

THE ASPEN INSTITUTE

ASPEN IDEAS FESTIVAL

ARE WE SAFE YET?

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1 PROCEEDINGS

2 MR. GERSON: Good afternoon. I'm Eliot Gerson  
3 of the Aspen Institute, and we welcome you to the 2008  
4 Aspen Ideas Festival proudly brought to you by the  
5 Institute and *The Atlantic* magazine. For those of you  
6 who've been with us for a few days now or with us at some  
7 of our public events in town, we've been delighted to have  
8 you with us and we thank you. For those of you joining us  
9 for the first time this afternoon, we are thrilled to have  
10 you here and we hope very much that you enjoy your time  
11 with us and leave us energized and inspired and full of  
12 ideas, and hope that perhaps a few of those ideas may even  
13 change your own ideas.

14 This afternoon we have a program with a few of  
15 the special guests that recreates in some sense some of  
16 the great breadth of the ideas and topics and issues that  
17 we look at over the course of this week, but also the  
18 breadth of topics that we engage with at the Aspen  
19 Institute over the entire summer and on the pages of  
20 *Atlantic* all the time; security, global poverty, climate  
21 change, the promises of innovation, foreign policy, art,  
22 and more.

1                   But as I said, it's a very packed program so we  
2                   want to get it started right away. But first I'd like to  
3                   invite up our partner in this brave endeavor, now in our  
4                   fourth year, the Chairman of Atlantic Media, David  
5                   Bradley.

6                   David?

7                   (Applause)

8                   MR. BRADLEY: Good afternoon. My name is David  
9                   Bradley. On behalf of the writers and the editors of the  
10                  Atlantic, I'd like to welcome you to the Ideas Festival.  
11                  That didn't take a long time.

12                  (Laughter)

13                  MR. BRADLEY: Twelve, thirteen, fourteen -- I  
14                  wasn't given a lot of guidance for today's remarks. I was  
15                  told to welcome you and then to speak for about two  
16                  minutes.

17                  (Laughter)

18                  MR. BRADLEY: Twenty-six, twenty-seven. You  
19                  know it occurs to me a message this important bears  
20                  repeating.

21                  (Laughter)

22                  MR. BRADLEY: Good afternoon, I'm David Bradley,

1 I want to welcome you.

2 (Applause)

3 MR. BRADLEY: You know, maybe what we'll do is  
4 we'll open it up to audience questions. Does anyone have  
5 any questions on the program so far? I'm actually  
6 beginning to be pretty comfortable up here. It's an  
7 intimate setting, and I don't know if you have the same  
8 feeling of closeness to me that I'm just getting with you.  
9 But I'd kind of like to open up. In fact, I think what  
10 I'd like to do, and please don't share this more broadly,  
11 I'd like to complain about Continental Airlines.

12 (Laughter)

13 MR. BRADLEY: So some years ago I was flying  
14 from Houston to Washington D.C. on a Continental flight  
15 and it was hours late, and it was so late in fact that it  
16 missed the curfew at Washington Reagan Airport. So we had  
17 to fly over and we got to Dulles Airport. And it was  
18 midnight when we arrived and Continental had no baggage  
19 handlers still there, so about 50 or 60 of us ended up  
20 standing around the barren baggage carousel for over an  
21 hour waiting for the bags.

22 And there was one man who was very intriguing.

1 He was avuncular and friendly and he was chatting with  
2 everyone. He was Antonin Scalia, the associate justice of  
3 the Supreme Court. And so soon the bags came, but about  
4 12 of us didn't get our bags. We ended up in the queue to  
5 turn in your claim stubs. And I ended up directly in  
6 front of Justice Scalia. So too obsequious by half I  
7 turned back to him and I said Justice Scalia, rank should  
8 have its privileges here, why don't you go ahead of me?  
9 And he said no, no, no, but let me come and have a chat  
10 with you. And then he leaned over and he whispered there  
11 words, if Continental Airlines ever comes before the  
12 Supreme Court, they're going to learn to regret this  
13 evening.

14 (Laughter)

15 MR. BRADLEY: As to regret, the *Atlantic* here  
16 concludes its fourth year of partnership with the Aspen  
17 Institute. And to the institute's board and to the  
18 institute's staff, I want you to know that this  
19 relationship for us singularly is without regret and is  
20 without a breath of compromise. This is our continuing  
21 privilege.

22 And now ladies and gentlemen, it is my privilege

1 to begin for you under the big tent Aspen Colorado's  
2 greatest show on earth, and we will begin with Jeffrey  
3 Goldberg and his guest the Honorable Michael Chertoff.

4 (Applause)

5 MR. GOLDBERG: Thank you. Oh, I was wondering  
6 if these mikes work well. But I guess they do.

7 Thank you very much, David. Thank you, all of  
8 you for coming out today. And I guess, with these mikes  
9 we're going to expect you to sing a little bit at the end  
10 of this --

11 MR. CHERTOFF: And if it was the music festival  
12 I would sing.

13 MR. GOLDBERG: Yeah.

14 MR. CHERTOFF: But nobody would attend.

15 MR. GOLDBERG: The -- I don't think I have to do  
16 too much of a rehearsal of Michael Chertoff's biography.  
17 You all know him very well. Suffice it to say that you  
18 are a prosecutor of national prominence, federal judge,  
19 and now, of course, secretary of Homeland Security. I  
20 think it's fair to say, I think that this probably would  
21 be a bipartisan conclusion, Democrats and Republicans  
22 alike. And by the way there are, just so you know, to

1 increase your comfort level, there are Republicans here in  
2 this audience.

3 (Laughter)

4 MR. GOLDBERG: Over the past 6 days I've spotted  
5 at least seven Republicans across the campus, and there  
6 might be more. We don't know. But I think Republicans  
7 and Democrats can agree that you have one of the three or  
8 four most challenging jobs and most vital jobs in  
9 government. And I think it's fair to say as well that you  
10 have probably the most thankless job in the federal  
11 government, if for no other reason, that you are there to  
12 make sure that things don't happen rather than happen.

13 And to underscore the thanklessness of your job,  
14 I'm going to ask you a series of questions about  
15 immigration reform and Katrina and many other subjects.  
16 But let's start -- if you don't mind, let's start with  
17 terrorism. The title of our discussion today is "Are We  
18 Safe Yet?"

19 And let me open by asking you a fairly obvious  
20 question. It's been almost 7 years since 9/11. There  
21 hasn't been another attack in America since then. Not  
22 only that we see that al-Qaeda's popularity is diminishing

1 to the extent that it ever was overly popular in the  
2 Muslim world, we see that it is diminishing. We see that  
3 its sources of funding are being heavily monitored and  
4 watched. We see that its ability to stage terrorist  
5 attacks have been obviously diminished. The question is  
6 this, is this because we're winning the war against al-  
7 Qaeda? Is it because we're lucky, or is it because the  
8 threat has been over exaggerated?

9 MR. CHERTOFF: Well, I would certainly say that  
10 the threat has not been over exaggerated. Now -- and I  
11 can't speak for everybody who has characterized it, but I  
12 think the threat remains as serious as it was prior to  
13 2001 although I think our ability to deal with the threat  
14 has increased. It is true we have not had a successful  
15 attack against the United States since September 11th, but  
16 it's certainly not been for a lack of effort.

17 If you pay attention to what's going on in  
18 London now, you'll see there's a trial that's finishing up  
19 involving a number of people who were charged with the  
20 plot to blow up airliners headed from the United Kingdom  
21 to North America. A plot which had it been successful  
22 would have rivaled 9/11, would have resulted in the deaths

1 of hundreds, if not, thousands, of people and probably  
2 would have seriously crippled international aviation.

3 We've had the "shoe bomber," and we've had other  
4 cases that are pending that involved plots of various  
5 degree of sophistication and seriousness. And if you look  
6 at Europe, what you see in Madrid in 2004, in London 2005,  
7 in London 2007, in Germany 2007, is al-Qaeda as an  
8 international organization, but one which also has  
9 sympathizers that are homegrown in these various countries  
10 and continued efforts to carry out terrorist attacks.

11 So I think the thread is still there. Are we  
12 doing better in some respects? The answer to that is,  
13 yes. There has been a -- something of a reaction against  
14 the extreme violence of al-Qaeda, particularly as it  
15 relates to bombings that have killed Muslims including  
16 Muslim school children, and that's caused a little bit of  
17 a backlash. And we've seen some Muslim thinkers now begin  
18 to speak out against al-Qaeda as a distortion of what  
19 Islam is about.

20 I think in Iraq, frankly, we're in a much better  
21 position vis-à-vis al-Qaeda than we were 3 years ago where  
22 you have Sunni tribal groups now fighting themselves

1 against al-Qaeda. So those are positive developments. On  
2 the downside, if you've been reading the papers in the  
3 last week, al-Qaeda and its sympathizers among the  
4 militants in Pakistan, in the frontier areas of Pakistan,  
5 appear to be posing a greater threat to certainly a place  
6 like Peshawar than it was the case a couple of years ago.  
7 So we have to watch to see whether they are experiencing  
8 resurgence in the frontier areas of Pakistan.

9 The bottom line is I think it's a mixed picture.  
10 We've certainly done a better job at protecting ourselves,  
11 and that's I think one of the reasons we haven't had a  
12 successful attack. We've seen al-Qaeda lose sympathy in  
13 certain quarters but we've also seen that they are capable  
14 of regenerating.

15 MR. GOLDBERG: Well, let me ask you this because  
16 just yesterday you were talking about Afghanistan and  
17 Pakistan and a resurgent Taliban. Admiral Mullen, the  
18 chairman of the Joint Chiefs of Staffs just yesterday  
19 said, let me read you this. He was talking about the fact  
20 that he's running out of troops to fight a very  
21 complicated Taliban resurgence. He said, quote "I don't  
22 have troops I can reach for, brigades I can reach, to send

1       them to Afghanistan until I have a reduced requirement in  
2       Iraq."

3                   I mean it's your job to protect America from  
4       terrorists who emanate traditionally from Afghanistan and  
5       Pakistan. He's saying there are not enough troops to  
6       fight those terrorists. You -- I'm very curious to hear  
7       you out on whether the Iraq war is actually a drag on your  
8       efforts to protect America from those terrorists.

9                   MR. CHERTOFF: Well, I would certainly say that,  
10      you know, I think we've actually made a lot of progress in  
11      Iraq in the last couple of years. And I think that, you  
12      know, I think about a year ago Bin Laden, in one of his  
13      public statements, said you know Iraq is now the central  
14      front in the war against America. So from that  
15      standpoint, our seeing Iraq through to a successful  
16      conclusion, I think, is an important step in terms of  
17      making it safer.

18                   On the other hand, we do have a problem in  
19      Afghanistan although we do have NATO troops or European or  
20      international troops present. They are not there in the  
21      numbers that they need to be in order to support the  
22      effort that we are undertaking. And, of course, Pakistan

1 is a different issue because there we don't have the  
2 ability to put troops on the ground. It's a sovereign  
3 country, and we can only operate essentially with the  
4 permission of Pakistan, which has not given us the ability  
5 to arrange widely in the frontier areas. So in Pakistan's  
6 case, we actually have to work with them and encourage  
7 them to take the necessary steps to strike back.

8 MR. GOLDBERG: But to address Admiral Mullen's  
9 statement directly, if you were asked for the -- if the  
10 White House asked you on this question, would you say,  
11 yes, please take them out of Iraq and move them to  
12 Afghanistan before we have a situation that we had before  
13 9/11?

14 MR. CHERTOFF: I think what I would say is you  
15 have to judge whether it would be premature to take them  
16 out of Iraq in terms of now losing a lot of the ground  
17 that we've gained. Whatever your views were about whether  
18 the war should have been started or whether we have done  
19 everything we should have done at the very beginning, what  
20 is clear is the strategy now, to my mind, is working.

21 And you certainly want to consolidate your gains  
22 and not run the risk that you're going to lose what you've

1 gained in Iraq while you go off and fight in Afghanistan.  
2 What I would like to see is our allies put some more  
3 effort, both, in terms of the number of troops they send  
4 to Afghanistan and also the degree to which they allow  
5 them to take on a really active combat role.

6 MR. GOLDBERG: Let me ask you a question about  
7 the war on terror. Barrack Obama, a couple of weeks ago,  
8 said something interesting. He was speaking in favor of  
9 the law enforcement approach to combating terrorism rather  
10 than the military approach. And he said, and I'll quote  
11 to you, "What we know is that in previous terrorist  
12 attacks, for example, the first attack against the World  
13 Trade Center, we were able to arrest those responsible,  
14 put them on trial. They are currently in U.S. prisons,  
15 incapacitated." Now you are a former prosecutor of  
16 terrorists. Would you agree with that sentiment?

17 MR. CHERTOFF: I would say that it's not a  
18 triumph after an attack has been carried out to put the  
19 people in prison. And, of course, if the people committed  
20 suicide in the course of the attack, you're not going to  
21 be left to put them in prison. There's a little bit of a  
22 tendency to view this as a zero-sum game. And I'm going

1 to take you back to actually a testimony I gave in 2001,  
2 in November, at the Justice Department where we took the  
3 position, the administration took the position that the  
4 president ought to have available all the tools in the  
5 toolbox in dealing with terrorism.

6 That means military force, particularly when  
7 you're operating overseas and you can't have now the  
8 normal criminal justice system where you send people out  
9 to collect the evidence and you take depositions. I mean,  
10 that's not going to work in the battlefield. So you've  
11 got to have the military, but you also want to use law  
12 enforcement tools, which we have used in some instances  
13 successfully here in the U.S.

14 So to me to treat this as an either/or choice is  
15 to rob the president of the full range of measures that  
16 the president ought to be able to use, which include  
17 military force, law enforcement, intelligence, as well as  
18 diplomacy, economic assistance, which we can use to  
19 counterbalance some of what the terrorists use in order to  
20 enlist popular support. And I would say a president ought  
21 to have all of these available depending on the  
22 circumstances presented.

1           MR. GOLDBERG: Let me move to a subject that's  
2 of particular interest to people from New York,  
3 Washington, and Los Angeles in particular. A couple of  
4 days ago, on a panel I moderated here at the Ideas  
5 Festival, I had four nuclear non-proliferation experts,  
6 four of the leading experts in the country. And I asked a  
7 simple question. I said what are the -- what's the chance  
8 that a nuclear device will be detonated in a major  
9 American city in the next 10 years.

10           The optimist on the panel gave it a 10 percent.  
11 The other three said there's a 50:50 chance of a nuclear  
12 detonation in a major American city sometime in the next  
13 10 years. And I -- it's a two-part question for you.  
14 One, where do you place yourself on this continuum of  
15 catastrophe, and two, what are you doing about it?

16           MR. CHERTOFF: You know, I don't think there's a  
17 very significant chance in the next 2 or 3 years we are  
18 going to have a nuclear device. Now, I want to  
19 distinguish that from a radiological device, which is, you  
20 probably know, is simply a regular conventional explosive  
21 with radiological or radioactive material wrapped around  
22 it. But that's not --

1                   MR. GOLDBERG: So the next 2 or 3 years we are  
2 safe from a nuclear bomb going off --

3                   MR. CHERTOFF: I'm not going to promise that  
4 we're safe. I'm just saying if we are --

5                   MR. GOLDBERG: I don't want you to be too  
6 sunshiny about it.

7                   MR. CHERTOFF: If we are looking at the odds, a  
8 real nuclear explosion, I think, is unlikely in the very  
9 short term. Obviously, as you go out 5 years, 10 years,  
10 that chance begins to increase. And the reason this is  
11 important is not because the fact that it's a distant  
12 threat, means, we can ignore it until 5 or 10 years. It's  
13 because dealing with the threat is difficult, requires  
14 investment over a period of time, and we have the time to  
15 do it if we are focused on what we need to do.

16                   So what do we need to do? Part of it needs to  
17 take place overseas. We need to continue to increase the  
18 efforts we are putting into our anti-proliferation  
19 initiatives, whether that's working with the Russians to  
20 make sure that we don't have loose nuclear weapons around,  
21 whether it is working very hard to prevent the spread of  
22 nuclear weapons to other countries, and the spread of

1 nuclear know-how to other countries where they might find  
2 -- it might find its way ultimately to the hands of  
3 terrorists.

4           Here at home, I mean, we've already built  
5 radiation screening capabilities at our ports. We screen  
6 basically a 100 percent of what comes in cargo containers  
7 for radioactive material. We've got to do the same thing  
8 for general aviation. We've got to do the same thing for  
9 small boats and small transportation, maritime  
10 transportation, vessels. So we've got more work to do,  
11 which I do think will continue to reduce the risk of it  
12 coming into our country.

13           MR. GOLDBERG: But you have had real problems in  
14 your department over the past couple of years with the  
15 devices that would be used in the ports. The  
16 Spectroscopic Portal System, I think. You've even stopped  
17 the purchasing of that, meaning limitation of that,  
18 because they were being shown by your own investigators  
19 not to work very well. Are you saying now that the ports  
20 -- are you confident in your ports? Are you confident  
21 with a 100 percent of your cargo was being tested in the  
22 most sophisticated way possible?

1           MR. CHERTOFF: Well, the current generation of  
2 operational devices works, and the difficulty is it tends  
3 to give you a very broad reading about the particular type  
4 of isotope. There are many things that come in containers  
5 that are radioactive, that are benign, marble, granite,  
6 have certain kinds of radioactive emanations. And the  
7 problem with the current technology is it will tell you  
8 there is a radioactive hit, but it won't distinguish,  
9 which means you've got to pull the container out, you've  
10 got to look at it more carefully. That slows the process  
11 up.

12           Where we want you to get to with the next  
13 generation of technology is something that would be more  
14 precise in discriminating between an isotope that  
15 (inaudible) an isotope that occurs in that in nature, and  
16 that would enable us to move the cargo more quickly. But  
17 we do have a reasonable level of protection at this point  
18 although we clearly want to address some of these issues  
19 of precision and make it more sophisticated.

20           MR. GOLDBERG: One more question on the nuclear.  
21 Right after this very depressing panel on proliferation, I  
22 ran to my computer to see what the Department of Homeland

1 Security recommends to American citizens in case of a  
2 nuclear detonation in their city, and I'll quote you a  
3 couple of lines from it. Quote, "During a nuclear  
4 incident, it is important to avoid radioactive material if  
5 possible," which is -- some people don't know. No, no,  
6 no, I don't -- I'm not doing this for cheap laughs. I  
7 mean, I don't mind cheap laughs, but I'm not doing it for  
8 cheap laughs. It went on to say -- it give a category, if  
9 there is no warning for a nuclear attack, which we have to  
10 assume, I think. It said -- it instructs American  
11 citizens to, quote, "Quickly assess the situation.  
12 Consider if you can get out of the area or if it would be  
13 better to go inside a building to limit the amount of  
14 radioactive material you are exposed to."

15 Now, I want to generally suggest to you that  
16 this might not be an adequate advice for people in New  
17 York or Washington or Chicago or Los Angeles if there's a  
18 detonation. What can you tell -- I mean, when you have a  
19 lot of people from major cities in America here. What  
20 would you tell as the Nation's highest ranked safety  
21 officer, if you will, what do you do if this happens?

22 MR. CHERTOFF: Let me tell you what we do. We

1 exercise this from time to time. In fact, we ran an  
2 exercise in Oregon earlier in the year on this issue. And  
3 the short answer is there's no standard menu or recipe for  
4 what you do because it depends on the facts and  
5 circumstances. It depends on the yield of the weapon, it  
6 depends on the weather conditions, it depends on where you  
7 are located.

8           If, for example, you are located very close to  
9 where the center of the detonation is and assuming you  
10 survive the actual blast, then the likelihood is that  
11 radioactive material is going to spread very quickly and  
12 you do not want to go outside. You are better off finding  
13 a place in the house, that is, as sheltered as possible  
14 from the outside atmosphere.

15           If, however, you are, let's say, an hour  
16 downwind and you get the word from your local safety  
17 officials that you ought to evacuate, evacuation makes  
18 sense because you have time to get in the car and get out  
19 before the radioactive material gets to you. Therefore,  
20 the general advice we give is, although we try to give  
21 people maybe a simplified version of what the issues are,  
22 the advice is, listen to your emergency -- local emergency

1 officials.

2 But there is a basic advice that definitely does  
3 apply in any circumstance. First of all, you should have  
4 basic necessities, food, water, a radio because if you  
5 don't have a radio with batteries, you are not going to be  
6 able to listen to those instructions. You ought to have  
7 your medicine if you -- at hand in case you wind up having  
8 to move and you can't get medicine in a pharmacy.

9 You ought to have a plan with your family about  
10 what you would do if you were separated, is there some  
11 place you would all go to, and, you know, this is basic  
12 stuff that applies in any emergency. It may sound simple  
13 to people sitting here, but I will tell you that last year  
14 we ran an advertising campaign where we went out to  
15 families and we said to each member of the family, do you  
16 have a plan about what to do in an emergency of any kind.  
17 And the members said, yes, and then they -- each proceeded  
18 to give a different version of what the plan was. You  
19 know, one said, I'm going to go grandma -- we're going to  
20 go to grandma's house, the other one said, we're going to  
21 meet at the park.

22 So I guess the short answer is you don't want to

1 over estimate the degree to which people have thought  
2 about this. And one of the struggles we have is to think  
3 of a non-threatening clear and simple way to get people at  
4 least to face up to the need to be prepared.

5 MR. GOLDBERG: Let me just go back to one thing  
6 very quickly before we go to Katrina and the border  
7 issues. The -- you talked about a 100 percent checking at  
8 ports, but everyone here knows that many tons of illegal  
9 drugs make their way into this country. They are not  
10 coming through the port of New York; they are not coming  
11 through Port of Santiago necessarily. And there's an old  
12 saying, I'm sure you've heard that, that the easiest way  
13 to smuggle components of a nuclear weapon into America  
14 would be to hide it in a bale of marijuana.

15 (Laughter)

16 MR. GOLDBERG: Address that flaw in the system.

17 MR. CHERTOFF: No, I --

18 MR. GOLDBERG: I mean, if you can -- if there is  
19 basically a fairly unlimited amount of cocaine floating  
20 around this country that we don't want floating around  
21 this country, how do we stop the nuclear components from  
22 coming in?

1           MR. CHERTOFF: Well, I think, it's not a flaw in  
2 the system, but it's a flaw on the way we've talked about  
3 this issue. The issue of bringing in a nuclear bomb or  
4 radiological material has been addressed in a public  
5 domain almost entirely in terms of people putting it in a  
6 cargo container and smuggling it in through a container  
7 ship. And, frankly, if you look at the political debate,  
8 you look at what Congress spent all of its time on; they  
9 spent a lot of time on this issue.

10           And, of course, we've redressed this issue, but  
11 I'm the first person to agree with you, Jeffrey, that that  
12 is not the only way you could bring a WMDN. In fact, it's  
13 not even the most likely way. In my mind, the most likely  
14 way to bring it in is to rent a private jet and fly it in  
15 from overseas.

16           And this is an issue which was not much publicly  
17 debated. So last year we announced that we're going to  
18 start the process of setting up a rulemaking that would  
19 require general aviation coming in from over the other  
20 side of the Atlantic or the Pacific to be prescreened,  
21 both, in terms of who is on the plane and in terms of what  
22 the plane is carrying before they enter American airspace,

1 and we are currently in the process of actually  
2 negotiating agreements with other countries to set up this  
3 prescreening process.

4 Here's what's interesting about this. This  
5 issue has still gotten very little public attention. The  
6 people who are mostly focused on it are the general  
7 aviation people and the business people who are annoyed  
8 because this may bother them in terms of their ability to  
9 fly back and forth freely without having to be hassled by  
10 stopping at an intermediate point.

11 MR. GOLDBERG: By the way, you are speaking  
12 directly to them.

13 (Laughter)

14 MR. CHERTOFF: No, I am. So we're -- that's why  
15 I'm doing this. So here is --

16 MR. GOLDBERG: They are all here.

17 MR. CHERTOFF: So here's what I'm saying to you  
18 and here's what I'm saying to those of you who flew in  
19 from overseas on private jets, when you find yourself  
20 getting irritated as this rule gets put into effect over  
21 the next 6 months or a year, and you say to yourself, why  
22 do I have to stop, why do I have to have my name checked,

1 why do I have to have somebody check the plane for  
2 radioactive material, the reason is because if we don't do  
3 that, as Jeffrey pointed out, we are leaving a huge  
4 vulnerability in terms of our preliminary security against  
5 nuclear materials.

6           And there is a larger point. Here's what my,  
7 kind of, bottom-line point is. The biggest problem we  
8 have in Homeland Security is people selectively focus on a  
9 few threats and they put all of their effort into talking  
10 about that as if addressing those threats would make it  
11 safe, and they typically pick a threat that requires a  
12 response that's not going to inconvenience them  
13 personally. In other words, they are very happy if the  
14 next guy has a big hassle. They don't have to be hassled  
15 themselves.

16           And as Jeffery points out, that is not the right  
17 way to do it. The right way to do is to look at the whole  
18 universe of threats, make a decision about where the  
19 threats are the greatest and then reduce the risk  
20 systemically recognizing that there are times that is  
21 going to cause some inconvenience or some expense to  
22 people in the private sector.

1           MR. GOLDBERG: Two other main areas I want to  
2 get to. One is the border. You are, among other things,  
3 the world's biggest defense builder right now. We are  
4 spending many billions of dollars building defense;  
5 virtual, real, ground-based, radar. We're doing all sorts  
6 things on that border.

7           The question is two-fold. One, how much illegal  
8 immigration can you actually stop with just defense. And  
9 the second question is you are also supervising customs  
10 and immigration. And we all know from reading the papers  
11 that that we now, still, 7 years after 9/11, don't have a  
12 system in place where we can track the exit of -- out of  
13 America of visa holders.

14           So, on the one hand, we're building this great  
15 wall of Texas and spending billions of dollars on that,  
16 but we can't track legal visa holders when they come here  
17 and whether they have ever left. So talk about the  
18 dichotomy there and talk about the --

19           MR. CHERTOFF: Well, that's -- you know, boy, I  
20 think, Jeffrey, you are playing straight, (inaudible)  
21 because I'm going to be able to get all my messages out.

22           MR. GOLDBERG: Well, then let me interrupt you

1 then and go to the next question.

2 (Laughter)

3 MR. CHERTOFF: Let me start with the second  
4 question, which is a shorter answer, which is tracking  
5 people who leave the same way we track them when they  
6 enter by getting their fingerprint at an airport, which  
7 takes about 10 seconds. We are capable, as we speak now,  
8 of doing that at all of our international airports.

9 So why aren't we doing it? I am going to go  
10 back to my prior answer. The airline industry does not  
11 want us to take fingerprints from people leaving the  
12 country because they fear that interferes with their  
13 business model, which is to have people come into the  
14 airport and go directly at the gate without interacting  
15 with any intermediate kiosk or intermediate individual who  
16 might slow them up for 10 seconds.

17 So this is a classic example of something, which  
18 Congress has asked us to do. I think it makes good sense  
19 from a public policy standpoint knowing who leaves the  
20 country as well as who comes in, and yet because it is  
21 going to cause a little bit of inconvenience to a  
22 business, the business is going to put up a huge outcry

1 and try to prevent us from doing this.

2 So, this comes back to my basic point. Homeland  
3 Security, in a sense, has always a struggle to put the  
4 welfare of the common good above the individual interest  
5 of a particular group or sector that's going to be  
6 inconvenienced by a security measure.

7 Now, let me come to the issue of defense.  
8 Defense is not a cure-all for illegal immigration or for  
9 illegal drug smuggling or even for violence, which is  
10 increasingly a problem on the southern part of our border.  
11 It is, however, a useful tool. It is something that in  
12 combination with sensors and technology, more border  
13 patrol, the ability to have internal enforcements, all of  
14 these things taken together do actually measurably  
15 increase our ability to prevent people from crossing  
16 illegally across our southern boarder.

17 And we've seen the results statistically because  
18 we've seen a decrease on various methods that were used to  
19 measure the flow. At the end of the day, it's my position  
20 and president's position as well, that the best way to  
21 deal with illegal immigration is to engage in  
22 comprehensive immigration reform, which recognize that

1 we're bringing a lot of people in to do jobs that aren't  
2 being done by Americans and we ought to have a lawful way  
3 to do that that's open and transparent and protects the  
4 interests of everybody involved.

5 Congress was not willing to give us that  
6 mechanism. So in the meantime our position is pretty  
7 simple. First of all, we got to enforce the law the way  
8 it is now. And second, I think, we've got to prove to the  
9 American public, which I think is deeply skeptical about  
10 whether the government is ever serious about immigration  
11 enforcement.

12 We've got to prove to the American people that  
13 we are serious about it; we are capable of living up to  
14 our promises. And I'm convinced that as we establish  
15 creditability with the American people in doing the  
16 enforcement side, we will lay the groundwork for going  
17 back, hopefully sooner rather than later, and now, saying,  
18 the time has come to deal with the problem, all of its  
19 dimensions, including the problems of the people who are  
20 here, already here illegally working, who are, frankly, a  
21 humanitarian as well as an enforcement challenge.

22 MR. GOLDBERG: Let me go very briefly to

1 Hurricane Katrina, and I want to review something that you  
2 recently said and ask you about it. You were talking  
3 about your performance during Katrina, and you said,  
4 quote, "There are things I could have done or said a  
5 little bit better. I was not a politician. You need to  
6 visibly and tangibly show people you care."

7 Now, that's all true, but isn't it a little bit  
8 beyond that as well? I mean, there was a full day that  
9 went by when the levies had failed, but you didn't know  
10 that the levies had failed. Isn't that the case?

11 MR. CHERTOFF: There's no question that one of  
12 the big problems in dealing with Katrina, which is, I  
13 think probably the largest catastrophe this country has  
14 ever experienced, is the lack of ground truth about what  
15 the facts are. And, in fact, one of the first things we  
16 did when we looked back at Katrina was really to build a  
17 capability to send our own people into a disaster area  
18 with video cameras and communications so we could get an  
19 accurate picture of what was going on.

20 There's nothing worse for a decision maker than  
21 to be trying to make a decision about what is required  
22 when on the one hand you have people on the ground telling

1 you one thing, on the other hand your television is  
2 telling you something different. And even the televisions  
3 are inconsistent. Some of you may remember there was news  
4 reporting for several days about dozens of people having  
5 been murdered in a super dome and it turned out that when  
6 they went in and everybody cleared out, I think three or  
7 four people had passed away because of natural causes, but  
8 the story was widely exaggerated.

9           So as everybody who has been in a battle has  
10 learned or everybody who has been in a catastrophe has  
11 learned, the number one requirement is, you've got to have  
12 the ability to get eyes on the problem and ground truth  
13 about what's going on. And that -- so that was the very  
14 first thing, which -- capability that we build after  
15 Katrina. And it's, frankly, capability that FEMA had  
16 never had before in all the prior years of operating. And  
17 maybe it was a capability they didn't need until we truly  
18 had a catastrophe of biblical proportions.

19           MR. GOLDBERG: But there's -- I mean there is a  
20 basic question, I think, still in people's minds, is why  
21 wasn't the military simply mobilized to rush in there. I  
22 mean, we've heard stories that Donald Rumsfeld rejected

1 that idea. And I'm wondering if you fought with him on  
2 this question and how badly did you lose on that question.

3 MR. CHERTOFF: Let me say this. I think that  
4 the question, without getting into conversations that are  
5 confidential, I think the --

6 MR. GOLDBERG: This is off-the-record, by the  
7 way, it's --

8 (Laughter)

9 MR. CHERTOFF: Yes.

10 MR. GOLDBERG: It's just us here.

11 MR. CHERTOFF: Just like everything else in  
12 Washington. I think that the great -- the biggest  
13 challenge in dealing with any kind of domestic emergency  
14 is the role of a military. One of the interesting things  
15 that emerged after Katrina -- and my take away from  
16 Katrina was, frankly, you're always better off using the  
17 military sooner rather than later in an emergency.

18 But almost all the governors in the country have  
19 a different point of view, and there was a great push  
20 after Katrina was done by many of the governors to say, we  
21 don't want you to send the regular army in here. We don't  
22 want you to send -- we don't want another General Honore

1 or an Admiral Allen from the Coastguard in here as part of  
2 the emergency response.

3           And if you look at the legal authorities that  
4 currently exist on the books, it is remarkably difficult  
5 for a president to have the legal ability to send troops  
6 into an emergency situation. You are really right at the  
7 razor's edge of what the limit of the law is. And one of  
8 the things I think we haven't fully explored is do we need  
9 to retool and reengineer some of our legal authorities to  
10 use the military in a -- in the case of a truly epic  
11 catastrophe.

12           On the other hand, I will tell you one area  
13 where we did make a big improvement. Prior to Katrina,  
14 the system for planning between the civilian authorities  
15 and the military authorities was a very weak system. They  
16 really didn't plan together. And therefore it was a  
17 cumbersome process, even when the military was authorized,  
18 to assist -- to actually be able to translate the  
19 requirements into a particular action item that the  
20 military had to undertake.

21           After Katrina, we fully, or almost fully,  
22 integrated our planning processes. As they say, we

1 exchanged hostages. We sent some of our planners to the  
2 military; they sent some of their planners to us. We now  
3 have literally dozens and dozens of prearranged mission  
4 assignments, which we can turn on in a moment's notice,  
5 and we have turned on whether it's in a wildfires last  
6 year in California, whether it's in the floods and the  
7 fires that we have going on as we speak.

8           So, from a planning standpoint, we were able to  
9 get an integrated system of planning between the military  
10 and the civilian authorities of the type that we've never  
11 had in this country before. And that -- so we have the  
12 practical tools. We still have some works to do on the  
13 legal authorities.

14           MR. GOLDBERG: Let me go to one final question,  
15 which is everybody's favorite subject except for the  
16 general aviation people, which is the TSA. First of all  
17 let me ask you, how did you get to Aspen today?

18           MR. CHERTOFF: Not using TSA.

19           MR. GOLDBERG: Oh, you are very lucky then. The  
20 -- have you ever waited on a TSA line?

21           MR. CHERTOFF: Well, yes, and I mean I was --  
22 I've waited on TSA lines I remember when I was a judge. I

1 used to show my judicial credential and that was almost a  
2 guarantee being put into secondary. I don't know whether  
3 that was because they didn't know what it or because it  
4 was an opportunity to finally get a federal judge where  
5 you want to get him, but -- so I've had my experiences  
6 with the TSA.

7 MR. GOLDBERG: The question I have is this, both  
8 of us have a lot of experience, I think, flying out or  
9 Ben-Gurion Airport in Israel and we know what that  
10 security is like, the multiple layers, there is very  
11 intelligent and highly trained people who are doing things  
12 that we don't do here such as profiling obviously. But  
13 something struck me the other day and I want to ask you  
14 ask you about this. When I got to National Airport the  
15 other day, I walked up to a very crowded TSA line without  
16 having ever been inspected before I got there and it  
17 struck me that this is not something that could happen in  
18 Israel or many European airports. There is a checkpoint  
19 before you even got on to airport grounds. Then there's a  
20 checkpoint when you get out of your car.

21 It seemed to me that a suicide-bomber could take  
22 a taxi to National Airport, pull up at departures, go on

1 to the very crowded long line waiting to go through --  
2 waiting to take your shoes off and waiting to be  
3 (inaudible) and detonated himself and kill large numbers  
4 of people and destroy aviation, paralyze the economy  
5 without ever having left the ground.

6 So I guess it's a -- this question is a narrow  
7 way of getting to a very broad question, which is what is  
8 ultimately the point of taking your shoes off and putting  
9 your --

10 (Laughter)

11 MR. GOLDBERG: -- I mean, your taking your shoes  
12 off and putting your shampoo in a little zip lock bag if  
13 there's so many obvious ways to disrupt? It's a very  
14 serious -- there are so many obvious ways to disrupt  
15 aviation security.

16 MR. CHERTOFF: Right.

17 MR. GOLDBERG: And is it simply that we just  
18 don't want to pay that price or is it that it's physically  
19 impossible to do and Homeland Security doesn't want to  
20 tell us that it's impossible to fully secure our  
21 commercial aviation?

22 MR. CHERTOFF: Well, I think, you are almost

1 asking a broader question because even if you move the  
2 checkpoint out to the perimeter of the airport, and you  
3 know, I think there is -- I mean, we actually ultimately  
4 do have a vision of trying to move the security checkpoint  
5 away from the gate, deeper into the airport itself, but,  
6 Jeffrey, you know, there's always going to be some place  
7 that people congregate.

8           So if you are asking me, is there any way to  
9 protect a person from taking a bomb into a crowded  
10 location and blowing it up, the answer is, no, unless you  
11 want to live in a society in which every public space is  
12 like the airport. So now you, again, could reverse the  
13 question and say to me, well, in that case if I could die  
14 in a mall or like die in a movie theatre, maybe we  
15 shouldn't protect airplanes at all, maybe we should simply  
16 say, get on an airplane, we won't bother to inspect your  
17 baggage, we won't bother to check you against the watch  
18 list. If the plane blows up, the plane blows up".

19           And I think the answer may very well be that the  
20 consequences -- the amount of damage you can do on an  
21 airplane with an explosive of a certain size is  
22 significantly greater than the same explosive in a public

1 space. That always takes you into an ugly conversation  
2 about, well, why do you worry about a 1,000 people being  
3 killed but you don't worry about 10 people being killed?  
4 And the answer is that's ultimately what buying down risk  
5 is about. You have to look at the consequences.

6 We are, frankly, willing to invest more to  
7 protect a 1,000 people than to protect 10 people. And I  
8 think that's something that we see in almost every  
9 decision that we make in human existence. So, if you look  
10 at aviation, there is at the end of the day -- you know,  
11 we do use behavioral detection, we do, do a lot of things  
12 the Israelis do, but even if we were to push that  
13 checkpoint out to the very entrance of the airport, we  
14 wouldn't be able to -- that wouldn't protect people who,  
15 for example, go to a bus terminal in order to get in a bus  
16 to go to the airport. It wouldn't protect the people  
17 necessarily who get on the subway to go to the airport.

18 And to protect them a 100 percent, we have to do  
19 for the subway station what we do at the airport, which we  
20 don't want to do. So we use different techniques. We do  
21 have people circulating in the perimeter of the airport  
22 who are trained to look at behavior. We do bring canines

1 into the perimeter of the airport on a random basis to  
2 detect explosives. We do the same thing in subway  
3 stations.

4           You know, one of the ways we deal with the  
5 security issue in public spaces is not by checking  
6 everybody, but checking people randomly using patrol  
7 teams, using dogs, and of course, we're also experimenting  
8 with technology that might do this. In the end, one of  
9 the most common arguments I face is this one. Since you  
10 can't protect everybody perfectly, why are you protecting  
11 anybody at all? And that is the classic version of the  
12 argument that the perfect is the enemy of the good.

13           Under that theory, we shouldn't have seatbelts  
14 and airbags because a seatbelt and an airbags will not  
15 protect you if an 18-wheeler collides head on with your  
16 car. So it's not a perfect protection, but it will still  
17 protect you if you are in a garden-variety accident. And  
18 so my ultimate position on this is what I think I spoke  
19 about when I first came on the job, it's about managing  
20 risks. That doesn't mean eliminating risk. It means  
21 buying down the risk, starting with the highest risk first  
22 and bringing it down until you come to the point that

1 society believes it is no longer cost-effective and we are  
2 at a tolerable level of risk. And that's really what  
3 Homeland Security is about.

4 MR. GOLDBERG: Let me ask one final short  
5 question before we wrap up with a song. The question is  
6 this, your Department is new. It has never undergone a  
7 presidential transition. My question is come December  
8 what will you tell either President McCain or President  
9 Obama, what will you -- what advice will you offer them on  
10 how to make your department better and how to make the  
11 security of America better?

12 MR. CHERTOFF: You know, I think -- I mean, I've  
13 given some thought to this and I'm going to give more  
14 thought to it obviously between now and the end of the  
15 year and I'm probably going to write a, I think, a candid  
16 memo, which I probably won't share publicly with you about  
17 things in the department and things outside the  
18 department.

19 I think, what I will -- if I was going to give  
20 you a high level piece of advice it would be this. We are  
21 going to live with risk for a very long period of time,  
22 whether it's natural disasters, whether it's terrorism,

1     whether it's al-Qaeda, whether it's Hezbollah, whether it  
2     is the violence south of the border, in the northern part  
3     of Mexico.

4             And we need to develop a set of tools and a set  
5     of principles that we are all comfortable with that are  
6     somewhere between complacency and hysteria, that recognize  
7     that we have to reduce our risk. And that means we have  
8     to be prepared to make some sacrifice, but it also  
9     recognize that we can eliminate risk and we can't over  
10    promise elimination of risk.

11            And that the hardest job my successor will have  
12    is to not allow your policymaking to get pulled one way or  
13    the other depending on what the new story of the day is or  
14    yesterday's public event was, but by having a disciplined  
15    idea of what the high risks are and a disciplined plan to  
16    get those reduced as much as possible within reason.

17            MR. GOLDBERG: Thank you very much. Thank you  
18    for coming up to Aspen.

19            (Applause)

20            (Whereupon, the PROCEEDINGS were adjourned.)

21                                   \* \* \* \* \*