESTIMONY OF GREGORY H. FRIEDMAN

654 } Mr. {Friedman.} Chairman Stearns and Ranking Member
655 DeGette and members of the subcommittee, I am pleased to be
656 here at your request to testify on matters relating to the
657 oversight of the nuclear weapons complex by the Department of
658 Energy and the National Nuclear Security Administration.

659 With an annual budget of nearly \$12 billion, NNSA--

660 Mr. {Stearns.} I am just going to ask you to move your
661 mic a little closer if you don't mind.

662 Mr. {Friedman.} Certainly. NNSA is charged with
663 critically-important missions relating to nuclear weapons
664 refurbishment and storage, nuclear non-proliferation, and
665 science and technology. The directors of NNSA's contractor
666 operate at national security laboratories Los Alamos,
667 Lawrence Livermore, and Sandia, as well as other independent
668 review groups have expressed concern with the Department and
669 NNSA oversight of contractors is overly burdensome. They
670 recommended changes in the model, with the most radical being
671 to take NNSA outside of the Department's purview entirely.

672 We recognize and I think everybody should that it is
673 difficult to strike precisely the right balance between the
674 contractors' desire to operate without undue oversight and

675 the government's need to ensure the taxpayers' interests and
676 the operation of the laboratories and the other facilities is
677 protected. We agree that oversight should not be overly
678 burdensome. It should be targeted, cost effective, risk
679 based, and it should encourage intelligence risk tolerance.

680 However, at the end of the day responsible federal
681 officials have an obligation to a higher authority, the U.S.
682 taxpayers, to ensure that the terms and conditions of the
683 various NNSA contracts are satisfied, the national security
684 mission goals are met, and that the weapons complex is
685 operated in an effective, efficient, and safe and secure
686 manner. Our reviews have identified numerous opportunities
687 to advance various aspects of NNSA's functions, including its
688 management of the national security laboratories and other
689 weapons complex facilities.

690 Most prominently, we recently issues a special inquiry
691 report on the security breaches, security breach, excuse me,
692 at the Y-12 national security complex at Oak Ridge,
693 Tennessee. You heard about that previously from prior
694 speakers. In the Y-12 report we cited delayed and inept
695 response, inoperable security equipment, excessive use of
696 compensatory measures, resource constraints, and most
697 importantly as it pertains to the purpose of this hearing,
698 contract administration issues.

699 We have no evidence, empirical or otherwise, to suggest
700 that unreasonable Department and NNSA oversight has had a
701 causal relationship to the problems we identified in our
702 reviews. In fact, in many cases, the Y-12 matter being a
703 prime example, we found the Department and NNSA had not been
704 as thorough as we felt necessary in exercising the contract
705 administration responsibilities.

706 Further, NNSA is currently dealing with a number of
707 cost, schedule, and mission issues concerning major projects,
708 including over \$13 billion in capital investments in the
709 projects that Mr. Gaffigan just referred to. With projects
710 of such magnitude and complexity, federal officials have a
711 special responsibility to ensure that taxpayer dollars are
712 well spent and the national security is protected.

713 Further, the unique contractor indemnification provision
714 of NNSA's Management Operating Contracts place special
715 burdens on the federal management team. In short, the
716 Department bears ultimate financial responsibility for
717 essentially all contractor activities which are nuclear
718 related. In my judgment this argues for a robust contractor
719 oversight.

720 There are a number of threshold questions regarding
721 oversight, the oversight model which have yet to have been
722 answered from my perspective. For example, to what extent

723 does current oversight hinder mission accomplishment? How
724 would a new model lead to tangible improvements in scientific
725 and technological outcomes? And how would a new model
726 improve accountability and transparency?

727 In our view any decision to modify the NNSA Weapons
728 Complex Governance Model should ensure that first, historic
729 safety and security concerns regarding weapons complex
730 management are treated as a priority. Second, the synergies
731 that result from numerous collaborations between the national
732 security laboratories and the Department's other laboratories
733 and energy functions are not impeded. Third, expectations of
734 the contractors are as clear and precise as possible.
735 Fourth, that metrics are in place to provide a sound basis
736 for evaluating contractor and program performance. Fifth,
737 that any new operating formulation is lean and mean,
738 reflecting current budget realities, and finally, that
739 contractors have in place an effective internal governance
740 system.

741 We support continuous improvement, but a scalpel rather
742 than a cleaver approach ought to guide efforts to find better
743 NNSA contractor oversight mechanisms. The problems with the
744 status quo need to be well-defined, all remedies cost
745 effective, and the core mission maintained. The work of the
746 NNSA and its weapons complex is too important to do anything

747 less.

748 This concludes my testimony, and I look forward to your
749 questions.

750 [The prepared statement of Mr. Friedman follows:]

751 ***** INSERT 3 *****

|
752 Mr. {Stearns.} Thank you, and I will start with my
753 questions.

754 Just as an overview I think everyone should understand
755 Y-12 is a connotation given to this site because of the Cold
756 War, and they didn't want to have people mention
757 geographically what they were talking about, where it was, so
758 Y-12 became the code name.

759 But if you go and Google maps and look at the site, you
760 see that it is a brand new site, and if you go into Microsoft
761 sites, you see it is under construction. So this really is a
762 site that has brand new construction.

763 And so, Mr. Friedman, the first question I have for you
764 is as I understand it, these people cut and got their way
765 through three fences. Is that correct?

766 Mr. {Friedman.} That is my understanding, Mr. Chairman.
767 Yes.

768 Mr. {Stearns.} Okay, and so is it three or four fences?

769 Mr. {Friedman.} Well, my understanding is it is three.
770 There are people on the panel who may have more intimate
771 knowledge than I do.

772 Mr. {Stearns.} Okay. We appreciate what you are
773 handing up, but we are limiting ourselves to the panel if you
774 don't mind.

775 Mr. {Friedman.} Well, people on the panel.

776 Mr. {Stearns.} Yes. Is there anyone else who--yes,
777 sir. Mr. Poneman.

778 Mr. {Poneman.} Sir, there is an outer parameter fence--

779 Mr. {Stearns.} Okay.

780 Mr. {Poneman.} --at the ridgeline. They call it the
781 229 fence.

782 Mr. {Stearns.} Okay.

783 Mr. {Poneman.} That is not censored. Then there were
784 the three pittas--

785 Mr. {Stearns.} Okay. So they actually went through
786 four fences.

787 Mr. {Poneman.} They would have had to come through the
788 parameter, yes, and then there were the three--

789 Mr. {Stearns.} Okay.

790 Mr. {Poneman.} --pittas fences--

791 Mr. {Stearns.} So once they go through these four
792 fences, it is assuming that all these fences there is some
793 type of censor device which would indicate--and there would
794 be cameras. Is that true, Mr. Friedman?

795 Mr. {Friedman.} That is correct.

796 Mr. {Stearns.} So there is cameras set up to monitor
797 this?

798 Mr. {Friedman.} That is correct.

799 Mr. {Stearns.} And how highly rated was Y-12 security
800 prior to this incident? I mean, what was the record they
801 were saying it was rated?

802 Mr. {Friedman.} The contractor self-assurance indicated
803 that it was highly rated, and that was carried through--

804 Mr. {Stearns.} I was told it was rated by the
805 contractor and--

806 Mr. {Friedman.} The federal personnel endorsed that
807 rating.

808 Mr. {Stearns.} --at 96 percent. Is that what--I was
809 told that was what they rated it.

810 Mr. {Friedman.} I don't have a percentage for you, Mr.
811 Chairman.

812 Mr. {Stearns.} Would you consider it a Fort Knox types
813 of security? I mean, that was the perception is it had to be
814 Fort Knox type of security?

815 Mr. {Friedman.} Mr. Stearns, this is my nearly 40 years
816 in the Department of Energy. Y-12 was the Fort Knox of the
817 Department.

818 Mr. {Stearns.} Okay. So they, these folks in the
819 audience here, the three of them, they got through four
820 fences that were censored, and the cameras were all set up,
821 and this was a new facility. Were the cameras new or old?

822 Mr. {Friedman.} There were actually--some of the

823 equipment was fairly new, some of the equipment was old, but
824 the, I think the salient point is that many of the cameras of
825 some of the cameras were not operable and not operable--

826 Mr. {Stearns.} Okay. So the cameras were not--

827 Mr. {Friedman.} --for some period of time.

828 Mr. {Stearns.} --operable. Now, when you generally
829 have a Fort Knox facility like this, wouldn't there be large
830 maintenance records for these cameras that people would check
831 them? Were there backlogs relating to these cameras?

832 Mr. {Friedman.} There were significant, we found
833 significant backlogs and maintenance of--

834 Mr. {Stearns.} Were there large maintenance entries
835 into these backlogs to show that they were, the cameras were
836 looked at?

837 Mr. {Friedman.} I am not sure I understand your
838 question, Mr. Chairman.

839 Mr. {Stearns.} Well, if you went into these backlogs
840 that show the maintenance on these cameras--

841 Mr. {Friedman.} Right.

842 Mr. {Stearns.} --did you see maintenance on these
843 cameras?

844 Mr. {Friedman.} Well--

845 Mr. {Stearns.} You are saying they are inoperable.
846 Wouldn't at some point somebody--

847 Mr. {Friedman.} Maintenance had not taken place.

848 Mr. {Stearns.} Okay.

849 Mr. {Friedman.} The cameras had not been fixed--

850 Mr. {Stearns.} Okay.

851 Mr. {Friedman.} --if that is your question.

852 Mr. {Stearns.} Okay. Well, how long were these
853 cameras, these critical cameras not operable? Could you tell
854 that?

855 Mr. {Friedman.} Well, we--there were elements of the
856 security apparatus that were inoperable for at least 6 months
857 and probably--and possibly beyond that. At least 6 months.

858 Mr. {Stearns.} Now, who would you blame that for? The
859 contractor or the site government operators?

860 Mr. {Friedman.} Well, Mr. Chairman, it is--that sounds
861 like a very simple question, but it is a complex, the answer
862 is somewhat complex.

863 Mr. {Stearns.} Well, let me phrase it for you.

864 Mr. {Friedman.} There is enough--let me put it this
865 way.

866 Mr. {Stearns.} Do you think the responsibility--we pay
867 contractors to do this. Is that correct?

868 Mr. {Friedman.} Correct.

869 Mr. {Stearns.} And the contractors were responsible?

870 Mr. {Friedman.} Correct.

871 Mr. {Stearns.} And we pay them significant fees? We do
872 this, and they were not operable, and the maintenance
873 backlogs show that no one was doing anything, so wouldn't you
874 say the contractors--

875 Mr. {Friedman.} I would say they have a major share of
876 responsibility. Yes.

877 Mr. {Stearns.} And then the onsite government employees
878 who are overseeing the contractors also have responsibility
879 because they failed to catch this. Is that correct?

880 Mr. {Friedman.} They do. There was widespread
881 knowledge and acknowledgement of the fact that these cameras,
882 including amongst the federal officials, that these cameras
883 in other facilities were inoperable. I think their reaction
884 to that was much too passive, much too lethargic.

885 Mr. {Stearns.} Well, I think we have got them through
886 four fences, we have got them through the sensing devices.
887 We are not keying the personnel. The cameras were
888 inoperable, so they got through, and as I understand there
889 was a period of time where these three people were right at
890 the facility and nothing still happened. Is that true?

891 Mr. {Friedman.} Well, there was a delay in the response
892 and--

893 Mr. {Stearns.} How long was the delay in response?

894 Mr. {Friedman.} I can't go into timeline.

895 Mr. {Stearns.} Okay.

896 Mr. {Friedman.} You may be able to get that information
897 at the later classified briefing.

898 Mr. {Stearns.} All right. So at this point we have
899 obviously a dereliction of duty. Is there anyone on the
900 committee that would like to add any questions, any response
901 to some of my questions that I had?

902 Mr. Poneman.

903 Mr. {Poneman.} Sir, just for the record, it is my
904 understanding, we will confirm this, you talked about all
905 four senses being--fences being censored. It is my
906 understanding that there are no trespassing signs on the
907 outer parameter fence at the ridge line, but the censors only
908 come into play once you penetrate the first of the three
909 fences that surround the actual facility. So I believe it
910 would be fair to say that--and the censor bed is inside those
911 three fences, not out at the parameter fence. But we will
912 confirm that and come back to you.

913 Mr. {Stearns.} Were the guards who were supposed to be
914 there and take care and stop this, were they blind in any
915 way? Was there any obstruction for them to see this? I
916 mean, forget the cameras for a moment. Wouldn't you start to
917 at some point say, gosh, what is happening? I am starting to
918 see three people in my facilities wandering around. I mean,

919 where were the guards? Were they--Mr. Friedman, what is your
920 interpretation?

921 Mr. {Friedman.} As has been either implied or stated
922 directly earlier, there were a huge number of false alarms
923 ongoing on a regular basis. They are due to critters and
924 squirrels and other things, so they were somewhat from my
925 point of view numb to the number of false alarms. There was
926 a delay in the response. The response of the first responder
927 was less than adequate, so there was a--certainly
928 shortcomings on the part of the--

929 Mr. {Stearns.} Okay. My time has expired.

930 Ms. {DeGette.} Thank you, Mr. Chairman. I think your
931 questions really set up a factual foundation for what I want
932 to talk about.

933 The first thing I want to do is I want to thank Sister
934 Rice and the other people for coming today. I apologize.
935 You won't be allowed to testify. I think it would be
936 interesting to hear your perspective on how you were able to
937 breach these four fences at the Fort Knox type of facility
938 and perhaps we can talk afterwards.

939 But what I want to ask you gentlemen about is from my
940 perspective this bill that we passed earlier this year, the
941 National Defense Authorization Act, which is H.R. 4310,
942 because what that does, as you know, it makes considerable

943 changes to NNSA's structure and its oversight relationship
944 with DOE. And a lot of us on both sides of the aisle are
945 really concerned that the changes will have a significant
946 impact on safety and security at NNSA.

947 So, Mr. Poneman, I wanted to start with you, and I
948 wanted to ask you how H.R. 4310 changes the NNSA
949 Administrator's authority to change nuclear safety and
950 security requirements.

951 Mr. {Poneman.} Congresswoman, thank you for the
952 question. It is our understanding that that legislation
953 makes significant changes in the reporting structure and the
954 authorities within the Department, that it significantly
955 curtails the authority of the Secretary to direct the
956 Administrator of the NNSA and that it provides for a number
957 of things that would tend to delegate activities, for
958 example, to a national lab director's counsel and so forth,
959 that would then come in directly to the Administrator, and
960 the Administrator under that legislation as we understand it
961 would be granted much widened autonomy.

962 Ms. {DeGette.} Right.

963 Mr. {Poneman.} In addition, the Defense Nuclear
964 Facilities Board would be reduced in some of its authorities.

965 Ms. {DeGette.} And that would really undermine the
966 DOE's authority for oversight. Correct?

967 Mr. {Poneman.} In our judgment, Congresswoman, as
968 reflected in the statement of--

969 Ms. {DeGette.} Yes or no will work.

970 Mr. {Poneman.} Yes.

971 Ms. {DeGette.} Thank you. Now, as the current language
972 is written, I think you mentioned this, somewhere down the
973 line an NNSA Administrator could come in and actually reduce
974 the safety and security requirements. Correct?

975 Mr. {Poneman.} It would curtail the Secretary's
976 authority to--

977 Ms. {DeGette.} But they could actually reduce the
978 requirements. Correct? Under the legislation.

979 Mr. {Poneman.} I think that became law. Yes.

980 Ms. {DeGette.} Okay. Yes. Now, H.R. 4310 also changes
981 NNSA's relationship with oversight bodies, including DOE's
982 Office of Health, Safety, and Security and the Defense
983 Nuclear Facilities Safety Board.

984 So, Mr. Poneman, maybe Mr. Podonsky can help you here.
985 Can you talk to me about what changes it makes to NNSA's
986 relationship with the DOE and independent oversight bodies?

987 Mr. {Poneman.} What changes the legislation--

988 Ms. {DeGette.} Correct.

989 Mr. {Poneman.} It would grant a much larger measure of
990 autonomy to NNSA within the DOE system. The DOE system

991 includes the HSS organization that Mr. Podonsky leads.

992 Ms. {DeGette.} Okay. Now, do you think that is a good
993 idea to reduce NNSA oversight? Yes or no will work.

994 Mr. {Poneman.} We have serious concerns--

995 Ms. {DeGette.} Okay.

996 Mr. {Poneman.} --with the legislation.

997 Ms. {DeGette.} Do you think that if the bill is passed
998 as is, it could have an impact on the security and safety of
999 workers at NNSA sites?

1000 Mr. {Poneman.} If the authorities of the Secretary are
1001 curtailed in that way, it could have an adverse effect.

1002 Ms. {DeGette.} Okay. Now, Mr. Gaffigan, I am not
1003 asking you to comment on the NDAA, but your testimony said,
1004 your written testimony said in 2007, the GAO concluded that
1005 the drastic change of moving NNSA away from DOE was,
1006 ``unnecessary.'' Is that correct?

1007 Mr. {Gaffigan.} That is correct.

1008 Ms. {DeGette.} And so from your perspective is a
1009 significant overhaul of the agency structure necessary to
1010 solve the problems we are seeing today? Yes or no will work?

1011 Mr. {Gaffigan.} Not necessarily.

1012 Ms. {DeGette.} Okay.

1013 Mr. {Gaffigan.} We have to focus on--

1014 Ms. {DeGette.} So you don't think we necessarily need a

1015 significant overhaul. Right?

1016 Mr. {Gaffigan.} We have not seen the problem of being
1017 excessive oversight. We have seen the problem being
1018 ineffective oversight.

1019 Ms. {DeGette.} Ineffective. Yes. Less oversight is
1020 not the solution here. Right?

1021 Mr. {Gaffigan.} We have not seen excessive oversight as
1022 the problem.

1023 Ms. {DeGette.} Okay. Mr. Friedman, what do you think?
1024 Would reorganizing the NNSA so that contractors have more
1025 autonomy and less oversight solve the problems of the agency?

1026 Mr. {Friedman.} Well, Ms. DeGette, I would characterize
1027 it as the tail wagging the dog frankly. I think that it
1028 would be a mistake to dramatically lessen the quality of the
1029 oversight.

1030 Now, there are, as I have indicated in my testimony,
1031 there are improvements, and intelligent oversight is
1032 extremely important. So there are improvements that can
1033 occur--

1034 Ms. {DeGette.} Right.

1035 Mr. {Friedman.} --but I think the legislation that you
1036 are referring to goes too far.

1037 Ms. {DeGette.} So I just have kind of one last
1038 question, and I am going to ask you, Mr. Friedman, and you,

1039 Mr. Gaffigan. Do you think that a really burdensome
1040 oversight caused Sister Rice and her colleagues to be able to
1041 gain access to a secure area at a nuclear facility?

1042 Mr. {Friedman.} Well, as--

1043 Ms. {DeGette.} Yes or no. Do you think the reason she
1044 got in there was because there was too much oversight?

1045 Mr. {Friedman.} Clearly not.

1046 Ms. {DeGette.} Okay.

1047 Mr. {Friedman.} No.

1048 Ms. {DeGette.} Mr. Gaffigan?

1049 Mr. {Gaffigan.} No. No.

1050 Ms. {DeGette.} Thank you. Thank you very much, Mr.
1051 Chairman.

1052 Mr. {Stearns.} I thank the gentlelady.

1053 Mr. Barton, the former chairman of the full committee,
1054 is recognized.

1055 Mr. {Barton.} Thank you. The--I had to go do a little
1056 press interview while the chairman was doing his questions,
1057 but my understanding is he established that there were four
1058 fences that were broached. Is that correct?

1059 Mr. {Poneman.} Yes, sir.

1060 Mr. {Barton.} Okay. Were they all chain-linked fences?

1061 Mr. {Poneman.} Yes, sir.

1062 Mr. {Barton.} All chain-linked fences. Is it

1063 classified how long that took?

1064 Mr. {Poneman.} Yes, sir.

1065 Mr. {Barton.} It is classified? Were there any cameras
1066 that were operable? We know that there are some that
1067 weren't.

1068 Mr. {Poneman.} Yes, sir.

1069 Mr. {Barton.} Were there some that were?

1070 Mr. {Poneman.} There were cameras at the site that were
1071 operable.

1072 Mr. {Barton.} They just weren't where these people were
1073 doing their thing. Let us assume that we actually had good
1074 security. What would have happened had it been discovered
1075 that these three individuals were trying to get in the
1076 facility?

1077 Mr. {Poneman.} The censored part of the fences are the
1078 three fences that are relatively close to the facility,
1079 Congressman. If the system had worked properly, as soon as
1080 they penetrated the first link, the censor would have gone
1081 off, and when they saw as would be the case when people were
1082 coming through, that there were multiple censors going off,
1083 there would have been an immediate response within 1 or 2
1084 minutes of guards on the site.

1085 Mr. {Barton.} So even if it had been working and the
1086 guards had been alert and everything that was supposed to

1087 have been done would have been done, they would have been
1088 able to get through the first fence before anything was done.
1089 Is that correct?

1090 Mr. {Poneman.} Yes, sir. The theory is one of layered
1091 defenses, and we could go into classified session. There are
1092 many, many layers between that outer-most security fence and
1093 the sensitive material but--

1094 Mr. {Barton.} Well, I am--

1095 Mr. {Poneman.} --that would be what triggered the
1096 response.

1097 Mr. {Barton.} --not a security expert, but I would
1098 assume that we would have a security system at a weapons
1099 complex or an enrichment facility that if anybody got within
1100 10 feet of the first fence, alarms would start going off and
1101 dogs would start barking and loud speakers would say, get
1102 away, get away or something like that instead of letting them
1103 actually walk up to fence, use a pair of wire cutters, and
1104 cut the fence before anybody even assumes that there is
1105 something wrong. I mean, that seems to me to be a little bit
1106 lax. Am I just not with it to think that we shouldn't even
1107 let them get near the first fence?

1108 Mr. {Poneman.} When you walk into the facility,
1109 Congressman, you have to establish the parameter in some
1110 specific place, and you have to put the first censor in some

1111 specific place. That sensor is placed in such a manner as if
1112 it had been responded to appropriately before they were able
1113 to do anything at the wall, there would have been security
1114 forces on site. So you have to put the first sensor
1115 somewhere.

1116 Mr. {Barton.} But my point is you don't let them get
1117 close enough to take out the wire cutters without somebody
1118 noticing you. If I were to go to the facility today with a
1119 pair of wire cutters, hat on that says I am a fake terrorist,
1120 I would hope somebody would notice that before I started
1121 cutting on the fence.

1122 Mr. {Poneman.} Well, I assure you, Congressman, we are
1123 taking a full review of the full profile. You could see if
1124 doing something at the outer parameter fence up at the ridge
1125 line would be better, but then you are talking about acres
1126 and acres of security, which is challenging.

1127 Mr. {Barton.} You--is the deputy secretary at the
1128 Department of Energy the number two official?

1129 Mr. {Poneman.} Yes, sir.

1130 Mr. {Barton.} So you--the Secretary is number one, and
1131 you are number two?

1132 Mr. {Poneman.} Yes, sir.

1133 Mr. {Barton.} Could you rank this issue in a priority
1134 of issues at the Department of Energy for management

1135 attention of you and the Secretary? Is this a top five
1136 issue, a top ten issue, top 100 issue?

1137 Mr. {Poneman.} Congressman, there is no issue that we
1138 are dealing with more forcefully and with greater
1139 concentration than this issue. This is protecting our
1140 nuclear material. It has top priority.

1141 Mr. {Barton.} So this is, got the personal serious
1142 attention of you and the Secretary?

1143 Mr. {Poneman.} Ours and ours.

1144 Mr. {Barton.} Okay, and the gentleman to your right,
1145 Mr. D'Agostino. Is that close?

1146 Mr. {D'Agostino.} Mr. Barton, D'Agostino.

1147 Mr. {Barton.} D'Agostino.

1148 Mr. {D'Agostino.} Yes, sir.

1149 Mr. {Barton.} I would assume that on a day-to-day basis
1150 you are the person in--ultimately responsible for this at the
1151 Department, at the--I know you are at the Nuclear Security
1152 Administration, but I would assume that you are the number
1153 one person in terms of just thinking about this. Is that
1154 correct?

1155 Mr. {D'Agostino.} Every day since--every day I think
1156 about this issue and specifically but every day I also think
1157 about security in general. This is the number one priority
1158 for me. Bar none.

1159 Mr. {Barton.} Do you believe since it is your number
1160 one priority that we can fix this problem?

1161 Mr. {D'Agostino.} I believe we can fix it. We have
1162 work to do. It is inexcusable. It is appalling. The
1163 language the committee has used here I would agree with. We
1164 have to work aggressively. We have taken unprecedented steps
1165 to address this particular problem. It is important to hold
1166 organizations accountable. It is important to hold people
1167 accountable for this, and we are working through that
1168 particular process.

1169 In addition to the steps we have taken, we believe there
1170 are more steps to take, and we are working very closely with
1171 Glenn Podonsky and the HSS organization to make sure we
1172 actually have that right.

1173 Mr. {Barton.} My time has expired, but I want to ask
1174 one more. Is it possible under current policy at the
1175 Department of Energy to terminate the contractor who allowed
1176 this to happen?

1177 Mr. {Poneman.} Sir, we--because of this incident issued
1178 what we call a show-cause notice to the contractor, which
1179 gives them a set period to respond. Given the fact that are
1180 inconsistent with our contractual responsibility to provide
1181 security, to show cause why the contract should not be
1182 terminated.

1183 Mr. {Barton.} So the answer is yes, they can be
1184 terminated.

1185 Mr. {Poneman.} Yes, sir.

1186 Mr. {Barton.} Okay. Thank you, Mr. Chairman.

1187 Mr. {Stearns.} The chairman emeritus was really asking
1188 the question, I will ask it for him, has anyone been fired
1189 because of this incident?

1190 Mr. {Poneman.} Sir, there have been a number of
1191 personnel changes. The way the structure--

1192 Mr. {Stearns.} No one has been fired, though?

1193 Mr. {Poneman.} Oh, no, no, no. There have been a
1194 number of changes. The two top contractor officials at the
1195 site retired within 12 days.

1196 Mr. {Stearns.} Okay.

1197 Mr. {Poneman.} A number of other people have been moved
1198 out of their positions from the reports from the contractor
1199 as well.

1200 Mr. {Stearns.} It doesn't sound like anybody has been
1201 fired.

1202 Ms. Christensen, you are recognized for 5 minutes.

1203 Dr. {Christensen.} Thank you, Mr. Chairman. I am going
1204 to direct my questions at Mr. Poneman, but I would believe
1205 that Mr. Podonsky might be able to assist in answering.

1206 The DOE's office of Health, Safety, and Security has

1207 been able to identify major security flaws within several DOE
1208 nuclear facility sites through the various security and
1209 safety oversight inspections that it conducts.

1210 So, Mr. Poneman, can you talk briefly about the
1211 inspections the Office of Health, Safety, and Security is
1212 currently doing across the DOE complex?

1213 Mr. {Poneman.} Yes, Congresswoman. We highly value
1214 their role as our internal independent oversight
1215 organization, and therefore, the Secretary directed Mr.
1216 Podonsky to, A, dispatch a team immediately to Y-12, but, B,
1217 to assemble a team that draws from other parts of the
1218 Department to make sure all of the sites in the complex that
1219 have Category 1 nuclear materials are looked at quickly to
1220 see if there are any urgent changes that we need to make in
1221 other sites, and then the third thing we have asked Mr.
1222 Podonsky to do is an in-depth, what we call a comprehensive
1223 inspection by his oversight organization, which will take 3
1224 weeks at each of the 12 sites and over the course of 12
1225 months do a deep drive, force-on-force training and make sure
1226 if there are deeper problems that need to be addressed that
1227 we can do that.

1228 Dr. {Christensen.} Okay, and Mr. Chairman, these
1229 assessments will certainly be helpful to the committee and
1230 perhaps we could have DOE come back to us once they have

1231 finished those assessments.

1232 So what kind of inspections did HSS do at Y-12 facility
1233 before, and what did they find?

1234 Mr. {Poneman.} I think I would let Mr. Podonsky address
1235 that.

1236 Mr. {Podonsky.} Yes, ma'am. In 2008, we did what we
1237 call a comprehensive security inspection. By definition
1238 comprehensive means that we do force-on-force, limited
1239 performance testing, we look at personnel security,
1240 protection program management, physical security systems,
1241 material control accountability. We look at the entire
1242 kaleidoscope of security subjects to make sure that we know
1243 how effective the requirements are being implemented. It is
1244 not just an inspection to make sure that people are
1245 complying, but we also take a look to see how they are
1246 performing, and it was in that inspection that we identified
1247 a number of serious problems that resulted in findings that
1248 the NNSA, according to DOE orders, would then be responsible
1249 for fixing and putting a corrective action plan in place,
1250 which they did. Many of those findings we believe if they
1251 were completely fixed and maintained, then perhaps the events
1252 that occurred in July of 2012 would not have occurred.

1253 Dr. {Christensen.} So when did that take place?

1254 Mr. {Podonsky.} That was in 2008, and the report was

1255 issued in 2009.

1256 Dr. {Christensen.} So you don't believe that all of the
1257 vulnerabilities were addressed, or they were addressed but
1258 not maintained?

1259 Mr. {Podonsky.} In all fairness they were addressed in
1260 2009, they put together the corrective actions, but then as
1261 2010, 2011, we believe they deteriorated.

1262 Dr. {Christensen.} Is there any reason that we should
1263 be worried about other facilities that may be susceptible to
1264 similar breaches?

1265 Mr. {Podonsky.} We should always be looking for
1266 improvements, Congresswoman, and that is why the Deputy and
1267 the Secretary directed us to go out and do immediate
1268 comprehensive inspections of all of our Category 1
1269 facilities.

1270 Dr. {Christensen.} Thank you. The August IG report
1271 revealed that several of the security mechanisms in place at
1272 the Y-12 facility, if functioning properly, would have
1273 allowed personnel to quickly identify and locate the
1274 intruders. Mr. Friedman, can you tell us what those
1275 mechanisms were?

1276 Mr. {Friedman.} Well, the cameras are a perfect
1277 example. They have been discussed already during the
1278 hearing. They should all have been fully functioning, and

1279 the maintenance process should have been such that high
1280 priority maintenance, high priority security components would
1281 have been repaired within a very short period of time, if, in
1282 fact, they were--they broke down for any--or became
1283 inoperable for any reason.

1284 Also, we found another was compensatory measures. The
1285 compensatory measures are implemented when there is a
1286 mechanical failure. They were in place for much too long,
1287 and therefore, they lost their character as a short-term
1288 measure to address a problem in the immediate term but not
1289 the long term as it was intended.

1290 Dr. {Christensen.} And who is responsible for that, for
1291 maintaining the cameras? Was it the contractor, was it--

1292 Mr. {Friedman.} Well, the contractor had primary
1293 responsibility, but there certainly was responsibility on the
1294 part of the site officials, the federal site officials as
1295 well.

1296 Dr. {Christensen.} Well, you know, the incident, as has
1297 been said, makes it clear that independent DOE oversight of
1298 NNSA and its contractors is very important, and I look
1299 forward to seeing the outcome of DOE's inspections throughout
1300 the nuclear complex and the actions taken in response to
1301 these inspections.

1302 Thank you, Mr. Chairman. I yield back.

1303 Mr. {Stearns.} Thank the gentlelady.

1304 Mr. Terry from Nebraska is recognized for 5 minutes.

1305 Mr. {Terry.} Thank you, Mr. Chairman, and first I just
1306 want to say that I appreciate the gentlelady, Diane DeGette's
1307 questions about some legislative language, and I happen to
1308 agree with her position, and I think most of us do, that we
1309 need more oversight, efficient oversight, force-on-force. I
1310 mean, we can't do enough here to make sure that they are
1311 secure. So we have to change a culture.

1312 But I want to go back to the cameras, because as I
1313 understand security, it isn't that sensors are number one and
1314 then cameras are number two, and there is kind of list that
1315 you go down. Sensors and cameras are part of the same. They
1316 are yin, and they are yang. Sensors go off, you view the
1317 cameras to see what is occurring. So I think that would be
1318 critical, but yet it was deemed not to be critical. Is that
1319 correct, Mr. Poneman?

1320 Mr. {Poneman.} Yes, sir. On both points. It is
1321 critical, and it was not deemed to be critical.

1322 Mr. {Terry.} Yes, and so how long were--I don't know if
1323 we established how long the cameras were not operating, how
1324 many weeks, days, months.

1325 Mr. {Poneman.} In at least one instance the IG report
1326 noted the camera was broken on the order of 6 months.

1327 Mr. {Terry.} Six months.

1328 Mr. {Poneman.} Yes, sir.

1329 Mr. {Terry.} Six months for something that universally
1330 at this table you would deem cameras as critical.

1331 Mr. {Poneman.} Yes, sir, and indeed--

1332 Mr. {Terry.} Someone there made a decision that they
1333 weren't critical. Who was that, or what entity makes that
1334 decision?

1335 Mr. {Poneman.} That was something that would have been
1336 in the hands of the M&O contractor to propose what--

1337 Mr. {Terry.} It would be a guess.

1338 Mr. {Poneman.} --and what is not and then it would be
1339 up to the federal oversight to be cognizant of that and to be
1340 allowing it to continue.

1341 Mr. {Terry.} I appreciate it. Did you want to say
1342 something?

1343 Mr. {D'Agostino.} No, just--I was making sure my
1344 microphone was off because I thought I saw the light on. I
1345 wanted--I agree with--the Deputy Secretary said it absolutely
1346 right. We have a contract with our M&O contractor down in Y-
1347 12 to take care of this equipment, put it on a high priority.
1348 The camera maintenance was not prioritized to be fixed. Our
1349 federal oversight should have caught that. That information
1350 as it is floated in reports and oversight from the program

1351 side in Washington should have been able to pick that data
1352 out. As the Inspector General said, there were indicators in
1353 our reports, but when there are too many indicators, the real
1354 indicator gets lost in the noise, and so the important thing
1355 here is on oversight, in my opinion, and I do greatly--

1356 Mr. {Terry.} That is what we want.

1357 Mr. {D'Agostino.} Yes, sir. That we have to make sure
1358 our oversight is done not only in the quantity but in the
1359 quality that allows us to--

1360 Mr. {Terry.} Absolutely.

1361 Mr. {D'Agostino.} --pick out these flags and not have
1362 the important indicators buried in reports. That is an
1363 important thing from my standpoint.

1364 Mr. {Terry.} Very good. I am just curious, Mr.
1365 Poneman. How--these were down, cameras were down for 6
1366 months. Once they were fixed, evidently they were fixed
1367 within a couple days after the incident. Is that correct?

1368 Mr. {Poneman.} Yes, sir. They have all been fixed,
1369 sir.

1370 Mr. {Terry.} What was wrong with the cameras?

1371 Mr. {Poneman.} I don't know what was wrong the cameras,
1372 but I think Mr. D'Agostino put it very well.

1373 Mr. {Terry.} Mr. D'Agostino, do you know what was wrong
1374 with the cameras?

1375 Mr. {D'Agostino.} Not in a specific way. We can get--
1376 take that question for the record and get back to the
1377 committee.

1378 Mr. {Terry.} Mr. Podonsky, do you know?

1379 Mr. {Podonsky.} My--I have an inspection team on the
1380 site right now, and what I understand were those two
1381 particular cameras that were out. One was an inner workings
1382 of the camera. It took 24 hours to fix that. The other one
1383 was a trip switch that had to be just flipped on.

1384 Mr. {Terry.} A trip switch. What does that mean?

1385 Mr. {Podonsky.} I am not a systems engineer, but that--

1386 Mr. {Terry.} Is that a circuit breaker?

1387 Mr. {Podonsky.} A circuit breaker was flipped.

1388 Mr. {Terry.} So all they had to do was look at it and
1389 go like that, and that camera would have worked again?

1390 Mr. {Podonsky.} That is what my inspectors are telling
1391 me.

1392 Mr. {Terry.} But it was down for 6 months. So I guess
1393 to conclude in the last 40 seconds, Mr. Friedman, you made a
1394 comment regarding we need a scalpel, not a cleaver.

1395 Mr. {Friedman.} I did.

1396 Mr. {Terry.} I may disagree. When you have that level
1397 of incompetence, to keep the same people and organization in
1398 place probably isn't a good decision. There we probably need

1399 a cleaver.

1400 I yield back.

1401 Mr. {Stearns.} Ms. Schakowsky is recognized for 5
1402 minutes.

1403 Ms. {Schakowsky.} Thank you, Mr. Chairman. I want to
1404 focus on a more fundamental question involved in all of this.
1405 That is the use of a private contractors altogether. You
1406 know, we made a decision in--as a country in 1828, that we
1407 would be protected here at the Congress, members of Congress
1408 and the public, by people who wear the badge, and I am
1409 looking at the recruiting website, and it says, ``Wear the
1410 badge, feel the honor, the moment of transformation when you
1411 slip into the uniform. Put on the badge and join our elite
1412 ranks. What does it take to join this prestigious team? A
1413 deep sense of patriotism, unyielding dedication to protecting
1414 the public, and a passion for the American way of life are
1415 just the beginning.''

1416 DOE is the largest non-defense department contractor and
1417 agency in the Federal Government, and this is probably one of
1418 the most sensitive missions; stewardship of the Nation's
1419 nuclear weapon stockpile. And when you look at who the
1420 contractor--the company that holds the security contractor is
1421 WSI Oak Ridge. It is my understanding that this is a local
1422 branch of G4S Global Solutions, formerly known as Wackenhut,

1423 the same company that recently apologized to the British
1424 Parliament for failing to provide enough security guards for
1425 the London Olympics, and that they also own the company,
1426 Armor Group, which was involved in serious abuses, including
1427 sexual hazing and disgusting photos we were all privy to at
1428 the U.S. Embassy in Cabo in 2009.

1429 Now, I don't understand, one, why this company has any
1430 role to play. I would like to know if you have any concerns
1431 about the performance of this particular company. If the
1432 government has taken any steps to hold both B&W Y-12 and WSI
1433 Oak Ridge accountable for the security breach and any other
1434 misconduct. I have seen reports that the current contracts
1435 for B&W expire September 30, and WSI's contract ends November
1436 30 and wondered if we are going to get rid of them, and
1437 perhaps even more fundamentally, I wonder if anybody has
1438 really looked at, done a cost analysis of what it would be to
1439 have someone with pride wear the badge of the United States
1440 of America, be in the line of command, and guard something as
1441 sensitive as this rather than hiring these private outside
1442 contractors.

1443 That is a lot of questions, but I would like to at least
1444 begin--

1445 Mr. {Poneman.} These are profound questions,
1446 Congresswoman, and they come in two sections. I am going to

1447 address each of our concerns.

1448 The question you raised about whether the protective
1449 force should be federal employees or contractor employees is
1450 a longstanding question that has been looked at back to the
1451 late 1940s when it first went in the direction that it did
1452 for security contractors being hired. What you said about
1453 that sense of mission and patriotism, that is what we believe
1454 should be held by all of us, including contractors. We say
1455 that we all work for the President.

1456 Now, there have been a number of reports, including GAO
1457 reports, that have weighed the pros and cons, of which there
1458 are many, but it comes down to something that I think Mr.
1459 Gaffigan said well in his testimony. There is no substitute
1460 for management, and you have to stay--

1461 Ms. {Schakowsky.} Well, talk to me about this
1462 particular company. Haven't they done enough to preclude
1463 them from being hired? I mean, how many apologies have to be
1464 issued?

1465 Mr. {Poneman.} That is the segway to the second part of
1466 your question. Now, in this particular case the first thing
1467 we did was we found that since the contract structure had an
1468 independent contract for the protected force, this aggregated
1469 from some of the systems that your colleague mentioned, we
1470 put Wackenhut under the M&O contractor so we had a single

1471 command. Point one. Point two, we then issued the show-
1472 cause notice that said given these security breaches that
1473 were experienced at Y-12, the contractors which would include
1474 both the M&O contractor and Wackenhut or WSI at the site,
1475 show cause why the contract should not be terminated. And
1476 the third point is on your point about the contracts soon to
1477 expire, any subsequent competition would be informed by the
1478 record of the contractors in their last term of service under
1479 contract. So that would very much influence any decision,
1480 and there would, therefore, be consequences.

1481 Ms. {Schakowsky.} Let me just say, if this were part of
1482 the normal chain of command of people who wore the badge of
1483 the United States of America, these people were out, they
1484 would be sanctioned, there would be some consequence
1485 immediately for that. It seems to me a company who has been
1486 engaged in the kind of practices that they have, first of
1487 all, should be off the list of contractors, and I think we
1488 ought to reconsider this issue of whether or not private
1489 contractors are appropriate for this level of sensitive
1490 mission.

1491 And I yield back.

1492 Mr. {Friedman.} May I just point out, if I might, that
1493 in November of 2011 we in our management challenge report for
1494 the Department of Energy, we recommended that we take a close

1495 look at how the structure and the provision of protective
1496 forces at the DOE facilities around the country, including,
1497 by the way, Argon and Fermi, and one of the options that we
1498 put on the table was, in fact, federalizing the workforce.
1499 It is a very complicated issue. It goes back a long time as
1500 the Deputy Secretary indicated, but we think it is time to
1501 relook that issue, and we agree with you there.

1502 Mr. {Stearns.} The gentlelady's time has expired.

1503 Dr. Burgess is recognized for 5 minutes.

1504 Dr. {Burgess.} So if I just heard you correctly, Mr.
1505 Inspector General, you said it is now, you feel it is now
1506 time to relook at the issue. You know, there was a situation
1507 in 2007, six cruise missiles, each loaded with a nuclear
1508 warhead, mistakenly loaded on a B-52 bomber at Minot Air
1509 Force Base and transported to Barksdale, North Dakota, to
1510 Louisiana. The warheads were supposed to be removed before
1511 the missiles were taken from storage. The missiles with the
1512 nuclear warheads were not reported missing and remained
1513 mounted to the aircraft at both Minot and Barksdale for 36
1514 hours. The warheads were not protected by various security
1515 precautions required for nuclear weapons. They never left
1516 the base, no one sprayed paint on them, no one protested, but
1517 Secretary Gates demanded the resignation of the Air Force
1518 Secretary and Chief of Staff of the Air Force.

1519 Where is the sense of urgency here? I haven't heard it
1520 this morning. Mr. Terry said scalpel and cleaver, he prefers
1521 a cleaver. I don't understand why these individuals are free
1522 to be here in the hearing room today. Why are they not
1523 incarcerated? My understanding is they have been charged
1524 with both criminal trespass, which is a misdemeanor, and
1525 destruction of federal property, which is a felony. My
1526 understanding is one of the individuals is a repeat offender.
1527 Do they pose a flight risk? I don't know. They don't see
1528 like reliable individuals. It is hard to be against a nun
1529 and a house painter and an electrician, whatever their
1530 professions are, but at the same time why are they even here
1531 in this hearing room? Why are they not being held in
1532 detention somewhere? What is to prevent them from doing the
1533 very same thing tomorrow night or the night after?

1534 Mr. Barton posed a very good question. Carrying a Bible
1535 to a secured nuclear facility is one thing, but it could have
1536 been anything. It could have been anything. Where is the
1537 sense of urgency to stop this problem? The pogo folks, the
1538 oversight guys that are always posting stuff said the Boy
1539 Scouts would have done a better job. So where is the sense
1540 of urgency?

1541 Mr. {Poneman.} Congressman, there is, if that is
1542 directed to me, there is no greater urgency that we face in

1543 the complex. We are working this every day, all day, and we
1544 have from the day of the incident, and we immediately took
1545 the actions to remove the guards who were responsible, we
1546 immediately fixed the cameras, we immediately dispatched
1547 teams, we immediately took the general from our Pantex
1548 facility who is an expert at security and sent him up to make
1549 sure that the best practices that are enforced in Pantex, and
1550 we have done this from day one, and we continue to do it, and
1551 we are going to keep working at it until we feel confident
1552 that it--the job has been well done.

1553 Dr. {Burgess.} Have those guards been fired? I think
1554 the answer to that question is, no, they have been
1555 reassigned. Are they going to be barred from working on any
1556 sort of similar security arrangement in the future? I don't
1557 think we have gotten an answer to that. Who in the agency is
1558 taking responsibility? Secretary Gates asked for the
1559 resignation of the Assistant Secretary of the Air Force.
1560 Where is that accountability in this situation, which I would
1561 submit is no less serious than what occurred in Minot, North
1562 Dakota.

1563 Mr. {Poneman.} We agree with the seriousness,
1564 Congressman. That is precisely why we have got General Finan
1565 doing the internal reviews, we have taken the people who were
1566 on the line in terms of our own federal oversight and

1567 reassigned them to permit that review to be unimpeded, and we
1568 will follow every fact trail to the end of the earth and find
1569 out what happened, and we will, as Secretary Gates did, hold
1570 people responsible.

1571 Dr. {Burgess.} Well, I think the response was much more
1572 immediate in Secretary Gates' situation.

1573 Mr. Friedman, Inspector General Friedman, on the issue
1574 of compensatory measures, one of the federal officials
1575 according to your report, this is--I am referencing here the
1576 special report in the inquiry of the security breach at the
1577 National Nuclear Security Administration's Y-12 national
1578 complex under compensatory measures on page 4. You say one
1579 of these federal officials also indicated that they had been
1580 instructed not to evaluate and report on how the contractors
1581 were conducting business. Is that an accurate statement?

1582 Mr. {Friedman.} That is an accurate statement.

1583 Dr. {Burgess.} Well, if that is the case, as long as
1584 they were doing an adequate job was the other part of that
1585 statement. In this case were they doing an adequate job in
1586 deciding how to accomplish their security mission for the
1587 Department of Energy?

1588 Mr. {Friedman.} As the very essence of our report is we
1589 think not.

1590 Dr. {Burgess.} So I guess my question to you is, I

1591 mean, you are the law enforcement person here. You are the
1592 Inspector General. Where is the accountability that you are
1593 going to extract because they clearly failed at their
1594 mission?

1595 Mr. {Friedman.} Well, you are right in your
1596 characterization of what my job is and included, by the way,
1597 effectuating the arrest of the three trespassers, and we are
1598 proceeding on that case, and your earlier point, Doctor, is--
1599 Dr. Burgess, is exactly correct. The judicial system is now
1600 the timing mechanism. It is not the Department of Energy or
1601 the Office of Inspector General.

1602 With regard to your second point is we generally do not
1603 identify particular individuals, there are cases where this
1604 does occur, who ought to be fired. That is the
1605 responsibility of management to take our report and the other
1606 information they have available to them and make whatever
1607 judgments they see to make with regard to firing individuals,
1608 personnel actions, or disassociating the Department from
1609 certain contractors who have not acted well.

1610 Dr. {Burgess.} These are individuals who walked through
1611 the so-called fatal force zone. At Los Alamos several years
1612 ago I saw a force-on-force exercise out there. It was pretty
1613 impressive, all of the tools that they had at their disposal.
1614 Why was none of that used?

1615 Mr. {Friedman.} Dr. Burgess, I am sorry. I really--
1616 could you repeat the question? I am sorry.

1617 Dr. {Burgess.} At Los Alamos in 2005--

1618 Mr. {Friedman.} Right.

1619 Dr. {Burgess.} --I was given a demonstration of the
1620 force-on-force exercise that would be instituted were there a
1621 serious security breach. I would submit that this was
1622 serious. Got through four fences. They had something the
1623 size of a Bible. Where was--what would it have taken to
1624 institute that force-on-force--

1625 Mr. {Stearns.} The gentleman's time has expired. You
1626 go ahead.

1627 Mr. {Friedman.} The answer--well, my answer to your
1628 question, Dr. Burgess, is really the following. One of the--
1629 and I--the fact that the nun, one of the trespassers is here
1630 today makes this even more meaningful, I suppose, is we have
1631 testimony from sharp shooters who were on the protected force
1632 at the site, that if the trespassers, if they had clear sight
1633 of the trespassers, they might have taken them out or
1634 attempted to take them out at that time. So the aggressive
1635 force that you witnessed on the force-on-force exercises at
1636 Los Alamos exists, at least theoretically, at Y-12 as well.

1637 Mr. {Stearns.} To confirm them, you had snipers at Y-
1638 12?

1639 Mr. {Friedman.} Well, I don't want to characterize
1640 their abilities. They are highly trained, very professional,
1641 power military, former Seals, very competent individuals in
1642 terms of their physical abilities and the training generally.
1643 Clearly there was a breakdown in this case, but you should
1644 not believe that these are people who are not equipped to do
1645 the job when they have to do the job.

1646 Mr. {Stearns.} I understand. The gentlelady from
1647 Florida, Ms. Castor, is recognized for 5 minutes.

1648 Ms. {Castor.} Thank you, Mr. Chairman, and let me start
1649 by expressing my dismay over this security breach. It is
1650 appalling on all levels for the government and for the
1651 private contractors that had responsibility here.

1652 Last night the Washington Post published a story noting
1653 that the security lapses that allowed three protesters,
1654 including an 82-year-old nun, to gain access to the secure Y-
1655 12 area at Oak Ridge National Lab, that those security lapses
1656 had been identified by government investigators 2 years
1657 before the break in. According to the Post a 2010,
1658 classified report by DOE inspectors found that, ``security
1659 cameras were inoperable, equipment maintenance was sloppy,
1660 and guards were poorly trained.''

1661 Mr. Poneman, are you aware of this report?

1662 Mr. {Poneman.} Yes, ma'am.

1663 Ms. {Castor.} Is what is being reported accurate?

1664 Mr. {Poneman.} Obviously it is a classified report. We
1665 would have very happy to go into it in closed session, and I
1666 would suggest we defer.

1667 Ms. {Castor.} What can you tell us now?

1668 Mr. {Poneman.} What I can tell you is what we have been
1669 very clear about, which is the characterization that you have
1670 used and your colleagues have used. Appalling is apt, that
1671 as Mr. Gaffigan has testified it is not just a matter of
1672 finding the thing that is wrong and fixing it but sustaining
1673 that level of effort and that we, therefore, had a breakdown
1674 up and down the chain, including a sense of complacency that
1675 something like this could not happen, and we are vigorously
1676 doing everything we can to route that out and to put in place
1677 more effective security.

1678 Ms. {Castor.} Can you tell us that after that 2010,
1679 report came out that it was reviewed with Babcock and Wilcox,
1680 your contractors, Wackenhut, WSI Oak Ridge?

1681 Mr. {Poneman.} I can tell you that that is what is
1682 supposed to happen with those kind of reports. In terms of
1683 what happened with that particular report, we would have to
1684 come back to you. I don't know exactly--

1685 Ms. {Castor.} And Mr. D'Agostino, did I see you nod
1686 that it was reviewed with the contractors?

1687 Mr. {D'Agostino.} Yes, ma'am. As part of standard
1688 practice all independent inspection reports by the Health,
1689 Safety, and Security organization are briefed to both the
1690 federal officials and the contractor officials at each site.
1691 Given the consistency of Mr. Podonsky's organization doing
1692 these inspections, which he could confirm, but there is no
1693 doubt in my mind that there is, that these reports are in
1694 their hands, they get copies, they are copied on the reports,
1695 they have the reports.

1696 I do as well. I get, typically get the report, I read
1697 the executive summaries, I am briefed by Mr. Podonsky's
1698 organization to give me the overall sense of the conditions.
1699 That is standard practice. They key, though, for me in this
1700 particular case is it is not enough just to read an executive
1701 summary and take a high-level look at the findings and get a
1702 brief by the organization. I actually have to read every
1703 page of that report.

1704 Ms. {Castor.} Who is responsibility is it then to sit
1705 down with the contractors, with Babcock and Wilcox,
1706 Wackenhut, WSI Oak Ridge to go through that? Did you do
1707 that, Mr. Podonsky?

1708 Mr. {Podonsky.} Ma'am, what we do and we have been
1709 doing for 2 decades, is we independently assess the
1710 performance of the contractor and the feds on the site, and

1711 then we issue a report that is validated, and I won't bother
1712 to explain all the details, but it is a very rigorous
1713 process. So we spend--

1714 Ms. {Castor.} I wonder if anyone here at the table read
1715 that report in 2010, and actively discussed it personally
1716 with the contractors.

1717 Mr. {Podonsky.} I will tell you that when the team is
1718 on site as they are right now at other sites, including Y-12,
1719 they actively validate daily--

1720 Ms. {Castor.} I am just wondering if any of you here
1721 had that report and had that discussion with the contractors.

1722 Mr. {Podonsky.} I read my reports. Yes, ma'am.

1723 Ms. {Castor.} And then did you--

1724 Mr. {Podonsky.} And then it is up to the line to
1725 discuss with them, with their contractors and with their own
1726 staff who they are going to correct it. We don't--

1727 Ms. {Castor.} So you didn't have any personal
1728 conversations on the phone or in person with the contractors?
1729 I am just wondering if anyone, if it was anyone's
1730 responsibility to do that or if anyone did that here.

1731 Mr. {D'Agostino.} Ma'am, it is my responsibility to
1732 make sure my organization and my security organization does
1733 exactly that, go over the details of the report. As I
1734 mentioned earlier, I get the executive summaries, I get a

1735 brief by the independent inspection organizations on these
1736 reports, which I did in this particular case, and the key is--
1737 -and so I count on my security organization to go through the
1738 details page by page--

1739 Ms. {Castor.} Okay. Thank you, and Mr. Friedman, I
1740 have--your recent Y-12 report suggests that there may have
1741 been systemic failures to address maintenance issues at Y-12.
1742 I would like to know in a broader perspective were the
1743 problems you saw at Y-12 symptomatic of larger issues here at
1744 this agency or the DOE?

1745 Mr. {Friedman.} Well, symptomatic in the sense that we
1746 have concerns about the whole notion of contract
1747 administration and contractor oversight and how that is
1748 effectuated throughout the Department, yes. In terms of
1749 security, you know, to be totally candid with you we have--we
1750 issued a report on a compromise of a force-on-force exercise
1751 in 2004. So we have had some continuing--at Y-12 but that--

1752 Ms. {Castor.} And then back on the accountability for
1753 the contractors, are there any penalties built into these
1754 contracts? I understand that you have now taken action,
1755 began proceedings to fire the management contractor, the
1756 subsidiary of Babcock and Wilcox, but are there any penalties
1757 built into these type of contracts so that if a breach like
1758 this occurs, not only do personnel lose their jobs but there

1759 is some payment back to the DOE or the government?

1760 Mr. {D'Agostino.} The government always has the ability
1761 to reach back and look at past performance and make
1762 adjustments consistent with the contract, and our plans are
1763 to do just that in this case, ma'am.

1764 Mr. {Stearns.} The gentlelady's time has expired.
1765 The gentlelady from Tennessee is recognized for 5
1766 minutes.

1767 Mrs. {Blackburn.} Thank you, Mr. Chairman, and I thank
1768 you all for your patience. I hope that it is not lost on you
1769 that this is something that concerns us tremendously, and
1770 having served in the State Senate in Tennessee, knowing how
1771 proud individuals in that part of the state are of that
1772 facility, having visited the facility many times myself, I
1773 think not only did you have a security breach, but you have
1774 now what you are seeing is a breach of the public trust in
1775 that area. You are charged with keeping that facility safe.
1776 You are charged in keeping the employees at that facility
1777 safe, and it is such--the ineptness and the negligence is
1778 mindboggling as we look at this.

1779 Now, I want to go back to this 2010, report. A report
1780 comes out in 2010, and you review this report. Now, you have
1781 to review it with the contractors. Am I right there, Mr.
1782 Podonsky? I think--

1783 Mr. {Podonsky.} Yes. We validate the content--

1784 Mrs. {Blackburn.} Okay.

1785 Mr. {Podonsky.} --to the contractors and the site--

1786 Mrs. {Blackburn.} Okay. Now, with the site, who is the
1787 buck stops here? Who is--do you have a guy who makes the
1788 decision at that facility that says, these are serious
1789 issues?

1790 Mr. {Podonsky.} That would be the site manager, the
1791 federal site manager.

1792 Mrs. {Blackburn.} Okay. The federal site manager. Did
1793 that individual make that decision that this was serious, and
1794 did they hold Babcock and Wilcox and WSI responsible and say,
1795 we are going to tie your money up until you straighten this
1796 out?

1797 Mr. {Podonsky.} I would tell you from the independent
1798 oversight perspective that is what is supposed to happen, and
1799 then we as an organization brief it up as Administrator
1800 D'Agostino said, we did brief it to he and his security staff
1801 back in Washington. So it is up to Administrator D'Agostino
1802 to then make sure that the corrective actions through the
1803 site manager are--

1804 Mrs. {Blackburn.} Mr. D'Agostino, did you follow up
1805 with the site manager?

1806 Mr. {D'Agostino.} Yes, ma'am.

1807 Mrs. {Blackburn.} Did the site manager say we have
1808 taken action to fix these security lapses?

1809 Mr. {D'Agostino.} Yes, ma'am. In the 2009, report that
1810 was referenced--

1811 Mrs. {Blackburn.} When did he show proof that he had
1812 taken that?

1813 Mr. {D'Agostino.} The--I will have to get you the exact
1814 month that he showed proof, but we had validated the closure
1815 of all of the findings, including the cameras--

1816 Mrs. {Blackburn.} Okay. Then who is responsible that
1817 it didn't get done?

1818 Mr. {D'Agostino.} The problem--

1819 Mrs. {Blackburn.} Let me ask you this. Have any of you
1820 been on the ground at the Y-12 facility?

1821 Mr. {D'Agostino.} Yes, ma'am.

1822 Mr. {Podonsky.} Yes, ma'am.

1823 Mrs. {Blackburn.} All of you have been there?

1824 Mr. {Poneman.} Yes, ma'am.

1825 Mr. {Gaffigan.} Yes, ma'am.

1826 Mr. {Friedman.} Yes, ma'am.

1827 Mrs. {Blackburn.} So all of you went, and all of you
1828 looked at this physical facility, and all, each of you
1829 reviewed the items that were pointed out and made sure boxes
1830 were checked that they had been repaired and signed off on

1831 this. Am I right on this?

1832 Mr. {Poneman.} No, ma'am. I visited this site--

1833 Mrs. {Blackburn.} Okay. Mr. Poneman.

1834 Mr. {Poneman.} --on earlier occasions, and as you know
1835 having visited the site, it is an impressive site.

1836 Mrs. {Blackburn.} Yes, it is.

1837 Mr. {Poneman.} And the problem--

1838 Mrs. {Blackburn.} And it deserves to be protected.

1839 Mr. {Poneman.} And it deserves for the site, for the
1840 people of the Nation, absolutely correct. The--one of the
1841 problems here is you have an evidence that looks like
1842 invincibility, but we had specific shortcomings that were not
1843 adequately identified or if they were fixed, the system was
1844 not fixed to the point that it was sustained. These are the
1845 things that we are trying to get our arms around right now.

1846 You are absolutely right. It has to have that kind of
1847 top level--

1848 Mrs. {Blackburn.} See, it just seems incomprehensible
1849 that you could have said we have this report, we are doing
1850 this review, we have these problems, the problems are not
1851 fixed, are not fixed to completion. How could you continue
1852 the contract if they are not completed, and I have to tell
1853 you, listening to you all this morning, I got to tell you
1854 something. This is classic bureaucratic pass the buck. It

1855 is not my problem. It is somebody else's problem. Well, it
1856 is your problem.

1857 Mr. {Poneman.} Congresswoman--

1858 Mrs. {Blackburn.} You are charged with the
1859 responsibility of protecting these facilities, and we are
1860 charged with conducting the appropriate oversight for this,
1861 and to say, well, I reviewed it and so and so said--somebody
1862 somewhere has to say are the cameras working, are the fences
1863 complete. If you have got, what is it, 200 false alarms, you
1864 should know that there is a problem with something causing
1865 the false alarms. You know it is wildlife in this area. Is
1866 that not correct? So you fix it, but you don't allow it to
1867 continue and continue to pay the contract and then have
1868 something like this occur where you have individuals inside
1869 this facility. The security culture and the safety culture
1870 demands a better product from you all.

1871 Mr. {Poneman.} Congresswoman, in terms of the priority
1872 that it deserves and in terms of the cultural requirement to
1873 be ever vigilant, you are absolutely correct. That is why
1874 within days of actually knowing about the problems, the
1875 problems that had been identified had been fixed, and we are
1876 now about the business of making sure, A, that we don't have
1877 problems like that anywhere else in the system, and B, that
1878 we take permanent, sustained, and sustainable measures to

1879 make sure that it is--

1880 Mrs. {Blackburn.} Sir, my time has expired, but I would
1881 offer that you fixed them after you were embarrassed, and you
1882 fixed them 2 years too late.

1883 I yield back.

1884 Mr. {Stearns.} The gentlelady's time has expired.

1885 The gentleman from Texas, Mr. Green, is recognized for 5
1886 minutes.

1887 Mr. {Green.} Thank you, Mr. Chairman. A question for
1888 everyone on the panel. The National Defense Authorization
1889 Act was passed by this chamber earlier this year, allows the
1890 National Nuclear Security Administration sites to adopt OSHA
1891 workplace standards in lieu of the NSAA [sic] present
1892 standards.

1893 Can anyone on the panel tell me the differences between
1894 what NSAA's present standards and the standards the House
1895 NDAA would allow? In addition, the OSHA standards provide
1896 more protection. Would OSHA standards provide more
1897 protection for the workers at those nuclear sites, and would
1898 OSHA standards be easier to enforce?

1899 Is OSHA stronger than what was original standards?

1900 Mr. {Poneman.} We have very strong standards,
1901 Congressman, in the Department of Energy. There are some
1902 similarities between OSHA standards and DOE standards, but

1903 there are some unique DOE requirements because of our unique
1904 nuclear responsibilities for such materials as Beryllium and
1905 so forth. So we are informed by those standards, but the
1906 standards that the DOE employs are specific to the DOE
1907 complex and are unique requirements.

1908 Mr. {Green.} You can apply both, whichever is the
1909 toughest. Obviously your standards or OSHA standards, I
1910 guess, for safety. Is there any--is national, nuclear
1911 security standards stronger than OSHA?

1912 Mr. {Poneman.} Well, the OSHA standards, Congressman,
1913 and my colleagues may wish to join me in explaining this,
1914 apply to general industrial safety.

1915 Mr. {Green.} Yes.

1916 Mr. {Poneman.} And where we can apply globally-
1917 recognized standards that apply to industrial safety, we do
1918 that. That is an efficient thing to do to use validated peer
1919 review standards such as OSHA. However, when there are those
1920 unique requirements that pertain to the use of Beryllium and
1921 other things that are unique to our complex, we need special
1922 DOE-tailored standards.

1923 Mr. {D'Agostino.} And if I could just agree with
1924 everything the Deputy Secretary said. We have, we follow DOE
1925 directives on safety. Safety is critically important, and we
1926 are inspected by independent inspection, Mr. Podonsky's

1927 organization, as well as we have our own safety inspection
1928 standards. We don't believe that OSHA broadly applied is the
1929 way to go. We believe after years of analysis and work in
1930 developing DOE directives on safety that we have the right
1931 set. It is something that requires constant vigilance,
1932 constant attention to detail as this security situation has
1933 pointed out. We really do have to continue to keep eyes on
1934 the ball here, sir.

1935 Mr. {Podonsky.} May I amplify on that, Congressman?

1936 Mr. {Green.} Sure.

1937 Mr. {Podonsky.} The Administration made it clear that
1938 the legislation that was proposed would hinder the
1939 Secretary's ability to manage safety and security at--within
1940 the NNSA, and specifically to your question on OSHA versus
1941 the standards that we have, our standards are much stronger.
1942 In fact, the Administrator for OSHA would like to move OSHA
1943 more towards the DOE standards, but because their hazards are
1944 of not the same magnitude as ours, it is rather difficult.

1945 Mr. {Green.} Well, and obviously I have trouble with
1946 OSHA standards. I represent an area of maybe not as--but
1947 refineries and chemical plants, and our standards, sometimes
1948 the company standards are tougher than OSHA, and I can
1949 understand that.

1950 The testimony by the Inspector General and the GAO

1951 submitted today indicate that have been persistent safety
1952 problems at NNSA sites for the past decade. The GAO reported
1953 between 2000, and 2007, there were 60 serious accidents or
1954 near misses, including worker exposure to radiation,
1955 inhalation of toxic vapors, electrical shocks, and again, I
1956 am interested in learning what DOE and NNSA are doing to
1957 protect the workers. Is 60 violations in 7 years,
1958 particularly dealing with the type of substances that you
1959 have to do, it seems like that would be an awful lot.

1960 Mr. {Poneman.} Congressman, when it comes to anything
1961 nuclear, even one incident is one too many.

1962 Mr. {Green.} Yes.

1963 Mr. {Poneman.} And I can assure you that we take
1964 gravely seriously our commitment and our responsibilities for
1965 the safety of our workers, of the neighbors of the
1966 facilities, and of the general public. We have addressed
1967 issues up, down, and sideways relating to improving our
1968 safety culture. The Secretary and I have both spent days and
1969 weeks going out to the sites, telling people they should feel
1970 free to come forward to express--

1971 Mr. {Green.} I have one more question. Let me get--Mr.
1972 Gaffigan, your testimony states that the problem of NNSA
1973 oversight is not a matter of being excessive or overbearing
1974 but ineffective. What recommendations would you provide for

1975 the oversight to be less ineffective, and what steps can be--
1976 you report to the DOE in taking to make sure that oversight
1977 of the labs is as effective as possible?

1978 Mr. {Gaffigan.} And I this applies to both safety and
1979 security. We have not found the problems to be the standards
1980 themselves. I think the standards are good. They are out
1981 there. They do find the problems, they do come up with good
1982 corrective action plans, and the thing that we think they
1983 fall short on over and over again, this is kind of deja vu
1984 all over again with both the safety and the security side,
1985 and we have reports going back to the early 2000s and beyond.
1986 The same issue of they identified the problem and then they
1987 come out with corrective action, and it is not sustained, and
1988 I think you found in the testimony today talking about 2008,
1989 when the first report came out, 2009, 2010, whatever these
1990 issues were floated, yes, it looks like some action was
1991 taken, but it wasn't sustained. And that seems to be the
1992 problem over and over again.

1993 Mr. {Green.} Okay. Thank you, Mr. Chairman.

1994 Mr. {Stearns.} Thank the gentleman.

1995 I recognize Mr. Gardner, the gentleman from Colorado, is
1996 recognized for 5 minutes.

1997 Mr. {Gardner.} Thank you, Mr. Chairman, and I have
1998 heard members of the committee as well as panelists before

1999 this committee describe what happened as inexcusable and as
2000 appalling, but I would also say that it has become a little
2001 bit of a theme. If you look at some of the background
2002 material that we have been given before this committee
2003 hearing and the memorandum, it talks about committee hearings
2004 that were held, a series of Energy and Commerce Committee
2005 hearings held in 1999, that talks about 15 hearings held and
2006 numerous GAO investigations requested in 2004, and 2005, and
2007 2008, and 2009. We have heard about reports in March of
2008 2010.

2009 I have in my district 50 intercontinental ballistic
2010 missiles, Minutemen III, located in my district, and recently
2011 I went to F. E. Warren Air Force Base, where I viewed the
2012 preparations that they go under to monitor the sites, the
2013 missile alert facilities, and the material that they are
2014 protecting. And certainly I don't think at any point was I
2015 concerned that they were becoming numb to an alarm that was
2016 going off, because as I sat in the facility there were alarms
2017 going off because a tumbleweed blew up against an electronic
2018 surveillance barrier, and they knew where to look for that,
2019 and they certainly checked it out and verified it. And it
2020 happened multiple times a day as you can imagine on the
2021 eastern plains of Colorado, where you have wildlife, where
2022 you have tumbleweeds, where you have high wind, where you

2023 have snow that builds drifts that may cause an alert.
2024 Watching the shadows on the video monitor of the drifts to
2025 make sure that nothing was changing.

2026 And yet we continue to see this theme that it sounds
2027 like you know what is wrong, it sounds like you have
2028 identified the problem, but I don't know that we have had the
2029 government picture in place that actually accomplishes the
2030 protections that we need of what obviously is a critical
2031 matter of national security.

2032 And some of this, some of these questions have been
2033 asked before. Some of them have been talked about here, but
2034 I do want to follow up and do a little bit of repeating of
2035 what has happened.

2036 And so, Mr. Friedman, Mr. Friedman, in your report, in
2037 your IG report you say that one official in NNSA was talking
2038 about how, talking about how--excuse me. Had been instructed
2039 not to evaluate and report on how the contractors were
2040 conducting business, and we talked a little bit about the
2041 contractors, whether or not they have done an adequate job
2042 deciding how to accomplish the mission. We have talked about
2043 effective management.

2044 And so I guess the question is actually not for you, Mr.
2045 Friedman, but to Mr. D'Agostino. How do we make sure that we
2046 have the management that we need to--for a contractor to make

2047 decisions if the federal side officials are not able to
2048 evaluate how the contractor is doing their job?

2049 Mr. {D'Agostino.} Mr. Gardner, that is the question is
2050 to make sure, it is my responsibility to make sure that my
2051 federal overseers in the program understand that my
2052 expectation is that they do oversee the contractor in this
2053 high hazard, highly-important, critical missions of nuclear
2054 safety and nuclear security and that we have an independent
2055 oversight structure in place to check that we are actually
2056 doing that particular thing.

2057 In this particular case you referenced a quote I think
2058 from Mr. Friedman's report. We had clearly a situation that
2059 was unacceptable where an inexcusable, and this is why we are
2060 conducting reviews because we want to understand what
2061 happened in the translation of oversight that we have people
2062 at our site offices thinking that they cannot and should not
2063 and are not allowed to oversee the contractor in that way.
2064 So we want to track this down, we want to get this review
2065 done and General Finan's review as the Deputy Secretary had
2066 mentioned, clearly is a step towards digging beyond just what
2067 we have been--and some of the pieces we have been talking
2068 about on specific numbers of cameras, which is important, but
2069 we want to get to that underlying thing that allows us to
2070 sustain oversight, effective oversight in the right way, and

2071 as Mr. Friedman's report said, so it in a risk-based way
2072 where our attention is based on the most, the highest, most
2073 important activities.

2074 Mr. {Gardner.} Do you carry out parameter checks? I
2075 mean, do you carry out perhaps drills or tests that may
2076 breach a parameter just to check for response?

2077 Mr. {D'Agostino.} Yes, but we clearly need to do more
2078 of these and do what--

2079 Mr. {Gardner.} How many--how often do you carry those
2080 out?

2081 Mr. {D'Agostino.} Those checks, right now those checks
2082 are now being ascribed every time we conduct a visit from
2083 headquarters that we are going to do that check. We are
2084 going to have federalized--

2085 Mr. {Gardner.} How often were they carried out before
2086 the incident at Y-12?

2087 Mr. {D'Agostino.} They were carried out on a regular
2088 basis.

2089 Mr. {Gardner.} What is a regular basis?

2090 Mr. {D'Agostino.} Regular basis is on a weekly basis by
2091 their protective force. We expect our contractor have a
2092 performance assurance system. They have to prove to the
2093 Federal Government, we have a contract with them, that they
2094 are checking themselves, and so they--

2095 Mr. {Gardner.} And are you reviewing those checks?

2096 Mr. {D'Agostino.} Yes, sir. Those checks get reviewed.

2097 The challenge is to make, is to have these checks done in
2098 such a way that they actually could test conditions on the
2099 ground, not the fact that we have a contractor knowing that
2100 something is going to happen so they are ready to go.

2101 Mr. {Gardner.} Yield back. Thank you.

2102 Mr. {Stearns.} The gentleman yields back.

2103 The gentleman from Massachusetts, Mr. Markey, is
2104 recognized for 5 minutes.

2105 Mr. {Markey.} Thank you, Mr. Chairman, very much, and
2106 thank you, Sister, Meghan Rice, for being here. Thank you
2107 for your actions. Thank you for your willingness to focus
2108 attention on this nuclear weapons buildup that still exists
2109 in our world and how much we need to do something to reduce
2110 it. We don't need more nuclear weapons. We need fewer
2111 nuclear weapons. We don't need more hostility with Russia.
2112 We need less hostility with Russia. We thank you. We thank
2113 you for your courage.

2114 I went to Immaculate Conception Grammar School, Malden
2115 Catholic, Boston College, and Boston College Law School. So
2116 I went to catholic school every day for 20 years, and I am
2117 very influenced, of course, by everything that the nuns
2118 taught me. It is important that was nuns on the bus, not

2119 under the bus, which a lot of people would like for you,
2120 Sister. They think you should be punished and not praised,
2121 but what you have done is you have shown the lackness, the
2122 laxness of the security at our nuclear weapons facilities,
2123 and but you have also pointed out that we still have an out-
2124 of-control nuclear arms race with an out-of-control budget
2125 building more nuclear weapons in our own country, and for
2126 that you should be praised, because that is ultimately what
2127 the Sermon on the Mount is all about.

2128 And I think along Sister Simone Campbell, speaking at
2129 the Democratic Convention about the Ryan budget, that you
2130 can't build more nuclear weapons and cut Medicaid and cut
2131 Pell Grants and cut Medicare at the same time. It is not
2132 just the arithmetic doesn't add up if you say you are
2133 balancing the budget, but the morality end of it. It is just
2134 wrong, and so what you did, Sister, was just so memorable to
2135 me in pulling up all of those classrooms that I was in all
2136 those years, just hearing that message. And so I thank you
2137 for that, and I hope that the members of this committee can
2138 learn from what you are saying and what Sister Campbell is
2139 saying and perhaps just reflect that in the incredible
2140 commitment that too many members have to building more
2141 nuclear weapons when we don't have any targets anymore for
2142 those nuclear weapons.

2143 And some people just think of the Defense budget as a
2144 jobs bill. No. It should just be what enhances our
2145 security, and if you can't justify it on that basis, you just
2146 can't maintain it because it adds to the instability on the
2147 planet.

2148 So, Mr. Poneman, let me just go to you. The United
2149 States Enrichment Corporation is possibly the most troubled
2150 company that has a pending loan guarantee application at the
2151 Department. It is rated at below junk bond status. It has
2152 been warned that it is at risk of being delisted from the
2153 stock exchange, which prompted the USEC to warn its
2154 shareholders could be put into default on all of its debts.
2155 It lost more money last year than the entire Solyndra Loan
2156 Guarantee was worth, and despite repeated DOE bailouts
2157 totaling almost \$1 billion and free uranium and other
2158 subsidies in just the past 8 months the total value of the
2159 company is only about \$62 million. And despite the clear
2160 signs of impending bankruptcy, the Department requested
2161 another \$100 million from Congress for USEC for fiscal year
2162 2013.

2163 Mr. Poneman, will the Department actually provide these
2164 funds to USEC even if USEC continues to be at risk of being
2165 delisted from the stock exchange and defaulting on all of its
2166 debts?

2167 Mr. {Poneman.} Congressman, let me be very clear. The
2168 thing that the United States Department of Energy is focused
2169 on is maintaining a domestic source of enriched uranium so
2170 that while we still have the deterrent that we need to defend
2171 America, we can get the tritium and so forth we need--

2172 Mr. {Markey.} I understand that, but USEC's American
2173 centrifuge project in Ohio plans to use foreign-made
2174 technology for everything from pumps to cooling systems.
2175 They have even asked from Congress to pass legislation to get
2176 favorable tariff treatment on these imports, and USEC's
2177 Kentucky facility relies on French pumps to move the enriched
2178 uranium and waste through the machines.

2179 If DOE really believes it needs American technology to
2180 meet its tritium needs, why does it allow USEC to rely so
2181 heavily on foreign technology?

2182 Mr. {Poneman.} To be very clear, Congressman, that is,
2183 whether there are some parts that are foreign, the technology
2184 and the intellectual property is owned by the United States
2185 of America, and the United States Department of Energy has
2186 taken every step to ensure that in the event that USEC is not
2187 able to carry of its responsibilities, that we have access
2188 both to the machines and to the intellectual property to
2189 assure that our trading requirements can still be met.

2190 Mr. {Markey.} But are you going to give them money even

2191 if they are going bankrupt?

2192 Mr. {Poneman.} To me, to us, Congressman, the question
2193 is not a specific company and its status. The question is
2194 the capability for the Nation. We will do what we need to to
2195 make sure that we still have the deterrent that we need to
2196 defend America.

2197 Mr. {Markey.} Well, I just disagree with that 100
2198 percent. I just think if we are going to have a loan
2199 guarantee program and Solyndra is going to be criticized,
2200 then we have to criticize the United States Enrichment
2201 Corporation as well, and we should find a way indigenously of
2202 doing it but not subsidizing companies that are going
2203 bankrupt. It is just wrong.

2204 Mr. {Poneman.} Congressman, to be very clear, precisely
2205 because the underwriting criteria of the loan program
2206 guarantee could not be met by USEC, the Department entered
2207 into a far different arrangement, a much more modest
2208 arrangement for research demonstration and development
2209 program, which would vouchsafe the technology stayed safe in
2210 American hands, even if the loan guarantee could not be
2211 qualified as under the underwriting criteria it could not.
2212 The program that we have in place will reduce the technical
2213 risks and reduce the financial risks if it works out, and we
2214 have very strong safeties to make sure that the U.S. taxpayer

2215 interest is well protected.

2216 Mr. {Stearns.} The gentleman's time has expired.

2217 Mr. {Markey.} That is junk bond status.

2218 Mr. {Stearns.} The gentleman's time has expired.

2219 The gentleman from Virginia is recognized for 5 minutes.

2220 Mr. {Griffith.} Thank you, Mr. Chairman.

2221 Back to the subject of this hearing, I got a couple of
2222 questions. I have heard that everybody is processing reports
2223 and going over all of this. Can I assume that you all will
2224 bring a report to us as well highlighting what went wrong,
2225 what is being done to rectify that?

2226 Mr. {Poneman.} Congressman, we not only recognize it.
2227 We embrace the oversight responsibilities of this
2228 subcommittee, and we will surely bring that to your
2229 attention.

2230 Mr. {Griffith.} And Mr. Chairman, I think probably the
2231 4 years in we might want to have a revisit on this subject
2232 even if brief, even if only a brief hearing on that matter.

2233 Thank you, Mr. Chairman.

2234 Also, there has been talk of and I don't care who
2235 responds because several people have mentioned that there
2236 was--the debate over federalization had been going on for
2237 years, and it was being looked at again, and I am sitting
2238 here, and there may be some great reason for it, but I am

2239 new, and I am just trying to solve problems, but have we ever
2240 thought about attaching at least for the protection of the
2241 parameter an installation of the United States Army?

2242 Mr. {Poneman.} Congressman, the first thing that we
2243 have done in this particular instance is make sure with the
2244 force that we have and the arrangements that we have that we
2245 are safe and the material is secure. We have already said we
2246 need to look at exactly the kinds of questions you are asking
2247 to see if it can be done better. It has been looked at many
2248 times. I do think that Mr. Gaffigan put his finger on
2249 something very important when he said whatever the
2250 organizational arrangements, and I think this is what the
2251 past GAO reports indicated, there was no substitute for
2252 strong management oversight. So whether it is a federalized
2253 force or whether it is a contracted force, there is no
2254 substitute for getting that strong direction and leadership.

2255 Mr. {Griffith.} Historically the United States Army
2256 seems to have done a pretty good of that.

2257 Mr. {Poneman.} We are very proud of the U.S. Army.

2258 Mr. {Griffith.} That being said, Mr. Friedman, I am new
2259 to this, but my understanding is is that this has been going
2260 on for some time with various problems, and what else should
2261 we be doing as a committee to make sure that we don't have
2262 another problem 6 months, 2 years, 5 years from now, and as a

2263 part of that, you know, should we be making more site visits
2264 to see whether or not the cameras are switched on ourselves?

2265 Mr. {Friedman.} Well, I will respond to your question,
2266 Mr. Griffith, but it is a little presumptuous on my part to
2267 tell the subcommittee how to conduct its oversight.

2268 Mr. {Griffith.} Well, I am looking--

2269 Mr. {Friedman.} So I would tell you this. I think
2270 periodic hearings on these specific matters would be
2271 worthwhile. I think more site visits, boots on the ground
2272 from the subcommittee's point of view to see what is going
2273 on, comparing and contrasting from your perspective what goes
2274 on at the various Department of Energy sites and seeing if
2275 there are anomalies that you might point out, and finally,
2276 sort of the \$64 question, which I don't know has been asked,
2277 is the question of resources, and there are resource issues,
2278 and perhaps, I know you are an oversight committee, but
2279 obviously you have appropriations responsibilities as well,
2280 and that might be an area in which you could focus your
2281 attention. In other words, do they have the resources to do
2282 that job, are they properly positioned to do that.

2283 Mr. {Poneman.} I would just add, Congressman, we would
2284 welcome any and all members of the subcommittee to the site.
2285 We think that would be a very, very useful exercise and
2286 helpful.

2287 Mr. {Griffith.} All right. Mr. Chairman, I see no need
2288 to pile on. Everybody has said what happened was bad and we
2289 want to fix it, but I am happy to yield my time to any member
2290 who might wish to have that time.

2291 Mr. {Stearns.} Okay. I will take a little bit and then
2292 the gentlelady from Tennessee.

2293 Mr. Friedman, you indicate more resources but wasn't it
2294 a case where they just didn't check the circuit breakers on
2295 one of the cameras?

2296 Mr. {Friedman.} Well, I am not suggesting that the
2297 Congressional appropriation was inadequate. What I am
2298 suggesting is that in terms of maintenance, which is one of
2299 the key issues here, we were told that there were not enough
2300 maintenance individuals to take care of the backlog of
2301 existing equipment while they implemented and installed a new
2302 system. So the pie simply was not large enough to take care
2303 of both. That is the sort of resource issue that I was
2304 referring to, and I apologize if I didn't make that clear.

2305 Mr. {Stearns.} But you would admit that checking
2306 circuit breakers doesn't require more resources, and one of
2307 the key cameras didn't--no one checked the circuit breaker.
2308 It wasn't working.

2309 Mr. {Friedman.} Well, I would suggest to you, Mr.
2310 Chairman, that when somebody takes a closer look at it, it

2311 was more than a mere circuit breaker, but I am not in a
2312 position to affirm that positively but--

2313 Mr. {Stearns.} Okay. The gentleman from Virginia
2314 reclaims his time.

2315 Mr. {Griffith.} Reclaiming my time, Mr. Chairman, I
2316 would say that the other question that I have is is that
2317 there must have been more than just one or two cameras out.
2318 Either that or these folks had some inside information. My
2319 guess is is that your entire parameter was exposed or else
2320 they wouldn't have been able to just waltz in the way they
2321 did. Either that or they knew which cameras weren't working.
2322 It sounds like to me the whole thing was down.

2323 And I yield back, Mr. Chairman.

2324 Mr. {Stearns.} The gentleman's time has expired.

2325 Mr. Scalise is recognized for 5 minutes.

2326 Mr. {Scalise.} Thank you, Mr. Chairman. I appreciate
2327 you holding this hearing, and I have a number of questions,
2328 but I first want to respond to some of those comments made by
2329 the gentleman from Massachusetts. You know, first of all, to
2330 try to equate in some way building nuclear weapons to protect
2331 this country and reforming Medicaid, which is an incredibly
2332 broken system that is depriving many people of good
2333 healthcare and equating that as a moral, I have no idea what
2334 place that has in this debate. You know, maybe some people

2335 haven't been paying attention what has been going on in the
2336 world.

2337 I mean, we just saw yesterday on the 11th anniversary of
2338 September 11 that there is turmoil in this world and
2339 especially in the Middle East. You know, not only what
2340 happened in Libya and Egypt yesterday but also you look at
2341 what is happening in Iran, you know, while some people here
2342 might want to eliminate our nuclear force and our
2343 capabilities to defend this country, Iran is currently
2344 developing and may have nuclear capabilities at this time,
2345 and there is a bipartisan group in Congress that recognized
2346 that threat, and while President Obama might not have time to
2347 meet with Benjamin Netanyahu to talk about the threat to
2348 Israel, one of our greatest allies in the world, there is a
2349 bipartisan group in Congress who do recognize that threat and
2350 support the efforts, not only of Israel to defend themselves,
2351 but of this country and the actions that we ought to be
2352 taking that we are not to address the threat of Iran, as well
2353 as the nuclear threats all around the world and the fact that
2354 we can't do it by disarming ourselves. I mean, America is
2355 the beacon of the world in large part because of our
2356 strength, and peace through strength has worked over time.
2357 It is what ended the Cold War, and yet there are some people
2358 that want to think that now that the Cold War is over, they

2359 just want to ignore history.

2360 And so, you know, I think that history repeated itself
2361 yesterday, and those who ignore it are doomed to have it
2362 repeat itself, and we can't let that happen, and that is why
2363 the Department of Energy has a responsibility to protect the
2364 arsenal that we have, and you know, I think what our hearing
2365 is really focusing on is what kind of job is being done. You
2366 know, I looked at the Inspector General report, and I have
2367 some questions about that.

2368 First, I want to just open it up to the whole panel. In
2369 February the National Research Council issued a report which
2370 concluded in part, I quote, ``The study committee recommends
2371 that the NNSA, Congress, and top management of the
2372 laboratories recognize that safety and security systems at
2373 the laboratories have been strengthened to the point where
2374 they no longer need special attention.'' This was written in
2375 February.

2376 I want to ask if any of you all want to comment on that,
2377 and first of all, do you agree with it? I strongly disagree
2378 with that conclusion by the National Research Council, and I
2379 think what happened with this breach just 2 months ago shows
2380 that, in fact, they haven't been strengthened, but this
2381 conclusion says they are strengthened. Mr. Poneman, do you
2382 want to comment?

2383 Mr. {Poneman.} Congressman, very important points and
2384 just briefly on your first point, that is exactly why
2385 President Obama has made clear that in our nuclear posture
2386 review that non-proliferation is the top objective, and we
2387 have been to every effort to stop Iran from obtaining nuclear
2388 weapons.

2389 Mr. {Scalise.} I would disagree. I would think if you
2390 look at the actions that this Administration has taken, it
2391 has been inadequate to stop Iran from developing the
2392 capabilities that everybody that honestly looks at it,
2393 especially Israel, which is faced with the evisceration, says
2394 that they are carrying forward with. So, I mean, to say that
2395 this Administration has taken actions to stop Iran from
2396 advancing their nuclear capability is just wrong.

2397 Mr. {Poneman.} Sir, with all due respect, we have
2398 negotiated to curtail and to pull out highly-enriched uranium
2399 or natural uranium that had been enriched in a facility. We
2400 are sparing no effort to stop that, but I want to go back to
2401 your NRC question about the report.

2402 We strongly, strongly believe that continued and, in
2403 fact, enhanced vigilance in oversight is required. The job
2404 of--

2405 Mr. {Scalise.} Well, did you agree with that conclusion
2406 that security has been strengthened to the point where it no

2407 longer needs special attention? Do you agree with that
2408 conclusion or do you not?

2409 Mr. {Poneman.} No. Security always, always needs to
2410 be--

2411 Mr. {Scalise.} Okay. So you disagree.

2412 Mr. {Poneman.} It will never be done.

2413 Mr. {Scalise.} Mr. Friedman, you did the Inspector
2414 General, you are part of the Inspector General report. What
2415 is your response to the conclusion that they had just in
2416 February?

2417 Mr. {Friedman.} I disagree with that aspect of the
2418 conclusion based on our work. We treat these matters as--on
2419 our management challenge list as components of the management
2420 challenge list. While there have been some improvements and
2421 some setbacks in certain areas, we don't think their position
2422 is--

2423 Mr. {Scalise.} Thank you, and I hope that the
2424 Department looks closely at your report and some of the
2425 reports of those who were on the ground, those people that
2426 were tasked with maintaining security at this facility. I
2427 mean, it looked like a Keystone Cop operation where the
2428 officer there wasn't even paying attention to what was going
2429 on, wasn't even really securing the facility after the people
2430 who broke in came and in essence surrendered to them. They

2431 just kind of looked around, and it took a second supervisor
2432 to come before they finally took some action.

2433 But I think it shows--and it wasn't, he wasn't the only
2434 one. I mean, there was reports that people on the--at the
2435 facility for months didn't know even how many cameras weren't
2436 even working. They had no idea what was working, what wasn't
2437 working, and some of this had been problematic for months.
2438 And so I think there was a culture there, and I don't know if
2439 that permeated at the other facilities, too, because this
2440 wasn't--Y-12 wasn't the only facility. So I don't know if
2441 this is a culture of neglect and lax security, but clearly
2442 there is a difference because as I pointed out, you know, you
2443 look at what National Research Council said. They said the
2444 security is fine, and it is not.

2445 And so I hope that there will be real accountability and
2446 not just people reassigned, but people ought to be removed,
2447 and a new culture needs to be installed.

2448 And with that I yield back the balance of my time.

2449 Mr. {Stearns.} Thank the gentleman. I believe we have
2450 had a very good attendance by the subcommittee. I want to
2451 thank the witnesses for their patience and participation.

2452 I ask unanimous consent that the contents of the
2453 document binder be introduced into the record and to
2454 authorize staff to make any appropriate redactions.

2455 Without objection, so ordered. The documents will be
2456 entered into the record with any redactions that staff
2457 determines are appropriate, and I remind all members that at
2458 12:30 we are going to have a meeting and a briefing, and all
2459 members on the subcommittee are invited. It is over in the
2460 visitor's center, and you can talk to staff if you want the
2461 actual room number.

2462 And, again, we want to thank our witnesses, and the
2463 subcommittee is adjourned.

2464 [Whereupon, at 12:12 p.m., the Subcommittee was
2465 adjourned.]