The "Dirty Bomb" Issue in Congress

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November 18, 2003

Three Key Points

1. **RDDs have been a minor issue for Congress.**

2. **Congress has acted on RDDs.**

3. **RDDs have had limited traction in Congress.**

RDD Issue: An Ant among Elephants

Homeland Security one of many policy areas

$2.2 T budget

13 annual appropriation bills

Other legislation
- Aid foreign countries in fighting disease
- Extend unemployment compensation
- Amend school lunch program

- Name the Floyd Spence Post Office Building
- Revise boundary of Glen Canyon National Recreation Area
- Extend Abraham Lincoln Bicentennial Commission

RDDs – One of Many Threats

Weapons

RDD
Nuclear, chem, bio, explosives, cyber

Delivery vehicles

Missiles
Ships, trains, aircraft, cars
Internet, mail, smugglers

Targets

Bridges, tunnels
Ports, airports
Gas pipelines, water works
Nuclear power plants, chemical plants
Malls, schools, sports events

Many RDD bills introduced in 2003 ...

H.R. 891 (Markey): Dirty Bomb Prevention Act
Would establish task force to make recommendations on sealed source security, which NRC would implement

H.R. 1389 (Crowley): Homeland Emergency Response Act of 2003
Would direct Secretary of HS to establish a program to help first responders respond to terrorist incidents involving WMD

H.R. 1449 (Millender-McDonald): First Responder and Emergency Preparedness Block Grant Program for Local Governments.
Would establish a program to help first responders respond to terrorist incidents involving WMD

S. 6 (Daschle): Comprehensive Homeland Security Act of 2003
Title IX, WMD, would help IAEA counter nuclear terrorism; strengthen nonproliferation programs in fSU; and permit Cooperative Threat Reduction funds to be used outside fSU

S. 193 (Landrieu): Radiation Detection for Dirty Bomb Material in Containers and Bulk Cargo Act of 2003
Would direct Secretary of Energy to carry out a program to detect radiation, especially that emitted by isotopes that could be used in an RDD, at seaports and land points of entry

S. 350 (Clinton, Gregg, Reid): Dirty Bomb Prevention Act of 2003
Would amend the Atomic Energy Act of 1954 to reduce security threats posed by radioactive materials (excluding nuclear fuel or spent nuclear fuel) that could be used to harm the public, such as through an RDD

S. 1147 (Boxer): High-Tech Port Security Act of 2003
Would require "every cargo container carried by a vessel entering the United States [to] be screened for radioactive and explosive materials before the container leaves the port"

S. 1161 (Lugar): Foreign Assistance Authorization Act, Fiscal Year 2004
Title III, Radiological Terrorism Threat Reduction, would authorize $15 M to secure radiological sources worldwide

... of these eight, one has advanced

H.R. 891	Referred to subcommittee 3/10/03
H.R. 1389	Referred to subcommittee 5/5/03
H.R. 1449	Referred to subcommittee 4/2/03
S. 6	Referred to committee 1/7/03
S. 193	Referred to committee 1/17/03
S. 350	Referred to committee 2/11/03
S. 1147	Referred to committee 5/23/03
S. 1161	Referred to committee 5/29/03 Reported from committee 5/29/03 Included in another bill (S. 925) that was debated in Senate, 7/10/03

Few bills become law

	Bills introduced	Became law	Percent
1/3-11/4/03	5241	103	—*
2002	3455	246**	7.1
2001	5501	137**	2.5
2000	3454	431	12.5
1999	5514	173	3.1
1998	2876	247	8.6
1997	4656	157	3.4

* No percentage is given because some bills introduced in 2003 may become law in 2004.

** Of the 377 bills that became public laws in the 107th Congress, 45 (12%) were to name post offices. (Another 6 bills became private laws.)

Spectrum of Congressional Activity on RDDs

Legislation

Establish agencies and programs
Make policy
Provide funding

Oversight

Hearings
Meetings

Public awareness

Hearings
Legislation
Congressional debate
Press releases
Public/media events

Some behaviors fall outside the observed spectrum of congressional action

Attention to RDDs

Not a lot – but don't judge by quantity

A few words from Congress can have large consequences

Establish S&T Directorate in DHS – 15 pages (HS Act, Title III)

Define responsibilities for Under Secretary for S&T
Transfer programs from DOE and DoD
Define coordination with DHHS on health-related R&D vs. WMD
Authorize establishment of or contracts with FFRDCs
Establish HSARPA, HS S&T Advis. Comm., HS Inst., HS Tech Clearinghouse, Ofc. for Nat'l Labs
Provide for conduct of RDDTE
Authorize use of DOE labs and sites

Transfer Plum Island

Attention to RDDs (continued)

Fund Directorate of S&T (FY04 approp.)

$874 M
Includes $127 M for nuclear and radiological countermeasures
Reduces sensor R&D by $3 M
Provides TSA $4 M for nuclear detection and monitoring

Set policy

DHS Undersec. for S&T coordinates USG civilian efforts to develop CBRN countermeasures
No DHS funds for DOE lab LDRD other than to support HS

1993 example on radiological dispersion

> "None of the funds appropriated pursuant to this Act or any other Act for any fiscal year may be available to maintain the capability of the United States to conduct atmospheric testing of a nuclear weapon." (P.L. 103-160, sec. 3137(b))

This sentence ended a 30-year policy

Legislation by Accretion – Not All at Once

Congress often acts over time in multiple laws
Legislation in one area may occur as pieces of other legislation
Capability grows as programs build up
RDD-related examples:

Cooperative Threat Reduction Act, 1993

Sec. 1202 of FY1994 National Defense Authorization Act (P.L. 103-160)
Provides for programs to counter WMD proliferation in former Soviet Union

Defense against Weapons of Mass Destruction Act, 1996

Title 14 of FY1997 National Defense Authorization Act (P.L. 104-201)
Definition of WMD includes dissemination of radiation or radioactivity
Directs President immediately to enhance USG capability to respond to WMD incidents
Provides for testing of preparedness for CBRN emergencies
Provides for procurement of equipment to detect movement of WMD into the US

Legislation by Accretion (continued)

National Defense Authorization Act, FY1998 (P.L. 105-85)

Sec. 234 requires Sec. of Defense to report annually on threat to US by WMD proliferation

Homeland Security Act of 2002 (P.L. 107-296)

Consolidated Appropriations Resolution, FY2003 (P.L. 108-7)

Provides $5 M for NNSA's RDD program to control materials outside fSU

DHS Appropriations Act, FY2004 (P.L. 108-90)

Executive Branch, Not Congress, Executes Programs

Many Executive Branch programs and agencies bear on RDDs

Regulation of domestic radioactive sources (NRC)
Control, containment of foreign sources (DoD, DOS, DOE)
R&D (DOE/labs, DHS/S&T Directorate)
Border security (DHS/Directorate of Border and Transportation Security)
Control of vectors (DOT, DHS/USCG, TSA, Customs)
Emergency planning and response (DHS/FEMA)
Technologies to disable terrorist devices (DOJ, DOE)
Health-related R&D related to CBRN countermeasures (DHHS)
Detection and disruption of terrorist plots (CIA, FBI)
Measurement standards for ionizing radiation (DOC/NIST) ... and many more

Executive Branch and Congress have different roles and act in different ways: separation of powers and division of labor

Don't mistake Executive Branch action for congressional inaction!

RDDs Have Had Limited "Traction" in Congress. Why?

- **No constituency**
- **Potential counterconstituency**
- **Uncertain threat**
- **Threat burnout**
- **Contrast with bioweapons, air transportation safety**

No Constituency

Constituency behavior

Constituencies are often reactive

Bioterrorism (anthrax), air safety (9/11)

Broad constituency to improve border security because of illegal immigration, drugs, crime

Or constituencies will act in advance to avert a direct threat

Port operators, importers, exporters, shippers, truckers, manufacturers, and farmers fear that a nuclear bomb in a cargo container would paralyze world shipping

Constituencies want no delays, no added regulations, and payment by USG – benefits without costs

Contrast with RDDs

No one hurt yet by terrorist RDD

No one directly identifiable as likely RDD victim

Congress often responds to constituencies and reacts to constituency-forming events

Congress, reflecting its constituencies, typically has been more reactive than proactive

Potential Counterconstituency

Regulations impose costs

- More security for shipping and for on-site rad sources
- Higher costs for disposition or alternative tech
- More record-keeping, delays
- Monitoring roads within US

Cost-bearers self-identify

- Oil well drillers, irradiators, other industrial users
- Research universities, hospitals

Unclear if further restricting rad material would help them

- RDD threat unclear
- Terrorists might obtain materials overseas
  - IAEA: >100 countries may have inadequate controls to prevent theft of RDD materials
  - Co-60 irradiators in Cuba, Indonesia, Iran, Pakistan, Syria, etc.
- Terrorists might obtain materials within US

Easier to identify losers than winners

Costs without benefits – a weak political position!

Confusion on RDD Threat

- **RDDs classed as WMD – but less a threat than nuke, bio, and perhaps chem**

- **Many rad sources – but most aren't a threat**

- **RDD: mass destruction, mass disruption, or just a mess?**

- **Rad sources obtained in US and abroad, and RDD is low tech – but if RDDs are easy to make, why no attacks?**

- **Cleanup: razing a city, or scrubbing and paving?**

Overuse Weakens Scare-Scenario Impact

Congress bombarded by claims of looming catastrophes

Why should Congress listen if not important?
Why should Congress listen now if not urgent?
Entree: "Congress must act immediately or else ..."
Broad policy areas: health, environment, economy
Narrow areas too

Easy to tune out ...

Example: terrorism reports pre-9/11

... but some factors can focus attention

Presidential initiative
Strong constituency pressure
Effective lobbying
Vigorous effort by key Members

Predicted disaster happens

Contrast to Bio Threat

Threat credible, readily understandable

- US, USSR had bio warfare agents; rogue states reportedly have them
- Fear of smallpox; anthrax attack killed several people, closed Capitol Hill

Constituency – clear winners, $ available

- Companies doing R&D, product sales
- Universities doing R&D

No counterconstituency

- No case for selling smallpox
- Few object to restricting bio agents

Administration leadership

- President proposed Bioshield in State of the Union-2003
- Biodefense countermeasures: FY04 request, $890 M
- Strategic National Stockpile: FY04 request, $400 M
- Bio countermeasures: FY04 request, $365 M

Similar story for aviation security post-9/11

Wrapup

RDDs have been a minor issue for Congress

- Many issues, large and small, receive more attention
- RDDs are only one of many HS issues

Congress has acted on RDDs

- Rarely much in any year
- Often part of action on broader issues
- Actions accrete
- Congressional and executive actions differ

RDDs have had limited traction in Congress

- No constituency
- Potential counterconstituency
- Uncertain threat
  - Threat burnout