



Senate Veterans Affairs & Emergency Preparedness Committee

Senator Lisa Baker, Chair

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Senate Veterans Affairs and Emergency Preparedness Hearing September 27, 2010

Senator Baker:

Good morning

I'd like to call the recessed meeting of the Senate Veterans' Affairs and Emergency Preparedness Committee to order. We'd like to offer the following opening statement about our public hearing into the Terror List Contract. And we appreciate all of those coming this morning. We certainly appreciate the cooperation of individuals who are appearing before the committee today. We hope this cooperation comes matched by candor, because the subject is unpleasant and the information surfacing daily is unsettling.

At a time when public confidence in state government is already reaching new depths, the controversial matter that prompted this hearing is toxic to public trust. Rarely in my experience has there been so much public push for an investigatory hearing, born of equal parts of concern and outrage.

The document that revealed the contract was made; it appears that state government was colluding against its citizens. Hard to believe that groups seeking education equity, displaying cultural pride, and advocating water quality were perceived as threats to the Commonwealth. Even harder to believe is that no one in a position of authority red-flagged the practice of issuing warnings about groups legitimately exercising their constitutional rights.

This hearing is in no way seeking to discredit the public apology Governor Rendell made when he was alerted to the situation. However, there are questions pertaining to the

explanations and actions of other state officials, which people have found inconsistent, insufficient, and unsatisfactory.

If no one was paying attention to the information being conveyed, that is an unnerving revelation, because part of the basic mission of homeland security is to make sure citizens are paying attention.

Conversely, if highly-placed state officials were aware of what was being disseminated, that is scary, because the bulletin information defies common sense, defies any understanding of real risk, and defies any regard for the existence of constitutionally protected rights.

If someone cannot tell the difference between a citizen activist and a terrorist, what sort of protection are taxpayers paying for?

How can bulletins be defended as “vital” when they are filled with improper reports? Is there any justification for the “feds made us do it” defense that has been proffered? Why was such a contract thought necessary when there is a modern, well-regarded unit operating under the auspices of the Pennsylvania State Police?

These are representative questions, based on concerns that people have expressed, for which we are obliged to seek answers and establish accountability.

At this time I would offer the minority chair Senator Farnese the opportunity to make some opening comments as well.

Senator Farnese:

Thank you madam chair, good morning.

I am greatly concerned about the situation before us here today. I'm concerned about the process that produced this contract, the work that was performed, and the intent of the parties involved.

First, this committee and the public deserve an explanation as to how this no-bid contract for \$103,000 was awarded and how it escaped scrutiny.

Second, I am equally concerned about the special attention given to legitimate protesters who have every right to demonstrate as they did. Not only did these protesters pose no threat but the ITRR might have used that time and energy to gather Intelligence on actual terrorism threats although much of the work was already done by the Pennsylvania State Police. This no-bid no scrutiny contract seems have been worth little except the compilation of publicly accessible information that did not identify any serious threats to anyone. I am very concerned about what this means for overall readiness for a real terrorism threat. We could very well have another World Series in city of Philadelphia this year. What is the office of Homeland Security going to do to ensure that we are safe for that type of monumental event? Because simply pasting together news clips is not going to cut it.

Thank you, madam chair.

Senator Baker:

Thank you Senator Farnese.

We are joined this morning by members of the Committee, Senator Ward, Senator Mensch, Senator Robbins, Senator Dinniman, Senator Kitchen and we are also joined by two members of the Senate who are not part of the committee who are joining us, Senator Ferlo and Senator Folmer.

At this time I would invite Virginia Cody to come to the microphone. Virginia is a community activist who lives in Wyoming County which is part of the 20th Senatorial district. Virginia will you please stand and raise your right hand for me, we are going to swear in.

Do you solemnly swear to tell the truth, the whole truth and nothing but the truth?

Virginia Cody:

(inaudible response)

Senator Baker:

Thank you, you may be seated.

Ms. Cody we would ask you to make a very brief statement, obviously many members are here this morning and we would like to provide enough opportunity for questions. So if you would like to share some general observations and then allow the members to ask you questions we would appreciate that. Thank you.

Please press, I apologize, please press the microphone so that people can hear you.

Virginia Cody:

Is this?

Senator Baker:

That's correct.

Virginia Cody:

Ah ha. Thank you for giving me the opportunity to speak here today.

A month ago, I was an average American citizen begging my government to save my air, my drinking water, and my community from the environmental devastation wrought by the natural gas industry across the country. I wrote dozens of letters to my legislators (receiving very few responses I might add). My husband and I sent several letters to the editors of newspapers and many were printed. We started a blog to compile them and to provide information to others who might be interested in the topic. We tried to parlay the success of the Gas Drilling Awareness Coalition, a group of people just like us living in

Luzerne County, into a chapter devoted to natural gas issues in Wyoming and Lackawanna Counties. I wrote, printed, and handed out informational flyers at lakeside communities near my home. And, I posted comments on Facebook and on the Susquehanna County Gas Forum. I admit it, in print, I was very loud. I have been desperate to make my case to you. Apparently, my voice was loud enough to rouse the attention of my government, but not in the way I had hoped. Instead of my legislators paying attention to what I had to tell them, my government sicked the FBI, the Office of Homeland Security and the Institute of Terrorism Research and Response after me. My government branded me an extremist, or possibly an eco-terrorist for writing a balanced truth, for writing opinions that didn't sit well with those in power. And now, for exercising my right to free speech, a dossier on me may now be secreted in the halls of Israeli Intelligence for all I know.

Now, on top of it all, I'm told that in concert with these bulletins, the FBI was compiling a list of names of "dissenters". The FBI is a federal agency, so I ask, is the U.S. Department of Homeland Security now looking at me as a security risk? Do I have to worry that like the peace activists in Minneapolis I'll find the FBI at my door some morning?

For the first time in my life, I do not feel secure in my home. I worry that what I say on the phone is being recorded, I wonder if my emails are still being monitored. I am discomfited. Almost frightened, you might say. And not just because I've been spied on, I feel this way because the very spies hired by my government have been so incompetent they saw me as a threat to the security of the state! On the one hand, they were spying on me as an extremist; on the other they depicted me as a drilling advocate in the correspondence I had with Mr. Powers. If they are so incompetent, then I wonder just how deep this incompetence goes. How many people out there have been told to watch out for me, that I'm a "person of interest?" We know that Marian Schweighofer, executive director of the Northern Wayne Property Owners Alliance, had access to the information in those bulletins. According to one newspaper report, she sent a message to her members telling them "there was reason to believe that the Office of Homeland Security was tracking the anti-drillers as terrorists".

Is this why, when some of us have stopped on the shoulder of a road to take a gander at the construction of or operations going on on a rig, the security patrols have flown en masse at us to herd us back into our cars and away from the property? Is this why a small group of drilling opponents were greeted by mounted State Police and security guards wearing tazers and bulletproof vests at the Cabot family picnic in Montrose, when all we wanted to do was talk to people and hand out literature. Is this why Julie Sautner, a Dimock resident whose water has been poisoned by Cabot Oil and Gas, had a jug of that water wrestled away from her amidst accusations of possible terrorism? So the question in my mind is not just who was on the distribution list for those bulletins; the question is: how far did the information in them travel? How many people who have real or potential control over my life...first responders, local government, state government...MY NEIGHBORS...and, of course, the gas companieshave been put on alert about me? My small town is soon to be surrounded by gas wells....will their security patrols be

alerted every time I get in my car? How are you going to erase the alert in people's minds? This is not an oops you can fix so easily.

When I received the email from James Powers, my heart nearly stopped. I asked myself first and foremost had I inadvertently done something illegal. When I collected myself and really studied that last line of the email, I was absolutely infuriated. Today I can tell you I am so outraged I don't know what to do with my anger. Here I was, trying desperately to get my government to put some controls on the natural gas industry invasion, and my government was admitting it was in cahoots with the industry.

When I researched the Bravo Group, a lobbyist group cc'd in the email, I found out that it lobbies for Chief Oil and Gas and several other energy companies. So not only was the Office of Homeland Security providing Intelligence to the corporations about Pennsylvania citizens who might object to having their communities overrun by them, it was providing "Intelligence" to the very people who lobby YOU, the legislators, on behalf of those companies. To tell you the truth, the incestuous relationship between our government, the gas industry, the Bravo Group, the Marcellus Shale Coalition is so clear to me I can't believe it isn't the top story in every paper in this state. I suspect that every decision made by our government with regard to natural gas regulation is tainted by the industry's deliberate attempts to blur the boundary line between itself and our government. In Pennsylvania, the natural gas companies think they're in charge, and I ask my government...ARE THEY?

Senator, I don't know whether hydraulic fracturing horizontally through the Marcellus Shale can be done safely. Nobody does. What I do know is that currently it ISN'T being done safely. There are hundreds of horror stories of water contamination, animal deaths, air pollution, people sick, many of which you as legislators have been carefully shielded from knowing about by the Bravo Group and the Marcellus Shale Coalition. Your position insulates you from "we the people". You are making decisions about the future of Pennsylvania with only half the story in front of you. And I hope to God this incident has shown you just how insulated you are. The lobbyists in question have made sure you haven't learned the truth, just as they have tried to keep alleged "extremists" like me from telling you that truth. I hope my legislators take a step back and ask tough questions and start reading between the lines when they're presented with Industry spun facts. Ask just how many non-disclosure agreements Oil and Gas has with individuals in our state, ask how many massive trucks will play chicken with Pennsylvania's school buses every day, ask whether hunters who come to Pennsylvania will be able to eat what they kill since the well pads aren't fenced and wildlife will drink from the salty wastewater pits, ask whether the citizens, the majority of the citizens, in many parts of this state want their small towns, town ways, turned upside down?

Baker:

Virginia, are you almost finished? Ok. One last comment.

Virginia Cody:

Well, sure, this is about Mr. Powers.

Senator Baker:

Well that's where I would prefer that you go; this is not a hearing about the merits of gas drilling Marcellus Shale. I understand your passion...

Virginia Cody:

I'm finished with that.

Senator Baker:

We appreciate your thoughts on that. This is to be focused on the situation at hand related to that email communication, so if you could cover that I would appreciate that. Thank you.

Virginia Cody:

Now, about James Powers, I've been listening to and reading about how this man should be fired. I even stood with a group on the steps of this building last week where some of the speakers were calling for that firing. I stood there because the group's opposition to forced pooling -- another assault on our constitutional rights -- was more important to me than worrying about Mr. Powers' future, but after the rally, I took the leader of that group aside and told him I didn't agree with him about what to do about our homeland security director. I tell you now what I tried to tell him -- I honestly don't know if firing James Powers is the right thing to do. You see, in this country, we have an awful habit of making a fall guy out of the guy who was just doing his job. I'm reminded of what our nation did to Lt. Colonel Oliver North during the Iran-Contra affair.

Mr. Powers is an Army veteran, and since he and I were both commissioned to support and defend the U.S. Constitution, I like to think that maybe Mr. Powers fought bravely to protect our citizens' first amendment rights and argued with the powers that be - the director of the Pennsylvania Emergency Management Agency and the Governor - about how spying on US citizens exercising their rights to free speech and assembly was not the way to go. I like to think he was simply overruled. As far as I'm concerned, he should be given some benefit of the doubt here. He wasn't necessarily the one with the ultimate authority over hiring ITRR, and I would HATE to give the oil and gas industry another win by sacrificing the due process rights Mr. Powers deserves as an American citizen. Then again, maybe after all this, I am still hopefully naive.

Finally, let me conclude with this: Throughout history we have seen countries seduced all too easily by slick persuaders who've played on people's economic depression or desperation, excuse me. Nazi Germany, Soviet Russia, pre-World War II lately - there, the hearts and minds of the people were captured by those who painted rosy pictures of the future while concealing a terrible dark side. There they smothered the people's rights to speak and write freely to expose that dark side. There they destroyed reputations and shuffled dissenters off to where they couldn't cause the government any trouble - like jail, like Siberia. So, I am very grateful to this investigating body for its recognition of just how dangerous Pennsylvania's attempts to suppress dissenters' rights had become. The very fact that we are here today tells me our country has not become a fascist state - that

we still live in America. Senator Baker, committee members, I applaud your efforts to get to the bottom of this debacle. Go get 'em.

Senator Baker:

Thank you, Ms. Cody. Thank you for your willingness to come forward. I think you've demonstrated courage, conviction and like you many citizens have emailed me throughout not only my senate district but throughout Pennsylvania with similar concerns and questions that you've raised. Did the actions end up putting a name on a list, you want to know that, you want assurances that who was monitoring your group and that's not going to come back and provide consequences to you or any member of your group in the future. I know many people have asked me how do I find out for sure. What was the justification for selecting common ordinary citizens? Who ordered it; it's questions that we all have. How do we go about clearing your name and what would your recommendation be to the Governor and to this Committee to right this wrong? Because, do you believe the State can give assurances that no further consequences will result to any group or any individual because we don't know the extent the information may have been disseminated.

Senator Dinniman.

Senator Dinniman:

(Inaudible) would suggest that you consider as chairman as well as Mr. Farnese sending a letter to the appropriate agencies asking that any records be cleared. And I would hope we would do that. You know if you look, go back, Senator Kitchen and I in fact were just talking about this, you go back to the civil rights movement in this state you go back to the labor movement in the late 19th early 20th century you will see the same use of the State to try to control and to try to diminish descent. So, I would hope madam chairman if I may make a suggestion that we as a committee might do that number one, and number two since any lobbying group that works with us we need to feel comfortable with, I hope also madam chairman you might make some inquiries concerning the Bravo Group so that we can get some clarification because our trust with any lobbying group is based on them being trustworthy.

Senator Baker:

Thank you Senator Dinniman. Senator Mensch...

Senator Mensch:

Ms. Cody, thank you for being here today. I think I heard you say you were requesting whether your emails are still being monitored.

Virginia Cody:

Yes.

Senator Mensch:

Do you know that there were being monitored.

Virginia Cody:

Well they have been monitored on the Susquehanna County Gas Forum. And the way that works is that you email into the forum so that is what I am referring to. However if it goes deeper than that I sure would like to know about it.

Senator Mensch:

Ok. Thank you

Senator Baker:

Senator Ferlo

Senator Ferlo:

First of all thank you very much for testifying and being here today and more importantly, Lisa, my viewpoint, thank you very much for your leadership on the issue, the Marcellus shale debacle. I would encourage you because I respect and applaud the Secretary, Senator Baker excuse me, for conducting this hearing but I am not sure it's going to go that far. The debacle is not being addressed by the Governor, who pretty much has written this off as an embarrassment not something that fundamentally strikes to a violation of our constitutional rights and civil liberties. I'm very upset with that, I feel like at the point that the Governor is about to leave office and, at least in my view, he has an important legacy in promoting public education and capital infrastructure and building new jobs and industries for this sour note to be left and just kind of in a dismissive attitude oh slap slap so unlike you I've already clearly stated that Mr. Powers needs to go and other things need to happen. But I would encourage you as a citizen because despite the importance of this and prominence of this hearing I'm not convinced it's going to go anywhere. I would encourage you to do three things that I'm doing. I'm filing a complaint with the State Ethics Commission; I'm filing a complaint with the Pennsylvania Inspector General regarding what I would consider a bogus contract. This money should be restored and replenished by this company to the Commonwealth's Treasury as far as I'm concerned, and thirdly I would encourage you to file a complaint with the US Justice Department Civil Rights Division. Because I think unless you do that as an individual citizen and or as an organized group like I will do as an individual not only as a senator but as someone who also sponsored a forum that was a subject of one of these infamous pdf files that the Senator was kind enough to forward to us. I don't think we're gonna go that far you're gonna feel very frustrated after this hearing despite the prominence of all the media being here today. And have you now or ever been a member of the Republican Party?

(Laughter)

Virginia Cody:

I've been a Republican my entire life.

Senator Ferlo:

I'm just, I'm just joking. I feel this is vaguely reminiscent of the 50's and it's really a sad commentary on what's happened not only here in our State but also in our Nation. Thank you.

Senator Baker:

Thank you for all of your comments. Obviously my question to you is poised because we would like to take follow up action and we reserve the right as a Committee to make that determination based upon the information that is presented today, so any additional recommendations that you may have that you would like to submit to us we would welcome that we are gonna hold the record open so thank you for your testimony and we will call our next set of witnesses to....

Senator Dinniman:

Madam Chairman I have one question, are you then I take it you're going to make some effort after you hear all this to try to make sure we as a Committee clear up any record? First I would also praise you for holding the hearing but I.....

Senator Baker:

Absolutely Senator Dinniman, and I don't think you can come into a hearing of this nature predetermining what the outcome may or may not be and we must follow the information, follow the evidence and quite frankly if there are additional questions that have not been asked today we have the ability to hold additional hearings and get additional information so I think as a Committee we certainly should give everybody the opportunity to present their information and then make a determination based upon the information that's presented.

Senator Dinniman:

Well that is exactly the correct way to do it and again even with the Bravo Group I don't know the case, I don't know what's going on so I don't mean to make any prejudgments but that's just another part of what we need to find out.

Senator Baker:

Thank you. Thank you, Ms. Cody for joining us this morning. I would call upon General Robert French the Director of the Pennsylvania Emergency Management Agency and James Powers, Director of the Pennsylvania Homeland Security Office at this time. Gentlemen could you please stand, I would like to ask you to be sworn in to testify. Raise your right hand, do you solemnly state to tell the truth, the whole truth and nothing but the truth?

General French and Colonel Powers:

I do.

Senator Baker:

Thank you.

I know that you have both submitted information for the record to the members of the Committee. I would ask that you keep your brief introductory comments to a very minimum we have a number of people here and I believe the questions will be the most critical component. General French would you like to begin with just a short statement followed by Mr. Powers?

General French:

Yes, ma'am. Thank you Chairwoman Baker, Committee members, thank you for the opportunity to be with you today. As the Director of the Pennsylvania Emergency Management Agency one of the primary responsibilities that I have is to provide for that comprehensive Commonwealth all hazards, natural and manmade, preparedness and response program. That work is under (inaudible)

Ok. Can you hear better now?

Senator Baker:

Is your microphone turned on?

General French:

Yes Ma'am.

Senator Baker:

Maybe bring it just a little bit closer. Thank you.

General French:

Thank you, ma'am. As the Director of the Pennsylvania Emergency Management Agency, one of the primary responsibilities is that (audio feedback), sorry about that, one of my primary responsibilities is a comprehensive Commonwealth all hazards, natural and manmade, preparedness and response program. That work is undertaken through a cooperative effort between the respective governmental agencies, non-governmental agencies, volunteer agencies and the private sector. Thank you for the opportunity to appear here today so that we can discuss the Institute of Terror Research Response contract that was let as one of the tools to help in that overall program. One of the purposes of the contract was to provide emergency services personnel, owner/operators of critical infrastructure and key resources and first responders with instructive and helpful information pertaining to the four pillars of emergency management responsibility which are Protect, Prevent, Respond and Recover. The contract was intended to be tailored to include Pennsylvania-specific applications. Please note that the bulletins are no longer being distributed and a task force has been convened to ensure that we have an acceptable means to notify our respective stakeholders where necessary. As a member of the task force I will work to do my best to ensure that we can do that so that we can approach all hazards in the Commonwealth. Thank you.

Colonel Powers:

Senator Baker, Senator Farnese and Committee members, good morning. On behalf of all the owners/operators and associated public safety stakeholders of the Commonwealth's critical infrastructure and key resources, I thank you for the opportunity to share with you the statutory basis, references, capabilities assessment and rationale for contracting Intelligence support from the Institute of Terrorism Research and Response.

As the Director of the Pennsylvania Office of Homeland Security, I sincerely apologize to any individual or group, regardless of their views or affiliation, who felt their constitutional rights infringed upon because they were listed in the bulletin. That was never the intention. As Director, I accept the responsibility for this error in judgment and communication of the intent of the bulletins to provide situational awareness information to all public safety stakeholders. The key reference is pertinent for understanding our concept for implementing the National Infrastructure Protection Plan are contained in my statement, I will not go over those to save time. The purpose of the subscription was to provide all stakeholders associated with the Commonwealth's critical infrastructure and key resources, which is approximately 4,000 in the Commonwealth, with information that would enhance their situational awareness of potential all-hazards incidents impacting the human, physical and cyber domains, our charter with DHS. When a review of other federal and state agency assessments, those focused on national level issues, geographic regions and broader concerns, indicated that they were not providing the tailored approaches required, I conducted research which I will go over with you today in detail, to determine what other information producers might offer effective alternatives. That research led me to the Institute of Terrorism, Research and Response, an experienced analytical organization possessing skills requisite to meeting some of our requirements. The Commonwealth protocols for contracting also confirmed this was indeed the only company at the time that could provide the service we deemed necessary.

After reviewing information products from DHS agencies and other states' Intelligence fusion centers, my assessment was, that available products did not always focus on issues intended for county/municipality level stakeholders or sector-specific events relevant to our infrastructure protection interests. The more I researched and met with public safety officials, the more I realized that the local stakeholders were being omitted from the process of defining their priority security information requirements. Local stakeholders include not only the public sector agencies charged with public safety but also our private-sector business partners, for they own 85% of all of our critical infrastructure. The handout provided to you graphically depicts the information sharing environment – I would hope Senator that everyone has a copy. On one page is listing of the DHS eighteen sectors and resource groupings that all of our infrastructure falls in. Those are provided to us by way of the Patriot Act and Homeland Security Act of 2002 and defined by the Department of Homeland Security in the National Infrastructure Protection Plan. The other side of the document that you were given is a schematic of all the stakeholders involved when we're trying to protect and inform the owners/operators and all associated people of our critical infrastructure. So that diagram on the back, are a list of all the people that are concerned about a given piece of infrastructure. If you were to place the Capitol in the center of that you'd get a graphic picture of who all has an associated

interest with this. The subscription Statement of Work included these general needs: information relevant to the Commonwealth's critical infrastructure and key resources sectors and associated stakeholders, credible threat alerts, and the protection of the citizenry of Pennsylvania through sharing of this information. The subscription provided for a minimum requirement of tri-weekly periodic reports of distribution to potentially-impacted and/or associated stakeholders, 56 hours/week of tri-lingual research and analysis, imminent credible threat notification, plus an on-call analyst available 24 hrs a day, 7 days a week. The subscription was for 1 year at a cost just under \$103,000. The funds used to procure this subscription were appropriated by Congress and allocated to the Department of Homeland Security and further to the state for critical infrastructure protection and Intelligence activities; no Commonwealth general government operations funds were used at any time. The subscription adhered to all DHS Homeland Security Grant Program Guidelines as stipulated by the Department of Homeland Security and Congress. Over the course of the subscription, ITRR met all deliverables. It is neither a provision of the subscription nor did we ever ask for or receive lists of either individuals or groups; we do not maintain a database of either. It was never the focus. One of my primary responsibilities is to implement the National Infrastructure Protection Plan which is National Priority #3. Associated with that task is the full-range of activities associated with the *Protect* mission stated in the National Response Framework, which Director French just went over, the Prevent, Protect, Respond, Recover phase. Inherent to this mission is the task to provide a relevant, focused information to these public safety stakeholders associated with the Commonwealth's critical infrastructure and key resources. The public/private-sector partnerships forged over the last 4 1/2 years have enabled the Office of Homeland Security to serve as a conduit among the local units of government, the owners/operators of our critical infrastructure and key resources, county emergency management coordinators, state agencies and the US Department of Homeland Security in implementing the National Infrastructure Protection Plan.

Again, thank you for the opportunity to testify about this matter. I am happy to answer any questions you may have.

Senator Baker:

Gentleman thank you, I have a number of questions that I would like to focus on related to the contract and to the bulletins. But I do have several just key questions in the beginning that I'd like to put on record. Do either of you have any member of your family with a personal or financial interest in any private sector critical infrastructure organization that was referred to in these bulletins?

Mr. Powers:

No ma'am.

General French:

I do not.

Senator Baker:

Mr. Powers can you speak to your role as a consultant with KWG which appeared on your resume, what is that organization?

Mr. Powers:

Yes ma'am, following my 30 years of service as a special forces officer, I came in contact with many of the programs that our Department of Defense runs in regards to special operations. KWG Consulting was a firm owned by Kenneth W. Getty out of Waterford, Virginia, and this particular contract used my expertise from the past 30 years working on a classified contract with assistant secretary of defense for command control and communications. It had nothing to do with critical infrastructure of Pennsylvania.

Senator Baker:

Thank you. And one question to you, to both of you, were you aware that Mr. Pearlman from ITRR was recognized in a Central Pennsylvania business journal article, which I have in front of me, dated June of 2007, that he does much of his work focusing on potential threats from environmental extremists?

Mr. Powers:

I was not aware of that. No ma'am.

General French:

I was not.

Senator Baker:

That was on the record in the...dated Friday, June 15th 2007. So, as I ask that question I'd like for you to describe then for me how the Institute for Terrorism Research came to the attention of the Administration. The Governor has called it a clever gig; we have quotes in the paper that Mr. Pearlman has said his company does not provide this service to other governmental bodies. How did you in turn and determine that they were the only one capable of doing this work?

Colonel Powers:

I can answer that, thanks for the chance to clarify this. I'll go into details about the contract 'cause I think you need to understand the background. It started before last year, the basis of the contract resides in two very important factors. Number one, the clear intent of the critical infrastructure protection references that you have in front of you in my statement and that need to inform the information sharing environment of the people involved with those things and number two, the existing gap we had in dedicated analysts and researchers for potential incidence from all hazards, as Director French mentioned, terrorist attacks, major disasters and other emergencies impacting our critical infrastructure. Our intent throughout all of this was to develop an information sharing environment of all those people in that diagram I gave you. In June 2006 here was the situation, we had an internal analyst officer assigned to my office and the reason for that was at the DHS level to mirror the image that they did. At the Department of Homeland

Security the Office of Intelligence and Analysis and the Office of Infrastructure Protection are married together underneath one boss because the influx of information going back and forth between what's relevant for CIKR, the critical information key resources, and Intel have to be married up. The State Police and I spoke in 2006, the Commissioner and the Deputy Commissioner, about possibly giving us focused attention on our critical infrastructure and key resources the National Infrastructure Protection Plan had just been published, we needed to know if they could provide some support to us. The Pennsylvania Criminal Intel Center, which you'll hear about today, was formed with 23 troopers and analysts in 2006 - 2003, excuse me, but they did not have the compliment to focus on our needs. The Commissioner at the time, Jeff Miller, told me he understood the rationale, he understood the logic, and he certainly understood the need to do this kind of work but he did not have the people to do that. They were focused totally on

Senator Baker:

Do you have that in writing Mr. Powers?

Colonel Powers:

I do not, I don't but I know that Colonel Palowski understands the same thing and when he testifies today you can ask him the same thing. They did not have nor do they have now the requisite amount of analysts and researchers to focus on anything potentially impacting our critical infrastructure and key resources.

Senator Baker:

But that doesn't get to my question to you, how did this company...

Colonel Powers:

Yes ma'am

Senator Baker:

Rise to the level that you determine that they were...

Colonel Powers:

That's where I'm going

In 2007....

Senator Baker:

The most appropriate?

Colonel Powers:

Yes ma'am. In 2007 we submitted an investment justification through the Homeland Security Grant Program for money for critical infrastructure protection and Intelligence activities. We were granted the money.

Senator Baker:

How much money was that?

Colonel Powers:

At the time it was around \$500,000.

Senator Baker:

And how many other sole-source contracts or grants are performing homeland security functions currently?

Colonel Powers:

None.

Senator Baker:

None? Just this is the only grant that you're aware of that the State is utilizing for homeland security purposes?

Colonel Powers:

The one for critical infrastructure protection. In the spring of 2009, based on the lack of state Intelligence analysts and researchers focused on critical infrastructure, I recommended the creation of a tailored Intelligence bulletin to inform the CIP stakeholders the required DHS funds were available and the task was validated in accordance with the DHS grant guidelines. The Department of Justice and Homeland Security...

Senator Baker:

Did you bring a copy of the DHS grant guidelines with you?

Colonel Powers:

I did not, Jeff, do you have a copy of those. We can certainly get you a copy of that.

Senator Baker:

I'd like to see that because the only information that I've seen pertaining to this particular contract is a letter dated 10 September of 2009 that just basically lists what this bulletin would be. There's no detailed documentation and in my experience in State Government when you issue a sole-source contract, I would at least expect to see a budget attached to it and I was quite surprised that this document that single purchase order from you, signed by the purchasing agent at PEMA, does not even have a budget included in it. So if you're following Homeland Security guidelines I'm somewhat surprised that that would not be a prerequisite or a requirement.

Colonel Powers:

Yes Ma'am. I understand. I don't know the administrative details of the purchase order through SAP, through the system here, and I'm sure our administrative office can get that to us.

Senator Baker:

But you are the one ultimately who requested this as the sole source purchaser?

Colonel Powers:

Yes Ma'am.

Senator Baker:

So, it would be my expectation that you would know everything about the sole-source contract that you would be requesting.

Colonel Powers:

Yes Ma'am. I will get to why it was sole-sourced in just a moment. My research went through the following areas. It was not just about me hearing about this company and writing it a sole-source contract. Internally as I had mentioned we had an Intel analyst officer assigned to us, but we lost that officer in 2008. Outside my office I went internal to the Governor's office, and to the Pennsylvania National Guard. We have approximately thirty to forty Intel analyst across the National Guard, but they're not full time. Although they are trained as Intel analysts and researchers, and they certainly work for the Governor, I could not use these people because they weren't full time. The ones that are full time are dedicated to a special program at the national level with the state so I couldn't use those. I had already mentioned the Pennsylvania State Police. They do a great job with all crimes....

Senator Baker:

Did you consult with the Pennsylvania State Police during this contract review?

Colonel Powers:

I wasn't in any kind of contact with them knowing that they did not have the appropriate number of Intel analysts all along.

Senator Baker:

That doesn't answer my question. Did you consult with them?

Colonel Powers:

No Ma'am I did not.

Senator Baker:

No, you did not?

Colonel Powers:

I knew from usual dealings with them that they could not provide the focus.

Senator Baker:

But, you did not ask them?

Colonel Powers:

No Ma'am.

Senator Baker:

And oddly enough I recall a quote from the PEMA spokeswoman saying: all options researched and concluded outside of the FBI and the CIA no other service existed. And yet, you did not consult directly with the Pennsylvania State Police on this particular contract. Who in the Administration approved the contract other than you signing off and the individual who is the purchasing agent at PEMA, who else signed off from the Commonwealth?

General French:

Ma'am under, under the contracting process, PEMA, my agency, I am the one responsible for the contract itself being approved.

Senator Baker:

And can you identify who else in the Administration knew about this contract before it appeared in the newspaper? Anyone in the Governor's office? Anyone in any other State agencies aware of this?

General French:

I did not advise anyone else in the Governor's office of the contract. I do not typically advise them on contracts of any, you know, particular issue that we are working with within the Department per say unless it would have, you know, something to do

Senator Baker:

So we made the determination. May I ask, have you ever visited the Criminal Intelligence Center at the Pennsylvania State Police?

General French:

I have.

Senator Baker:

Have you? How many times?

General French:

I've been there once ma'am.

Senator Baker:

Once.

Colonel Powers:

Three to four times at the max.

Senator Baker:

Three four times and that's somewhat surprising to me. What I'm getting at is, I'm contradicted by your statements that you looked at U.S. Homeland Security Agencies and

other state fusion centers on your assessment that available products didn't focus on the issues needed for county/municipal level stakeholders, that contradicts your other testimony in some regards that you didn't even consult with our fusion center or the people in our criminal Intelligence center, that troubles me.

Colonel Powers:

When you use the word consult, Senator Baker, I'm in touch with the Pennsylvania State Police all the time. They get the bulletin; they got the raw bulletin from ITRR at the same time.

Senator Baker:

Did they ever raise any concerns with you about this contract?

Colonel Powers:

Yes ma'am they did. They were concerned about, in some aspects, on a couple of occasions, they were concerned that some of the information looked like it was of useless value. But I knew from the stakeholders themselves that people we wrote this document for, the people at the lowest level of government, that it was useful to them.

Senator Baker:

Obviously I have many many questions and I don't want to monopolize all the Committee's time. Your comment about the funds to procure the subscription were appropriated by Congress, allocated through DHS to the Commonwealth, no Commonwealth funds were used, but aren't the monies that we collect from the Federal government our taxpayer dollars as well?

Colonel Powers:

Absolutely, yes ma'am. The money that Congress gives to DHS, 15 percent of that is earmarked for critical infrastructure protection, that's the earmark that we're talking about for so you're absolutely correct, yes.

Senator Baker:

We did expend Commonwealth dollars. In my judgment, I believe the Criminal Intelligence Center had the capability and I'm disappointed that they were not vitally a part of this discussion. I have many questions on the bulletin but I will defer for round two and open the questions beginning with Senator Farnese.

Senator Farnese:

Thank you Madam Chairman.

Colonel Powers:

Senator Baker, I'm just gonna, if I could just a moment before we go. There were other agencies that I contacted and did research on to determine if there was a viable alternative to provide us the information. I didn't have a chance to cover those, but they scan the breath of our own internal companies in the state, from the Foreign Policy Research Institute in Philadelphia to Penn State College of Information Sciences and Technology

to Intel Link U to the Open Source Center to some of the agencies within the director of the national Intelligence. And in every single venue I went to and receiving guidance from DHS, the guidance from DHS in Office of Intelligence Analysis is that the state Intel fusion centers that crop up in our establish are designed to take the national strategic level intelligence and focus it more narrowly at the state and county municipal level. We do not have one and that was the State's job, that's where the gap existed so these other agencies I contacted deal with national strategic level intelligence, they don't focus at the county, municipality or state level.

Senator Baker:

How many individuals were disseminated the information in these bulletins?

Colonel Powers:

It depends upon the bulletin itself. The item inside the bulletin, if there was nothing inside the bulletin for the chemical sector, it did not go. It went to a set number of people, of Intelligence people – law enforcement, federal and state law enforcement officials and selected members of the emergency preparedness cabinet every single time.

Senator Baker:

Approximately how many were distributed?

Colonel Powers:

On the given day, about 800.

Senator Baker:

About 800.

Colonel Powers:

800 recipients.

Senator Baker:

And I will just offer...

Colonel Powers:

That's the law enforcement

(inaudible background conversation)

Senator Baker:

I will just offer to you that since this transpired I have heard from only one individual who received the bulletin and they didn't really believe it was essential information, you've called it vital information, they appreciate all your work to collaborate with outside groups, but I have not had one person come forward and say they believe these bulletins were vital.

Senator Farnese.

Senator Farnese:

Thank you Madam Chair. Colonel Powers, just a couple of questions both for you and General French and I know there's numerous individuals here today that have taken time that want to pose questions and I'll be as brief as I possibly can. I do have some, some questions that I had thought about beforehand but just to follow up on the Chair's questioning, there is a part of your testimony when I was reading it that sort of jumped out at me and I think there was a question that she had posed to you, the Chair, and I don't know if you had actually expanded on it at least I'd like to hear what your response is to it and it reads that you mention in your testimony that "The Commonwealth protocols for contracting confirmed this was indeed the only company at the time that could provide the service we deemed necessary". To what protocols are you referring to and what service did ITRR ever provide, and what did they actually do?

Colonel Powers:

Yes sir. The protocols I mention in the statement were that I came up with a proposal for a product, I needed a service performed and I provided this request for services to Department of General Services, and they in turn look at the list of commercial businesses that are registered to do business in the state. If they have somebody that has the service that I need, they allow me to talk to these people. I received the name of ITRR from the Department of Defense from some products that they had received and they told me that was a company that they knew. So, when I went to the Department of General Services I talked to the people in charge and I said I would like to do, I have a requirement for this type of service and they said do you know who has this I said I only know of one company ITRR but I know that you have to perform due diligence in your role as DGS contracting anyway...

Senator Farnese:

Colonel, you came up with the protocols correct?

Colonel Powers:

Sir?

Senator Farnese:

You were the one that came up with the protocols?

Colonel Powers:

No, no it was Department of General Services protocols for contracting. I was simply following their protocols.

Senator Farnese:

Alright so in your statement when you refer to the protocols those are something that the Department came up with, not you?

Colonel Powers:
General Services.

Senator Farnese:
General Services.

Colonel Powers:
Yes sir, in other words, for me to be able to receive services from a company or even talk to them, they have list of companies that provide services and if the companies are registered to do business in the Commonwealth. If I call them and say I would like the following services performed I need a letter contract they would say well here's a list of people that you can talk to because they are registered with the Commonwealth. They didn't have anybody on the list like, with the company with this background. So they said can you suggest somebody, I said yes, I said I'd like to suggest ITRR.

Senator Farnese:
Did you suggest any, when you suggested ITRR was there any other company that you suggested besides ITRR?

Colonel Powers:
No 'cause I had not found anybody else. After talking to seventeen different agencies both inside and outside the state I did not come up with anybody.

Senator Farnese:
Did you perform, do you recall when you performed this search, exactly what did you actually do to perform the search. What tools did you use, who did you speak with, how did you go about actually arriving at this company?

Colonel Powers:
I spoke with individuals for the most part, and in some cases, I went online to see if they offered services. There were two entities, the RAN Corporation and The Center for Strategic and International Studies that are both nonprofit organizations as you probably know, but they don't do tailored products such as this one right here. The other ones within the FBI Joint Terrorism Task Forces, they do not focus on this type of level for critical infrastructure protection. At the National Counterterrorism Center in Washington I spoke with people there. The other places I did speak with individuals and asked if they offered those services and they did not.

Senator Farnese:
Colonel when you were reading the bulletins, as they were coming in did you believe that, quite simple, I'll ask it this way, did you think that you were getting what you paid for?

Colonel Powers:
I did, when I read the bulletins...

Senator Farnese:

Ya did. I....

Colonel Powers:

I took the bulletins as raw data. And to those bulletins I added things that I received from Department of Defense and the other things coming from the Department of Homeland Security; and as I weighted the situational awareness, it was a subjective call. I thought it was important to get the word out to the municipalities and the counties that these incidents might be impact upon their critical infrastructure and key resources.

Senator Farnese:

Let me ask you this then, at any time these so-called "threats", and I put that in quotations, these so-called "threats" expressed in the bulletins, Colonel did they require any emergency response action?

Colonel Powers:

There were not any threats per say mentioned; if it was an immediate threat it usually would have come down through Department of Homeland Security...

Senator Farnese:

Did anything, did anything in these bulletins, put it that way, and maybe I wasn't clear with my questions....

Colonel Powers:

Was it eminent?

Senator Farnese:

Was it eminent, did it require any – any emergency response action?

Colonel Powers:

There were some instances where we had students overseas, we have many colleges and universities across the Commonwealth that have students participating in exchange programs, and there were events listed in the bulletin that we thought was important for the security directors and the chancellors of those universities to notify students and in some cases that's exactly what happened. But....

Senator Farnese:

How many cases, do you recall, how many cases there were?

Colonel Powers:

There were about three or four cases where I was called by the security director of the colleges about a particular entry in the bulletin. They said do you think we should notify the students? We have a group going overseas in another couple of weeks or so. I said that's up to you, but here's all the information we have right now.

Senator Farnese:

Would you consider that, then Colonel, the extent of the "emergency response action taken"?

Colonel Powers:

That was certainly one of them. There were other things as well. There were a couple of cases where the county emergency management coordinators and the local municipality police chiefs thanked us for what we gave them because they did not know that something was going to take place in their area. These were not necessarily threats, they were not, they were not deemed as threats, they were just situational awareness entries in the bulletin to let people aware of what's happening.

Senator Farnese:

I just, Colonel Powers I just, one other question, you know you make the point in your testimony that the \$103,000 is not, the no-bid contract was paid for with Federal grant dollars and not state money but I think we all can agree that regardless of what pot of money it comes out of the funds were taxpayer dollars, were wasted here. And I think that's clear, would you agree with me in that respect?

Colonel Powers:

It is of course taxpayer dollars, yes.

Senator Farnese:

Ok, alright. So could these funds have been used for something else, I mean could we have, I mean we are reading in the papers what we did with these funds, I mean could they have been used on enforcement of other areas of public safety and if so, why weren't they?

Colonel Powers:

As I mentioned, they were earmarked for critical infrastructure protection and associated activities and Intelligence activities to provide situational awareness for that information sharing environment, it was one of those items in the grant guidelines.

Senator Farnese:

Because I mean when I look at this, I mean and again I've noted this and I'll close with this, but I just have serious concerns that an exorbitant amount of time was spent sifting through reports that really, you know, have no real value instead of just actual public safety protection. I mean it's, the goal here is the protection of public safety and welfare and I just don't, when I look at these reports, I just don't see how. And I know you've told me that you believe you got what you paid for and I believe you, you're under oath and maybe you believe that, but Colonel I would respectfully disagree with you. I don't believe you got what you paid for and I think there's a heck of a lot of people around the Commonwealth of Pennsylvania right now that would agree that they don't think we got what we paid for. I know that at least one other person on this panel, my very learner colleague, who I have a heck of a lot of respect for, Senator Ferlo is gonna have some

questions for you but I'm sure he agrees with me on that point at least. And so, I think that we have to take a step back here and the amount of oversight General French, I know you've talked about that you were responsible for ultimately on this, there was clearly a breakdown here and I think what we need to do is, when we finish beating this dead horse, and I know we will and we'll get, we'll finish getting to the point of this, but we have to take a step back and we have to ensure, one of the most important things is that after people like Ms. Cody are made whole, and that this kind of thing doesn't happen again that we have to take a step back and make sure that the process is in place. For me again, the second most important thing after the testimony of the individual that came forward and the other individuals across the Commonwealth that have expressed very very legitimate concerns about their privacy and the very legitimate actions that they've taken being called into question. The process has to be looked at and revamped and I'm sure that in the weeks and months that come as we move forward this Committee will have a say in exactly what that process is and how that process is amended. Thank you, Madam Chair.

Colonel Powers:

Senator Baker, Senator Farnese makes a good point that I'd like to address. The information in this bulletin is subjective depending upon the level of government that you are operating in. For me and for you, does it matter what's happening in Cecil Township? Well it matters to the chief of police who does not have analysts, who does not have researchers and is responsible to the elected leaders there for public safety. It is a subjective call but I made that subjective call and nobody else did on behalf of the guy at the lowest level of government. There are things in there that if I showed my wife she would have said this is useless information to me, but I didn't write it for me. I wrote it and tailored it for the guy on the ground, who has a three person police force, and a volunteer fire force and a mayor who serves as two other capacities as well. It's written for the lowest level of government. And those are the people that provided the input to me on the things that they wanted. As the bulletin changed over time, we began to focus more and more on their priority information needs and that's why, towards the end there right up front the municipality was highlighted, the county was highlighted and what was important to them. As I heard from the police chiefs, I heard from the county coordinators and the emergency management coordinators, so that's why, it is subjective, that is a true statement, it is subjective. But it is situational depended on the level of government. Yes ma'am.

General French:

And Senator Baker if I may, just for Senator Farnese, I 100% agree that what we have done is, we have stopped the bulletin. But what we have to do is continue to make sure that we can close the gap for those various groups. Whether it's the local responders, whether it is the critical infrastructure owners and to do that, we are taking the next step with the task force to makes sure that we can fill that gap.

Senator Baker:

Gentlemen I am going to open it up to other members' questions. You're raising a lot of questions that I continue to have. So Senator Ward followed by Senator Mensch.

Senator Ward:

Colonel Powers you were just talking about the local municipality, the police giving you the information on who to monitor. Did anyone else, how did you, they wanted something monitored or they wanted something asked. Who determined which groups were monitored? Who determined that for you?

Colonel Powers:

Senator no groups were monitored. The information sought by the local municipalities was situational awareness in my municipality. What's happening in and around my critical infrastructure? They never asked me for a group, they never asked me for individuals.

Senator Ward:

Ok. But earlier, what's her name, Ms. Cody was saying they showed up at a family reunion. You know, how did they know to do that?

Colonel Powers:

I can't answer that.

Senator Ward:

Ok. You also said that you talked to the State Police and the State Police had let you know that they did have questions about this. Did Federal Homeland Security ever express any concerns about this?

Colonel Powers:

Not to me, no. The Department of Homeland Security received the bulletin. Their three protective security advisors and regional advisor received the bulletin every single time.

Senator Ward:

Alright, so when you collected the information you, where did it go? Where would an anti-tax issue go? Where would a pro-second amendment issue go? Where did you report this information? Who did you report it to?

Colonel Powers:

The information that came to me was melded with information from the Department of Homeland Security, the FBI and put in the bulletin, and as I mentioned it went to about 800 law enforcement officers every single time.

Senator Ward:

Did it ever go to any private entities?

Colonel Powers:

It did. Depending upon the sector it went to, depending upon the sector involved in the bulletin it went to that sector, if it was chemical, if it was Ag, if it was Transportation it went to the transportation entities. In this particular case, the reason for the hearing today obviously is on the anti-drilling Marcellus Shale issue associated with this. It went to the security directors of the Marcellus Shale companies and DEP.

Senator Ward:

So when you give this information to private entities, what would they have to do with actually stopping terrorism agriculture—I don't understand that, is one of the issues with the State Police that they couldn't share that information with private entities? Would that have been one of the reasons you didn't want to, or didn't choose to use the State Police because you said you hadn't, you've been there a few times, but you hadn't really talked to them about whether or not they could handle it, you just assumed that from your relationship with them.

Colonel Powers:

If I may address the first part, the first question. It was not about terrorism, it was about all hazard situation awareness nobody ever called these groups terrorists or threats. The owners and operators of 85% of our critical infrastructure, they're the only ones that can do something about our situational awareness. About, I guess it was mid August, the FBI put out a bulletin about environmental extremists – I think was the word that they used – because there had been a nexus and they had seen a trend and pattern developing across the Marcellus shale region about incidents and criminal acts of vandalism and so forth associated with the drilling sites. So, we did not put this out as a threat or an indicator it's just situational to awareness that groups were demonstrating/protesting and nobody ever said anything about their first amendment rights being violated it was just about situational awareness. It was not to highlight them in any way. They were no more highlighted, Senator, than the other groups mentioned throughout the bulletins.

Senator Ward:

None of that really makes any sense to me at all – that we would go monitor private citizens and private groups and they're not a threat to us is what you're just saying. It's just for awareness, it makes absolutely no sense and it does make me think where are we living?

Colonel Powers:

If I could...if I could say something in rebuttal, as I mentioned before, we never targeted groups, we never targeted individuals – that was not the goal of the program.

Senator Ward:

Did you ever monitor elected officials?

Colonel Powers:

No, we did not.

Senator Ward:

Okay, and I just have one question for you General French. You said that you had not talked to the Governor or the Governor's office. Has anyone in your department, did your department ever work with the Governor's office on this—maybe not just you, but anybody in general. Did they know about any of this before?

General French:

Relative to the approval of the contract, which is the question I was answering before Senator Ward, I did not consult with the Governor's office or with the Governor himself on the contract per say. Information that was in the bulletin was distributed based upon whatever the focus areas were, in other words whatever critical infrastructure areas that did include the Governor's Council for preparedness, the GPIMC.

Senator Ward:

Okay, I guess I really wasn't just referring to just the bulletins. I was getting back to when it started, when you began this contract, did anyone from your offices work with anyone from the Governor's office in determining whether or not to do this or proceed with this?

General French:

No Ma'am, it was done internally based off the investment justifications and the allocations that DHS gives as far as the parameters.

Senator Ward:

(whispering) Thank you.

Senator Baker:

Senator Mensch, before I move on to your question, I have a question about the situational awareness you mentioned with particularly gas drilling companies. To your knowledge any of the information you provided, were any of these activists or citizens potentially arrested or did they conduct themselves in any improper manner by sending that situational information out? I'm not aware of anybody targeting or doing anything inappropriate at a site, do you have any information to the contrary?

Colonel Powers:

No Ma'am, I am not aware of what they did on the site itself. The information went to the Security Directors of the companies....

Senator Baker:

But you are not aware that as a result of that bulletin that there was anything to be concerned about in the field? And my one last question, which I would like to get to while we're here; how do you justify your email to Ms Cody?

Colonel Powers:

Ms....that was a good...I thought it was a good email, I was hoping Ms Cody was gonna respond to me. We had had, as I mentioned a week before that I received a FBI bulletin was talking about environmental extremism how the criminal acts of vandalism had ramped up over time. And I was hoping that these demonstrations were gonna be just peaceful, like they should have been, normal activists exerting their first amendment rights. I was hoping it was not gonna go beyond that because we had had these indications. In that particular bulletin, bulletin 131, that Ms. Cody had mentioned, where they were called environmental extremists – that was the FBI threat assessment – that was not our depiction, although what we printed in our bulletin passing on the information the FBI gave us. I didn't want to see it get any worse. Mrs. Cody did not realize that in my personal life, I live on an acreage that requires well water; I'm not on city water. And I was hoping that our conversation could go back and forth and she would understand my plight. I have a right to protect their interests as well and I have a right to protect, in my official capacity, the businesses are legally doing operations in the Marcellus shale. I didn't want to see....

Senator Baker:

But you've indicated to this committee that nothing rose to the level of being a problem and as a citizen, you're chastising her about sharing the same kind of information that was routinely distributed in a non-secure manner if I'm correct in how that was done. Obviously if it was done through the Criminal Intelligence Center of State Police, they have protocols with security so, number one, you weren't distributing it in a secure manner and number two, I don't think it was appropriate to chastise her for sharing that information that came her way.

Colonel Powers:

I didn't see it as chastising. I just mentioned to her that we normally distribute this to the stakeholders and operators and owners of the critical infrastructure. It was not meant for the outside. The caveat on the bulletin that goes out....

Senator Baker:

But, if it's not meant for the outside then I think the secure approach was really troubling to me that you didn't have that taken care of. So, that's my comment on that. I'll pass it on to Senator Mensch.

Senator Mensch:

Thank you madam chairwoman, gentleman, is the Institute of Terrorism Research and Response an intelligence gathering organization?

Colonel Powers:

Yes Sir. As I understand it, it is.

Senator Mensch:

They have active people seeking information. How many people do they have?

Colonel Powers:

I don't know exactly. You can ask Mr. Pearlman, I think he's here today. I don't know.

Senator Mensch:

But you've let the contract -- what was your expectation?

Colonel Powers:

I understood from talking with Mr. Pearlman that he had employees in about 72 different countries and that the analysts were in Israel. A lot of researchers were over there. Most of their stuff was done open source. That was...

Senator Mensch:

Define Open Source.

Colonel Powers:

I didn't know the number of employees.

Senator Mensch:

Define Open Source.

Colonel Powers:

Excuse Me.

Senator Mensch:

Define Open Source.

Colonel Powers:

Open source, Sir is the same thing you can find in the public domain. Things available to the public, on the internet research and so forth.

Senator Mensch:

So we have, in my mind, something that equates to a news clipping service. Is that right?

Colonel Powers:

Not necessarily, sir. It is one thing to take things out of the press, out of the public domain, but you need to analyze it against other known factors as well and that's where the analysis comes in. We did not have the analytical capability, nor did we have the people even to do the basic research.

Senator Mensch:

Alright, so they will take some information that's in the media that I could read and I can make certain assumptions as well. Like, one of the things I read is about a Turkish pipeline being threatened. You know, Islam activity near a Turkish pipeline. Well, I think most of us would extend our thought to say, gee if that activity is occurring near a pipeline, wouldn't that pipeline be threatened? Again, I'm questioning the veracity of that