

**Written Testimony before the House Subcommittee of Energy and
Commerce of William D. Marler, Esq.**

Thank you for allowing me again to submit written testimony on the issue of food safety. The family witnesses that you have heard from here today and over the years tell you that our safe food supply is broken and that certain businesses refuse to fix it. It is long past time for Congress to act. The multiple failures of one company, Peanut Corporation of America, in a global food supply, have had profound repercussions, not only to these families but also to the supply of food. Many of my suggestions are those you have heard before, but I believe still hold true to create a safer food supply.

First, create a local, state and national public health system that catches outbreaks before they balloon into a personal and business catastrophe. Everyone believes that the Jack in the Box outbreak started in Seattle in January 1993. It did not. It actually began in November 1992 when young Lauren Rudolph died and another 30 people were sickened in and around southern California. However, because E. coli O157:H7 was not a reportable illness at the time, the death and illnesses were not recognized as an outbreak and the contaminated meat was shipped to Seattle where hundreds more were sickened and four more died. CDC's PulseNet and Food Net were launched and are rightly credited with helping reduce the size of outbreaks by helping to more quickly conclude what suspect product is causing harm. But surveillance of human bacterial disease is lacking. For many foodborne illnesses, for every one culture positive case, 20 to 40 other cases are missed because of lack of surveillance. Most people who become ill with a bacterial or viral disease are either seldom seen or never cultured. The more people are tested, the greater the likelihood that a source, accidental or not, will be found sooner. These same governmental departments, whether local, state or federal, need to learn to "play well together." Turf battles need to take a back seat to stopping an outbreak and tracking it to its source. That means resources need to be provided and coordination encouraged so illnesses can be promptly stopped and the offending producer - not an entire industry - is brought to heel.

Second, actually inspect and sample food before it is consumed. At present, Local and State authorities, along with the USDA and FDA, employ thousands of inspectors across the nation and world to inspect tens of thousands of plants that produce billions of pounds of food at farms, processing plants and retail outlets. The FDA inspected PCA once in 2001 and once in 2006; that was clearly insufficient. The GAO has warned in the past that our food sampling and inspection is so scattered and infrequent that there is little chance of detecting microscopic E. coli or any other pathogen for that matter.

Third, consider mandatory recall authority on all food products. Recalls must be completely transparent. If a recall is ordered, consumers need to know what in fact is being recalled. Full disclosure must be the rule. Under the present

system of voluntary recalls, in September 2007, we saw the disastrous Topps recall where the company knowingly left E. coli contaminated product on store shelves three weeks after both being confronted with an ill customer and its product testing positive for E. coli O157:H7.

Fourth, we cannot completely regulate ourselves out of this. Standards need to be set with the entire food chain at the table – from farmer, to manufacturer, to retailer and customer. Standards must also be based upon good science.

Fifth, promote university research to develop better technologies to make food safe and for testing foods for contamination. Provide tax breaks for companies that push food safety interventions and employee training. We need to use our technology to make food more traceable so that when an outbreak occurs authorities can quickly identify the source and limit the spread of the contamination and stop the disruption to the economy. When I buy a book online I can track it all the way to my mailbox. We must be able to do the same with our food.

Sixth, there are too few legal consequences for sickening or killing customers by selling contaminated food. We should impose stiff fines and prison sentences for violators, and even stiffer penalties for repeat violators.

Seventh, improve consumer understanding of the risks of food-borne illness. Foster a popular campaign similar to Mothers Against Drunk Driving, which uses consumer power to promote a no-tolerance policy toward growers and companies that produce tainted food.

Eighth, on a national level merge and then adequately fund the three federal agencies responsible for food safety. Right now, USDA's Food Safety and Inspection Service and the inspection arm of the Food and Drug Administration share this mission with the CDC. The system is trifurcated, which leads to turf wars and split responsibilities. We need one independent agency that deals with food-borne pathogens. You have a moral responsibility to consumers in your hometown or anywhere U.S. goods are sold. It is time to adequately fund our health and safety authorities to help business protect their customers.

The time has come to act and not continue simply to react. Consumers, Farmers, Suppliers, Manufacturers, Retailers, Regulators and Politicians need to work together to make our food supply safe, profitable and sustainable. When a quarter of our population is sickened yearly by contaminated food, when thousands die, we do not have the “safest food supply in the world.” We should, must and can do better. In closing, none of this will stop bacterial and viral illnesses entirely. These invisible poisons have been around a long time. However, these eight steps will enable us to help prevent it, help detect it far more quickly, to alert stores and families, and to keep our most vulnerable citizens - kids and seniors - out of harm's way.