

## Chapter 19: The Homeland Security Connection

Over the past three years I've come to understand many of the nuances of Traffic.com's very clever *modus operandi*. The technology leaders of the company (many of whom I know or know of through my 14+ years of experience in the ITS field) early on realized that accurate and comprehensive real-time traffic data was the necessary foundation of the traveler information business. The less data you have, the more your advice to travelers will be based on guesswork or extrapolation; the more you have, the more accurate and reliable that advice will be. Over time, customers will certainly come to value the difference.

Armed with that appreciation of the intrinsic value of the underlying real-time traffic data stream, the company then used its extraordinary political connections (with Shuster, Mineta, et al), strategically placed political donations (e.g., for Cong. Don Young), and high-level lobbyists to engineer their federal monopoly, one result of which is what I call their "data lock scheme."<sup>1</sup> In a nutshell, this scheme enables the company to effectively "own" and control the publicly subsidized traffic data from the TTID program in many of our nation's most traffic congested cities.

Since the early to mid-2000s, the company has routinely used the impact of its data-lock scheme as a marketing tool, especially to convince radio and TV stations in big cities to use Traffic.com, rather than other long-time providers Westwood One and Clear Channel, as their traveler information provider. Here's an excerpt from a 2003 press release<sup>2</sup> announcing that the Illinois Tollway system in Chicago had signed up to participate in the ITIP program:

Traffic congestion costs every Chicagoan over \$500 annually in wasted time and fuel consumption. Traffic Pulse provides Chicago-area travelers on the Illinois Tollway and other expressways information through Mobility's advanced data collection, integration and distribution technologies that were successfully implemented in Philadelphia and Pittsburgh.

The free Traffic Pulse Web site is available to the public starting today at [www.Mobility Technologies](http://www.MobilityTechnologies.com). Access to Traffic Pulse updates also is available via television and radio reports from WMAQ-TV NBC5, WFLD-TV Fox 32, Tribune CLTV and FM radio stations WCCQ, WDEK/WKIE/WKIF, WDRV/WWDV, WFMT, WLEY, WKQX, WLUP, WMVP, WNND, WNWI, and ONDA.

"Mobility's advanced data collection" capability, of course, was referring to the pole-mounted detectors that were installed as part of the ITIP program. The data from those

---

<sup>1</sup> For more details of the data-lock scheme, see this white paper:  
[http://www.itsonline.com/ttid/datalock\\_scheme.pdf](http://www.itsonline.com/ttid/datalock_scheme.pdf)

<sup>2</sup> "Illinois Tollway Partners With Mobility Technologies To Help Chicago-Area Motorists Improve Travel Plans" (press release), December 15, 2003, [http://corporate.traffic.com/press/december\\_15\\_2003.html](http://corporate.traffic.com/press/december_15_2003.html)

## The 'Smart Road' Scam: The Homeland Security Connection

detectors, although subsidized from taxpayer dollars, was effectively owned and controlled – “locked” -- by Traffic.com. Practically speaking, neither Westwood One nor Clear Channel nor any of a number of innovative smaller traveler information companies could access it.

While Traffic.com's 2003 press release touted the fact that “Traffic Pulse provides Chicago-area travelers on the Illinois Tollway and other expressways information through Mobility's advanced data collection, integration and distribution technologies,” that statement would turn out to be very misleading, if not outright wrong. Not long after signing up for the ITIP program, Traffic.com's local DOT partner, the Illinois Tollway Authority, would find out that it could not use ITIP data to provide one of the most useful types of traveler information -- travel times -- to “Chicago-area travelers.” Excerpting from a FHWA-sponsored study, “Real-time Traveler Information Services Business Models: State of the Practice Review”:

On the other hand, some agencies who entered into ITIP contracts in order to take advantage of external funding to kick-start or otherwise enhance its traveler information program have found the restrictions on the ITIP data limiting. In the case of the Illinois Tollway, for instance, the ITIP agreement prohibited the posting of ITIP travel times on the agency's DMS<sup>3</sup>. In response, the Tollway developed a program to calculate its own travel times, without the ITIP sensors. As a result, the travel times on the DMS and the Traffic.com Web site would differ slightly.

Because the publicly subsidized data from the ITIP program was *not* available to the Illinois Tollway Authority to use to provide travel times to the public, the agency had to separately and redundantly come up with their own program to do so using data from other sources. In other words, because of the very lopsided nature of the ITIP program public dollars had to be spent twice for the same purpose, providing travel times for people using the Illinois Tollway.

The Metropolitan Transportation Commission (MTC) in the San Francisco Bay Area, long a public sector leader in provider traveler information to its constituents, expressed a similar concern that they cannot use publicly subsidized data from the TTID program for providing guidance via its 511 “national travel information telephone number.”<sup>4</sup> “With respect to traffic data, the California Department of Transportation (DOT) has real-time data on their freeways provided by traffic.com that is not available to 511<sup>5</sup>,” observed Melanie Crotty, MTC's Director of Travel Coordination and Information, on Feb. 12, 2008. Her remarks were included in the “overarching comments” section in feedback to

---

<sup>3</sup> “DMS” stands for “dynamic message signs,” the large lit signs along roadways that provide information about road closures, “Amber alerts” or, in this case, travel times

<sup>4</sup> More background on 511 here: <http://ops.fhwa.dot.gov/511/about511/history.htm>

<sup>5</sup> Publication of Interim Guidance on the Information Sharing Specifications and Data Exchange Formats for the Real-Time System Management Information Program, Feb. 12, 2008, <http://www.regulations.gov/fdmspublic/ContentViewer?objectId=09000064803acab0&disposition=attachment&contentType=msw8>

## The 'Smart Road' Scam: The Homeland Security Connection

the USDOT on its interim guidance for data exchange formats for the Real-Time System Management Information Program. "It would be valuable if there were a federal requirement that service information (including real-time data) from public transportation providers (e.g. transit agencies and DOTs) be shared with 511 service providers," she concluded. [Editor's note: California DOT, also known as "Caltrans," was the public sector entity that signed the TTID agreements with Traffic.com on behalf of the cities of San Francisco and San Jose, CA.]

Similar limitations in the Atlanta area would prompt an Editorial Board member for the *Atlanta Journal-Constitution* to call the TTID program "highway robbery" and "one of the oldest con games in the book,"<sup>6</sup> and he was absolutely right.

-----

Traffic.com had used its extraordinary political clout with and within the U.S. Department of Transportation to engineer their data-lock scheme to give the company virtually exclusive rights to publicly subsidized data. However, the company's executives early-on realized that its preferred access to real-time traffic data could translate into big bucks in another big federal agency, the U.S. Department of Homeland Security.

Having sat in numerous meetings in recent years with representatives from large transportation consulting firms, I knew that these firms saw DHS as a potential gold mine for new business. After all, the huge new federal department had an enormous budget but, in contrast to the USDOT, few formal procedures and even less oversight. These firms saw DHS as a potential big-time mother load of federal business.

As these consulting firms were trying to figure out how to tap into this rich new source of federal dollars, Traffic.com was already way ahead of the game. Repeating the strategy it had successfully used to create a federally subsidized monopoly within the USDOT, the company would once again try to use its "inside/outside influence game" to try to tap into DHS' money stream.

-----

The Department of Homeland Security, which was created on March 1, 2003, grew out of the "Office of Homeland Security" that had been created as a direct result of the Sept. 11, 2001 terrorist incidents in New York, Washington, and Philadelphia. Of its many components, the department encompasses two that are each possible customers of Traffic.com's "advanced data collection, integration and distribution technologies": the Transportation Security Administration (TSA) and the Federal Emergency Management Agency (FEMA). The former entity plays a major role in helping people evacuate from

---

<sup>6</sup> Sensors and insensibility: state is asked to pay for traffic info taxpayers already funded, *Atlanta Journal-Constitution*, Aug. 29, 2007, [http://www.itsonline.com/trfc/articles/sensors\\_and\\_insensibility\\_ajc.pdf](http://www.itsonline.com/trfc/articles/sensors_and_insensibility_ajc.pdf)

## The 'Smart Road' Scam: The Homeland Security Connection

terrorist incidents, and the later plays a similar role related to natural disasters. Here are brief descriptions of both entities from DHS' website<sup>7</sup>:

*The Transportation Security Administration (TSA) protects the nation's transportation systems to ensure freedom of movement for people and commerce.*

*The Federal Emergency Management Agency (FEMA) prepares the nation for hazards, manages Federal response and recovery efforts following any national incident, and administers the National Flood Insurance Program.*

Interestingly, former USDOT Deputy Secretary Michael P. Jackson – former Secretary Mineta's right hand man at both Lockheed-Martin IMS and USDOT – played a key management role in creating TSA following the 9/11 terrorist incidents. "His tenure was particularly focused on DOT's response to the terrorist attacks, including standing up the new Transportation Security Administration," says his official biography on [whitehouse.gov](http://whitehouse.gov)<sup>8</sup>. That was the same Michael P. Jackson who led the effort to reassign Dr. Christine Johnson when she balked at expanding Traffic.com's monopoly from two to 27 cities in mid-2002, and to whom Cong. Bud Shuster's former general counsel, Roger Nober, worked shortly after he (Jackson) arrived at USDOT.

-----

Even before the formal creation of DHS in March 2003, Traffic.com saw a payoff for its "data lock" on real-time traffic data in homeland security applications. On September 10, 2002, Traffic.com's President and co-founder David Jannetta first publicly disclosed the company's plans to pursue homeland security business in testimony at a "Hearing on Intelligent Transportation Systems" before the U.S. House Transportation and Infrastructure Committee's Subcommittee on Highways and Transit<sup>9</sup>.

Interestingly, Cong. Bill Shuster, Bud Shuster's son and successor as the representative from Pennsylvania's 9<sup>th</sup> congressional district, would introduce Jannetta at that hearing. "Welcome to all the panelists today, but especially welcome to former Secretary of the General Services for the State of Pennsylvania, Mr. Jannetta, and point out more importantly to me the former mayor of Altoona, Pennsylvania, which is near and dear to my heart and home to the horseshoe curve on the wall there. It is good to have you with us."

Here's an excerpt from Jannetta's prepared testimony:

---

<sup>7</sup> More detail about these and other DHS components is available here:

<http://www.dhs.gov/xabout/structure/#1>

<sup>8</sup> [http://www.whitehouse.gov/government/m\\_jackson-bio.html](http://www.whitehouse.gov/government/m_jackson-bio.html)

<sup>9</sup> Intelligent Transportation Systems Hearing No. 107-94 before the Subcommittee on Highways and Transportation of U.S. House Committee on Transportation and Infrastructure, Sept. 10, 2002

## The 'Smart Road' Scam: The Homeland Security Connection

Because of the reliability of our system, we are developing ways to leverage our existing ITS infrastructure to enhance homeland security efforts in our deployment areas. In Pennsylvania, under the leadership of Governor Mark Schweiker and his Office of Homeland Security, we are discussing a potential partnership to develop a project to demonstrate the capabilities of our system to provide the tools and technology to increase the ability of state agencies to respond to potential threats. Responding to the charge of the President and the Governor to get the private sector engaged as a key homeland security partner, we are working with our private sector partners Veridian, M/A-Com, and communication service partners to develop a robust system that can be quickly implemented to improve homeland security. We are also working closely with the International Brotherhood of Electrical Workers (IBEW) to ensure the highest quality installation of our innovative technology.

The very next day, Traffic.com issued a press release entitled "Congress Requested to Create National 'Infostructure' Program for ITS, Homeland Security by Mobility Technologies Executive."<sup>10</sup> In that press release, the company touted the advantages it had gained for its "Digital Traffic Pulse ITS network" through the TTID program. "Working with the U.S. Department of Transportation and state and local transportation agencies under TEA-21's public-private partnership structure, Mobility is working to deploy its Digital Traffic Pulse (SM) ITS sensor network in 21 cities, which have applied to USDOT under the current appropriation. Each deployment integrates publicly available data with Mobility's Traffic Pulse (SM) information to create a seamless infostructure," Jannetta said.

"Mr. Jannetta also testified about opportunities to utilize its Traffic Pulse data collection infrastructure to enhance homeland security," the press release continued. Clearly, having exclusive use of real-time traffic data in many big cities through the company's data lock scheme put it in the catbird's seat to get new DHS business to help citizens evacuate from those cities in the event of a terrorist incident or natural disaster. After all, comprehensive real-time data about travel speeds and times on possible evacuation routes was essential to providing accurate guidance to help citizens get out of harm's way. Through its brilliant but ethically/legally challenged data-lock scheme, Traffic.com had put itself in the premiere competitive position to provide such services.

-----

On October 8, 2001 – less than one month after the 9/11 terrorist incidents -- Pennsylvania Governor Tom Ridge was sworn in as the first ever Director of the Office of Homeland Security. In making the announcement in the East Room of the White House, President George W. Bush said that among Director Ridge's assigned tasks was to "strengthen and help protect our transportation systems."<sup>11</sup> Ridge immediately resigned as Governor of Pennsylvania to assume this new cabinet-level post.

---

<sup>10</sup> [http://findarticles.com/p/articles/mi\\_m0EIN/is\\_2002\\_Sept\\_11/ai\\_91323176](http://findarticles.com/p/articles/mi_m0EIN/is_2002_Sept_11/ai_91323176)

<sup>11</sup> Gov. Ridge Sworn-In to Lead Homeland Security, October 8, 2001, <http://www.whitehouse.gov/news/releases/2001/10/20011008-3.html>

## The 'Smart Road' Scam: The Homeland Security Connection

Later, on January 24, 2003, Mr. Ridge was sworn in as the first ever Secretary of the Department of Homeland Security<sup>12</sup>.

In an article in *The American Prospect* on December 18, 2005 entitled "Security for Sale,"<sup>13</sup> writer Sarah Posner observed that, despite all the hoopla about the new Department of Homeland Security, DHS was reverting to the age-old influence game that had long been played in other federal government departments. "Less than three years later, the brief but uninspiring history of DHS proves how little has actually changed in Washington, where the institutional cultivation of influence peddling, cronyism, and waste continues to thrive unimpeded," she wrote.

"The corporate exploitation of the new department became inevitable even before it was founded, during the first dark days after 9-11, when Tom Ridge was appointed to direct the White House Office of Homeland Security," Posner continued. "With the former Pennsylvania governor came three aides who had no apparent experience in the field of homeland security but a keen understanding of the business of politics. Mark Holman, who was appointed deputy assistant to the president in the Office of Homeland Security, had been Ridge's chief of staff for 18 years, both in Congress and later in the Pennsylvania statehouse. Ashley Davis, a former lobbyist who had worked on Ridge's gubernatorial campaigns, the Bush-Cheney campaign, the Florida recount, and the Republican National Convention in 2000, became Ridge's special assistant. Joining them was Carl Buchholtz, the former general counsel to Ridge's gubernatorial campaigns and a partner in the Philadelphia-based law and lobbying firm Blank Rome LLP, who took a year away from the firm to help the White House plan the DHS. Blank Rome's chairman, David Girard-diCarlo, a former Ridge fundraiser and Bush Pioneer in 2000, is among Ridge's closest friends."

The so-called "revolving door" between government service and lobbying the government was never more apparent than in Mark Holman's case. In December 2000 Holman resigned as Governor Ridge's long-time Chief of Staff to become a "public policy advisor" for the law/lobbying firm Blank Rome LLP, whose Chairman Mr. Girard-diCarlo had those deep financial ties to President Bush's 2000 campaign. According to the *Philadelphia Business Journal*, "Girard-diCarlo was at one point said to have been tapped by President Bush as a secretary of transportation nominee, but he declined the position for personal reasons."

On March 6, 2001, less than two months after the new Mineta regime would take over control of the U.S. Dept. of Transportation, Mark A. Holman would register as a lobbyist

---

<sup>12</sup> Ridge Sworn in as Secretary of Homeland Security, January 24, 2003, <http://www.whitehouse.gov/news/releases/2003/01/20030124-5.html>

<sup>13</sup> Security for Sale: The Department of Homeland Security has a section on its Web site labeled "Open for Business." It certainly is. *The American Prospect*, Dec. 18, 2005, <http://www.prospect.org/cs/articles?articleId=10750>

## The 'Smart Road' Scam: The Homeland Security Connection

for Traffic.com<sup>14</sup>. The only “Specific lobbying issue (current and anticipated)” listed on the registration: “Transportation Funding.” At this point in time, while funds had been appropriated for the pilot ITIP program deployments in Philadelphia and Pittsburgh, Traffic.com’s grand plan of extending the program nationwide to 40 cities (according to the language in the big 1998 transportation bill, TEA-21) was still a pipedream unless millions of new dollars could be appropriated by Congress for that purpose.

In late 2000, Traffic.com had been successful in earmarking an additional \$50 million in funding for the ITIP program in the Fiscal Year 2001 Transportation Appropriations bill<sup>15</sup>. Those funds would make 25 additional big congested U.S. cities eligible for this program, at typically \$2 million in federal funds per city.

However, while the company understandably wanted to be the sole-source provider for those additional funds, it encountered a roadblock in the form of a letter dated February 20, 2001, from Federal Highway Administration Deputy Director Vincent F. Schimmoller to Cong. Bud Shuster’s chief of staff, Darrell Wilson<sup>16</sup>. In that letter Schimmoller said that the FHWA’s analysis of the language in the FY2001 transportation authorization bill concluded that adding \$50 million to the existing sole-source contract would “significantly change the scope of the contract and require recompetition.”

The notion that the program would require "recompetition" was not, of course, quite what Traffic.com wanted to hear. Two weeks later the company’s newly registered lobbyist, Mark Holman, would begin to work with the company’s legislative backers to take another tack. Working with Pennsylvania Senator Arlen Specter, Virginia Senator John Warner and others, the company succeeded in adding language<sup>17</sup> in the FY2002 Defense Appropriations bill that authorized the USDOT to extend the contract to "the same competitively selected consortium leader" selected for the earlier contract. These words essentially gave the USDOT the option to extend the original contract to 25 more cities on a sole-source basis.

In early 2002, USDOT Secretary Norman Mineta exercised that option<sup>18</sup>, and in June, 2002 the FHWA formally signed the task order<sup>19</sup> enabling Traffic.com to be the sole-source provider for services under the ITIP program's umbrella. Mr. Holman had done his job. Even though the ITIP program had absolutely nothing to do with defense and inserting these words into a defense appropriations bill bypassed the normal transportation appropriations process, Traffic.com’s end-around worked out just fine.

---

<sup>14</sup> Copy of the lobbying registration filed with the U.S. Senate available here:

[http://www.itsonline.com/trfc\\_lobbyists/holman\\_2001.pdf](http://www.itsonline.com/trfc_lobbyists/holman_2001.pdf)

<sup>15</sup> Available online at: [http://frwebgate.access.gpo.gov/cgi-](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ346.106)

[bin/getdoc.cgi?dbname=106\\_cong\\_public\\_laws&docid=f:publ346.106](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ346.106)

<sup>16</sup> Available online at: [http://www.itsonline.com/trfc/letters/fhwa\\_letter\\_feb20\\_01.pdf](http://www.itsonline.com/trfc/letters/fhwa_letter_feb20_01.pdf)

<sup>17</sup> Search for “5117” in this online document:

<http://www.asm.org/ASM/files/LEFTMARGINHEADERLIST/DOWNLOADFILENAME/0000000568/H R3338127%5B1%5D.pdf>

<sup>18</sup> Per the letter shown here to Cong. Don Young: [http://www.itsonline.com/trfc/letters/mineta\\_feb5\\_02.pdf](http://www.itsonline.com/trfc/letters/mineta_feb5_02.pdf)

<sup>19</sup> Available online here: [http://www.itsonline.com/trfc/contracts\\_agreements/Procurement\\_Request.pdf](http://www.itsonline.com/trfc/contracts_agreements/Procurement_Request.pdf)

## The 'Smart Road' Scam: The Homeland Security Connection

Mr. Mineta, the long-time former member and Chairman of the House Public Works and Transportation Committee, apparently wasn't at all concerned by that jurisdictional anomaly.

On October 29, 2001, despite having what Ms. Posner would later characterize in *The American Prospect* as “no apparent experience in the field of homeland security,” Holman would become a Special Assistant to President George W. Bush for Homeland Security<sup>20</sup> in the brand new White House Office of Homeland Security. He would continue in that role through December 2002.

Walking back through the omnipresent revolving door, Holman would rejoin Blank Rome in early 2003, and on March 1, 2003 his name would surface once again as a registered lobbyist for Traffic.com (Mobility Technologies), along with another former staff member of Governor Ridge's, Ashley E. Davis<sup>21</sup>. The 2003 year-end lobbying report<sup>22</sup> would disclose that Traffic.com paid \$60,000 in lobbying fees during the second half of 2003, covering the issue of “Meeting regarding intelligent transportation systems.” The Department of Homeland Security was listed as the first “House(s) of Congress and Federal Agencies contacted,” followed by the Department of Transportation. Clearly, the company was trying very hard to get its foot in the door for funding from DHS, leveraging the company's “data lock scheme” as President David Jannetta had alluded to in his congressional testimony the previous fall. Additional lobbyist disclosures covering both 2004<sup>23</sup> and 2005<sup>24</sup> showed that Holman and Davis would continue their work on behalf of Traffic.com. Blank Rome et al would file a “termination report” for their lobbying activities on behalf of Traffic.com effective June 1, 2006.<sup>25</sup>

-----

Blank Rome Government Relations was just one of several well-connected lobbying firms that Traffic.com would utilize to set up its monopoly and gain federal business. (According to a June 2007 article in *The Hill*<sup>26</sup>, the company has spent over \$900,000 on lobbyists since 2000.) On June 28, 2004, Hill Solutions LLC in the company's home town of Wayne, PA would file a lobbying disclosure<sup>27</sup> showing that three of the firm's employees, including Partner Jack Tomarchio, would be lobbying both the House and Senate on Traffic.com's behalf. The disclosure listed “transportation and security sensors” as the specific lobbying issue the firm would be assisting Traffic.com with, a reference to the pole-mounted traffic sensors that were used in the cities that signed up

<sup>20</sup> Announcement here: <http://www.whitehouse.gov/news/releases/2001/10/20011029-6.html>

<sup>21</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/blank\\_rome\\_2003\\_registration.pdf](http://www.itsonline.com/trfc_lobbyists/blank_rome_2003_registration.pdf)

<sup>22</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/blank\\_rome\\_2003\\_year\\_end.pdf](http://www.itsonline.com/trfc_lobbyists/blank_rome_2003_year_end.pdf)

<sup>23</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/blank\\_rome\\_2004\\_year\\_end.pdf](http://www.itsonline.com/trfc_lobbyists/blank_rome_2004_year_end.pdf)

<sup>24</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/blank\\_rome\\_2005\\_first\\_half.pdf](http://www.itsonline.com/trfc_lobbyists/blank_rome_2005_first_half.pdf)

<sup>25</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/blank\\_rome\\_2006\\_termination.pdf](http://www.itsonline.com/trfc_lobbyists/blank_rome_2006_termination.pdf)

<sup>26</sup> ‘Monopoly’ continues for Pa. company, says Hatch, *The Hill*, June 27, 2007, <http://thehill.com/business--/lobby/monopoly-continues-for-pa.-company-says-hatch-2007-06-26.html>

<sup>27</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/hill\\_solns\\_2004\\_registration.pdf](http://www.itsonline.com/trfc_lobbyists/hill_solns_2004_registration.pdf)

## The 'Smart Road' Scam: The Homeland Security Connection

for the TTID program. A mid-year 2004 report<sup>28</sup> would further disclose that the lobbying firm received \$60,000 in fees for the first six months of 2004. A 2005 disclosure<sup>29</sup> would show that Tomarchio and three others would continue their lobbying activities on behalf of the company through the first half of 2005.

In mid-October 2005, Hill Solutions would be absorbed into a much larger law firm, Buchanan Ingersoll PC. According to a news report in *citybizlist Philadelphia*<sup>30</sup>, “The eight-person group, led by founding partners Jack Thomas Tomarchio and Eric J. Weinberg, has particular strength in the homeland security and national defense sectors, and will be joining the firm's federal and state government relations practices. Tomarchio and Weinberg will also serve as co-chairs of Buchanan Ingersoll's National Security practice group.”

A Buchanan Ingersoll lobbyist disclosure effective October 12, 2005<sup>31</sup> lists both Tomarchio and Weinberg, along with their former Hill Solutions colleague Mark Lenker, once again as lobbyists for Traffic.com under the new company's banner. Interestingly, Cong. Bud Shuster's other son Robert L. “Bob” Shuster would join Tomarchio et al at Buchanan Ingersoll the following July, with Buchanan Ingersoll's merger with Robert Shuster's long-time firm, Klett Rooney Lieber & Schorling<sup>32</sup>. Lobbyist disclosures<sup>33</sup> show that Shuster was a registered lobbyist for Traffic.com while at Klett Rooney going back to 2004, and as far back as January 15, 2001 *Inside ITS* had reported that Robert Shuster had represented the company<sup>34</sup>.

As myriad lobbying disclosures verified, the company's lobbyist connections were truly amazing, with connections to senior White House officials and the long-time direct participation by former House Transportation and Infrastructure Committee Chairman Cong. Bud Shuster's own son. That extraordinary influence would continue to pay off for the company in spades.

-----

After playing a key role in helping the Transportation Security Administration get off the ground, USDOT Deputy Secretary Michael P. Jackson would leave the Department in August 2003 and walk through the revolving door to join the government contractor AECOM Technology Corporation as Senior Vice President. According to Jackson's official government biography, in his new role “he was responsible for AECOM government relations globally and served as Chief Operating Officer of AECOM's

<sup>28</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/hill\\_solns\\_2004\\_first\\_half.pdf](http://www.itsonline.com/trfc_lobbyists/hill_solns_2004_first_half.pdf)

<sup>29</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/hill\\_solns\\_2005\\_first\\_half.pdf](http://www.itsonline.com/trfc_lobbyists/hill_solns_2005_first_half.pdf)

<sup>30</sup> Buchanan Ingersoll Announces Combination with Lobbying Firm Hill Solutions, *citybizlist Philadelphia*, October 12, 2005, <http://philly.citybizlist.com/1stg/1stgDetail.aspx?id=2319>

<sup>31</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/buchanan\\_regist\\_2005.pdf](http://www.itsonline.com/trfc_lobbyists/buchanan_regist_2005.pdf)

<sup>32</sup> Buchanan Ingersoll, Klett Rooney plan to join forces July 1, *Pittsburgh Post-Gazette*, June 14, 2006, <http://www.post-gazette.com/pg/06165/697960-28.stm>

<sup>33</sup> Available here: [http://www.itsonline.com/trfc\\_lobbyists/klett\\_2004\\_regist.pdf](http://www.itsonline.com/trfc_lobbyists/klett_2004_regist.pdf)

<sup>34</sup> Traffic.com claim to \$50 million ITS earmark raises questions, *Inside ITS newsletter*, Jan. 15, 2001, [http://www.itsonline.com/trfc/articles/insideITS\\_jan15\\_01.doc](http://www.itsonline.com/trfc/articles/insideITS_jan15_01.doc)

Government Services Group.” Clearly, someone with as many connections as he to Republican Administrations dating back to the Reagan Administration was tailor made to handle government relations with yet another Republican Administration. After all, many of these folks were his long-time friends and associates.

Michael P. Jackson’s AECOM career would be relatively brief, and the famous “revolving door” would spin once again. On March 10, 2005, Jackson would return to the public sector and be confirmed by the U.S. Senate to serve as Deputy Secretary of the Department of Homeland Security (DHS). In this role, according to his official White House biography, he served as “DHS’ chief operating officer, with responsibility for managing day-to-day operations.” It was a very similar role to the one he had played several years earlier as Deputy Secretary of the Department of Transportation, reporting to Secretary Norman Mineta.

#### **Mineta Joins AECOM’s Board of Directors**

In June 2007 -- less than a year after resigning as Secretary of Transportation -- Norman Mineta would be invited to join the Board of Directors of AECOM Corporation,<sup>35</sup> the same company for whom his long-time second in command, Michael P. Jackson, had worked as Senior Vice President in 2003-2005. Was Mr. Mineta’s appointment to AECOM’s Board just an amazing coincidence? Or had Mr. Jackson’s earlier relationship with the company paved the way?

On January 9, 2006, President George Bush would appoint former Traffic.com lobbyist Jack Tomarchio to the newly created position as Deputy Director of Intelligence for the U.S. Dept. of Homeland Security, according to an article in the Legal Intelligencer<sup>36</sup> as well as Tomarchio’s recent biography on the ATS Corporation’s website<sup>37</sup>. In that role, among other tasks, Tomarchio would be responsible for serving as “primary liaison to state and local governments.”<sup>38</sup> This position would be formally described elsewhere as “Principal Deputy Assistant Secretary of Homeland Security for Intelligence and Analysis.”<sup>39</sup> It would seem logical that DHS Deputy Secretary Michael P. Jackson, as the department’s Chief Operating Officer, had played at least some role – if not the primary role -- in defining and approving the creation of this new senior departmental position. Since President Bush made the appointment, it seemed clear that another Traffic.com lobbyist, former Special Presidential Assistant Mark Holman, had also played a key role.

<sup>35</sup> Norman Mineta, Former U.S. Secretary of Transportation and Former U.S. Secretary of Commerce, Joins AECOM Board of Directors, AECOM Press Release, June 11, 2007,

<http://pr.aecom.com/phoenix.zhtml?c=211994&p=irol-newsArticle&ID=1013591&highlight=>

<sup>36</sup> Buchanan Lawyer Leaves for Key Homeland Security Position, The Legal Intelligencer, January 4, 2006, <http://www.law.com/jsp/article.jsp?id=1136282710611>

<sup>37</sup> Biography available here: <http://www.atsva.com/about-us/board-of-directors/jack-tomarchio.cfm>

<sup>38</sup> Tomarchio Takes Homeland Security Post, Pittsburgh Business Times, January 3, 2006, <http://www.bizjournals.com/pittsburgh/stories/2006/01/02/daily4.html>

<sup>39</sup> <http://www.atsva.com/about-us/board-of-directors/jack-tomarchio.cfm>

## The 'Smart Road' Scam: The Homeland Security Connection

In that new role, one of Tomarchio's main responsibilities was to create DHS partnerships with state and local governments in establishing numerous "fusion centers." An October 2007 report by the U.S. General Account Office (GAO)<sup>40</sup> provides a concise description of the purpose of these fusion centers, specifically the West Virginia one:

The vision for the fusion center is to prevent, deter, and disrupt terrorism and criminal activity, enabling a safe and secure environment for the citizens of West Virginia. The fusion center will adopt an all-crimes, all-hazards, and counterterrorism scope of operations but plans to tailor each depending on the stakeholders in the center. For example, the West Virginia Public Broadcasting System will be represented in the fusion center to help gather and manage information. However, if there is an evacuation event, it will also disseminate the information directly to the public as public service announcements through television and radio stations.

From Traffic.com's perspective, the key phrase in this description is "evacuation event." As the GAO report explained, these fusion centers would be responsible for helping evacuation through the dissemination of information through public service announcements on radio and television stations. Of course, accurate data about current traffic conditions – particularly which roadways were passable and which were already logjams – would play an enormous role in helping citizens quickly evacuate from either terrorist or natural events (e.g., hurricanes). For 25 of the U.S. biggest and most vulnerable cities, Traffic.com's data lock scheme meant that it had ready access to more publicly subsidized traffic data than any of its would-be competitors. The company had already forged many relationships with radio and TV stations, the most lucrative part of its business. Getting chosen as DHS' preferred traffic information provider to assist with "evacuation events" would both cement and likely expand those existing relationships and provide opportunities for new ones.

What a great stroke of luck for Traffic.com that the Department of Homeland Security's Chief Operating Officer already knew a whole lot about the company's history and its vision! In fact, years earlier when Jackson was COO of the Dept. of Transportation he demonstrated his strong support for the company's vision by taking the lead in reassigning an FHWA department head, Dr. Christine Johnson, when she had balked at extending Traffic.com's monopoly nationwide.

Even more fortunate was the fact that their former lobbyist, DHS' newly installed Principal Deputy Assistant Secretary of Homeland Security for Intelligence and Analysis, would clearly have a major say in recommending and selecting services to help fusion centers respond to the all-important "evacuation events." His influence could clearly lead to some very lucrative business with the department.

---

<sup>40</sup> Homeland Security: Federal Efforts Are Helping to Alleviate Some Challenges Encountered by State and Local Information Fusion Centers, October 2007, <http://www.gao.gov/new.items/d0835.pdf>

## The 'Smart Road' Scam: The Homeland Security Connection

More astounding yet was the fact that one of the company's long-standing lobbyists was not only connected to the executive suite at DHS from the beginning, but to the highest levels at the White House, as well.

It seemed almost like the "perfect storm" of factors that would inexorably lead to new and very profitable departmental business, perhaps what is often called "public-private partnerships" in today's government vernacular.

If only the Project on Government Oversight hadn't intervened.

-----

I didn't think for one minute that Traffic.com's "perfect storm" to get DHS business had happened by pure serendipity. After all, for years the company had carefully orchestrated every possible factor to arrive at its federally subsidized monopoly and super-effective "data lock scheme." It always came down to their extraordinary political connections and ability to push the necessary political levers in Congress and all the way to the White House. Can't get the FHWA to dedicate the \$50 million called out in a transportation appropriations bill on a sole-source basis for the company? Pull strings to get language inserted into an unrelated defense appropriations bill -- that will do the trick. Can't sufficiently pressure the manager of the FHWA department that administers this earmarked program to go along with the program? Send her packing out to the boondocks, both physically and organizationally.

Everything that Traffic.com's political machinery did had a purpose, and it was absolutely clear that the company had deliberately arranged this "perfect storm" to win some very big DHS awards. The key player in this effort was Deputy Secretary Jackson, of course, who I strongly suspected had been in on the Traffic.com monopoly/scam since the very beginning, along with Bob and Bud Shuster, Dave Jannetta, John Collins, and other Shuster cronies. However, the recent insertion of former company lobbyist Jack Tomarchio into a senior DHS position was a stroke of genius. Presumably, Tomarchio would now be in a position to recommend new business for Traffic.com, and Jackson would clearly be in a position to approve it. Both ends of the process were covered by company loyalists. I couldn't help but admire the company's strategy, but had to remind myself that it had all been orchestrated by unscrupulous "public servants," at least some of whom would almost certainly make millions of dollars under the table.

Both Mark Holman's background and his lobbyist disclosures strongly suggested that he had been regularly communicating with DHS Deputy Secretary Jackson about ways to increase Traffic.com's business. Clearly, Holman was a guy who only interfaced with the top people in the federal government, and Jackson was right there at the top of DHS, reporting only to Secretary Michael Chertoff, DHS's Chief Executive Officer. Chertoff seemed to spend much of his time trying to improve the department's public image that had been badly tarnished after Hurricane Katrina (he was frequently interviewed by the talking heads on TV news programs) and taking part in Cabinet-level discussions.

## The 'Smart Road' Scam: The Homeland Security Connection

Meanwhile, Jackson, as Chief Operating Officer, was running the department on a day-to-day basis underneath the media's glare, and would likely have the final say on department arrangements with vendors like Traffic.com.

It seemed almost certain that Deputy Secretary Jackson and lobbyist Holman had met to discuss Traffic.com's role in facilitating evacuations from incidents. After all, Blank Rome's lobbyist disclosure dating all the way back to 2003 (before Jackson joined the department) listed DHS as the top federal agency contacted, and the firm continued to provide lobbying services at DHS on behalf of Traffic.com through the first half of 2006. Tomarchio would have logically been involved in at least some of these meetings, too. There would undoubtedly be a trail of appointment calendar entries, meeting notes, and email messages.

I mentioned this likelihood to POGO General Counsel Scott Amey, and he readily agreed to send a Freedom of Information Act (FOIA) request to DHS for those materials. So on August 24, 2007, Scott sent a very detailed FOIA request<sup>41</sup> to two different departments within DHS, asking for several things including:

- A copy of the DHS' conflict of interest policy governing employment and post-employment practices that pertained to Deputy Secretary Michael P. Jackson and Deputy Director of the Office of Intelligence & Analysis Jack Tomarchio.
- A copy of any/all records by Messrs. Jackson and Tomarchio, including memorialized verbal communications, reports, documents, memorandums, statements, notes, transcripts, email messages, proposals, and/or agreements to or from Traffic.com (also known as Mobility Technologies and Argus Networks) or its parent, NAVTEQ. That request also covered any communication with a long list of "Traffic.com employees or representatives."
- A copy of Messrs. Jackson and Tomarchio appointment calendars from the inception of their employment with DHS to the present.
- A copy of Messrs. Jackson's and Tomarchio's phone log registering calls to and from Traffic.com (also known as Mobility Technologies and Argus Networks) or its parent, NAVTEQ, from the inception of their employment with DHS to the present.

Government rules call for federal departments to respond to FOIA requests like this one within a certain time period – say, 20 days – but that response can be as simple as simply acknowledging receipt of the request and promising to fill it as soon as possible. POGO received two such acknowledgements almost immediately<sup>42</sup>, but the substantive response would come many months later.

---

<sup>41</sup> Available online here: [http://www.itsonline.com/pogo\\_dhs\\_comm/pogo\\_dhs\\_foia\\_aug24\\_07.doc](http://www.itsonline.com/pogo_dhs_comm/pogo_dhs_foia_aug24_07.doc)

<sup>42</sup> Available online here: [http://www.itsonline.com/pogo\\_dhs\\_comm/dhs\\_foia\\_ack1.pdf](http://www.itsonline.com/pogo_dhs_comm/dhs_foia_ack1.pdf) and here: [http://www.itsonline.com/pogo\\_dhs\\_comm/dhs\\_foia\\_ack2.pdf](http://www.itsonline.com/pogo_dhs_comm/dhs_foia_ack2.pdf)

## The 'Smart Road' Scam: The Homeland Security Connection

On October 2, Scott sent me a short note with the message, “did you hear that Jackson resigned?” His message included a link to an article that same day in the *Federal Times* with the title “Lawmaker seeks more detail on DHS deputy secretary resignation.”<sup>43</sup> Apparently, Jackson’s resignation announcement on September 24 – exactly one month after POGO’s very detailed FOIA request – had caught House Homeland Security Committee Chairman Cong. Bennie Thompson completely by surprise, because DHS Secretary Chertoff had recently assured Thompson that “no senior leadership would be leaving.”

What if Jackson had resigned so that both he and his records would be long gone by the time that DHS got around to filling FOIA’s request? I quickly wrote back to Scott: “Wouldn’t it be especially interesting if POGO’s FOIA request on August 24 (which made it clear that Jackson is potentially involved in some wrongdoing) had something to do with his resignation?”

Two weeks later I stressed that point more strongly in another message to Scott. “Mr. Jackson’s last day on the job, according to press reports, is October 26. Would it be useful to put DHS on notice that they need to make sure he doesn’t remove information responsive to this FOIA request when he leaves? I’m concerned that if they respond in a month or two they’ll say, ‘Sorry, but we couldn’t find that information’ and that they won’t have any legal way to get that information back from Jackson, if in fact he even keeps it. If POGO can at least be on record now of being concerned about that possibility, perhaps that would have some usefulness down the road.”

Scott agreed, and a short time later wrote back “Done – I emailed them today to put them on notice.”

Our shared concern would turn out to be both prescient and predictive. On June 26, 2008 in a letter to Scott Amey, Vania T. Lockett, Associate Director, Disclosure & FOIA Operations for the U.S. Department of Homeland Security, reported<sup>44</sup> that DHS could find absolutely no records that were responsive to POGO’s earlier and very comprehensive FOIA request. DHS had searched both the Designated Agency Ethics Authority (DAEA) and Office of General Counsel (OGC) and “no responsive records were located.” It wasn’t at all clear that the FOIA officer had actually asked Jackson or Tomarchio for their responsive records, or if searches of the department’s email archives had been conducted<sup>45</sup>.

---

<sup>43</sup> Lawmaker seeks more detail on DHS deputy secretary resignation, *Federal Times*, Oct. 2, 2007, <http://federaltimes.com/index.php?S=3079658>

<sup>44</sup> Letter available here: [http://www.itsonline.com/pogo\\_dhs\\_comm/dhs\\_foia\\_response\\_jun26\\_08.pdf](http://www.itsonline.com/pogo_dhs_comm/dhs_foia_response_jun26_08.pdf)

<sup>45</sup> A search of DHS email archives would be fruitful only if Jackson and Tomarchio had communicated with Traffic.com or its lobbyists using their own departmental email accounts. Others in the Administration had gotten into trouble with ethics watchdog groups by using non-governmental email accounts to bypass normal governmental scrutiny. See “Inside the Bush E-mail Scandal” in the April 13, 2007 issue of *Time Magazine* at: <http://www.time.com/time/nation/article/0,8599,1610414,00.html>

-----

Some time between May 27, 2008, when he was interviewed by the Texas A&M University Integrative Center for Homeland Security<sup>46</sup>, and August 18, 2008, when he joined the Board of ATS Corporation<sup>47</sup>, Jack Tomarchio resigned as Principle Deputy Under Secretary of the U.S. Department of Homeland Security.

Shortly before, on April 17, 2008, Tomarchio had testified before the Senate Committee on Homeland Security and Government Affairs' Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration on the topic of "Focus on Fusion Centers: A Progress Report."<sup>48</sup>

"Secretary Chertoff, Under Secretary Allen and I are also committed to providing fusion centers with all the tools they need to succeed in our collective mission to prevent, protect, and respond to any threat or hazard America faces," he told the Senate Subcommittee at the time.

There was no indication in his testimony that their "collective mission" was nearly complete, which would have at least partly explained his resignation a few short weeks later.

-----

On August 25, 2008, POGO aggressively appealed DHS' response to POGO's FOIA request, which had said that the department couldn't find any "responsive records" related to Jackson's and Tomarchio's connection to Traffic.com. "Surely any letters between these officials and Traffic.com would have been documented in emails or elsewhere, unless they were deleted or destroyed," wrote<sup>49</sup> POGO General Counsel Amey.

"We know that Traffic.com engaged a lobbyist by the name of Mark Holman to lobby DHS on the company's behalf," Scott continued. "Mr. Holman, a former Special Assistant to President Bush for Homeland Security, almost certainly lobbied Mr. Jackson as Chief Operating Office of DHS. Mr. Tomarchio, a senior executive within DHS, had earlier been a registered lobbyist for Traffic.com himself and was very likely also involved in those discussions. Given this information, we are confident that records of interactions between these individuals exist."

---

<sup>46</sup> <http://homelandsecurity.tamu.edu/outreach/ichs-weekly-radio-programs/homeland-security-inside-and-out/audio-matrix/federal-other-federal-departments>

<sup>47</sup> ATS Corporation Appoints Jack Tomarchio to Board of Directors, BusinessWire (via Reuters), August 18, 2008, <http://www.reuters.com/article/pressRelease/idUS195603+18-Aug-2008+BW20080818>

<sup>48</sup> Available online here: [http://www.dhs.gov/xnews/testimony/testimony\\_1208459749044.shtm](http://www.dhs.gov/xnews/testimony/testimony_1208459749044.shtm)

<sup>49</sup> FOIA appeal letter available online here: [http://www.itsonline.com/pogo\\_dhs\\_comm/FOIA\\_Traffic\\_Appeal.doc](http://www.itsonline.com/pogo_dhs_comm/FOIA_Traffic_Appeal.doc)

## The 'Smart Road' Scam: The Homeland Security Connection

In addition to repeating his earlier request for several different types of materials (email messages, meeting notes, calendar entries, etc.), Amey wanted to know more about the search process that DHS had used. "In addition to the original items, we request that DHS explain how the original search for responsive records was conducted, along with similar information about any subsequent search," he wrote. "These individuals (Jackson and Tomarchio) may be involved in unethical activities, and if the original search consisted of requests to these individuals for any responsive records, their responses may not have been completely candid for obvious reasons."

As of late September, 2008, DHS had not yet responded to POGO's appeal letter. Also unanswered is whether or not the watchdog's aggressive pursuit of information about Traffic.com's connection to two very senior DHS executives had anything to do with their unexpected departures.