

Statement of Joseph N. Miniace, Before the Subcommittee on Oceans, Atmosphere and Fisheries Senate Committee on Commerce, Science and Transportation United States Senate October 11, 2001

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Pacific Maritime Association
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Mr. Chairman, members of the Committee, I am Joseph Miniace, President and Chief Executive Officer of the Pacific Maritime Association (PMA). On behalf of our member companies, I appreciate the Subcommittee's invitation to provide comments as part of the record of its October 11th hearing on sensitive maritime security issues. By way of background, the principle business of the PMA is to negotiate and administer maritime labor agreements with the International Longshore and Warehouse Union (ILWU). The membership of the PMA consists of domestic carriers, international carriers and stevedores that operate in California, Oregon and Washington.

The PMA and its member companies extend our thoughts and prayers to the victims and their families of the terrorist attacks on September 11. We also extend our prayers to those that are defending our nation and system of government. In this time of self-reflection we have much to be proud of and much to be thankful for.

The events of September 11 stunned the world with their savagery, swiftness and disregard for human life. The attacks were well coordinated and hit at the very heart of our business, trade, emergency and military capabilities. But for the heroic actions of passengers on United flight 93 the toll could have been even higher and included other powerful symbols of our democracy. Due to the multiple coordinated attacks, everyone throughout our country was asking the question "Who (or what) is going to be hit next?" These attacks have been a wake-up call for us all - to assess the threats against us and evaluate our vulnerability to those threats. These attacks have changed the way we must do business.

The Coast Guard is the Department of Transportation agency assigned to provide port security at our nations seaports. However this is only one of the many duties they perform. In conjunction with other federal and state law enforcement agencies, the Coast Guard provides drug and fisheries patrols and law enforcement, alien migrant interdiction duties, marine environmental pollution regulation and on scene coordinator cleanup enforcement, hazardous materials shipping and marine safety inspections on passenger vessels, tankers, and cargo vessels, search and rescue, and port security. The Coast Guard is a uniformed service with domestic law enforcement authority as well as a military service that augments the Department of Defense in time of war. It is important to note that with all of the responsibility, the Coast Guard's budget and manning is at a 10 year low.

Maritime Domain Security

The maritime industry and the governing federal agencies reacted immediately to the terrible events of September 11, 2001. The Coast Guard like every other Federal Agency went on high alert to reduce the vulnerability of our ports and terminals to ensure that no other attacks would occur. In Southern California, the Coast Guard immediately responded to the Pacific Maritime Association requests for planning and informational meetings about the incident and additional security measures. Waterside and shoreside patrols were increased. Vessels were boarded at anchorage prior to entry to check crew and cargo documents. Vessels were escorted into and out of the harbor. Tankers were restricted to daylight transits only.

Other west coast Captains of the Port held meetings with the various maritime interests to develop best terminal security practices and worked cooperatively and systematically to increase port security coverage within their ports. They directed our members to review security plans for their terminals and increase security in light of the attacks. They inspected facilities for security perimeters, and increased container inspections.

In San Diego and Port Huneme the Coast Guard worked in concert with the U.S. Customs Service, the U.S. Navy and the Port Police to maximize patrol coverage. Longshore workers going on military facilities to handle cargo have come under additional screening. The Coast Guard has brought in reservists and auxiliaries to augment their resources to accomplish this increase in security.

We have seen a marked increase in Maritime Domain Security with the screening and vetting of vessels, offshore vessel boardings, a prototype "Sea Marshal" program in San Francisco, and the recent publication of the Temporary Final Rule in 33 CFR 160 Temporary Requirements for Notification of Arrival in U.S. Ports. We have also seen a large increase in waterside vessel patrols, and cruise vessel escorts. These efforts have been focused on reducing the vulnerability of a hostile crew taking over the control of a vessel, as well as a "USS Cole type" external action against a vessel. Cruise vessels and their terminals have historically been required to implement heightened security and have Coast Guard approved Security Plans as outlined in NVIC 3-96 Security for Passenger Vessels and Passenger Terminals in the wake of the Achille Lauro incident in 1985 and the subsequent passage of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Local Facility Security

We have also seen some Local Facility Security increases but not to the same degree as the Maritime Domain Security increases. These efforts have been centered on inspecting the physical security perimeters of marine terminals, opening and inspecting more containers, and

reviewing terminal security plans (generally developed under the requirement of OSHA rules in 29 CFR 1917.30 Emergency Action Plans). There are no comprehensive Coast Guard Regulations requiring terminal security measures. Terminal Security Sub-Committees set up under the auspices of the Marine Transportation System (MTS) port committees are in their infancy and are ramping up to provide input on the short term and long term security measures that should be in place in and around our marine terminals to the National MTS Committee.

We feel the Coast Guard resources are stretched to the breaking point especially in the two largest ports in America - Los Angeles and Long Beach. The current tasking focus, primarily on Waterside Port Security in the aftermath of Sept 11th, has resulted in accomplishing this mission to the exclusion of all others. The Coast Guard should be funded, manned and equipped to be the premier Federal Maritime security agency. Working in concert with the U.S. Customs, the Coast Guard should be controlling the "Local Facility Security" as well as "Maritime Domain Security" in and around our marine terminals.

Access to Waterfront Facilities

At our facilities, we have an opportunity and an obligation to do better. Our west coast marine cargo terminals have grown to become small cities. 200 - 400 acre terminals are the norm in Los Angeles-Long Beach, and 50-100 acre terminals are the norm in Oakland and Tacoma. Thousands of trucks roll into and out of the terminals each day. Longshore workers, company employees, contractors, vendors, ship handlers, ships crew and visitors, and package delivery companies all visit these terminals on a daily basis. Over 6 1/2 million TEUs (twenty foot equivalent units) of containers will roll through the ports of Los Angeles - Long Beach this year. Given the volume of traffic moving in and out of marine terminals, coupled with the large number of itinerant workers involved in cargo operations, there is virtually open and unrestricted access to marine terminals.

There is no regulatory requirement for each person to have identification; there is no regulatory requirement to check identification and positively determine that the person is who they say they are nor is there a system to track or validate one's presence on a marine terminal. Only truck drivers are required to present their license for access to a terminal – and that type of system is in place primarily to coordinate the pick up or delivery of cargo rather than for security reasons. Most terminals conduct these checks, but quite frankly some do not. There simply have been too many transactions on a day-to-day basis to check all identifications. The gates are backed up now. Additional delays to further check driver identification have not been acceptable. September 11th changed all that.

While several steps may be needed as part of a long-term effort to secure the maritime transportation system, the most urgent priority is to establish controls over who has access to marine terminals. In most major ports, there are virtually no controls over who enters the terminals, leaving these critical facilities open to those who would engage in acts of sabotage or seek to move weapons of mass destruction through the port facilities.

Identification System

A system that can and should be implemented with relative ease and not be intrusive would be to require all people seeking access to marine terminal facilities to have an identification card which would be used to record entry and exit to a waterfront facility.

We have an obligation to check. We must know who is on a terminal at any time. We have the obligation to provide credentialing that positively identifies the bearer. Furthermore, we also have an opportunity that was not present when the current Coast Guard Port Security Card Program was implemented in WWII. Technology has changed tremendously. We need to employ the latest technology to quickly conduct positive identification checks as part of normal business. It is only through the comprehensive and integrated linking of technology that we can bring the enormity of the problem and the vulnerability at our marine terminals under control.

First, in the near term, all persons coming into marine terminals should be required to carry an approved form of identification and be positively identified with that identification prior to entry. In the long term, integrated systems employing swipe cards, finger print/face/iris readers or other advanced technology means must be used to effect a rapid positive identification.

Persons that do not have credentials but who have a valid purpose for entering a waterfront facility, should be admitted to the facility but only if their identity and business purpose is verified by the port authority or a waterfront company. The credential must be coupled with a requirement that the card be scanned each time the worker passes through the entry gate to the terminal and verified against a database of scheduled bona fide workers.

The Coast Guard should be able to prescribe the essential technical elements and protocols of an approved integrated identification system (much like Customs is doing with their International Trade Data System) and let the private sector build and run it.

Identification of Vehicle Operators and Rail Employees

To control and track the countless interchange of trucks and rail traffic, we would propose that all vehicle operators entering a waterfront facility must have an identification credential. This system must be integrated with other DOT agencies with oversight for workers coming on marine terminals (i.e. FRA and FHA). These identifications could be issued by an organization or entity approved by the cognizant agency (e.g. a port authority). The Coast Guard or other designated federal agency would have the responsibility for oversight and monitoring of these positive ID systems. One essential element is that these systems must be able to "talk" to the Coast Guard and the other federal law enforcement agencies. If there is a "look-out" on a particular person the federal authorities should know if that person is attempting to enter a marine terminal.

To illustrate just how far apart we currently are, we recently received an 85 page FBI look out list from MARAD with the latest Transportation Security Information Report (TSIR). It contained the names, aliases and addresses of hundreds of people of interest to the FBI. The TSIR asked that "security personnel reconcile the name list with the names on your facility's employee access list." We have no way of screening this paper list with the thousands of truckers, and workers crossing into our terminals each day. If we are serious about security, we need an electronic system that can track people in the terminals and can also be used by the proper authorities to reconcile the lookout lists.

Advance notice of arrival

Secondly, no one should arrive at a marine terminal unannounced. Just like the 96 hour notice of arrival requirement for the vessel, there should be a scheduled arrival requirement for truckers picking up containers, contractors, employees, vendors, ship chandlers and visitors. At some terminals over 3000 trucks arrive each day to drop off and pick up cargo. They are often queued in long lines that are inefficient, environmentally damaging and congest terminal gates. Automated appointment systems would have the triple benefit of improving security, relieving congestion and reducing idling pollution.

Vessel crew lists should be provided to marine terminals in advance of the vessel arrival. Lists of vendors attending specific vessels should be provided to the terminal by the agent. Service and contract vehicles and drivers should be identified prior to arrival. Terminals should also be advised in advance of the trains and their crews operating within the terminal (on dock rail deliveries).

With few exceptions, longshore workers are operated on a multi-employer "hiring hall" employment basis. Longshore workers are dispatched on a daily basis to terminals each day and may work for more than one terminal on any given day or week. For the most part, individual terminal operators have no control over who is sent to work in their facilities, nor track who is present at any given time or why they are there. Dispatch for the workers, like the truckers, should be set up in advance, so terminal operators will have a complete list of who is authorized to enter their facility that day and time.

An orderly flow will result in more time to process, scrutinize and record the identification of all persons entering marine terminals. Moreover, only bona fide scheduled workers will be admitted to the terminals.

Background Checks

Criminal background checks must be performed on all personnel working on a marine terminal. However, as we proceed to increase security on our terminals, we need to be mindful of creating unnecessary disruption to the livelihood of the patriotic Americans that currently work at our terminals. Criteria must be established with respect to limiting the criminal background check to a specified period of time, limited to specific crimes and allow the workplace applicant the ability to present information that would be a mitigating circumstance or factor with respect to a criminal violation. Criminal background checks should be conducted by either federal, state or local law enforcement agencies who have access to national (and international) criminal databases. The private sector does not have the expertise or access to law enforcement databases that bona-fide law enforcement agencies possess. In addition, federal criminal background checks should not conflict with existing state law requiring criminal background checks if the state requirements are shown to be at least as effective as the federal requirements.

Drug and Alcohol Testing Requirements

The marine terminal industry workers are exempt from federal statutory drug and alcohol testing requirements. Congress has enacted drug and alcohol testing requirements for employees working in every other intermodal transportation mode. Substance abuse on marine terminals is not only a health and safety concern, but compromises the integrity of waterfront security.

Stakeholder Participation

Finally, any federal legislation addressing seaport security must provide local terminal operators, ocean carriers, labor unions and others with a voice in developing seaport security plans. Each terminal is unique in terms of geography, customers, cargo and facilities – and thus faces different threats and vulnerabilities. We are currently working with the local Marine Transportation Systems (MTS) groups. Terminals must be given an opportunity to help shape measures implemented to ensure their security. With this flexibility, however, comes a responsibility and the need for some type of sanctions or enforcement on terminal operators for failure to implement mandated security requirements. At present there are few regulatory requirements for terminal security. As we go forward, the requirements developed should be formalized to ensure uniform application throughout our ports.

In summary, the PMA greatly appreciates the efforts of the United States Coast Guard and other federal and local law enforcement agencies following the terrorist attacks of September 11th. The security of our seaports is a national security issue. We must focus on awareness, preparation and prevention. The PMA member companies stand ready to work with the Congress and agencies such as the United States Coast Guard in an effort to deter the use of our seaports as a vehicle for terrorist attacks – and to maintain the viability, vitality and integrity of our marine transportation system.