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# MAKING AMERICA SAFER: EXAMINING THE RECOMMENDATIONS OF THE 9/11 COMMISSION

## HEARING

BEFORE THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

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# MAKING AMERICA SAFER: EXAMINING THE RECOMMENDATIONS OF THE 9/11 COMMISSION

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**FRIDAY, JULY 30, 2004**

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
*Washington, DC.*

The Committee met, pursuant to notice, at 11:04 a.m., in room SH–216, Hart Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Voinovich, Coleman, Specter, Fitzgerald, Lieberman, Levin, Akaka, Durbin, Carper, Dayton, Lautenberg, and Pryor.

## OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order.

Let me begin by thanking our Committee Members for rearranging their schedules on very short notice to be here today. I particularly want to acknowledge our Democratic members, all of whom raced down from Boston this morning and have accused me of depriving them of a good night's sleep. This is not a Republican plot. We are very happy to have you here.

Senator LIEBERMAN. Madam Chairman, if I may say so, in a phrase that may have become familiar, on behalf of this side we are reporting for duty. [Laughter.]

Chairman COLLINS. I also want to welcome our two distinguished witnesses who join us today. I am very grateful for their work and for their presence as well.

Today, the Governmental Affairs Committee begins a series of hearings on the recommendations of the 9/11 Commission calling for a restructuring of our intelligence organizations. The task that we have been assigned by the Senate leaders is to examine in depth the recommendations for reorganizing the Executive Branch and to report legislation by October 1.

We must act with speed, but not in haste. We must be bold, but we cannot be reckless. We must protect not just the lives of our citizens, but also those values that make life worth living. All terrorism involves death and destruction, but the ultimate goal of terrorists is to destroy everything that we treasure and that defines us as Americans—our democracy, protection of the rights of all, adherence to the rule of law, economic opportunity, and religious and political freedom.

Those who despise our way of life will stop at nothing to achieve this goal. Osama bin Laden has repeatedly said that al Qaeda makes no distinction between military and civilian targets. He has called the murder of any American anywhere on Earth "the duty of every Muslim."

The 9/11 Commission makes numerous findings as to how we can better protect ourselves and our liberty. These recommendations, ranging from improving educational and economic opportunities in Muslim states to implementing a biometric screening system to improve border security, will be considered by congressional committees in the weeks ahead.

Today, however, our focus is on a key Commission finding: That we must reform the structure of our intelligence community.

The Commission makes two major recommendations to accomplish this end: The establishment of a National Counterterrorism Center to unify intelligence analysis and operational planning, and the creation of a new National Intelligence Director to lead our entire intelligence effort, which now involves 15 agencies scattered across the Federal Government.

The center, as envisioned by the Commission, would not be another layer of bureaucracy but, rather, a means by which our intelligence agencies can share and integrate their expertise, their information, and their institutional memories.

The proposed Intelligence Director would have the authority to allocate resources and control budgets to ensure that the most important priorities are funded in keeping with the policies established by the President and the National Security Council. This reorganization would represent a fundamental overhaul of our intelligence structure and a sea change in our thinking.

The precise form and extent of reorganization remain to be determined, and we need to make clear, just as the 9/11 Commission report does, that the intelligence failures were not the result of individual negligence but of institutional rigidity. Massive reorganizations of government are always controversial. They are often met with great resistance from those being reorganized. While turf battles abound in Washington, for the American people it is results that count.

Power struggles for authority and responsibility, however well motivated, cannot be allowed to doom needed reforms. Our theme should be, as the Commission quotes one CIA official, "One fight, one team." It can be done.

Consider, for example, the Goldwater-Nichols Department of Defense Reorganization Act of 1986. It centralized operational authority in the Chairman of the Joint Chiefs of Staff. Initially, this restructuring was vigorously opposed by those who clung to the independence of the service branches. The performance of our military since then, in the Gulf War, in Bosnia, and in Afghanistan and Iraq, is testament to the wisdom of that unifying reform.

The threat we face today requires the same willingness to innovate, to coordinate information, to share skills and talent, and to pursue the overriding mission that helped America meet the challenges of the 20th Century. This Committee must do everything in its power to see that America's intelligence structures are rebuilt to meet the challenges of the 21st Century.

Today, we are honored to hear from the two leaders of the 9/11 Commission: Chairman Thomas Kean and Vice Chairman Lee Hamilton. I thank them for their extraordinary service and welcome them here today.

Before calling on the Commissioners, I would like to recognize my friend, Senator Lieberman, for any opening comments that he might have. In addition to possessing tremendous experience and insight, Senator Lieberman brings a decidedly nonpartisan approach to this urgent task. I very much appreciate his assistance in putting these hearings together so quickly, and I look forward to working with him and the other Members of our Committee as we strive to meet our October 1 goal.

Senator Lieberman.

**OPENING STATEMENT OF SENATOR LIEBERMAN**

Senator LIEBERMAN. Thank you very much, Madam Chairman. I know that you and I agree—and I would guess that every other Member of the Committee does—that the report of the Kean-Hamilton 9/11 Commission presents us, this Committee, and the Congress with one of the most important opportunities any of us will have to be of service to our country. And I take encouragement from your leadership of this Committee as we begin the process of responding to the Commission's report because I know it will be nonpartisan; I know that you will, as you always do, put the national interest ahead of partisan interest. And I think together we are going to get this job done and get it done with unprecedented thoughtfulness and speed.

Our leadership, Senators Frist and Daschle, late on the day that the 9/11 Commission report was issued, charged this Committee with the responsibility of examining the reorganization recommendations from the Commission. We accept this responsibility with a sense of urgency the Commission recommends and the American people rightfully expect.

Vice Chairman Hamilton, reflecting on all the witness interviews that led the Commission to conclude that changes were necessary in a way the American intelligence community was organized, has said, "A critical theme that emerged throughout our inquiry was the difficulty of answering the question: Who is in charge? Who ensures that agencies pool resources, avoid duplication, and plan jointly? Who oversees the massive integration and unity of effort to keep America safe?"

"Too often," Lee Hamilton concluded, "the answer is no one." That is unacceptable. That status quo failed us on September 11, 2001, and it will fail us again, unless we begin to work now to institute the reforms the 9/11 Commission has recommended.

I want to thank both Chairman Kean and Vice Chairman Hamilton for their remarkable leadership. The Commission has far exceeded the hope Senator McCain and I had for it when we pushed for its creation in the months after September 11. If you will allow me, your service, gentlemen, reminds me of a favorite quote from Thomas Jefferson: "Citizens who love their country on its own account, and not merely for its trappings of interest or power, can never refuse to come forward when they find that the Nation is engaged in dangers which they have the means of warding off."

That is what you have done. Your Nation, our Nation, was and is in danger. And while we are safer than we were on September 11, we are still not safe, as your report concludes. You and your fellow Commissioners put your private lives aside and stepped forward to document for the Nation the story of September 11 and the bold actions that are needed now to confront and defeat the continuing danger of terrorism.

I know it was nearly 2 years of difficult, painstaking work for all the Commission members and staff, and we are grateful and proud that in these fractious times, your Commission was able to carry out its work in a thoroughly nonpartisan fashion and produce a unanimous report. You have created the model Congress must follow as we respond to your recommendations.

Our thanks also go to the families of the victims of September 11 who have played such a steadfast role in demanding answers to the difficult questions surrounding the attack so lives could be saved in the future. The only answer those family members would not accept was "No," as in there will be no Commission. They insisted that there be a Commission.

So I conclude, if I might, that Jefferson would be proud that our Nation still produces citizens like Tom Kean, Lee Hamilton, the other members of the Commission, and the families of the victims of September 11.

I have long believed that if we, as a Nation, are ever going to make sense of what happened on September 11, we need to look back honestly—not with rancor, not with rumor, not with fear, but with clear eyes and honest hearts. Your extraordinary work enables us now to do just that.

You answer better than anyone has the two questions that we all want answered: How could the September 11 attacks have happened? And how can we prevent, to the best of our ability, anything like September 11 from ever happening again?

This 587-page report does not close the book on September 11; rather, it now opens a new chapter for Congress and the White House to write, as we fulfill our responsibilities to create the 21st Century intelligence and homeland defense systems your report calls for. In this mission, we should all feel the same sense of urgency the Commissioners have expressed.

Chairman Kean, you said, "This system is not fixed. Our biggest weapon of defense is our intelligence system. If that doesn't work, our chances of being attacked are so much greater. So our major recommendation is to fix that intelligence system and to do it as fast as possible."

That is why we are holding these hearings today, unprecedented for the speed and the time at which they have been called. Our staffs will be working this summer to have legislation ready for the Senate's consideration by the end of September. When the Senate returns on September 7, just days before the third anniversary of September 11, we are going to be well on our way. And many other congressional hearings will follow.

Today, this Committee I hope will focus mostly on the Commission's recommendations for the creation of a National Counterterrorism Center, a National Intelligence Director, and some related issues like information sharing.

As always, as we begin our work, history can inform our judgments. I go back to 1924 when General Billy Mitchell predicted that a war with Japan was coming and that it would begin with an attack on Pearl Harbor. He even predicted the time of day the attack would occur. Then came December 7, 1941. Sadly, we also had warnings years before, as you document, before September 11, of the mounting terrorist threat and gaps in our government's intelligence preparedness. Then came September 11, 2001, and again we showed we were unprepared.

We cannot let another attack succeed because of our own inaction, and we meet to begin these deliberations at a time when our Nation has been given fair and factual warning that our terrorist enemies intend to attack again.

Your Commission's recommendations offer us a chance to seize control of our future and defend America. We must act now and not put this over to the next Congress.

Jefferson, again, once warned that, "Lethargy is the forerunner of death to public liberty." In the case of terrorism, lethargy can also be the forerunner to the death of thousands of innocent Americans. That is why we must not go slow or protect the status quo. It is time to act to fulfill our congressional responsibilities in an age of terrorism to provide for the common defense and ensure domestic tranquility, and I am confident that this Committee, working across party lines in the national interest, can lead the way.

Thank you very much, Madam Chairman.

Chairman COLLINS. Thank you, Senator. We will start with Governor Kean.

## TESTIMONY OF HON. THOMAS H. KEAN,[1] CHAIRMAN, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. KEAN. Madam Chairman Collins, Senator Lieberman, Members of the Committee, it is a great honor to appear before you today, to open our public testimony on behalf of the recommendations in the final report of our 9/11 Commission.

We also want to thank the leadership of the U.S. Senate. Both the Majority Leader and the Democratic Leader have shown your strong support for our work. We commend them, and we commend you for your leadership. And I might just say a word on that. We did not envision—we hoped for speed because we have this strong sense of urgency. But you have even exceeded our expectations. This is remarkable. I would like to thank this Committee very much, as well as the U.S. Senate. This is in the interests of our country. Thank you for your service.

The U.S. Government must take all the steps it can to disrupt and defeat the terrorists and protect against and prepare for terrorist attacks.

Our recommendations to address the transnational danger of Islamist terrorism rest on three policies: To attack terrorists and their organizations; prevent the continued growth of Islamic terrorism; and protect and prepare for terrorist attacks.

[1] The joint prepared statement of Mr. Kean and Mr. Hamilton appears on page 63.

The long-term success of our efforts depend on the use of all elements of national power. We must use diplomacy, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and, of course, homeland defense. If we favor one tool while neglecting others, we are still going to leave ourselves vulnerable and we will weaken our overall national effort.

Our recommendations about what to do encompass many themes: Foreign policy, public diplomacy, border security, transportation security, the protection of civil liberties, and setting priorities for national preparedness. We also make, of course, several recommendations on how to do it—how to organize the U.S. Government to address the new national security threat of transnational terrorism.

We understand and appreciate that the topic of today's hearing is governmental organization. We will address in detail some of our key recommendations in this area. However, it would be wrong if I did not pause for just a moment to make clear that changes in government organization are vastly important, but are still only a part of what we need to do. If we do not carry out all important recommendations we have outlined in foreign policy, in border security, in transportation security, and in other areas, reorganizing the government alone is not enough to make us safer and more secure.

I know there is a fascination in Washington sometimes, I guess, with bureaucratic solutions—rearranging the wiring diagrams, creating new organizations. And we do recommend some important institutional changes. We will articulate and defense those proposals. But, of course, reorganizing government institutions is only part of the agenda that is before us all.

Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individual officials straining, often without success, against the boundaries of the possible. Good people can overcome bad structures. They should not have to.

We have the resources and we have the people. We need to combine them more effectively to achieve that unity of effort that we are all seeking. This morning, we will address several major recommendations on how the Executive Branch, we believe, can simply work better. They have to unify strategic intelligence and operational planning against Islamic terrorists across the foreign-domestic divide with a National Counterterrorism Center; they must unify the intelligence community with a new National Intelligence Director; they must unify the many participants in the counterterrorism effort and their knowledge in a network-based information-sharing system that transcends traditional national boundaries; and we must unify our national effort by strengthening the ability of the FBI and homeland defenders to carry out the counterterrorism mission.

We will address each of these in turn.

The National Counterterrorism Center. Our report details many unexploited opportunities that we could have used, really, to disrupt that September 11 plot: The failures to watchlist, the failures to share information, the failures, as so many have put it, to connect the dots. The story of Hazmi and Mihdhar in Kuala Lumpur in January 2000 is a telling example. See, there we caught a

glimpse of the future hijackers, but we lost their trail in Bangkok. Domestic officials were not informed until August 2001 that Hazmi and Mihdhar had entered the United States and were living very openly here. They started then to pursue some late leads, but on September 11, time simply ran out.

We could give you any number of other examples, and will, if you would like, where we find no one was firmly in charge of managing the case. No one was able to draw relevant intelligence from anywhere within the government, assign responsibilities across the agencies—and that is foreign or domestic—track progress, and quickly bring these things forward so they could be resolved. In other words, as we have said, no one was the quarterback. No one was calling the play. No one was assigning roles so that government agencies could execute as a team and not as individuals.

We believe the solution to this problem rests with the creation of a new institution, the National Counterterrorism Center. We believe, as Secretary Rumsfeld told us, that each of the agencies needs to "give up some of their existing turf and authority in exchange for a stronger, faster, more efficient government-wide joint effort." We, therefore, propose a civilian-led unified joint command for counterterrorism. It would combine intelligence—what the military, I gather, calls the J–2 function—with operational planning—which the military calls the J–3 function. We would put them together in one agency, keeping overall policy direction where it belongs, in the hands of the President and in the hands of the National Security Council.

We consciously and deliberately draw on the military model, the Goldwater-Nichols model. We can and should learn from the successful reforms in the military that were done two decades ago. We want all the government agencies that play a role in counterterrorism to work together, to have one unified command. We want them to work together as one team in one fight against transnational terrorism.

The National Counterterrorism Center would build on the existing Terrorist Threat Integration Center and replace it and other terrorism "fusion centers" within the government with one, unified center.

The NCTC would have tasking authority on counterterrorism for all collection and analysis across the government, across the foreign-domestic divide. It would be in charge of warning.

The NCTC would coordinate anti-terrorist operations across the government, but individual agencies would continue to execute operations within their competencies.

The NCTC would be in the Executive Office of the President. Its chief would have control over the personnel assigned to the center and must have the right to concur in the choices of personnel to lead the operating entities of the departments and agencies focused on counterterrorism, specifically the top counterterrorism officials at the CIA, FBI, Defense and State Departments. The NCTC chief would report to the National Intelligence Director.

Now, we appreciate, as we talked about this on the Commission, that this is a new and difficult idea for those of us schooled in the government that we knew in the 20th Century. We won the Second World War and we won the Cold War because the great depart-

ments of government—the State Department, the Defense Department, the CIA, and the FBI—were organized against clear nation-state adversaries. Today, we face a transnational threat. That threat respects no boundaries and makes no distinction between foreign and domestic. The enemy is resourceful, it is flexible, and it is disciplined. We need a system of management that is as flexible and resourceful as the enemy we face. We need a system that can bring all the resources of government to bear on the problem and that can change and respond as the threat changes. We need a model of government that meets the needs of the 21st Century. And we believe that the National Counterterrorist Center will meet that test.

I will now introduce my Vice Chairman, really my Co-Chairman, Lee Hamilton, who has not only been a wonderful colleague, but has taught this country boy from New Jersey a tremendous amount about that whole subject.

**TESTIMONY OF HON. LEE H. HAMILTON,[1] VICE CHAIRMAN, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES**

Mr. HAMILTON. Thank you very much, Chairman Kean. I want to say that the success, whatever it may be, of the Commission is very largely attributable to the remarkable leadership of Tom Kean, and it has been a high privilege for me to have the opportunity to serve with him.

Madam Chairman, Senator Lieberman, the distinguished Members of the Committee, let me also join the Chairman in expressing my appreciation to the Senate leadership, to you, Madam Chairman, to Senator Lieberman, for your initiative in starting these hearings so quickly and responding to our recommendations. We are deeply grateful to you for your leadership. It has been quite remarkable.

As part of the 9/11 story, we spent a lot of time looking at the performance of the intelligence community. We identified at least six major problems confronting that community.

First, there are major structural barriers to the performance of joint intelligence work. National intelligence is still organized around the collection disciplines of—humint, signals, and all the rest of it—of the home agencies. It is not organized around the joint mission. The importance of integrated, all-source analysis cannot be overstated. It is not possible to connect the dots without it.

Second, there is a lack of common standards and practices across the foreign-domestic divide for the collection, processing, reporting, analyzing, and sharing of intelligence.

Third, there is a divided management of national intelligence capabilities between the Director of the CIA and the Defense Department.

Fourth, the Director of Central Intelligence has a very weak capacity to set priorities and move resources.

Fifth, the Director of Central Intelligence now has three jobs: Running the CIA, running the intelligence community, and serving

[1] The joint prepared statement of Mr. Kean and Mr. Hamilton appears on page 63.

as the President's Chief Intelligence Adviser. No person can perform all three responsibilities.

And, finally, the intelligence community is too complex and too secret. Its 15 agencies are governed by arcane rules, and all of its money and nearly all of its work is shielded from public scrutiny. That makes sharing intelligence exceedingly difficult.

We come to the recommendation of a National Intelligence Director not because we want to create some new czar or a new layer of bureaucracy to sit atop the existing bureaucracy.

We come to this recommendation because we see it as the only way to effect what we believe is necessary: A complete transformation of the way the intelligence community works.

You have a chart before you of our proposed organization. It is on page 413 of the book, the report. It is on the poster board. Unlike most charts, what is most important on this chart is not the top of the chart; it is the bottom.[1]

We believe that the intelligence community needs a wholesale Goldwater-Nichols reform of the way it does business, as the Chairman indicated. The collection agencies should have the same mission as the Armed Services do: They should organize, train, and equip their personnel. These intelligence professionals, in turn, should be assigned to unified joint commands, or in the language of the intelligence community, "Joint Mission Centers." We have already talked about a National Counterterrorism Center. A joint mission center of WMD and proliferation, for example, would bring together the imagery, signals and humint specialists, both collectors and analysts, who would work together jointly on behalf of the mission. All the resources of the community would be brought to bear on the key intelligence issues as defined by the National Intelligence Director.

So when we look at the chart from the bottom up, we conclude you cannot get the necessary transformation of the intelligence community—that is, smashing the stovepipes and creating joint mission centers—unless you have a National Intelligence Director.

He needs authority over the intelligence community; he needs authority over personnel, information technology, and security. Appropriations for intelligence should come to him, and he should have the authority to reprogram the funds within and between intelligence agencies.

The National Intelligence Director would create and then oversee the joint work done by the intelligence centers.

He would be in the Executive Office of the President. He would have a small staff, a staff that is really an augmented staff of the present Community Management staff of the CIA.

He would not be like other czars that we have created in this town over a period of years who really have not had meaningful authority. The National Intelligence Director would have real authority. He will control National Intelligence Program purse strings. He will have hire-and-fire authority over agency heads in the intelligence community. He will control the IT. He will have real troops, as the National Counterterrorism Center and all of the joint mission centers would report to him.

[1] The chart referred to appears in the Appendix on page 70.

We have concluded that the intelligence community is not going to get its job done unless somebody is really in charge. That is just not the case now, and we paid the price: Information was not shared, agencies did not work together. We have to—and can—do better as a government.

To underscore again, we support a National Intelligence Director not for the purpose of naming another chief to sit on top of the other chiefs. We support the creation of this position because it is the only way to catalyze transformation in the intelligence community and to manage a transformed community afterward.

What we learned in the 9/11 story is that the U.S. Government has access to a vast amount of information. But the government has weak systems for processing and using the information it possesses, especially across agency lines. Agencies live by the "need to know" rule and refuse to share. Each agency has its own computer system and its own security practices, outgrowths of the Cold War. In the 9/11 story, we came to understand the huge costs of failing to share information across agency boundaries. Yet in the current practices of government, security practices encourage overclassification. Risk is minimized by slapping on classification labels. There are no punishments for not sharing information.

We believe that information procedures across the government need to be changed to provide incentives for sharing.

We believe the President needs to lead a government-wide effort to bring the major national security institutions into the information revolution. The President needs to lead the way and coordinate the resolution of the legal, policy, and technical issues across agency lines so that information can be shared.

The model is a decentralized network. Agencies would still have their own databases, but those databases would be searchable across agency lines. In this system, secrets are protected through the design of the network that controls access to the data, not access to the network.

The point here is that no single agency can do this alone. One agency can modernize its stovepipe, but cannot design a system to replace it. Only Presidential leadership can develop the necessary government-wide concepts and standards.

The other major reform we want to recommend to you this morning concerns the FBI.

We do not support the creation of a new domestic intelligence collection agency, the so-called MI5. We believe creating such an agency is too risky to civil liberties, would take too long, cost too much money, and sever the important link between the criminal and counterterrorism investigative work of the FBI.

We believe Director Mueller is undertaking important reforms. We think he is moving in the right direction.

What is important at this time is strengthening and institutionalizing the FBI reforms, and that is what we are recommending.

What the FBI needs is a specialized and integrated national security workforce, consisting of agents, analysts, linguists, and surveillance specialists.

These specialists need to be recruited, trained, rewarded, and retained to ensure the development of an institutional culture with deep expertise in intelligence and national security.

We believe our other proposed reforms—the creation of a National Counterterrorist Center and the creation of a National Intelligence Director—will strengthen and institutionalized the FBI's commitment to counterterrorism and intelligence efforts. The NCTC and the NID would have powerful control over the leadership and the budgets of the Counterterrorism Division and the Office of Intelligence respectively. They would be powerful forces pressing the FBI to continue with the reforms that Director Mueller has instituted.

Taken together, then, we believe these reforms within the structure of the Executive Branch, together with reforms in Congress, and the other recommendations referred to by the Chairman, can make a significant difference in making America safer and more secure.

We believe that reforms of the Executive Branch structures are vitally important, and we are immensely pleased that this Committee is focusing on those reforms today as a way of making America safer. We are especially pleased that your Committee is taking the lead with regard to this, and with these words, we close our testimony and we would be pleased to respond to questions.

Chairman COLLINS. Thank you both for excellent statements. We are now going to begin 10-minute rounds of questions for each member. I would note that the only lights are right here and they are a little bit hard to see, but we will try to help make sure that everybody gets the full 10 minutes.

Congressman Hamilton, I would like to start my questioning with you because of the role that you played as Chairman of the House Select Committee on Intelligence as well as the many other hats that you have worn. Some observers suggest that the overall effect of the intelligence reorganization that the 9/11 Commission has recommended would be to diminish the influence of the CIA, to considerably increase the importance of the Pentagon, and to give the White House more direct control over covert operations.

Former CIA Director Robert Gates, for example, has said that the recommendation to place the new National Intelligence Director within the Executive Office of the President troubles him because that official would oversee intelligence operations both inside the United States and abroad. He cites the problems that have been caused when the White House has directly ordered covert activities, noting Oliver North's role in the Iran-Contra scandal, as well as the Watergate scandal where the CIA helped those who broke into Daniel Ellsberg's office. He has gone even further than that and said that the Commission's recommendation in this regard reflects a lack of historic perspective.

I would like to give you the opportunity to respond to those specific comments, which, as you know, are shared by some others within the intelligence community.

Mr. HAMILTON. Madam Chairman, we think that counterterrorism is the paramount national security concern of this Nation today. And we think it will be that for as long as any of us are active, for a long time. And we think it really is a unique kind of

challenge because it cuts across so many areas of our government and our Nation's life.

We found that the principal problem leading to September 11 was that the agency simply did not share information, and so we have set up this structure to encourage that sharing.

Now, why do we put the National Counterterrorism Center in the Executive Office of the President? That is one of the questions you raised. You raised a lot of difficult questions. We do it for two principal reasons. One is that terrorism, as I have indicated, is our most important national security priority, for this President or any President. And to be very candid about it, it is inconceivable to me that a President of the United States would want his highest national security priority handled somewhere else in the government that is not under his direct control.

Now, keep in mind that counterterrorism policy involves so many different things. I mean, it is diplomacy, it is military action, it is covert action, it is law enforcement, it is public diplomacy, it is tracing money flows in the Treasury Department. And we have to organize ourselves in such a way that we can integrate and balance all of these tools of American foreign policy to deal with the threat of counterterrorism. That kind of thing can only be coordinated and done in the White House under the President's direct control. Where else would you put it? You want to put all of this authority in the CIA? Do you want to put it all in the Defense Department when you are dealing with all of these other aspects of counterterrorism policy? I don't think so.

Now, the second reason we put it in the Executive Office building is that the National Counterterrorism Center—it is not just an intelligence center, but it is a center for operations, and it is going to be directing agencies, many agencies of the government working together on counterterrorism. And those activities are going to involve the CIA, they are going to involve the FBI, they are going to involve the Defense Department, they are going to involve the Department of State, and other areas of the government as well. You cannot coordinate those activities from a single department. You have to do it in the White House, I believe.

Now, all of us have a different idea of how this government works best, but we concluded that we had to put this authority in the White House just because it is such a cross-cutting kind of issue.

Is there a danger to that? Oh, sure. That is the Iran-Contra problem. I had a little experience with the Iran-Contra problem.

Chairman COLLINS. I recall that.

Mr. HAMILTON. So I am alert to anything where you concentrate power. We do have to be careful about that.

Now, one answer is that another part of our recommendations is congressional oversight. It has to be robust. And so everything kind of fits together here. And, incidentally, among other things, I think it is a small thing, perhaps, that hasn't been too much noted in our report, we do recommend the establishment of a board in the Executive Branch to keep an eye on government intrusion, if you would. But there is no magic solution here with regard to the concentration of power, but I think we do have some real checks and balances in it.

And, incidentally, Mr. Gates was an outstanding CIA Director. Anything he has to say, even if he is critical of us, deserves a lot of attention because he is a very knowledgeable person.

Chairman COLLINS. He is indeed, which is why I wanted to give you an opportunity to respond to his concern.

Governor, should the National Intelligence Director have a fixed term as the FBI Director does to help insulate that individual from political pressure? Or should the Director serve at the pleasure of the President because, after all, that individual would serve as the President's principal adviser on intelligence matters? What are your thoughts on that?

Mr. KEAN. Well, we talked about this some on the Commission. We had left it really to serve at the pleasure of the President, and I think for a number of reasons.

First of all, if he served a term, you would, as you have just said, perhaps having somebody who is the President's chief adviser on intelligence, somebody that the last President who may not agree with that President picked. And that did not make a lot of sense to us.

It seemed to us that as long as you had the lever of confirmation by the Senate and the fact that this individual would report to the Congress and testify before the Congress, that it was probably better to let him serve at the pleasure of the President.

Chairman COLLINS. I support the concept of the National Intelligence Director, and I agree with the Commission's recommendation that would be a much needed improvement over the current system. I was surprised, however, that the Commission did not recommend that the Director be a member of the Cabinet or at least Cabinet level.

This individual is going to have to deal with the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security. Wouldn't it be helpful in dealing with Cabinet members for that individual to have the stature of a Cabinet member? Governor Kean.

Mr. KEAN. We basically decided, again, after a lot of discussion, that it should not be Cabinet level, and the reason was that this is an operational position. It is not a policy position. This individual would be carrying out policy and carrying out directions and coordinating intelligence and moving policy. We believe that as you move through the various government agencies, that if this is the President's adviser in this area of counterterrorism, which is probably the most important priority that the next President or Presidents will have for some time, then his authority as he moves among various government departments will be pretty clear because it will come directly from the President of the United States. But because it was not policy, it was operational, we did not make him a member of the Cabinet.

Mr. HAMILTON. If I may add to that?

Chairman COLLINS. Please do.

Mr. HAMILTON. The Governor is absolutely right, of course. One feature in our thinking here is it just takes a long time to set up a department. If you look at the Department of Energy, some of us were around when that was set up a long time ago, 20 or 25 years

ago. It is still having problems in organizing and functioning as a department.

The Department of Homeland Security is a major reorganization of government, just getting underway, and it has excellent leadership, but it has growing pains.

So we were reluctant to say, OK, let's come along and set up another whole department of government.

Intelligence is a support function, and it is a support function for the President, it is a support function for each of the key departments of government, all of them, and we did not think you should have a department of government performing a support function. And they are, as Tom has indicated, the principal reasons.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks, Madam Chairman. Let me join you in thanking the Members of the Committee first for changing their schedules and coming back so quickly. A measure of the sense of urgency in the Congress is that we also have a non-member of the Committee, Senator Bill Nelson of Florida, who cares enough about this to be here with us today, and I thank him for attending the hearing.

Gentlemen, in your report you document more completely, and I would say more unnervingly than I have seen anywhere before, the lost opportunities to have done something that might well have prevented September 11 from occurring: The failure of the agency to share information, the failure to connect the dots, etc.

We are coming up to the third anniversary of September 11. A lot has been done by Congress, by the Executive Branch, to try to fix some of that, but clearly, in making the recommendations you have, you believe much more substantive reform is necessary.

To document the urgency of your recommendations, I wonder if you could answer a few questions that go to the status quo today, post-September 11.

For instance, maybe you have anecdotes or examples you could cite of continuing failure to share information or continuing inability, without a quarterback, as you say, to coordinate the resources of the Federal Government in the battle against terrorism.

Mr. KEAN. I can say that as we proceeded with our work, we ran into numerous occasions where we found out information that one agency had, and sometimes highly classified information but, nevertheless, something that should have been shared with other agencies in this fight against Islamic terrorism. And it wasn't. It still wasn't. The last example of that I think was perhaps some 3 weeks or a month ago that we were all amazed to find something that, again, was boxed into one silo and was not being shared across the larger community.

Senator LIEBERMAN. Congressman Hamilton, do you have any examples of the continuing problems today that should propel us to respond to your recommendations?

Mr. HAMILTON. Well, Senator, that is a very hard thing to tie down. I think you are absolutely right when you say that a lot has been done. I don't have any doubt about the sincerity of the officials, their willingness, their desire to make substantial improvements. And if you talk to any of these officials, they will give you a list of 10 or 15 points that they have done.

Now, have they actually been implemented all the way? That is where it gets tough to check. But we all pick up the paper, we read about the Governor of Kentucky flying in here. That was a problem. I saw a report the other day—I am sure it is available to you—about the mistakes we continue to make in screening airplane passengers. We all know about the cargo problem coming in.

So we find a desire to move ahead, but the whole government just is not acting with the urgency we think is required across the board, whether it is screening for cargo or checking airplane passengers or checking the airspace or whatever. Lots of good things have been done, but much more needs to be done. And what seems to us to be lacking is that real sense of urgency.

Senator LIEBERMAN. Congressman Hamilton, let me go back and quote in part from you what I quoted earlier in my opening statement: "A critical theme that emerged throughout our inquiry was the difficulty of answering the question: Who is in charge? Too often, the answer is no one."

Who is in charge today?

Mr. HAMILTON. The answer you get—and we asked that question in multiple forms—is always the President. But, of course, the President has enormous responsibilities, and it is not a very satisfactory answer.

So I think you then get—the second answer is, well, the top officials, the FBI Director, the Director of CIA, the Secretary of Defense and others have good working relationships and they meet together frequently. And I think they do, and I think there is some genuine sharing back and forth that is an improvement over the pre-September 11 period. But I think you have to institutionalize that. And I do not find today anyone really in charge—you can't possibly argue today that the CIA Director is in charge of the intelligence community. That just does not stand up.

Senator LIEBERMAN. Let me ask a more targeted question, and also thank you for that—the answer both of you have given argues for the urgency with which we should approach our response to your recommendations.

Clearly, one of the main goals of our current counterterrorism policy is to find and capture or kill Osama bin Laden. Is it clear to you that anyone is in charge of that search in our government today?

Mr. HAMILTON. Well, my impression is that the military is in charge, the Defense Department. We have, I think it is somewhere between 10,000 or 15,000—I am not sure of the exact number—military forces in Afghanistan. They are not engaged in securing the country. That is a NATO responsibility, which I have some problems with it. But our troops there are in the southern part of the country on the border now, and I believe the search, my impression is, is really very much under control of the military. Now, a lot of intelligence assets are in place to try to locate Osama bin Laden and his team.

I do not have a feeling that—well, we are not critical of this at all. We did not get into that in great detail. But that is my sense of it.

Senator LIEBERMAN. Governor, do you want to add anything to that?

Mr. KEAN. In a sense, what is going on now with Osama bin Laden went beyond our mandate. We had to set some limit to the time of our research and our work. And I have the same information, really, that Lee Hamilton just gave you. But I do not have anything further.

Senator LIEBERMAN. I do not want to continue too much on this point, but the military, to the best of your knowledge, is in charge of the search for bin Laden. Hopefully, presumably, they are cooperating with the intelligence agencies and others. But in the reform that you recommend, it would be clear who was in charge. The National Intelligence Director would be in charge in marshalling all the resources of the various agencies to pursue and capture or kill bin Laden.

Let me ask a very different kind of question about our mission on this Committee. I take it to be the charge from Senator Frist and Senator Daschle that we are to consider and act legislatively on any of your recommendations that deal with the Executive Branch of government and would be benefited by legislation. In listening to your statements when the report was issued, I concluded that you felt that the two top priorities were the creation of a National Intelligence Director and a National Counterterrorism Center.

I think our goal here is to prioritize and just go through as many of these recommendations as possible and adopt them as quickly as we can. What would you two list as the other urgent recommendations that should be priorities of ours after the National Intelligence Director and the National Counterterrorism Center?

Mr. KEAN. Well, one that may not be and the very difficult ones that are not in the purview possibly of your Committee involve the Congress and ways to improve oversight. They are very important. Most of our recommendations do not require a lot of money, frankly, to implement. One that does is border screening, to move ahead a little faster with biometric identification, ways in which we can secure our borders, national standards for driver's licenses and means of identification, things that would make us safer in terms of people who are moving around this country without clear forms of identification or who get into this country without proper means of doing so.

Senator LIEBERMAN. Is that something, Governor, that we are talking about in legislative appropriations? Or would we be considering that a priority to authorize by statute, to give the Executive Branch more authority than they have now to set up the kind of screening system that the Commission has proposed?

Mr. KEAN. I am not sure what it would take. I am not an expert in how much of this is authorization, and how much of it you can empower the President to do. But I think it would certainly take appropriations, because that is the one—as I remember, it is the one part of our report that really is going to take some money.

Mr. HAMILTON. It is not an easy question to answer how you implement these recommendations. I am very pleased that you have focused on the two big ones. They clearly are the two big ones. The third one, the reform of the Congress on oversight, we think is right up there very close to those two.

From that point on, I think many recommendations kind of merge in my mind. Some of them could be handled, like the border security problems, largely with an infusion of money. The big cost in our recommendations is really border security and not the organizational change that we have been talking about thus far.

I think a lot of things can be done by Executive order. Now, there is always the question whether it is better to do it by statute.

Senator LIEBERMAN. Right.

Mr. HAMILTON. And usually, given my background, you would expect me to say that it is better to have a statute in back of it. But I read in the paper that the President is thinking about some actions, and I am quite sure he will move in some areas by Executive order.

Senator LIEBERMAN. My time is up, but just very briefly, I believe I also heard you mention the FBI changes as a priority.

Mr. HAMILTON. We did. The information sharing across agencies—very important—really has to be done by the President. I do not think that can be done by the Congress. It is setting common standards across the Executive Branch, and the FBI, I do not think requires legislative action. I think it can continue to be done by the Director. The President may want to weigh in there with an Executive order. I do not know. But I think that could be done by the Executive Branch.

Mr. KEAN. But the FBI recommendations do, at least in our minds, really call for very strong congressional oversight. We applaud what the Director is doing, Director Mueller. He is moving in exactly the right direction. But we have a tremendous fear, after looking very hard at the FBI, that when he and his top two or three people may move on, that a lot of the FBI would like to move back to just the way they were, like to go back, if you like, to breaking down doors again. And they did that very well over a number of years and brought a lot of people to justice. But we are asking them to have this other function now of finding and disrupting plots against the United States of America. And we want to make sure that the people who are in that line of work have the same recognition within the FBI, have the same chances for advancement, have the same chance to assume eventual leadership in the organization and are not downgraded. And we worry that if there is not Executive action and strong congressional oversight that the FBI, after this leadership departs, could start moving back in the other direction again.

Mr. HAMILTON. We do not have strong views about how you implement. I really think that is your job more than ours, and the Executive Branch. We would defer to you as to the best way to implement these, and we did not try to spell out the implementation.

Senator LIEBERMAN. That is very helpful. Thank you very much. I think I can speak for the Chairman and say that we are very honored that the Senate leadership has given us responsibility for the Executive Branch changes you recommend, and we are very grateful that the Senate leadership has not given us responsibility for the Legislative Branch changes that you recommend. [Laughter.]

Chairman COLLINS. I concur. Senator Voinovich.

**OPENING STATEMENT OF SENATOR VOINOVICH**

Senator VOINOVICH. Thank you, Madam Chairman, for holding this hearing.

Chairman Kean and Vice Chairman Hamilton, thank you for your extraordinary service to our Nation during these difficult times. Your work has been invaluable in providing discerning insight into the pre- and post-September 11, 2001, world, and I commend you for your exemplary bipartisan cooperation.

What we do with your recommendations will have a major impact on our national security and ability to respond to Osama bin Laden's 1998 declaration of war against the United States of America and our response to Islamic extremism, which threatens world order and the well-being of the United States of America.

Madam Chairman, the 9/11 Commission's recommendations to establish a National Intelligence Director and a National Counterterrorism Center would constitute, as we all know, an unprecedented restructuring of the U.S. intelligence community. However, we must not only focus on the organization and structure of the intelligence community, but also address the capacity of its component agencies to execute their missions in terms of their human capital management and information technology.

Governor Kean, you said good people can overcome bad structures, but they should not have to. I would like to say that good structures without good people with good interpersonal skills cannot be successful.

We had a coach at Ohio State named Woody Hayes who used to say, "You win with people."

In March 2001, former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century, the Hart-Rudman Commission, testified before this Committee and said that, "It is the Commission's view that fixing the personnel problem in the national security establishment is a precondition for fixing virtually everything else that needs repair in the institutional edifice of the U.S. national security policy."

As the Members of this Committee know, I have been focused on addressing the Federal Government's human capital challenges. The Office of Personnel Management just released a report pursuant to legislation I introduced to review the personnel system for Federal law enforcement agents who are critical to keeping us secure at home. The 9/11 Commission, your Commission, made several recommendations in the area of human capital, and it is critical that they are not overlooked as we proceed with legislation to create new leadership and operational structures in the community.

Now, we have been just talking about the FBI, and the Commission did not recommend a dedicated domestic surveillance agency; instead, it recommends strengthening the FBI's existing capabilities. Others have suggested creating an agency within the FBI that would only focus on terrorism.

My concern is this: Shouldn't there be a Federal agency which focuses solely on catching the terrorists who have infiltrated the United States and are plotting the next terrorist attack? The question is: Will the FBI, which will still be investigating organized crime and civil rights issues, be able to do the mission?

We had a hearing in another committee that I belong to, the Foreign Relations Committee, on organized crime and corruption. And at that hearing we heard about the Russian mafia's operation in the United States. I asked the question: With your new counterterrorism responsibilities, do you have the human resources to deal with that problem? And the answer came back: No.

It seems to me that if we are talking about concentrating on terrorism that we should be very careful in terms of tasking agencies and making sure that if we have tasked them with more than what they have traditionally done, that they have the added resources to get the job done.

I would like your response to that.

Mr. KEAN. I think there is no question about that. You cannot task an agency without giving them the resources. We believe that the FBI under the present Director's reforms, if they are carried out fully—and they still have some ways to go—can perform both functions as long as it is understood that both functions are a high priority of the agency. But you are absolutely right, you have got to give them the resources. There has been an appalling lack of language skills in the FBI, an appalling lack of a number of other skills that we need in the agency if it is going to perform the kind of functions you just elaborated. So I would answer yes, I guess.

Senator VOINOVICH. The other thing that bothers me is that George Tenet said before your Commission that it would take at least 5 years to rebuild the CIA Directorate of Operations, and an important part of that process would be bringing in new people with the right skills and background.

In your examination of the intelligence community, how would you assess its workforce? You have heard from many of these people. Did you get into the quality and the numbers of their workforce?

Mr. KEAN. Yes, and I found Director Tenet's answer just unacceptable because we have not got 5 years. We simply have not got 5 years.

Now, I know and we all know that there has been a lack over the years in what we call human intelligence. We spent a tremendous amount of the budget on mechanical—not mechanical devices, but new high-tech devices, from satellites to the Predator, which are all useful but do not take the place of human intelligence on the ground, and we did not, in my opinion—and I think the Commission's opinion—put enough resources into some of those, and those are the areas in which we have got to rebuild.

I think we have got to look at our recruiting techniques, whether or not they are too limited in a sense, whether we are overlooking some people in this country who already have those language skills and could be helpful in this operation.

Now, we were not sanguine about the CIA's present capability based on a human capability to do its job.

Mr. HAMILTON. Senator, I really appreciate your emphasis on the human capital and the training of our people because I think you recognize—and I hope we recognize—how critically important it is to have well-trained people.

I want to say that the National Intelligence Director, as we perceive that responsibility, would have very large personnel respon-

sibilities. He or she is going to establish standards for education and training and make assignments across these national intelligence agencies. And you would put in that one person major responsibility for improvement of your personnel.

The second point I would make with regard to the FBI is that while we think they are moving in the right direction, they have got a long way to go in terms of having a specialized, integrated national security workforce. We all know the culture and the shape of the FBI over a period of years has been law enforcement. If you want to get ahead in the FBI, you do it on the law enforcement side. That is where the FBI has made its name. And the intelligence side, which is important, has not had the same kind of emphasis. And what we want to see in the FBI is a national security workforce or intelligence workforce that is highly trained, highly specialized, and has all of the skills that are necessary.

Senator VOINOVICH. What you need to do, though, is to have a personnel system that is flexible, that is competitive, that can attract the best and brightest people into those agencies, and also certainly the people that are getting the job done.

We have a budget problem. We have a growing deficit here. And you say that what you are suggesting here is not going to cost a lot of money. I think that it will cost a lot of money if we are going to staff those agencies with the right people with the right skills and knowledge. One of the things that this Congress is going to have to consider is where are we allocating resources.

We spend a whole bunch of money on armament around here. We spend all kinds of money on all the new gadgets, as you have said, and everything else. And I think we ought to start looking at taking some of that money and putting it into intelligence and diplomacy and some of the other things that you talked about, because this war against terrorism is not going to be won necessarily with more bombers and missiles.

Mr. HAMILTON. One of the very important things here is diversity. To be very blunt about it, the kind of people you need in many aspects of the CIA today are not people like me who come out of the Midwest, who are white, who do not speak languages, and graduated from Indiana University. Maybe they come from Ohio State University, Senator. I do not know. [Laughter.]

But you have really got to have diversity. You have got to have people that speak these languages, and most of these language we cannot pronounce let alone speak the language.

Senator VOINOVICH. Congressman, after September 11, I thought the most incredible thing that happened is that the State Department, the CIA, and the FBI said, "Is there anybody out there that can speak Arabic and Farsi?" And I thought to myself, as a former Governor and the commander-in-chief of the Ohio National Guard—and we fought in the Persian Gulf War—that 10 years later the light bulb would have gone on in somebody's head and said, "We need to go out and attract people that can speak Arabic and Farsi so that we can deal with this new challenge that we have."

Mr. KEAN. Senator, the two things we need, the two biggest needs, are analysts and linguists. Those are the two things we do not have. You are absolutely correct, but part of this concern is

what underlay our recommendation that counterterrorism forces be combined and not duplicated across the government, fewer fusion centers across the government, to pool expertise in the National Counterterrorism Center. We think that would go some way to meeting the kind of problems which you have rightly outlined.

Senator VOINOVICH. Thank you.

Chairman COLLINS. Thank you. Senator Levin.

**OPENING STATEMENT OF SENATOR LEVIN**

Senator LEVIN. Thank you, Madam Chairman, and thank you both for your great service to this Nation before, during, and after your service on this Commission. You are going to continue to fight for the reforms that you have proposed, and I think that is further testament to your dedication to this land, and we are all appreciative of it.

I believe a top priority of reform must be greater independence and objectivity of intelligence analysis which is provided to our policymakers—intelligence, analysis, and threat assessments which are not influenced and not tainted by the policies of whatever administration is in power. This has been a problem throughout the course of recent decades, right up to current time.

When you propose, as you do, to—well, first of all, do you agree that a high priority should be the objectivity and the independence of the analysis, both threat analysis and intelligence analysis? Governor Kean.

Mr. KEAN. Yes, absolutely. And we believe that has to be and continues to be a high priority no matter which agency that information is coming from.

Senator LEVIN. And how does placing your Director, your proposed Director, in the White House, even closer than the current CIA Director—and there were plenty of issues about just how independent that threat analysis and intelligence analysis was. But putting aside that question for the moment, how does putting the Director even closer to the policymaker do anything other than to make this problem even more difficult?

Mr. KEAN. I think it is a tremendous problem. I think all of us recognize that the separation of intelligence and policy is very important. Those of us who have dealt with it know that it is also impossible to achieve completely. You are always going to have interaction here, and you want to build, I guess, some barriers or some walls so you do not have excessive politicization.

But I think it is unrealistic to think that you can build any kind of a structure where you have none at all.

Senator LEVIN. Well, but that is not the issue, is it? You are tearing down a wall. You are not building a wall. Aren't you putting that person closer to the policymakers?

Mr. HAMILTON. Let me respond in this way. First of all, under the present structure, you cannot say you get good competitive analysis. That is what you just issued your report on, group think. And that means you do not get competitive analysis. So the way we are doing it now is not working if you want competitive analysis.

Second, the same kind of arguments were made when the competitive analysis—they sound an awful lot like the arguments

against organizing the Joint Chiefs of Staff when Goldwater-Nichols came into play.

We, today, have the best military in the world, and it performs far better today because of joint commands than it did when you had separate commands. Now, we want to do the same thing in the intelligence area.

The third point would be that not all of the analysis is going to fall under the Director. If you look back over recent experience, where did you get the most independent analysis? You got it from INR. We do not change that at all. State, Treasury, Energy, Army, Navy, Air Force, and Marines would all still function like they do today. You have exactly the same situation. In other words, they would be independent, and there is one other thing we add that will increase your competitive analysis, and that is a little, tiny word in this chart over here that says "open" sources.[1]

If you look back over the experience of September 11, we have said that the American people, not just the leaders, did not get it, did not have the imagination. The reason our criticism is so broad is because almost all of the information was available in open sources. And so we want to elevate open sources in this process of intelligence because we think it is critically important to have these people expert in the cultures, and the languages that we have already talked about.

Senator LEVIN. In addition to the——

Mr. HAMILTON. So, Senator, I don't see any reduction of competitive analysis in what we have said. I think it is a problem today, and I think what we have suggested will increase the prospect for competitive analysis, which is what you want.

Senator LEVIN. I think that is a major question for anybody who is restructuring to consider.

Mr. HAMILTON. It is.

Senator LEVIN. As to whether or not you are going to increase or decrease further the independence of those analyses and those assessments.

There is another issue here too which is created when you move the head of intelligence into the Executive Office of the President, and that is that you point to congressional oversight as being the antidote or the check-and-balance on that, in part, but the closer you move decisionmaking and conversations to the White House, the more privilege the White House always claims to those conversations and those decisions.

And you put great emphasis on oversight, and by the way, I could not agree with you more on the failures of oversight, the need for additional oversight, but by moving it into the Executive Office of the President, moving that Intelligence Director, because that is closer to the President and the privileges which Presidents, particularly this President, have claimed, are you not making congressional oversight more difficult?

Mr. KEAN. When we were meeting with people from the Executive Branch and briefing them on these recommendations, one of the President's staff said to me, "You recognize that any conversation this person has will be subject to congressional hearing."

[1] The chart referred to appears in the Appendix on page 70.

And I said, "Yes."

And that person said, "Well, you know, that means they might not be included in every conversation."

And I said, "So be it," but the understanding of the Commission, and I think the understanding of the Executive Branch, when we briefed them on this, that there would be no executive privilege involving this individual because they would be subject to Senate confirmation, and Senate hearings, and they would not be one of those officials that the President appoints directly without Senate confirmation, and that is the area, I gather, where executive privilege is always invoked.

Mr. HAMILTON. The point I want to make is that the agencies remain as they have been, under our proposal. They have their investigative powers, they have their legal responsibilities, their constitutional limitations. Their authorities really do not change. What changes is that the National Intelligence Director has enough authority to ensure that you share information back and forth.

I think, Senator, the concentration of authority is always worrisome, and you have really got to look at it very carefully, and that is why we try to build in, as much as we can, checks and balances. But I do not think our recommendations fundamentally change the balance of power, if you would, with respect to the executive.

Senator LEVIN. One of the things that you do hear for the first time is that you would give the National Counterterrorism Center head the authority to assign operational tasks to other agencies so that you could have this second person in command, below the National Intelligence Director, actually tasking, for instance, Defense Department personnel.

Would you agree with that?

Mr. KEAN. Yes.

Mr. HAMILTON. Yes.

Senator LEVIN. Now, that, does it not, creates a problem of disunity of command, for instance, inside the Defense Department. You will be getting someone inside the Defense Department, getting a tasking requirement from presumably inside his own department, inside his own commander or her own commander at the same time someone from outside that department can task that person in the Defense Department to carry out a certain task.

Mr. HAMILTON. One of the National Intelligence Directors, he has three deputies, and one of them is the Deputy for Military Intelligence, and his job is exactly the question of serving the military requirements and balancing the needs of the military and the national policymakers. The Army, the Navy, the Air Force, and the Marine Corps intelligence elements are going to remain exactly as they are today under the Secretary of Defense, just like the elements remain for the State Department, and the Treasury and the others.

Look, there is no magic solution here, and every move you make has some advantages and has some disadvantages. We think the advantage is, first, of sharing information, and second, of having someone in charge of managing the situation is critical, and you don't have that today, Senator.

If you go back to the example I think the Chairman used in the opening statement of these two fellows running around in Bang-

kok, and then later on the West Coast, we had all kinds of information about those people over here, over there, over yonder within the Federal Government. What didn't happen was we didn't put it all together, and nobody took responsibility for managing the case. Intelligence doesn't usually come to you and say, "OK. The World Trade Center is going to be hit at 9 o'clock in the morning." That is not the kind of intelligence or you might get that if you are lucky. Ordinarily, you get 20 or 30 pieces of information, and somebody has to put it together, and somebody has to manage it.

Senator LEVIN. And one other thing, if I can just conclude with this. And we went into that case in great detail at the Joint Committee on Intelligence between the House and the Senate. There were people that had responsibility to report the presence in the United States of those two men. They knew they came here from Bangkok. The CIA knew it. There were people in the CIA who were responsible for reporting this to the INS and to the FBI. They failed in their jobs.

And then we had people here, in the FBI, at the bin Laden desk, who received information from local FBI offices who did nothing with that information, who failed to do their job, and nobody was held accountable for failing to do their jobs. And that is something, it seems to me, that is critically important, and I don't see a lot in your report on holding people accountable because there we had people who had jobs to notify the INS, notify FBI, that those two guys had entered the United States. They knew it, and they failed to do it.

And when I asked that question of the CIA Director, and I asked the same question of Mr. Mueller about the FBI reports just falling through the cracks inside the United States, the answer was they will let us know what action will be taken, in terms of holding individuals accountable for those failures.

So, yes, we have got to address that issue. The accountability issue is an important one. Thank you.

Mr. KEAN. Absolutely, Senator. And you know one of things we found, and you probably did in your inquiry, also, is it was not just problems of sharing from agency to agency, it was problems sharing within the agencies——

Senator LEVIN. Absolutely.

Mr. KEAN [continuing]. That was such a problem. We hope this structure will force that sharing of information and also put somebody in charge.

Senator LEVIN. Thank you.

Chairman COLLINS. Senator Coleman.

**OPENING STATEMENT OF SENATOR COLEMAN**

Senator COLEMAN. Thank you, Madam Chairman.

I would like to focus a little bit on where we were, where we are at today, and then, most importantly, where we have to go tomorrow.

As I read this—and it makes, by the way, very compelling reading. It could almost be fiction, but it is not. It is nonfiction—but, in part, and what struck me reading about the day, September 11, the absolute inability to grasp, as it was happening, what was happening, the inability to grasp, even as planes hit the tower; you

know, folks, the lack of understanding that we have got a problem with planes being missiles. So we are still getting ID and tag by folks in the air, when others think there has been a command to intercept because we can't imagine the unimaginable.

I would sense, and it goes back to Senator Voinovich's concern, after the 1991 Gulf War, we never thought about getting human capacity on the ground to increase intelligence capability to perhaps help us understand that.

So we came from a place where we cut back on intelligence. We did not develop the human capacity to allow us then to think the unthinkable.

[The prepared opening statement of Senator Coleman follows:]

PREPARED OPENING STATEMENT OF SENATOR COLEMAN

I am delighted to be here today to discuss the recommendations of the National Commission on the Terrorist Attacks Upon the United States. I have already read much of the Commission's report and am extremely impressed with both its thoroughness and the unanimity behind the Commission's recommendations. America owes both the Commission members and their staff a debt of gratitude.

I am gratified that our leaders are acting quickly upon the recommendations. President Bush has already announced his intention to sign a set of executive orders implementing many of the Commission's suggestions. Soon after the report was released Majority Leader Frist and Minority Leader Dashle jointly charged this Committee and others with holding hearings and reporting legislation to the full Senate by October 1. I have already conveyed to Chairman Collins my desire to be actively involved in helping her meet this deadline. The Senate leadership is also forming a task force to study the Commission's recommendations concerning Congressional oversight of intelligence and homeland security.

Over the next few months we will have an opportunity to reform this nation's approach to gathering, analyzing, and using intelligence. We will examine further improvements in how our nation guards against terrorism. There is no doubt that the issues are complicated and that a range of legitimate views exists. But with the Commission's report supporting us, we should be able to cut through many of the jurisdictional and bureaucratic obstructions that so often delay and warp real reform and concentrate instead on the underlying merits of various proposals.

But the task before us should not detract from the enormous accomplishments we have already made. As the Commission notes, we are safer today. In large part that is thanks to the efforts of first responders and other Federal, State, and local officials across the nation. But our progress also reflects the strong leadership of both President Bush and Congress. We do not take the safety of Americans lightly and we have already acted.

In the last 3 years we have implemented several accomplishments:

- We have inflicted a crushing military defeat on al Qaeda and its state sponsor in Afghanistan. Although some of their leaders, including bin Ladin, remain at large, there is no doubt that their capacity to train, fund, and organize terrorist strikes on America is substantially diminished.
- We have dethroned one of the world's most heinous dictators in Iraq. The leader of a regime that brutalized its own people, threatened our allies in the Middle East, and did everything it could to acquire weapons of mass destruction.
- We have worked with Pakistan and Saudi Arabia to change their attitudes regarding terrorism and the ideologies that feed it. Saudi Arabia is beginning to deny terrorists any safe haven within its borders. Working with Pakistan, we have uncovered a global network for disseminating nuclear technology and equipment led by one of Pakistan's top scientists.
- Strong U.S. leadership has led to dramatic reversals in the policies of Libya and even Iran regarding their willingness to admit and disclose past efforts to acquire nuclear technology.
- Early last year Congress completed the most sweeping reorganization of the Federal Government since WWII when it created the Department of Homeland Security. For the first time a major department exists with the primary task of protecting America's heartland and borders from terrorist attacks.

- The Patriot Act has allowed all levels of law enforcement to gather and use information on terrorist activity in more coordinated ways. Key improvements include eliminating the wall between domestic and foreign intelligence and enhanced powers to track financial transactions. The fact that some provisions of the Act have generated controversy should not blind us to the broad consensus that lies behind most of it.
- The United States is actively trying to spread the benefits of political freedom and economic prosperity to the Middle East. The President has stressed the need for internal reform in his discussions with Arab governments. We are actively working to get our message out to Arab audiences through stations such as Radio Farda and Al Hurra TV.
- President Bush's Proliferation Security Initiative enlists cooperating nations in a stronger effort to control the spread of the technology behind weapons of mass destruction.
- The Administration has created the Terrorist Threat Integration Center to coordinate governmental efforts against terrorism. As the Commission noted, it has also initiated important reforms in both the FBI and the CIA. Secretary Powell and Secretary Rumsfeld have significantly increased the intelligence capabilities of the Departments of State and Defense, respectively.
- Spending on intelligence, technology, and equipment has increased dramatically. Congress has generously funded the Office of Domestic Preparedness so that State and local governments can increase their readiness for both natural and man-made disasters.

This effort has been ably led by President Bush. But it has been assisted by leaders from both parties. Under the leadership of both Chairman Collins and Ranking Member Lieberman this Committee has reported out a number of key bills making our nation safer. These include the legislation creating the Department of Homeland Security and action earlier this year to increase the efficiency of the Department's State and local grant programs.

But I know we can do much more:

- We can work to implement improved technologies and procedures to increase our ability to track and stop terrorists and weapons at our borders while speeding the travel of the large majority of visitors and cargo.
- We can improve our processes for admitting and keeping track of foreign students. This nation's leadership in higher education is both critical to our future competitiveness and an important avenue of cultural exchange with the future leaders of other countries. The vast majority of foreign students return home with a better appreciation of and respect for American culture and society.
- We can help foster peace in the Middle East by renewing our commitment to Israel's national security and making sure that Palestinians understand that internal reforms and a cessation of violence will lead to their own homeland.
- Finally, we can overcome bureaucratic inertia and turf battles to create a better institutional structure for collecting and analyzing intelligence. The new structure should coordinate intelligence activity to ensure that it reflects national priorities but allow enough freedom, especially in the analysis of data, to ensure that senior policy officials receive a variety of viewpoints.

I look forward to the challenge before us.

Senator COLEMAN. Where we are at, and I want to press this, and I don't want to leave this hanging because the comment was made about not operating with a sense of urgency, and I am going to be very blunt, is the comment about Director Tenet and the time that it would take to develop the capacity that we didn't develop over the 1990's, and in fact we cut back with over the 1990's, the human capacity, the ability for folks to understand the Islamic frame of mind, who could speak Farsi and speak Arabic, is his estimate of 5 to 7 years, are you saying that reflects a lack of urgency on his part?

Mr. HAMILTON. I think it reflects the difficulty of the job. I think if there is one thing we all agree on, it is we need more human intelligence. And I was on the Intelligence Committees when we got quite fascinated with the fancy technology, and we put a lot of money into it. I don't think that was a mistake, but on the other hand, looking back on it, you can say we didn't put enough emphasis on human intelligence, so far as the congressional oversight was concerned.

But, Senator, one of the things that really impresses me on human intelligence is I think our expectations often get too far in front of us. It is very difficult work. If you are thinking about human intelligence, and you mean you are going to put a fellow in the cell of Osama bin Laden, which is very few people, it is just exceedingly difficult to do because of the suspicious nature of that cell.

Don't misunderstand me—I am all for human intelligence, and I am disappointed like the Governor is, when I heard the 5-year estimation by George Tenet, but I'm not too surprised by it, and no one should expect that this is a silver bullet. Human intelligence is very tough to do.

Senator COLEMAN. I think it is fair to say that there are no silver bullets here. There are, as the report lays out, "We do not believe it possible to defeat all terrorist attacks against Americans. Every time and everywhere a President should tell the people we can't promise that a catastrophic attack like 9/11 won't happen again no matter what we do."

I used to be a prosecutor. We used to say in law enforcement we try to cut the odds. We put bad people away to cut the odds, but we never guarantee the safety of every citizen. You cannot do that.

I just want to, again, this lack of urgency, is there any sense that Tom Ridge has a lack of urgency as he approaches his job of Homeland Security or of Director Mueller? Is there any sense that he has a lack of urgency in approaching his job?

Mr. KEAN. No. I would say they have no lack of urgency. But what I think we have to do though is instill that same urgency in the American people, the understanding that this is something, these people are planning to attack us again and trying to attack us sooner, rather than later, that every delay we have in changing structures or changing people or whatever it is, to make that less likely is a delay the American people can't tolerate.

We, as former members of the Commission, now as private citizens, and you obviously as the leaders of our country, have got to get that across to people. There are a lot of priorities out there, but this one cannot again submerge the way it did some years ago.

Senator COLEMAN. I asked this question because this is a political season, and this should not be a political football, and I could just see a headline, "Chairman Says Lack of Urgency." So it is not Mueller, and it is not Tenet, and it is not Ridge, and I presume it is not Condi Rice and not——

Mr. KEAN. No, and we didn't say that in our report about any of those people, and wouldn't. The sense of urgency is there, but a sense of urgency must be extended, magnified, made an important part.

One of the things we note in our report, in the last presidential campaign, we had all these warnings, all the way from World Trade Center One through Black Hawk Down, which bin Laden was part of, to all the attacks abroad and at home, the ones that were stopped and the ones that succeeded, all that laid out, we went through all the rhetoric of the last presidential campaign, terrorism was mentioned only once——

Senator COLEMAN. Let me talk about where we——

Mr. KEAN [continuing]. And al Qaeda. So, anyway, the only point I'm making is the more sense of urgency we can get and establish——

Senator COLEMAN. Including for the American public to understand that the world has changed. We live in a post-September 11 world, and our reality has changed. We are never going to get back on that track.

Just a practical reflection on the recommendation for a National Intelligence Director and the creation of a National Counterterrorism Center, which I support in concept, but the practical piece I am looking at is this, Chairman Hamilton talked about Homeland Security takes a long time to set up. We are still in the process of setting that up. How do we deal with the risk—I am worried about, as we move forward with other structural change, do you fear us creating any gaps? Are there some things that we should be looking at in the interim?

And I will raise the question about Homeland Security. I would actually think most Americans would think that the Director of Homeland Security is the person now today responsible because we know that the threat of terrorism is no longer just an international issue; it is also a domestic issue. And so we would think, I think the average American would think Tom Ridge has that responsibility, but clearly, structurally, it is not there.

Help me understand how we, in moving forward, if we were to move forward with a National Intelligence Director, a new Counterterrorism Center, what do we do to make sure that we do not have any interim gaps, that we do not actually weaken our capacity during that period of time?

Mr. HAMILTON. Any time you make a transition or a change, a major change like we are suggesting, there are some risks involved. You have to weigh it, however, against the risk of doing nothing, and we believe that the risk of not moving is much greater than the risk of moving, even though there are some risks of moving. And so I guess that is the way I would approach your question.

We are recommending major structural change, and as you go through that, we all know there is a real difficult period, and there are some risks. You cannot deny it——

Senator COLEMAN. One of the things——

Mr. HAMILTON [continuing]. Until you get it working like you ought to get it.

Senator COLEMAN. Governor Kean, did you want to respond to that?

Mr. KEAN. Just, Senator, that you are right, obviously right about the risk. But we came to a conclusion, all 10 of us from what we studied in this, that the present system is unacceptable and doesn't work. It is just that simple. It does not work, and the Amer-

ican people will be less safe if we continue in the present structure than if we start to move to the kind of structure we've suggested.

Senator COLEMAN. The one thing that you are not recommending is a new Domestic Intelligence Agency. You are still willing to say we will leave that with the FBI, but really I saw two caveats there: One, only if the National Counterterrorism Center is created.

Mr. KEAN. That's correct.

Senator COLEMAN. So would it be a judgment if, for whatever reason, that the sense was that we do not go in that direction, would you then be recommending a new Domestic Intelligence Agency or some shift away from the FBI, in the absence of that structural change?

Mr. KEAN. If we don't make this structural change, my hope is the Congress and the people who decide not to do it, will make a whole series of recommendations to replace what we have recommended.

What we are basically saying is we have done the best we could. We had debates that went on for a year on the Commission. We brought in every member of government. We talked to a number of so called "wise men" around this town who had served in positions of government. This is the best we can come up with. We're not saying it is the best anybody can come up with. If people can come up with something better, God bless them, but what we're saying is basically it is the best we can do, and if people don't like it, please come up with something new. Do not leave what's there now.

Mr. HAMILTON. I have real doubts about an MI5, period, whether or not you do what we recommend. I don't think it fits in this country. And interestingly enough, the MI5 people who we talked with don't think it will fit here either because the two countries are so very different.

You've got an FBI today that is accustomed to carrying out very sensitive intelligence collection with respect to the rule of law, in compliance with the law. That is a very valuable asset, and you don't want to lose it. So put me down on the side of being opposed to the MI5, period.

Senator COLEMAN. Very brief, one other area—actually, my time has concluded, and with that I will thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Durbin.

## OPENING STATEMENT OF SENATOR DURBIN

Senator DURBIN. Thank you very much, Madam Chairman.

I have been in Boston, and I have lost my voice. I do not know why. [Laughter.]

But thank you for this hearing, and I am glad that you did it in a timely fashion. I want to salute the Chairman for bringing us together.

Let me also salute both of you publicly, which I have done by press release, but I wanted to do it in person for your contribution to our country. You have done an excellent job, and it is painful to concede, but I must concede, I think you did a better job than a congressional committee could have done. Yours was truly a bipartisan effort. In a political season, you were as apolitical as you

could be and still be honest about your conclusions, and I thank you for that.

I am one of the few in this, maybe the only Member of this Committee, who happens to be on this Committee, the Intelligence Committee, and the Appropriations Committee. So I have sort of seen all of this coming together in a variety of different ways. And I would have to say to you that I think you were sparing in your criticism of Congress, when it comes to our oversight role. I think you could have come down a lot harder.

You said that it was the single most important and most difficult thing that needs to be done—to reform congressional oversight, but I can tell you candidly that the Senate Intelligence Committee, with 30 or so staffers who work extremely hard and do a fine job, are not sufficient to the task. With all of the intelligence agencies, with all of the responsibilities we have, we cannot give adequate oversight with that limited number of staff people.

I do not know if a Joint Committee is the best approach. It is an old concept, as Congressman Hamilton said at one of our briefings, that goes back 40 or 50 years, but we need to find a way to create, as you suggest, a nonpartisan staff up to the task, and a Committee that understands its responsibility, and we should not overlook it. As we start pontificating about the Executive Branch, we ought to be introspective as well, and thank you for challenging us.

I also think that you were somewhat sparing in your criticism of our technological capacity. You have conceded that we need to move into new technology, imaginative, creative technology, biometric screening and things of that nature, and I think you are exactly on point when you suggest that.

But I have to say that it has been my experience, having focused on one small aspect of this war on terror, that we are woefully behind, and that is the development of technology in our government. It is incredible to me how far behind we were on September 11, and you must have seen this as you looked at the antiquated computer system at the FBI, for example, incapable of word search, incapable of E-mail, incapable of access to the Internet, incapable of sending photographs over their computer system. The photographs of the hijackers were sent by overnight express to the regional office of the FBI. Computers could not send them.

Well, Bob Mueller is a fine selection by the President and a good man as the head of the FBI in my estimation, and he is trying, through trial and error, to improve this system, but the system, to give you a notion, is so woefully behind that a year ago the Inspector General gave us an update on our effort to integrate the collection and sharing of fingerprints between the FBI and the Immigration and Naturalization Service, now part of the Department of Homeland Security.

We wanted them to be able to share fingerprints of suspicious people, so we suggested in 1999 that is what they should do, and the Inspector General told us last year he thought that by the year 2008 they would be capable of doing that, a mere 9 years after identifying this as a priority.

So understand my skepticism, when you start talking about biometric screening. Existing fingerprints at two Federal agencies can-

not be shared today for the safety and security of America, leading me to my point and one of yours as well.

I think that we have to look on this, as Franklin Roosevelt viewed Pearl Harbor, World War II, and the need for an atomic bomb. He said, "We have got to break through all of the bureaucracy then in Washington, bring together the private sector, academia, and the public sector and create a Manhattan project and build some atomic bombs." General Groves did it in a thousand days, had the bombs that ended the war through the Manhattan Project.

We are now 1,053 days after September 11, and we have to ask ourselves where is the Manhattan Project in technology for our government? It is something I have been preaching on here in this Committee with little or no success. There is bureaucracy fighting me off. "Please stay out of this. We do this ourselves," and yet the reality of sharing fingerprints and even envisioning biometric screening says to me that we need to be as bold in our thinking as Franklin Roosevelt was about the atomic bombs when it comes to the technology to fight this war on terrorism.

PREPARED OPENING STATEMENT OF SENATOR DURBIN

Madam Chairman and Senator Lieberman, I want to thank you both for holding this important hearing. As you recognized, national security is not something that could wait until September.

I want to salute the families of those lost on that terrible day in 2001 for demanding the creation of an independent commission and insisting on answers to their questions about how 19 angry men armed with the simplest of weapons could strike such a blow against the most powerful nation in the world and about how we could make sure that this country will never again be so unprepared. By refusing to be silenced, you have done a great service to this nation. And, I want to recognize the bipartisan partnership that characterized this commission and its work. I hope we can build on that spirit as we seek to turn recommendations into law.

**First Line of Defense**

The 9/11 Commission has produced an extremely valuable report, not least because it has compelled us to meet to try to adapt and implement its recommendations before we lose any more time. Intelligence is our first line of defense, and it is essential that it be a flexible, creative force, not some modern Maginot Line, vulnerable to circumvention by our enemies.

**Failures**

Our intelligence failed us on September 11 and it failed us in Iraq. In Iraq, information was misinterpreted or misused, and the American people were misled, and the consequences have been enormous.

The 9/11 Commission Report reads: "We believe the 9/11 attacks revealed four kinds of failures: In imagination, policy, capabilities, and management," and of these they conclude that the most important failure was one of imagination. That is a shortcoming we cannot afford to repeat.

**Slow to Enact Change**

It is a failure, though, that I fear could be repeated. We see numerous warning signs already. The first ominous sign is the length of time it has taken to spur action on the urgent questions of information sharing and organizational reform in the wake of September 11. Some of the suggestions contained within the 9/11 Commission Report were voiced in the joint intelligence committees' report in December 2002. President Bush's Foreign Intelligence Advisory Board, chaired by former national security adviser Brent Scowcroft, reportedly called for a director of national intelligence over two years ago. We clearly could have already implemented a number of badly needed changes, and today we could be reviewing the progress of our reforms rather than hurriedly trying to design them.

I understand that the President is planning to issue a series of executive orders addressing some of these concerns; I wish he would have done so earlier. Over a year and a half has gone by since the joint committees issued our call for reform of the intelligence systems with a series of concrete recommendations.

**Gravity of the Threat**

The central failure of imagination that the 9/11 Commission pinpoints was the inability of leadership (in both Administrations and in both Houses of Congress) to recognize the gravity of the threat we faced. Handicapped by a Cold War structure and perhaps a Cold War mindset, our intelligence system had not changed with the times, while the rest of the world had. The end of the Cold War had unleashed new nationalisms and ideologies and created a new international dynamic. With the Soviets out of Afghanistan and now completely out of the picture, veterans of that conflict including Osama Bin Laden set their sights on a new enemy—us.

Our intelligence analysts and policy makers recognized this fact but not the magnitude of the threat it presented. The paradigm had changed but we had not sufficiently adapted.

Now the Commission points out that about 90 percent of the country's $5 billion annual investment in transportation security has gone to aviation, to fight the last war. While aviation security is crucial, we have other vulnerabilities, and we must be as creative as our enemies.

The Commission concludes that "The current efforts [in transportation safety] do not yet reflect a forward-looking strategic plan systematically analyzing assets, risks, costs, and benefits."

That same assessment could be applied to our entire approach to intelligence: We do not yet have the forward looking strategy that we so badly need.

**Summer 2004: Blinking Red Again**

As Members of the Governmental Affairs Committee, our job has to be to help create the architecture to promote that strategic vision. In the summer of 2001 there were many fragmentary but important warning signs: In the words of CIA Director George Tenet, "the system was blinking red."

There have been a number of public reports that the warning lights are again blinking furiously this summer. I'm not convinced we are significantly better equipped to confront these security challenges, and I am convinced that Administration foreign policies have made the international environment an even more dangerous place, with the war in Iraq, with the resulting loss of momentum in the fight against al Qaeda, without progress toward Middle East peace, and with the alienation of allies and the weakening of international institutions.

**Iraq**

The Commission report identifies Islamic jihadists as the enemy, but chose not to address how the war in Iraq has added to their ranks. One commissioner called Iraq "a third rail" whose touch would have proved deadly to the commission's desired consensus. That metaphor is worth thinking about, though, since it is the electrified rail that provides power to the system, and the war in Iraq has both diverted energy away from the global war on terrorism while at the same time inflaming new enemies.

When we went to war with Iraq, without either a coalition or an imminent threat, we lost ground in the battle of ideas, in the struggle to convince the Islamic world that we are not their sworn enemy. But that die has been cast. We must now look forward to how we can forge policies to help us re-take the high ground through diplomacy, economic development, and multilateral engagement.

**Intelligence Reform**

In addition to rethinking our diplomatic approach, in the face of rising threats, we must implement and expand on the commission's domestic recommendations. We must better coordinate and integrate the flow of information. We must address the perils of "groupthink." We should encourage creativity rather than rely on seniority; current institutional barriers that hamper mid-career hiring within the intelligence community may shut new thinkers with fresh perspectives. We need to promote real reform and communication rather than merely rearrange the organizational flow chart of the intelligence community. In seeking to create a single intelligence tsar, we must insulate that position from the political pressures of the White House—under any Administration. And, finally, we must maintain our oversight capabilities and fulfill our oversight responsibilities.

**Information Access Failures**

As the pivotal questions of "what went wrong, why, and what must we do about it" continue to be dissected and debated, we have learned much about communication breakdowns and information exchange failures that preceded September 11, 2001.

We have heard about decisions to insulate and not share crucial information. We have identified systems deficiencies. We have encountered stovepiped, turf-conscious agencies. We have acknowledged some of the culprits that contributed to making

our U.S. homeland vulnerable, unprotected, and unwittingly caught off-guard. And we're still asking the question: Are we really any more secure today?

What action are we taking as a result of these lessons and revelations? We've undertaken a massive and unprecedented restructuring of a huge portion of our government framework in the establishment of the Department of Homeland Security.

Of all the essential elements we are evaluating, none can possibly be more vital than the mission of ensuring interoperability of information systems for agencies responsible for homeland security and intelligence.

If you look at an on-line slide show called "Who We Are" accessible on the Intelligence Community's website (**www.intelligence.gov**), it briefly describes each of the various component agencies and their respective areas of responsibility. It is noteworthy that many are characterized by the type of information and intelligence they collect and analyze. For instance, it indicates that the Army, Navy, Air Force, and Marine Corps Intelligence Organizations "each collect and process intelligence relevant to their particular Service needs," the Department of State "deals with information affecting US foreign policy," the Department of Treasury "collects and processes information that may affect US fiscal and monetary policy," the FBI deals with "counterespionage and data bout international criminal cases," the National Reconnaissance Office "coordinates collection and analysis of information from airplane and satellite reconnaissance by the military service and the CIA."

These intelligence collectors and analysts perform critical missions. When it comes to facilitating interaction of all this intelligence information, we must stop thinking inside the boxes, and not be stifled by lines on organizational charts. We must not be locked in by "who is supposed to do what" under current mandates. We must adjust our response to the very different world in which we now live.

**Leadership Needed**

I believe we need to give a key official the primary job of overseeing a network of networks for facilitating intelligence information access and exchange. I have used the analogy of President Roosevelt's decision to put General Leslie Groves in charge of the "Manhattan Project." We need an information systems management genius with all the power, clout, vision, drive, and administrative freedom to manage this specific task and responsibility.

If General Groves was able to build the atomic bomb in 1,000 days, shouldn't we be able to tackle the challenge of Federal systems interoperability and meet with equal fervor the urgent homeland security and intelligence missions? Today marks the 1,053rd day since September 11, 2001.

One of the elements included in the Homeland Security bill reported by this Committee in July 2002 was a proposal I offered relating to the whole question of interoperable information systems. It seemed to be a logical component of the comprehensive proposal to restructure 28 agencies into a new, unified Homeland Security Department.

I first broached this idea at a hearing this Committee conducted under Senator Lieberman's leadership on June 26, 2002. That hearing focused on the relationship between a Department of Homeland Security and the intelligence community. In response to my question about the need for a Manhattan Project, one of our witnesses, Lt. General Patrick Hughes, the former Director of the Defense Intelligence Agency, suggested that while "(t)he technology to do the things that you are talking about wanting to do is present and available" the problem is "parochial interests" which get in the way of the "synergistic larger effect of mission support across the government." (S. Hrg. 107–562, p. 43, June 26, 2002)

Each of the agencies consolidated in DHS brought along its own separate information technology budget, strategic plan, and program—the Coast Guard, Customs, FEMA, INS, Secret Service, Transportation Security Administration, and others. Each one has a unique system that does not necessarily have the capacity to communicate or coordinate their respective activities.

And the problem is not limited to forging links and establishing a functional network for data access within the Department itself. It is equally important to establish appropriate links between the Homeland Security Department and other agencies, such as the CIA, the National Security Agency, the Department of Defense, the FBI, the State Department, and State and local officials, which are not embraced under the Homeland Security Department's organizational umbrella. What kind of network is needed to enable the robust information sharing your findings and recommendations demand?

The amendment which my fellow Governmental Affairs Committee Members unanimously accepted when we marked up legislation to create the Department two years ago was considered by Tom Ridge as a "force multiplier." It would have required designating a key official whose primary responsibility is to design and deploy an enterprise architecture to achieve information systems interoperability be-

tween and among Federal agencies responsible for homeland defense whether inside, or adjunct to, the new Department.

The language we agreed to in Committee never made it into the final product creating the Department of Homeland Security in November 2002. We faced a take-it-or-leave-it floor vote on a fast-track proposal put forward by the President after he spent months contending that a new Department was entirely unnecessary.

That setback does not mean that this issue has disappeared. The proposal was introduced at the beginning of this Congress as part of a comprehensive homeland security bill, S. 6, on January 7, 2003.

If DHS is making progress on integration and interoperability of information systems, I'll be the first in line to praise it. Department officials should be anxious and proud to share what's been accomplished to date. But we really do not know. In the FY 2004 Homeland Security Appropriations bill enacted last October 1, language was added at my request requiring the Department to submit a report to Congress about their progress.

The report language mandates a report on the status of the Department's efforts to complete an inventory of the Department's entire information technology structure; devise and deploy a comprehensive enterprise architecture that promotes interoperability of homeland security information systems, including communications systems, for agencies within and outside the Department; consolidate multiple overlapping and inconsistent terrorist watch lists; and align common information technology investments within the Department and between the Department and other federal, state, and local agencies responsible for homeland security to minimize inconsistent and duplicative acquisitions and expenditures.

That report was due on December 15, 2003. I regret to say, we are still waiting for it.

Federal agencies have deployed information systems in stovepipes, with little thought given to interoperability with the systems of other agencies. Interoperable information systems would allow for efficient sharing of data and better communications between agencies responsible for intelligence gathering, border security, crisis response, and other homeland security missions. The need for more effective cooperation between agencies such as the FBI, CIA, Department of State, and INS has become obvious, yet poorly developed information systems are getting in the way when technology should be enhancing agencies' effectiveness.

When it comes to information sharing, we must not delude ourselves into thinking we are where we ought to be. We are not.

It's high time we focus more on the need to share, rather than on the need to know. Knowing what we know about gaps in information access and dissemination, it would be unconscionable—as this Committee takes on the responsibility to evaluate the intelligence community structure—for us to exclude this element.

We need to designate a high level intelligence information sharing czar with the power to harness and procure the best in technology and grant that leader all the authority and resources needed to establish, implement, and manage what the Commission Report calls a "trusted information network."

I look forward to hearing from our distinguished panel, two exemplary public servants, whose leadership I commend. I thank them for their service and for arranging to be here today. Thank you, Madam Chairman.

Senator DURBIN. I would appreciate your thoughts on that.

Mr. KEAN. Thank you, Senator. I like the way you talk, from my point of view.

We are fighting people now who are different than anybody we have ever fought before in our long history. They are, if you like the expression, entrepreneurial. They are coming at us in ways that we would never have envisioned before. When we examined the hijackers who succeeded, 19 out of 19, they tested our defenses, and they overcame every one of them, one by one.

Now, when we met privately with President Clinton, one of the things that he said to us was, "You know, it takes defense always a couple of years to catch up with offense." Well, we are into a couple of years now, and we can't really afford it any longer.

And I think it is a combination. It certainly is the kind of technology you talk about, government can't be behind in that. It certainly is the human intelligence that we were talking about before.

We cannot any more afford not to have that. It is the language skills and so many things.

And the trouble is, because it is a new war, and a new enemy, and a new way of thinking, we have got to think anew, and act anew in ways that we have never conceived before. And if we don't do that, that is what we talked about a little bit in our report about imagination, about the fact that somebody maybe should be sitting there reading Tom Clancy, in some ways, to envision the enemy, and understand them and come at them. But you are absolutely right, Senator——

Senator DURBIN. Yes, zero in—and perhaps Congressman Hamilton could help and respond to this—zero in on technology for a moment and acknowledge the obvious. And that is that even if we have a President with the will to change, even if we decide that the person in charge is Cabinet level, not Cabinet level, but coordinating the agencies, there seems to be, at the lower levels, bureaucratic resistance, turf protection, the cliche "the old stovepipes," and also the inability for us to think in fresh and modern terms about the potential of technology.

Every agency is inventing its own form of database and technology. The idea of merging and marrying information is critical to our national defense. There is political resistance to it. There is technological resistance to it. I think we need something like a Manhattan Project that says, "Step aside. We do not have time for this battle. We have to be prepared. We need intelligence as our first line of defense in terrorism, and the strongest weapons in those arsenals for the intelligence agencies will be information technology. Now, let us build, let us have our new Manhattan Project and build these arsenals in intelligence."

Congressman Hamilton.

Mr. HAMILTON. Well, I think you would have been a very good member of the Commission, Senator——

Senator DURBIN. I had something else going on. [Laughter.]

Mr. HAMILTON. If we'd have had that kind of advocacy at the time.

Look, in the National Intelligence Director, we give him a lot of authority, and one of the authorities we give him is to set information and information technology policies across the board. That is what you don't have today. Your illustration of the fingerprinting is a classic illustration of stovepipe, absolutely classic illustration of it. We should have featured it in the report, and we didn't.

How do you deal with that? Well, you have to make these agencies share their information across agency lines, and you can only do that if you get an integrated technology system. And you have to have someone in the government, other than the President—everybody says it is the President's responsibility, but Presidents can't do everything.

You have to have somebody in the government who has the authority to set your information technology policy and speaks with the authority of the President, and that's why you have a National Intelligence Director in our recommendation and that's why you put him in the Office of the President. If you've got him stuck out here somewhere in center field, he's not going to have the author-

ity. He has to have the authority that comes with the presidency of the United States.

And I just think you have made, more eloquently than we have been able to make, the case for the National Intelligence Director to have the authority.

Senator DURBIN. Thank you. Thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Specter.

**OPENING STATEMENT OF SENATOR SPECTER**

Senator SPECTER. Thank you very much, Madam Chairman.

I am glad to see these hearings proceeding today. And in the face of the 9/11 Commission report and the Senate Intelligence Committee report a few weeks ago, documenting the failures of intelligence on Iraq, that we are finally appearing to move to place under one unified commander something which I think has been evident for a long time.

I believe that we can move ahead with legislation knowing what we are doing without a long period of time because there is a lot of experience in the Congress as to what the problems are. I think there is no doubt that had all of the information been in one central pool, that September 11 could have been prevented.

The Phoenix FBI report did not reach the proper source. The two terrorists who came in, known to the CIA, from Kuala Lumpur passed by Immigration. The Zacarias Moussaoui matter, in and of itself, would have provided a total unraveling. And it was in this room, in early June 2002, that FBI Director Mueller finally faced up to some very basics when Special Agent Colleen Rowley had written that 13-page, single-spaced report. So that finally we are coming to a point where we are talking about a single commander.

We face an incredible culture of concealment in the intelligence agencies. And I would like to put in the record just two memoranda, one when I chaired the Intelligence Committee, took the testimony of a longstanding CIA agent who had been there for 40 years who passed on to both the President and President elect, in January 1993, information which came from the Soviet Union which was tainted, that it had been controlled by the Soviet Union.

And this CIA operative did not tell the President or President elect that it was tainted because he said, if he had, they would not have used it. And he said, in his own extraordinarily arrogant way—arrogance is a quality around here in superabundance. It might even be on this Committee, even closer to home—and this CIA operative did not tell anybody in the Agency.

And, Madam Chairman, I would like this made a part of the record.[1]

Chairman COLLINS. Without objection.

Senator SPECTER. And one other memorandum which has been made part of the public record on the concealment in the FBI, a memorandum from Director Freeh which recites a situation where a member of Attorney General Reno's staff had commented to the FBI that, with respect to the investigation of campaign finance reform, there was a lot of "pressure" on him and the Public Integrity

[1] The memorandum referred to submitted by Senator Specter appears in the Appendix on page 72.

Section regarding the case because "the Attorney General's job might hang in the balance." And this should have been disclosed to the Oversight Committee of Judiciary and finally was when we issued a subpoena in the spring of 2000. So that we are dealing with an extraordinarily difficult matter.[1]

I think that Congressman Hamilton is exactly right on the separation of policy from intelligence. And I wonder if any consideration had been given by the Commission, Congressman Hamilton, to the creation of a 10-year term so that the Director would overlap Presidents and would have that insulation on the analogy of the Director of the FBI, removable for cause, but otherwise secure notwithstanding executive pressure or executive influence?

Mr. HAMILTON. I think we gave very little consideration to it. I recall one discussion where it came up. It was not pursued. It was not rejected, but we did not make it part of the recommendation.

I often think that the analogies of the kind of—to the position we are creating here would be the U.S. Trade Representative, the OMB Director. And if you are thinking about independence, this is not in the Commission's report, but one of the remarkable positions in the Federal Government is the Chairman of the FBI, who has an unusual independence there, how that was created, he has a term that is not coterminous with the President. But we did not get into that in the Commission.

Senator SPECTER. Well, I think that is something this Committee will take up and certainly something that is very much on my mind.

With respect to the structure on what might be called "dual-hatting," as I examine the Table of Organization, you have the deputy is in the FBI, the deputy is in the Department of Defense, and it seems to me very difficult to have the Director of National Intelligence in charge. And you say in your joint statement that he will control the national purse strings, he will have hire and fire authority over agency heads in the intelligence community.

My own preference, and I am not in concrete on it, would be to take the bull by the horns and take the Counterintelligence Unit out of the FBI and put the Counterintelligence Unit under the National Director. You do not have the same consideration with the CIA because the CIA is not under anybody else, but have the National Director in charge of the CIA. On the Defense Intelligence Agency it is a little tougher because Defense has a role which goes beyond counterintelligence, and you have to have tactical control.

And, Congressman Hamilton, you said that when you deal with the Department of Defense that it would be the same as today, but I do not think that is really true if the new National Director has budget authority and has the authority to hire and fire.

Let me ask you, Governor Kean, why not take the bull by the horns? You might encounter some additional resistance on the turf struggles, and I expect that to be fierce not only from the CIA, the acting Director has already fired a salvo right midship on you, and the FBI Director, in a very anticipatory defense, has come out agreeing with your recommendations. So nothing more needs to be done to the FBI. And wait until you get involved with the Depart-

[1] The information referred to above appears in the Appendix on page 73.

ment of Defense. And then you have the committees. And the Armed Services Committee has a vested interest in the authority of the Department of Defense, and the Intelligence Committee, etc.

But why not go to the core, right to the roots and take these agencies and really put them under this new National Director so they serve one master and one person in control?

Mr. KEAN. I believe we didn't want to—we were very careful to recognize that we were in the midst of a war, and we recognized that change had to occur in order to pursue that war correctly for the century. But I believe we were not, the kind of change you suggested we just didn't discuss really.

Mr. HAMILTON. Well, he's recommending a much more radical approach——

Mr. KEAN. Yes, we didn't go that far.

Mr. HAMILTON [continuing]. Than we tackled.

Senator SPECTER. Powerful, not radical. [Laughter.]

Mr. HAMILTON. We think the National Intelligence Director oversees three principal areas—one is defense, one is homeland security and one is foreign intelligence—and we do think it is necessary to get coordination among those three under one head, the National Intelligence Director. And that is the way we set it up as we did.

We understand that there is going to be some opposition to this proposal. My sense, in listening to you, if I understand it properly—and I may not—that the opposition would be far greater.

Senator SPECTER. Oh, I think the opposition is going to be far greater. When Senator Lieberman and I put in the bill for Homeland Security 30 days after September 11, there was enormous resistance. It was only when FBI Agent Colleen Rowley blew the lid off of the FBI that we made progress. And then we fought very hard to have the Secretary of Homeland Defense, in creating a new agency, this was a perfect time to give him the authority to direct. And it is all over the congressional record. We argued this vociferously in the fall of 2002. But I think the pressure is going to be tremendous.

My time is up. A concluding comment. I think now, with the threat, we have been told by the Director of the FBI and the Secretary of Homeland Security that we are going to be attacked sometime between now and November 2, that is a pretty awesome matter. I think we do not focus on it enough. We sort of block it, put it aside.

Mr. HAMILTON. We draw a sharp distinction between tactical and strategic intelligence, and we understand that tactical intelligence must stay with the military, and that is why we don't make any changes really with regard to the service intelligence.

We do put the DIA in this organizational chart, but the distinction we draw is between strategic and tactical.

Senator SPECTER. I think tactical is right. I will conclude here, Madam Chairman. I think tactical is right, and the other could go under the new National Director. But to conclude the thought that I was on, I believe there is going to be a lot of pressure, and it is really the existence of this threat that we are going to be attacked which makes it imperative building up public pressure.

And I commend you gentlemen and the Commission for this report which is focusing a lot of attention, and those of us who have been pushing it may have the assistance now to get it done.

Thank you.

Mr. KEAN. Thank you, Senator.

Chairman COLLINS. Before calling on Senator Dayton, I want to note that the distinguished Chairman of the Armed Services Committee, Senator Warner, has joined us, in addition to Senator Bill Nelson, and we thank them both for their interest in these proceedings today.

Senator Dayton.

**OPENING STATEMENT OF SENATOR DAYTON**

Senator DAYTON. Thank you, Madam Chairman. I also want to commend you for holding this hearing in swift response to the 9/11 Commission's report.

Mr. Chairman and Mr. Co-Chairman, I want to say again to you that we are all indebted to you and to the other members of your Commission and your staff for this critically important work that you have provided the Nation.

It is a profoundly disturbing report because it chronicles, in excruciating detail, the terrible attack against our homeland, the despicable murder of so many American citizens, and the horrible destruction to countless other lives and liberties throughout this Nation and because of the utter failure to defend them by their Federal Government, by their leaders and the institutions that were entrusted to do so, and because of serious discrepancies between the facts that you have set forth and what was told to the American people, the Members of Congress and to your own Commission by some of those authorities.

There is way too much to cover here, but I will begin. According to your report, the first of the four airliner hijackings occurred on September 11 at 8:14 a.m, Eastern time. At 10:03 a.m., almost 2 hours later—an hour and 49 minutes, to exact—the fourth and last plane crashed before reaching its intended target, the U.S. Capitol, because of the incredible heroism of its passengers, including Minnesota native, Thomas Burnett, Jr.

During those entire 109 minutes, to my reading of your report, this country and its citizens were completely undefended. Yes, it was a surprise attack. It was unprecedented. Yes, it exposed serious flaws in, as you have noted, our imaginations, our policies, capabilities, and management designs.

But what I find much more shocking and alarming were the repeated and catastrophic failures of the leaders in charge and the other people responsible to do their jobs, to follow established procedures, to follow direct orders from civilian and military commanders, and then they failed to tell us the truth later. It does not matter whether they were Republicans, Democrats or neither. It matters what they did or did not do.

According to your findings, FAA authorities failed to inform the military command, NORAD, the North American Aerospace Defense Command, about three of the four hijackings until after the planes had crashed into their targets at the second World Trade

Center, the Pentagon and the ground in Pennsylvania, which was not their target.

The direct FAA notification of the military occurred regarding the first plane 23 minutes after it was hijacked and only 9 minutes before it struck the first World Trade Tower. NORAD then scrambled one of only two sets of fighter planes on alert in the entire Eastern third of the country—one in Massachusetts, one in Virginia—but it didn't know where to send them because the hijackers had turned off the plane's transponder so NORAD could not locate it on their radar. And they were still looking for it when it exploded into its target at 8:46 a.m.

The second hijacking began, according to your report, one minute later. NORAD was not notified until the same minute that the plane struck the second World Trade Tower. It was 5 more minutes before NORAD's mission commander learned about that explosion, which was 5 minutes after thousands of Americans saw it on live television.

By this time, the third plane's transponder was off. Communication had been severed. Yet it was 15 minutes before the flight controller decided to notify the regional FAA center, which in turn did not inform FAA Headquarters for another 15 minutes. So, at that point, 9:25 a.m., FAA's National Command Center knew that there were two hijacked planes that had crashed into the two World Trade Centers and a third plane had stopped communicating and disappeared from its primary radar. Yet no one at the FAA Headquarters asked for military assistance with that plane either.

NORAD was unaware the plane had even been hijacked until after it crashed into the Pentagon at 9:34. This is just unbelievable negligence. It does not matter if we spend $550 billion annually on our national defense, if we reorganize our intelligence or if we restructure congressional oversight if people do not pick up a phone to call one another, if we are not told that somebody needs a new radar system or does not install it when it is provided.

And this was not an occasional human error failure. This was nothing but human error and failure to follow establishd procedures and to use common sense. And, unfortunately, the chronicle is not over. NORAD mission commander ordered his only three other planes on alert in Virginia to scramble and fly north to Baltimore. Minutes later, when he was told that a plane was approaching Washington, he learned that the planes were flying east over the Atlantic Ocean, away from Baltimore and Boston, so that when the third plane struck the Pentagon, NORAD's fighters were 150 miles away, farther than they were before they took off.

By then, FAA's Command Center had learned of the fourth hijacking and called FAA Headquarters, specifically asking that they contact the military at 9:36 a.m. And at 9:46 a.m., the FAA Command Center updated FAA Headquarters that United Flight 93 was "twenty-nine minutes out of Washington, D.C."

Three minutes later, your document records this following conversation of the FAA Command Center to the Headquarters:

Command Center: "Uh, do we want to, uh, think about scrambling aircraft?"

FAA Headquarters: "Oh, God, I don't know."

Command Center: "That's a decision somebody's going to have to make probably in the next 10 minutes."

FAA Headquarters: "Uh, yeah, you know, everybody just left the room."

At 10:03, United Flight 93 crashed into Pennsylvania farm soil, and nobody from the FAA Headquarters had contacted the military. NORAD did not know that this fourth plane was hijacked until after it crashed 35 minutes later. The fighter planes had reached Washington 7 minutes after that crashed, and they were told by the mission commander, "Negative clearance to shoot the aircraft over the Nation's capital."

Yet 1 week after September 11, in response to initial reports that the military failed to defend our domestic airspace during the hijacks, NORAD issued an official chronology which stated that the FAA notified NORAD of the second hijacking at 8:43—wrong. FAA notified NORAD of the third hijacking at 9:24—according to your report— wrong. FAA notified NORAD of the fourth hijacking at an unspecified time and that prior to the crash in Pennsylvania Langley F–16 combat air control planes were in place, remaining in place to protect Washington, DC. All untrue.

In public testimony before your 9/11 Commission, in May 2003, NORAD officials stated, I assume under oath, that at 9:16, they had received the hijack notification of United Flight 93 from the FAA. That hijacking did not occur until 9:28. There was a routine cockpit transmission recovered at 9:27.

And in that testimony before you, NORAD officials stated also that at 9:24 they received notice of the hijacking of the third plane, American Flight 77. Also, untrue, according to your report, which states that NORAD was never notified that flight was hijacked.

NORAD officials testified that they scrambled the Langley, Virginia, fighters to respond to those two hijackings. Yet tape recordings of both NORAD and FAA both reportedly documented that the order to scramble was in response to an inaccurate FAA report that American Flight 11 had not hit the first World Trade Tower and was headed to Washington. That erroneous alert was transmitted by the FAA at 9:24 a.m., 38 minutes after that airplane had exploded into the World Trade Tower.

Yet NORAD's public chronology on 9/18/01, and their Commission testimony 20 minutes later, covered up those truths. They lied to the American people. They lied to Congress, and they lied to your 9/11 Commission to create a false impression of competence, communication, coordination, and protection of the American people.

And we can set up all of the oversight possible, at great additional cost to the American taxpayers, and it will not be worth an Enron pension if the people responsible lie to us, if they take their records and doctor them into falsehoods and if they get away with it. Because for almost 3 years now NORAD officials and FAA officials have been able to hide their critical failures that left this country defenseless during two of the worst hours in our history, and I believe that President Bush must call those responsible for those representations to account. If the Commission's accounts are correct, he should fire whoever at FAA, at NORAD or anywhere

else betrayed their public trust by not telling us the truth. And then he should clear up a few discrepancies of his own.

Four months after September 11, on January 27, 2002, the *Washington Post's* Dan Balz and Bob Woodward authored an, "Insider's Retrospective on Top Administration Officials' Actions on 9/11 and Thereafter."

They reported that very shortly after the Pentagon was struck at 9:34, "Pentagon officials ordered up the Airborne Command Post used only in national emergencies. They sent up Combat Air Patrol in the Washington area and a fighter escort for Air Force One." Secretary Rumsfeld was portrayed as, "taking up his post in the National Military Command Center," and all of that reportedly occurred before 9:55 a.m. Right thereafter, "Bush then talked to Rumsfeld to clarify the procedures military pilots should follow before firing on attack planes. With Bush's approval, Rumsfeld passed the order down the chain of command."

This was supposedly taking place, according to that article, before the fourth plane crashed in Pennsylvania at 10:03. It looks very impressive. The President is acting swiftly and decisively, giving orders to the Secretary of Defense and on down the chain of command, Combat Air Patrol planes are patrolling Washington directed by an Airborne Command Post all before 10:03 a.m.

However, according to your Commission, President Bush spoke to Secretary Rumsfeld for the first time that morning shortly after 10 a.m. Based on White House notes and Ari Fleischer notes of the conversation, the Commission's report states that it was a brief call, in which the subject of shoot-down authority was not discussed.

The Commission then states that the Secretary of Defense did not join the National Military Command Center's conference call until just before 10:30 a.m. The Secretary himself told the Commission he was just gaining situational awareness when he spoke with the Vice President at 10:39 a.m. That transcript is on page 23—on page 43. My time is out, but it reflects the Vice President's honest mistaken belief that he had given an order, after talking with the President, to shoot down any plane that would not divert. Yet, incredibly, the NORAD commander——

Chairman COLLINS. The Senator's time has expired.

Senator DAYTON. I am just going to finish this, if I may. Yet, incredibly, the NORAD commander did not pass that order on to the fighter planes because he was "unsure how the pilots would or should proceed with this guidance."

As you say, Mr. Co-Chairman, the situation is urgent when we do not get protected in those circumstances, and it is even worse when it is covered up. Thank you.

Chairman COLLINS. Senator Fitzgerald.

## OPENING STATEMENT OF SENATOR FITZGERALD

Senator FITZGERALD. Thank you, Madam Chairman. And, Madam Chairman and Senator Lieberman, thank you both for holding this hearing so promptly. Governor Kean, Congressman Hamilton, thank you for your service to our country. I am very much aware of how much time, effort, and wisdom you have

brought to bear, and all members of the Commission have brought to bear.

I talk with Governor Thompson from time to time, and I am well aware that you were doing this without compensation. And for somebody like Governor Thompson, who has a very high billable hour rate, it can be a big sacrifice. So I want to thank all the members of the Commission. I think your recommendations are very good. I think one of my recollections immediately after September 11 is some fingerpointing going on between the CIA and the FBI; the CIA pointing out that they did not have responsibility for domestic counterterrorism intelligence operations, and then the FBI pointing out that they did not have responsibility for the terrorists abroad.

We long ago gave the FBI the responsibility for domestic counterterrorism intelligence efforts because, when our intelligence officers are operating domestically within the United States, dealing with U.S. persons and U.S. property, the Constitution applies, and we have an entirely different set of guidelines that come into play, guidelines that the CIA does not necessarily abide by when they are operating abroad. But this separation between domestic intelligence and foreign intelligence has created these "stovepipes" and this lack of sharing.

And I guess, back in the 1970's, many have pointed to the Church Commission, which came down hard on apparent abuses of domestic intelligence operatives back in the 1970's, and the 1960's and beforehand, and they really made sure that the CIA had nothing to do with spying on citizens or persons within our borders.

But in attempting to funnel these two separate stovepipes—domestic intelligence and foreign intelligence—into one overall head, I am wondering if we have hit upon, with your Commission recommendations, the optimal recommendation. In effect, would not our National Intelligence Director, who would have responsibility for counterterrorism operations, have the same powers of a CIA Director if the CIA had responsibilities for counterterrorism intelligence within the United States?

Governor Kean, if you would like to address that.

Mr. KEAN. Well, right now the, at least as Chairman Hamilton has said, that the CIA Director has basically an impossible job. He has three different things, and in our experience, no CIA Director that we have looked at has been able to do all three well, though they have tried.

We believe that it's the combination of the Center and the National Intelligence Director, together, that make the sense. What we're trying to do is force the sharing of information, then make one person responsible. That is somebody who is responsible to not only the President, but to the Congress and to the American people.

He would not have—the agencies would do the same thing they do now. I mean, nobody would—the CIA would not be dealing with domestic intelligence; the FBI would not be dealing with foreign intelligence. They would simply be sharing information.

As I understand it, what we have proposed is the overall Director would be able to task, and once this information was shared, would be able to direct what more information was needed. But the two,

the agencies would not be mixed, if I understand your question, in their responsibility. He could not task the FBI to go do something abroad or the CIA to do something in this country.

It would be the sharing of information and then the direction of how that sharing ought to be used to get future information or to take that information to the President or wherever else it needed to go for action.

Senator FITZGERALD. Are the Commission members convinced, though, that domestic intelligence must be separated and must be in a different agency than the foreign intelligence gathering in the counterterrorism area?

Why could we not have that in one agency? Would that not solve the stovepipe problem and the lack of sharing of information?

Mr. KEAN. I don't think we would have—the sharing of—we understand the sharing of domestic and foreign intelligence. We think if you combine the two, given the methods that we use abroad, ungoverned often by the laws of the United States because they are operating in other places, the way the FBI operates because they are dealing with current intelligence, dealing with American citizens very often, is fundamentally different.

Senator FITZGERALD. And do you see Justice Department supervision of domestic intelligence as a necessity because of the different guidelines with the U.S. Constitution coming into play?

Mr. HAMILTON. I would say, yes, but I want to be clear that what we recommend, I think, is close to what you're driving at because we have in place the National Intelligence Director, and he oversees three areas: Homeland intelligence, foreign intelligence, and defense intelligence. So there is one person in charge of domestic defense, foreign intelligence. Now, he has three deputies to head up each of those areas, but there is one person in charge, and there is, to that extent, a pooling of intelligence information, a sharing of it.

And I think it meets what your concern is because one of our principal feelings is that, in dealing with counterterrorism, you must get away from this division of foreign intelligence is over here, and domestic intelligence is over here and never the twain shall meet. That's a prescription for disaster, we think.

Now, we also are concerned, of course, with the civil liberties question very much here. And the authorities of the Justice Department and the FBI remain exactly the same. They have the same limits and protections on civil liberties that you have today. The difference is that you have the communication, the coordination and the planning that would be better, we believe, under this proposal.

I just want to commend the interest that I think you expressed with regard to civil liberties. It is an enormously important aspect of all of this, and while we don't have specific recommendations with regard to civil liberties, except one, and I will mention that, civil liberties was a major fact throughout in our considerations.

We believe that the civil liberties, you need an oversight board in the Executive Branch as kind of an added check on Executive authority, and that's a very important board.

Now, the other thing of course would be congressional oversight, but we want to try to create, within the Executive Branch itself, a concern about civil liberties and privacy.

Senator FITZGERALD. Now, I noted with interest in your report that you talked about the lack of information sharing prior to September 11, but contrasted that with the period in the weeks leading up to the Millennium, when information somehow was flowing fairly freely between agencies with responsibility. And it seems that, for some reason, there was this sense of urgency that Congressman Hamilton said initially is so important. There was that sense of urgency under our existing structure around the time of the Millennium and information was shared. But then we had no sense of urgency in the summer of 2001, and information wasn't flowing freely between the agencies.

In attempting to make one person accountable for intelligence here, are you trying to create a permanent sense of urgency in that there would be one person who was responsible, and that person is always going to be on alert; is that what the effort here is, to create a permanent sense of urgency?

Mr. KEAN. We would hope that would be one of the results is that this would be somebody in charge at the President's side, testifying before the Senate and the Congress, communicating the problems and the sense of urgency on a continual basis. You mentioned the Millennium alert. It is instructive because senior officials, because of the tremendous information we had at that point of things that might happen, were engaged on a nearly daily basis. The FBI at that point shared information, no question about it. The public was alert. There was a lot of—remember all the stuff in the newspapers about what might happen?

We think that kind of sharing and that kind of alert probably helped us get through this Millennium period without incident. The NCTC would ensure, we believe, a high level of intention of terrorist information across all agencies and ensure information sharing, at this point, by the FBI and, as needed, we could then engage also the attention of the public.

Mr. HAMILTON. I'm glad you mentioned that, Senator.

That is a success story, the Millennium incident, and it I think reinforces the case we try to make. It worked in that case because there was sharing of information. There was a real focus at that moment. We were really concerned about terrorism hitting the country at the Millennium, at the change, and it worked. It didn't work on September 11, and it didn't work in most other cases, but it worked there.

Chairman COLLINS. The Senator's time has expired.

Senator FITZGERALD. Well, thank you very much. Thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Carper.

**OPENING STATEMENT OF SENATOR CARPER**

Senator CARPER. Thank you, Chairman Collins.

To our witnesses today, to our co-chairs, thank you very much for being here. I said to Senator Lieberman earlier that during the time, the 10 years I served in the House, Congressman Hamilton was one of my mentors, and he provided just wonderful leadership

by example. And I am not surprised at the kind of job that he has done in this capacity as well.

Governor Kean, who preceded me as Governor of Delaware, our terms did not overlap as governors, but each of the new governors who are elected are assigned a mentor to serve them and to help show them the ropes, and he was a mentor to many of the governors who preceded me, and I just want to thank you both for the terrific previous service that you have provided in how you have reaffirmed again your abilities and the qualities that you hold.

Congressman Hamilton, you mentioned earlier that the kind of people that ought to be in charge of following up, and making these decisions, and running the show in our intelligence operations are not necessarily white males from Indiana who speak only English. And I just want to say, for this Senator from Delaware, I just want to thank you for writing a report in English that even I could understand. [Laughter.]

And to read the Executive Summary, I was just, frankly, amazed and so gratified that it was as approachable and digestible as it was. And I commend you and your team for that.

Mr. HAMILTON. I'm not sure Tom and I can take credit for that. I think our staff deserves the credit.

Senator CARPER. Well, pass it along, please.

Mr. HAMILTON. Thank you.

Senator CARPER. As you know, we work in a difficult environment around here, a highly contentious, politically charged environment. We deal with difficult issues every week, and sometimes we do not make much progress on them. Yet you have been asked to take on as difficult and complex an issue as one could approach. You have done it in a highly charged, politically charged, environment. Yet you have been able to deliver to us, and to the President, and the American people, a comprehensive report that is understandable, that is clear and which enjoys unanimous support of all of the folks who served with you on the Commission.

And I would just ask, just honestly, bluntly, directly, how did you do it?

Mr. HAMILTON. Well, the chief credit for that should go to Tom Kean because of his remarkable leadership qualities. He is a very wise man, but he is also a very patient man. But to be more specific, Senator, the focus, first, was on agreeing to the facts, and we continually asked ourselves do we have the facts straight, do we all have agreement on the facts? If you don't have agreement on the facts, you can't get very far, and that was the very strong emphasis throughout the early part.

Then, with regard to trying to build a consensus, it took a lot of patience by the Chairman, but I don't know you build consensus except talking it out, and it takes—it's a very tedious process. It just takes time. You have to deliberate.

Tom, you may have some thoughts about this, but I think what Tom did as Chairman was to give all Commissioners a chance to express themselves in great detail.

We went over the language—you complimented us on the language—we went over the language of this report three, four, five, six times to try to get it right, all of it, all 13 chapters, and that

takes an enormous amount of time. But, Tom, you may want to add to that.

Mr. KEAN. I would certainly give credit. You know Lee Hamilton. You know what he's like. You know his reputation. When you have somebody like that to work with, consensus becomes much more easy because, when Lee spoke, everybody obviously listened, and he was always a maker of consensus.

I think one of the things that helped an awful lot is that we got to know each other very well. And as we got to know each other, those "Rs" and "Ds" we see on each other started to get dimmer, and we started talking much more about issues and much more about the report, and our recommendations, and debating the facts. It was tremendously helpful I think that some of the Commissioners held informal parties at their homes, where the Commissioners attended, to get to know each other even better. We got to know each other's families.

And as you work together like that, I'd say the last 2 months, they were seminars. And I don't think people even remembered what party people belonged to. They were so passionate on the issues and the recommendations and that we get it right. And it does, it's a question of time, it's a question of dialogue, it's a question of getting to know each other, and it's a question of trust. We trusted each other in the end and were able to come together.

Senator CARPER. Madam Chairman, my colleagues, I would just say that we just heard a little tutorial, and not a bad one, for how to run this place a lot more effectively going forward. And you provided great leadership and examples in the past, and you have certainly done that again in this instance.

I might be wrong, but my recollection is that when the idea of a 9/11 Commission was first floated, our President was not embracing of the idea, at least initially. I have even heard that there are times when there were questions about whether or not the Commission was getting the information that you had requested.

Now, we have a situation where, as our party's convention has just concluded in Boston, where our nominee, Senator Kerry, has pretty much endorsed your Commission's report in its entirety and has called for its adoption, its enactment, pretty much in its entirety.

We see and hear President Bush, not only having embraced the idea of the Commission, but now rushing to maybe implement as many aspects of it as he can through Executive Order. And I am wondering, as the elections in November approach, what is going on here? And maybe more important than that, and the question I would have of you, is we had a way of saying in Delaware during my administration, "carpe diem." It is the only Latin I know, "Seize the day."

And there is something to be said for seizing the day, particularly when it is so hard to get anything done around here. And we have the momentum, we have unanimity from your Commission, we have a Democrat presidential candidate and a Republican incumbent President who are saying this is what we ought to do and want to do. And so there is part of me that says, well, let us seize the day.

Is there any danger from rushing to judgment?

Mr. KEAN. I think there is always a danger of not doing things with due deliberation and thought. We believe very strongly in our recommendations because we worked on them very hard, and we had a lot of debate, and a lot of give-and-take, and we came up with what we thought was the best. It may not be the best. Maybe you all can do better, but there is a moment here, it is a moment when hopefully people can come together because we haven't got a lot of time.

We made hard recommendations. I mean, these recommendations, we didn't go the easy route. We tried to reorganize government, to talk about doing some things in the legislative body. These are very hard things to do, and we recognized that they were hard things to do, and yet it is an emergency. There's an enemy out there who is planning, as we meet here, to attack us, and so I hope "carpe diem" is the right way to go—seize the day—but seize the day, as this body always does, with deliberate speed and with due deliberation. That would be my recommendation.

Senator CARPER. When governors succeed governors, there is a transition period and hopefully a time of interchange when the new governor is briefed by the person who succeeded him or her. And I understand a similar kind of thing happens when Presidents succeed one another. And I have heard that former President Clinton shared with President Bush his own concerns about the rising importance and urgency of addressing the issue of terrorism.

In the conversations that you had, the testimony that you had with President Bush or President Clinton, was that ever approached?

Mr. KEAN. Yes, there was a conversation. There was a little bit different recollection of the Presidents of what occurred. It was a long time ago. But there definitely was such a conversation.

One of the things, by the way, you bring up the transition, that hasn't gotten much attention in our recommendations and should. We think one of the times the United States is most vulnerable is during that transition between Presidents because one set of very important people who have responsibilities in this area are leaving and another set are coming in. Sometimes nominations take a long time, it takes a long time to find the right individual, and it takes a long time to get that individual cleared, and then confirmed and all of that. During that time, these agencies are vulnerable and without leadership in many cases.

And we have a very strong recommendation here that Presidents have a certain day—probably before their inauguration—when they come up with these most important positions involving the defense of this country and that they give those, expeditiously give those names to the U.S. Senate, and the U.S. Senate treat these nominations unlike other nominations, in that they recognize the speed which we need those people in place.

And that's an important recommendation that I bring up because you mentioned transition because I don't think it's gotten really any attention at all, but we do think it's important.

Senator CARPER. Last quick one, if I could.

Chairman COLLINS. The Senator's time has expired, and our witnesses are on a really tight time frame.

Senator CARPER. Madam Chairman, could I just ask just a word on rail security? We have all this emphasis on air security, and I know your report touches on it, just if I could, just one quick word on rail security, if you would please.

Chairman COLLINS. Certainly.

Mr. KEAN. Well, since I've been living on Amtrak this last 2 years between New Jersey and Washington, I have great concern over it. [Laughter.]

No, I think we have a lot further to go on rail security, on cargo security. There are a number of other areas that we have to move on. We don't believe—we didn't get into it except to recommend further measures be taken, but we are not where we should be on rail security. There is no question about it.

Mr. HAMILTON. We note that about I think 90 percent of the funding or something has gone to aviation, very little to rail.

Senator CARPER. And I would add that of the amount which has been appropriated, very little has actually trickled down to do the work for which it was intended. Thank you both very much.

Chairman COLLINS. Senator Lautenberg.

**OPENING STATEMENT OF SENATOR LAUTENBERG**

Senator LAUTENBERG. Thanks, Madam Chairman, and my thanks to you and to Senator Lieberman, getting this burning issue into the starting gate. When you are this low in seniority, your intelligent comrades have already asked many of the questions that you have been saving up for several hours to ask.

Madam Chairman, I want to say that when I see Governor Tom Kean, who will continue earning the respect of the people in New Jersey, as he has in the past, for his balanced hand and for even defending me once in an election campaign when it was asserted that I was going to come to Washington and make some money on the side, Governor Kean sprang up, and he said, "I disagree with Frank on lots of things, but I know he is not coming to Washington to make some money on the side. He would have been better off if he had stayed up front and made it up there." [Laughter.]

But we thank you, Tom Kean, and you, Lee Hamilton. The two of you I think present a kind of model that perhaps we can learn from in terms of our negotiations here.

But one thing that you said in response to Senator Carper's question, and that is getting to know one another and the time to discuss things, there is a tendency here, as you know from your legislative experience, Lee, that the issues that get very hot jump out in front, and the next thing you know, if the cameras start, the actions follow and not always very thoughtfully enough.

So, while we have a good start here, I think we have to allow sufficient time to do it thoroughly, and you have not recommended how the structure develops so much as the direction that it ought to go in.

And I think it was Senator Specter who talked about something before that also was part of my concerns, and that is should this individual who is responsible be term identified so that we remove, as much as possible, the fact that that person is going to be influenced by presidential contact in a way that elongates their service.

I have been through the same thing with the FAA, as an example. I think the FAA should not be a political—the administrator should not be a political appointment. Whenever you get anything that takes as long as it does to solve those complicated problems with technology, and personnel and training, I think that someone ought to know that they have got an assignment, be it 6 years, 8 years, I do not know what the term ought to be, and the Federal Reserve, Congressman Hamilton, you noted has that condition. So I would hope that would be part of an examination.

PREPARED OPENING STATEMENT OF SENATOR LAUTENBERG

Madam Chairman: I want to add my voice to the chorus of Americans thanking Governor Kean and Congressman Hamilton and their fellow commissioners and staff. They have done an outstanding job under difficult circumstances in getting to the bottom of what went wrong before and during the savage terrorist attacks on September 11, 2001. And they have recommended steps that we can take to avoid another September 11.

The Commission's report has given us much to consider. The challenge Congress faces is to consider the 9/11 Commission's recommendations swiftly, but also thoroughly. Some of the recommendations, if implemented, would lead to sweeping changes in U.S. law and policy, which currently limit the role intelligence agencies and the military play in domestic security. We need to think these changes through because they have implications not only for national security, but also for the civil liberties that are the hallmark of our Nation.

The Commission has rightly recognized that our various national security, foreign intelligence, and counterintelligence agencies were created during the Cold War to fight the Cold War.

We face a new enemy: Transnational Islamic jihadists. They want to make our home front the front lines. They are determined to acquire and use weapons of mass destruction. They make no distinction between soldiers and civilians. They know no restraint.

Consequently, we need to reorganize parts of the government to fight this new enemy and win this new war.

The Commission's recommendation to create a National Director of Intelligence is appealing for many reasons, especially on the accountability front. But I'm concerned that putting an intelligence "czar" in the White House may subject that person to undue political pressure. We have already seen how intelligence can be manipulated to justify something as precipitous as going to war.

Also, while it's obviously imperative that we streamline operations and get agencies to share information on a "real-time" basis, too much consolidation may promote a counter-productive "groupthink" mentality.

I was struck by a July 19th article in the *New York Times* about the State Department's Bureau of Intelligence and Research. As *Times* reporter Douglas Jehl pointed out, the Bureau has "no spies, no satellites and a reputation for contrariness." This little agency, which is just one-tenth the size of the Central Intelligence Agency, had the best, most accurate pre-war intelligence about Iraq and whether Saddam Hussein had weapons of mass destruction.

Figuring out how to duplicate the success of an agency like the Bureau of Intelligence and Research across the government, and then getting better coordination from such agencies, may be preferable to consolidation.

While today's hearing is ostensibly about two specific recommendations—creating a National Intelligence Director (NID) and a National Counterterrorism Center (NCTC)—I do intend to discuss some of the Commission's other findings, particularly with regard to the flights that took Saudi nationals, including 13 members of Osama Bin Laden's family, out of the United States shortly after September 11. That continues to trouble me a great deal.

This is the first of many important hearings. Thank you for getting today's hearing organized on such short notice, Madam Chairman. When it comes to making America safer, there's much we need to do, and we don't have a moment to waste.

Senator LAUTENBERG. I spoke to Governor Kean one time—and I do not know whether you remember—I called to ask whether or not you were getting the data that you wanted because there was some talk about subpoenaing records, and that kind of disappeared.

And just to get things in perspective, the original date for your delivery of this report was in early May, was that it?

Mr. KEAN. Yes, May 28.

Senator LAUTENBERG. And there was a lot of pressure on you to complete your work and—let me put it in my terms—just get it done with, but you persisted in wanting to have enough time to complete the job. And when was it finally agreed that you would have more time to do this? It was due May 28, did you say?

Mr. KEAN. The Congress passed that bill—I think it was your bill, wasn't it, Senator Lieberman? I don't remember the date you passed it, but it was March, very early March we were given the understanding. We were, by the way, a month late getting started because of the appointments of Mr. Kissinger and Mr. Mitchell, and then their withdrawal.

Senator LAUTENBERG. Yes, and I had the feeling that this thing was still being sort of rushed through.

And one of the other things that was discussed, and that is we do not know what the final role of technology is going to be in intelligence gathering. You know that at Fort Monmouth in New Jersey there is so much wonderful work being done on information gathering, on access to data, and we have to permit these things to be included in any of the equation that we finally develop.

June 16, the 9/11 Commission reported in its findings that there was "no collaborative relationship between Saddam Hussein and al Qaeda."

Yet the next day, on June 17, the President said, "The reason I keep insisting that there was a relationship between Iraq and Saddam and al Qaeda is because there was a relationship between Iraq and al Qaeda."

In the same week, Vice President Cheney said that Saddam had long-established ties with al Qaeda.

Given your findings, do you believe that these statements by the President and the Vice President at that time added to a clarification about Iraq and al Qaeda or was it a further misinterpretation?

Mr. KEAN. Well, first, let me clarify one thing. There was some thought at one point that maybe the White House or the Vice President had information that we didn't have. We have clarified that. We believe that there is no information that we don't have, that we are all sharing the same information base.

And, second, there was a relationship between al Qaeda and Iraq not as far as September 11 goes. There was no collaborative relationship there at all, but we have documented in the report a number of contexts spanning several years evidence that the two sides discussed some possible cooperation, including a report of Iraq may be offering a safe haven to bin Laden when there was some question of whether he could stay with the Taliban, but nothing concrete seemed to emerge from those contexts.

We found, the word we use in the report is we have found no evidence of a collaborative operational relationship, and we certainly see no evidence at all that Iraq cooperated in any way with al Qaeda in developing and carrying out the attack on the United States.

Senator LAUTENBERG. Then, the statement "long-established ties with al Qaeda" doesn't exactly square with your interpretation of things.

Mr. KEAN. There was a relationship, but it wasn't, as we say, we use the word "collaborative operational relationship" very carefully because that's what we don't find.

Senator LAUTENBERG. Yes. I think that what was intended was something different.

And I would ask another question, and that is your report that we must openly confront the problems in the U.S.-Saudi relationship, and you cite our failure to clamp down on Saudi-financed organizations and those institutions that promote jihad against Americans. Do you think that the administration is doing enough to confront Saudi Arabia about their activities, and have they kind of let Saudi Arabia off fairly easily, would you think?

Mr. KEAN. We have a section in the report on Saudi Arabia and some of our recommendations in that regard. There has been certainly a change in the Saudi Arabian attitude toward terrorism, and particularly al Qaeda.

We believe right now, in every evidence we have from the Commission, is that right now the Saudi Government is doing everything it can to work with the U.S. Government to find and destroy al Qaeda because they have recognized that al Qaeda is, if anything, just as much, if not even more, anxious to wipe out the royal family and their governance of Saudi Arabia than they are to attack us. Its the same—so, by necessity, we have become great allies.

The problem we had before September 11 was not that the Saudi Government was involved, but that there were obviously Saudi financing and Saudi help from wealthy individuals that was getting in through, sometimes through charities from Saudi Arabia that were getting into al Qaeda and helping bin Laden do whatever he was doing.

Senator LAUTENBERG. Fair to say, however, that was induced by the increasing awareness of their own domestic problems. But when it came to American problems, there certainly was no forthrightness between the Saudi Arabian Government and our needs to find information; is that fair to say?

Mr. KEAN. Yes. What we even suggest very strongly in the report is this relationship forever has been about oil; we got the oil and anything else was probably all right. We ignored some other things on our side. It can't be that way any more. We've got to have a much more intelligent, collaborative relationship with Saudi Arabia. We've got to encourage them toward the reforms which I think both of us probably now realize are necessary in that country.

We've got to have a whole different policy and a different face, and it can't be just about oil any more. It's got to be a different relationship.

If the Saudi—there are three countries we go into: Saudi Arabia, Afghanistan, and Pakistan. They are three of our most important relationships at this point. If any of those were to change drastically in the wrong direction, this country would have very serious problems in the region, and so we do recommend very special work in the area of diplomacy, not just military, area of diplomacy, cul-

tural exchanges, educational help in particularly those three countries.

Senator LAUTENBERG. That ought to be the condition for all of our relationships, I think. Thank you very much, Madam Chairman.

Chairman COLLINS. Senator Pryor.

**OPENING STATEMENT OF SENATOR PRYOR**

Senator PRYOR. Thank you, Madam Chairman.

Before I get started, earlier did you announce that Senators could put their opening statements in the record?

Chairman COLLINS. Without objection, any statements may be submitted.

Senator PRYOR. Thank you, Madam Chairman. I want to thank you and Senator Lieberman for your leadership on this issue, and certainly you two who led this Commission, and the Commissioners and their staff. We all know that the staff is absolutely critical in getting this done, but I really want to thank you all, everybody involved in this process, for what you have done. This is an excellent report in every way, and it is very helpful for us in the Senate, and the Congress and in government generally.

I want to touch on something, a recommendation you make—it is on page 396—where you talk about threat-based assessments domestically. And I am not going to get into chapter and verse on it, but that is where the reference is. And I want to be clear on this because this is something that in this Committee we have spent some time talking about in the last year and a half.

There is a natural balance that you have to strike, and I think there are some who would argue that, basically, we need to look at population as the predominant criteria in keeping Americans safe. And then folks from rural States say, "Wait a minute. We have needs too. We have infrastructure. We have targets. We are part of the system, and terrorists could enter the system through our States."

And I would like both of you to share your sense of that balance and how the Congress should strike that balance.

Mr. HAMILTON. Well, we come out pretty decisively I guess on one side of that question, and we think that the assistance that would be made available to improve protection in a given community and to improve response should be distributed largely on the basis of the assessment of the threat.

Now, that is not a precise science, but it is, I think, reasonably clear that most of the threats that we are familiar with are aimed at high-visibility targets in the United States, and we do know, I think, that they want to do as much damage as they possibly can with each strike, and they want to strike at the symbols of America.

So we think that the largest threats are in New York and in Washington. That doesn't mean there are no threats elsewhere, but that's where most of the threats are. And therefore money that is distributed to deal with the aftermath of those threats or protecting against those threats should be based largely on that assessment of risk.

And we specifically say, as you have noted, that this is not a general revenue-sharing program. This is a program that has a very specific purpose to it, and so that is where we came down on that issue.

Now, you're from Arkansas, and I'm from Indiana, and I know some of the pressures that operate here on American politicians. So that advice may not always go down well, but we are not suggesting that the other communities have no interest in this or have no claim to it. We just think the major focus of the resources should go to the high-risk areas.

Mr. KEAN. Yes, and how you do that would be up to the Congress, obviously. Because, I mean, we recognize you can have a rural area, and you can have a nuclear plant or you can have a rural area and in that State is a container port. I mean, there are a number of facilities, it isn't just in population, but what we suggest is where we know, from the charter, and the results, and the evidence, that the terrorists are the greatest risk, what the greatest risk of attack is, probably that's where the majority of the funds ought to be targeted.

Senator PRYOR. Thank you.

Mr. Hamilton, earlier, you said—and I cannot exactly quote it—but basically you said that the principal problem with September 11 was that the agencies did not share information, and the Commission report makes the recommendation of restructuring certain agencies and responsibilities within the government.

Are you two convinced that we need to have a major reorganization and that we cannot achieve the same thing by just forcing the existing apparatus, if we could call it that, to share information across agencies and have one person designated by the President and/or Congress to have some directional and budget authority type of oversight over these various agencies?

Mr. HAMILTON. Well, the latter is what we are really talking about with the National Intelligence Director. You have got to smash the stovepipes, and you've got to force it, and we don't know any way to do that except to put someone over it who will not only put out an order, but follow it on a day-to-day basis and make sure that it's done and whose responsibility it is to get it done.

We think institutional change is essential to bring about the kind of transformation you need in the intelligence community. And if you don't have the institutional change, we don't think it's going to happen or if it'll happen, it'll happen for a year or two and then people will forget about it.

Mr. KEAN. What you suggest is happening right now, I think, in the sense that I think people are aware of the problem, aware, and I think from the top there's a lot of effort from the top for these agencies to try and get sharing of information. It's still not occurring, and the reason it's not occurring is the culture of these places is old and it's deep, and people aren't used to it, and they don't like it, and they still treasure these nuggets that they have, and they want to use it for their own cases and their own possibilities, and it's not getting shared right now. It really isn't.

Senator PRYOR. And I agree with that. I guess one concern I have is that the last thing I want to do is just create another bureaucracy. And I think that Homeland Security has done a lot of great

things. I think they are getting a lot of things right, but I also think that there exists within this brand-new Federal agency different cultures, turf battles, and other similar problems. And so I guess if I'm looking at Homeland Security as a model, even though it's a good model in many respects, I am not sure it is the model I would want to follow in moving our intelligence this direction.

Do you all have any comments on that?

Mr. HAMILTON. We do not want to create new bureaucracy here any more than I think anyone else does. We do not think we are recommending a significant net increase in personnel, for example. The current Community Management staff in the CIA would become the core staff of this National Intelligence Director. And what we are really doing here is breaking down the bureaucracy with this proposal. We are not adding to it. Now, if we were just adding to the bureaucracy, we ought not to do it. Nobody wants to do that.

This National Counterterrorism Center replaces a number of fusion centers across the government. It's going to become the center point. We're going to knock out a lot of fusion centers, and it will become this fusion center, as your Chairman said the other day in conversation, a "super TTIC," I think you called it. That's a good description. I think TTIC is a good concept, but it needs to be very much strengthened from what it is. So I don't think we're creating new bureaucracy here.

The model that we're actually following is a private-sector model. One of the models we looked at very hard is GE, and much of what we've done is patterned after that

Senator PRYOR. Good. Well, let me ask specifically how some of this works because, as I look at your flow chart and read some of your findings and conclusions in the report, I guess I still have some questions about whether some of these intelligence agencies stay within the agency they are in right now? For example, in the Department of Defense, there are a number of intelligence agencies. Do they stay there, but then at some point or in some way report to the NID, the National Intelligence Director, or are they actually working for the NID? How does this work?

Mr. HAMILTON. Well, the FBI would report to the Deputy NID, National Intelligence Director, on homeland intelligence.

Senator PRYOR. Right.

Mr. HAMILTON. The DIA, the NSA, the imagery places, the satellite images, they would report through the Deputy NID for domestic intelligence, and the deputies, of course, report to the National Intelligence Director. That is the flow of information.

Senator PRYOR. But does that not put some of these folks or maybe all of them in a position of having two bosses? For example, they would have the Secretary of Defense or they would have some other boss and the NID?

Mr. HAMILTON. Yes, there is some of that. I think that is correct. You cannot avoid that, I don't believe. You have it today. But the chain of command here, with regard to counterterrorism, is very clear, I believe.

Senator PRYOR. Well, again, thank you all for your work on this. You have just done a great service to this country.

Chairman COLLINS. Thank you. And last, but certainly not least, the Senator from Hawaii, Senator Akaka.

## OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Madam Chairman. I would like to take the time to commend our Chairman and Ranking Member, for acting so swiftly in calling hearings on the 9/11 Commission report. You did it so swiftly. It took me this long to get here. [Laughter.]

I would ask permission, Madam Chairman, that my statement be placed in the record.

Chairman COLLINS. Without objection.

[The prepared statement of Senator Akaka follows:]

OPENING STATEMENT OF SENATOR AKAKA

Thank you Madam Chairman. I would like to commend our Chairman and Ranking Member for acting swiftly in calling hearings on the 9/11 Commission Report so soon after its release. I cannot think of a more pressing issue before this Committee. I extend my welcome and gratitude to Governor Kean and my good friend Lee Hamilton, with whom I served in the House of Representatives, for your hard work and commitment to this cause. I know our Committee will use the next few months to examine your recommendations thoroughly.

Just as the terrible tragedy of September 11, 2001, brought all Americans together in mourning for our lost compatriots and in a common resolve to defeat our faceless foes, your Commission's report provides us with another opportunity to work together in a nonpartisan manner to fashion an effective response to those enemies.

I want to thank you, your colleagues, and your staff for your great dedication and contribution, especially for your unbiased approach to improving our nation's defenses.

So many comments in your report struck me for their insight and throughout our hearings, I hope to discuss many of them. Let me start by emphasizing a comment on page 340 of your report:

"America stood out as an object for admiration, envy, and blame. This created a kind of cultural asymmetry. To us, Afghanistan seemed very far away. To members of al Qaeda, America seemed very close. In a sense, they were more globalized than we were."

I think you have identified both the problem and its solution.

As you know, we are proud in Hawaii of our multi-cultural society, our acceptance of one another, our location as a gateway to Asia.

As your report observes, Americans need to think "globally." But in order to do that we need to begin not only with improving the work force we have but the work force we will need in the future.

In many areas of your report, you point out the gaps in our human capital resources to provide both analysts and field agents in this global war on terrorism. As you mention, it takes up to seven years to bring an operations recruit of the Central Intelligence Agency (CIA) to full performance. You point out that the total number of undergraduate degrees granted in Arabic in 2002 was six. You mention that the CIA's Counterterrorist Center (CTC) "established a new strategic assessments branch during July 2001. The decision to add about ten analysts to this effort was seen as a major bureaucratic victory, but the CTC labored to find them."

The counterterrorism institutions we have now, as your report notes, are seriously understaffed. The Terrorism Threat Integration Center (TTIC), which has the primary responsibility for terrorism analysis and for day-to-day terrorism analysis provided to the President, according to the Administration, is seriously understaffed and is having trouble getting qualified people detailed to serve in it.

As we review the Commission's recommendations for institutional and operational reorganization, I believe we also need to consider programs that ensure that we can attract and retain the professional workforce that is necessary. Moreover, we must guarantee that institutions created to address the current threat of terrorism are also capable of adjusting to new threats.

We should ensure that we are training the right people in the right way to combat future threats. Right now we are taking analysts from several agencies to serve in TTIC, and robbing Peter to pay Paul is not the best solution. We need to plan for where the intelligence analysts of tomorrow will come from if it is true that today's war on terrorism will take generations to fight.

After September 11, Robert Mueller, Director of the Federal Bureau of Investigations (FBI), made a plea on national television for speakers of Arabic and Farsi to help the FBI and national security agencies translate documents critical to counterterrorist efforts.

Recognizing this problem, the Commission's report properly notes that "the FBI should fully implement a recruiting, hiring, and selection process for agents and analysts that enhances its ability to target and attract individuals with educational and professional backgrounds in intelligence, international relations, technology, and other relevant skills."

I agree completely and I would extend this recommendation to additional agencies.

I introduced with my colleagues, Senators Voinovich, Durbin, Allen, Warner, Brownback, Chambliss, Rockefeller, and Collins, S. 589, the Homeland Security Federal Workforce Act, a bill to provide enhanced student loan repayment authority and scholarships for individuals skilled in language and science who perform government service. Our bill also provides for a rotational program to provide critical cross-training for the national security community. In addition, Senator Durbin and I introduced S. 2299, the Homeland Security Education Act, which would encourage the expansion and improvement of science, math, and foreign language programs at the elementary, secondary, and higher education levels.

The predecessor of S. 589, S. 1800, was first introduced in December 2001 and the current bill passed the Senate in November 2003. It has not yet been acted upon by the House.

Both bills address the immediate and long-term human capital problem facing our intelligence and national security communities. According to the Commission's report, it takes five to seven years of training, language study, and experience to bring a CIA recruit up to full performance. Much more could be accomplished if the training began in our elementary schools and continued throughout high school and college.

Many foreign language programs at the elementary school level have suffered deep cuts, forcing schools to reduce or eliminate their foreign language programs. This is crucial as foreign language study at the elementary and secondary levels offer the best chance for students to develop the strongest language proficiencies. Moreover, while these schools may not be teaching Arabic, it is easier to learn additional languages after learning one foreign language.

In addition to early and sustained education, we need to develop long-term relationships with people from every walk of life all across the world, whether or not the languages they speak are considered critical at the time. An ongoing commitment to maintaining these relationships and language expertise helps prevent crises from occurring and provides diplomatic and language resources when needed. We cannot afford to seek out those with foreign language skills after a terrorist attack occurs. We must provide an ongoing commitment to language education and encourage knowledge of foreign languages and cultures.

The report notes that "security concerns also increased the difficulty of recruiting officers qualified for counterterrorism [. . .] Many who had traveled much outside the United States could expect a very long wait for initial clearance. Anyone who was foreign-born or had numerous relatives abroad was well-advised not even to apply. With budgets for the CIA shrinking after the end of the Cold War, it was not surprising that, with some notable exceptions, new hires in the Clandestine Service tended to have qualifications similar to those of serving officers: That is, they were suited for traditional agent recruitment or for exploiting liaison relationships with foreign services but were not equipped to seek or use assets inside the terrorist network."

The Commission recommends that the CIA Director develop "a stronger language program, with high standards and sufficient financial incentives." But as the Commission observes, "the limited pool of critical experts—for example, skilled counterterrorism analysts and linguists—is being depleted. Expanding these capabilities will require not just money, but time."

This is a reflection of a current and future human capital problem that will require a substantial and long-term investment in our intelligence agencies and our entire educational system if the United States is to meet the challenges of protecting its people and our borders.

Having the right people in the right places is the only way to combat future threats. We must ensure that any institutions created as a result of this Commission's recommendations are not just framed in terms of their capability of addressing the current threat of global terrorism but are capable of educating the public about future threats so that Americans can be prepared to fight them. We need to avoid the trap of designing systems to fight the last war.

Senator AKAKA. I also want to express my welcome, and gratitude, and my deep appreciation to Governor Kean and my good friend Lee Hamilton—I wish we had the time to talk about our years there in the House—also, your fellow commissioners and of course your staff for your honest, nonpartisan approach.

Let me start by emphasizing an observation made on page 340 of your report, where you observe, "America stood out as an object for admiration, envy and blame. This created a kind of cultural asymmetry. To us, Afghanistan seemed very far away. To members of al Qaeda, America seemed very close. In a sense, they were more globalized than we were."

I think you have identified both the problem and its solution. We, in Hawaii, are proud of our multicultural society, our acceptance of one another and our position as a gateway to Asia. Throughout your report, you point out the gaps in our human capital resources to provide both analysts and field agents for this global war on terrorism.

As you mentioned, it takes up to 7 years to bring a CIA operations recruit to full performance. The total number of undergraduate degrees granted in Arabic in 2002 was six. And when the CIA created a Strategic Assessments Branch in 2001, at its Counterterrorism Center, the CIA had trouble finding 10 analysts to serve it.

As your report observes, Americans need to think globally, but in order to do that, we need to improve the workforce we have today and recruit the workforce we will need in the future.

Our current counterterrorism institutions, as you note, are seriously understaffed. The Terrorist Threat Integration Center or TTIC, which has primary responsibility for terrorism analysis and for the day-to-day terrorism analysis provided to the President, is seriously understaffed and is having trouble attracting qualified people.

As Congress reviews the Commission's recommendations for institutional organization, we must fashion programs to ensure the intelligence community can attract and retain the necessary professional workforce. We must ensure that we are training the right people in the right way to combat future threats. Right now, agencies are detailing analysts to serve in TTIC. Robbing Peter to pay Paul is not the best solution. We need to plan for training the intelligence analysts of tomorrow if it is true that today's war on terrorism will take generations to fight.

I would appreciate any additional insights you might have on this problem. We must do more to ensure that there are more than six undergraduate degrees in Arabic and that our future workforce can think globally. And this Committee has been looking seriously at this problem, also.

So I am asking for any of your insights on this problem.

Mr. KEAN. I think there are a lot more now in Arabic at all our universities, ones that I am familiar with, as a university president. Arabic, which was not a great subject that attracted a lot of students, is attracting more students now.

We also have to take advantage, I believe, personally, as a college president. We have, in our university, just a wonderful group of Muslim students who want to pursue these subjects, are totally

loyal to the United States. They are Americans. They just happen to be of that ancestry or that faith. I don't think we make very good use of them. They are just as antiterrorist as we are. They want to get this subject solved just as fast as we can. They are in as much danger as we are, and I don't believe we make much use of them.

As far as the TTIC Center, I think because the Center is really not very powerful right now, it is not the place people want to go. People detail from these various other agencies—and this is anecdotal from talking to a number of people in the agencies—TTIC isn't where they want to go because it doesn't lead to advancement, and it doesn't lead to success, it doesn't lead to where you want to go in the agency.

I believe that we recommend here, a really powerful TTIC, with real responsibility and real power, would attract some of the brightest and the best in the agencies. This would be the place people would want to serve, and I think it would attract some much more able people to serve in that regard, but I couldn't agree with you more. And if the Congress wants to, at some point, to fly some funds to those of us in the higher education business to help us promote the study of some of these other subjects, on globalism and that part of the world in particular, we will do the job.

Mr. HAMILTON. Senator, I think that one of the criticisms made of our report is that we make the CIA Director separate from the National Intelligence Director. We do that because we think the present CIA Director's job is much too broad and really impossible, but we also do it because we think the CIA Director has an enormous task to achieve some of the things you are talking about in your statement.

We want him to rebuild analysis in the CIA. We want him to rebuild, we have already talked about this HUMINT, human intelligence. We want him to build stronger language capabilities within the CIA, the very thing that you're talking about. And we want him to recruit a whole new generation of officers that represent diversity. Your State is the leader, of course, for all of America with respect to diversity.

And we think that those are not minor matters. We think the national security of the United States is tied up in the ability of the CIA Director to make those kinds of changes in the CIA. And so we think that's a separate position. And one of the reasons we think it's a separate position is the very thing that you're mentioning. Somebody has to take leadership and work to develop that diversity.

Senator AKAKA. Thank you. As you note in your report, the Goldwater-Nichols Act requires miliary officers to serve tours outside their service in order to win promotion.

There appears to be no parallel requirement within the intelligence community. Legislation reported out of this Committee, and passed by the Senate last year, S. 589, the Homeland Security Federal Workforce Education Act, would establish a rotational assignment program for mid-level Federal employees in national security positions. This bipartisan legislation is awaiting action in the House.

My question to you is do you or would you support requiring rotational assignments as a key consideration in promotion within the intelligence community?

Mr. HAMILTON. I don't know that we make a specific recommendation with respect to that, but at least my personal answer would be, yes, because you've got to get people with a broad view and get away from a very narrow focus.

I think any—and you folks know a lot more about this than we do—but any step like that which will broaden the horizons, if you would, of your employees and get them to think beyond the purposes of the specific agency is desirable.

Mr. KEAN. I would agree.

Senator AKAKA. Thank you. My time has expired. Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Senator.

I want to thank our distinguished witnesses for being with us today. You have performed an invaluable service to your country, and your service continues today by your rearranging your schedules to be here. I know that the hearing went longer than your schedules really allowed, and I appreciate your patience with that as well.

It has been extremely helpful to the Committee to have you here today, and I appreciate your participation and the participation of the Committee Members.

The record will remain open for 5 days, and our next hearing will be on Tuesday, August 3, starting at 10 a.m.

Senator Lieberman, do you have any closing comments?

Senator LIEBERMAN. Thanks very much, Madam Chairman.

Let me add my thanks to Governor Kean and Congressman Hamilton. It has been a very good hearing. It is the beginning of the next stage in this process. Some understandable, direct questions were asked about some of the proposals. I, for one, think you stood your ground very convincingly, certainly, to me.

And what comes back to me is what was said earlier on, which is that your conclusion is that, when it comes to intelligence, there is still no one in charge. It is fine to say the President is, but it is not fair to this President or any President to expect him to be in charge on a daily basis, 24/7, of intelligence. So I think the urgent need is there. You have made very strong proposals.

And I thank the Chairman for the pace of our consideration. We look forward to coming back next week for more detailed consideration.

Thank you very much.

Chairman COLLINS. Thank you.

This hearing is now adjourned.

[Whereupon, at 2:12 p.m., the Committee was adjourned.]

# APPENDIX

## PREPARED OPENING STATEMENT OF SENATOR SHELBY

Chairman Collins, Senator Lieberman I want to thank you for holding this hearing today to discuss the findings of the National Commission on Terrorist Attacks upon the United States. I also want to thank Chairman Kean and Vice Chairman Hamilton for their diligent work on behalf of our country and for appearing before us to discuss the report.

Last week the National Commission on Terrorist Attacks upon the United States, more commonly referred to as the 9/11 Commission, released its report. The Commission's charge upon creation was to investigate the facts and circumstances relating to the terrorist attacks of September 11, 2001 including those relating to intelligence agencies, law enforcement agencies, diplomacy, immigration issues and border control, the flow of assets to terrorist organizations, commercial aviation, the role of congressional oversight and resource allocation, and other areas determined relevant by the Commission. The Commission also issued recommendations that they "believe[d] to be the most important, [and] whose implementation can make the most difference."

The charge of this Commission and the recommendations borne from their labors are vitally important to our nation and to the memories of those who lost their lives on that tragic day. However, it is equally important that we not simply react but that we take specific, decisive action based on a broad range of knowledge and expertise in order to accomplish the goals set forth. I truly believe that decisions made hastily and without a full appreciation for the consequences may ultimately create more problems than they actually solve.

Even before the Commission issued its findings and recommendations our country and our government, recognizing many of the failings that led to September 11, resolved to reform itself. In short order, Congress created the Transportation Security Administration (TSA) to address the many concerns and threats to the flying public. Congress then created a new Department of Homeland Security (DHS) that consumed many of the departments and agencies that were once either part of other departments and agencies or were independent, including the TSA. However, before we can declare DHS a fully integrated, fully functional, fully effective Department we have much work ahead of us.

The Commission has said that in order to look forward and make meaningful recommendations, it was necessary to look backward. While it is difficult for many to re-live that day or even recount the years and months that preceded it, I believe that if we truly want to define our shortcomings it is necessary.

One significant shortcoming identified by the 9/11 Commission lies within our intelligence community. That shortcoming led us to September 11 and persists still today, despite efforts at reform and integration. While the Commission report states that "prior to 9/11 no single agency had more responsibility—or did more—to attack al Qaeda . . . than the CIA" it also sights numerous instances where there was a significant communication breakdown both within the CIA and within the intelligence community as a whole, particularly when it came time for agencies to work together. I believe that the Commission has rightly suggested that massive structural reform of the intelligence community is essential if we expect to properly connect the dots.

The Commission identified no less than five different entities responsible for terrorism analysis located across the government and has clearly and appropriately articulated the need to eliminate this duplication. They suggest the establishment of a National Counterterrorism Center (NCTC) to be a center for joint operational planning and joint intelligence. While I agree that the existing duplication should be eliminated in order to maximize efficiencies and minimize interagency friction, I do not believe we should reinvent the wheel in an effort to establish a central facil-

ity. I believe that our efforts should capitalize on the important assets of each agency and fully integrate their assets, their information and their personnel. Only after such an integration occurs will our government truly have the capability to appropriately analyze all of the information it receives.

Going one step further, the Commission recommends that this newly integrated NCTC be overseen by a new National Intelligence Director. The Commission argues that the current Director of Central Intelligence is flush with responsibility and yet has little real control over much of the budget and personnel he is required to oversee. I have long advocated the establishment of a National Intelligence Director—one who holds a cabinet seat, who has strict budgetary control and one who is ultimately responsible for the successes and failures of our intelligence.

The Commission also carefully scrutinized the issue of terrorist financing. This issue, as we all know, is central to the global war on terrorism. Their conclusion that the Central Intelligence Agency relegated minimal resources to tracking terrorist funds and demonstrated little regard for the financial component of terrorist investigations is particularly troubling, although not surprising given what was already known. The Banking Committee's recent hearing on the nomination of Stuart Levey to be Under Secretary of Treasury for Enforcement and head of the newly established Office of Financial Intelligence emphasized the role this new office will have in working with the intelligence community to ensure the proper focus and resources are allocated to the issue of terrorist financing.

Further, as Chairman of the Committee on Banking, which has jurisdiction over many money laundering and terrorist financing issues, particularly oversight of the Bank Secrecy Act and Title III of the U.S.A. Patriot Act, I will continue to investigate the manner by which terrorists use the financial system to facilitate their activities. The Committee has already held a number of hearings on this matter, and will continue to do so, including hearings specific to the information attained by the 9/11 Commission. The Commission's report provides the best available analysis to date on the means by which the September 11 hijackers funded their activities and operations while in the United States. The use of ATMs, for example, goes directly to the heart of the method by which terrorists exploit banks to fund their day-to-day operations.

Madam Chairman, I have highlighted just a few of the issues that were raised in the Commission's report. During my time on the Intelligence Committee I saw first hand how unwilling our different intelligence agencies are to share information. The CIA, for example, hoarded information from other agencies to the detriment of national security. I also observed incidents where the FBI did not "know what it knew" because of poor internal intelligence sharing. Had the CIA, FBI, NSA and other intelligence agencies worked cooperatively and had the technological framework in place to "connect the dots" about terrorist threats, perhaps 9/11 could have been prevented.

I believe that reforming our intelligence community is one of the most important things that we can do in order to ensure that our country is in fact safer, stronger and wiser. However, I remain committed to ensuring that the actions and reforms we undertake are done with thoughtful, measured progress. Taking action simply for the sake of taking action will not secure our homeland and it certainly will not honor the memory of those who lost their lives on September 11, 2001.

Thank you again for holding this important hearing today and I look forward to additional hearings to discuss these important issues further.

**Prepared Statement of**
**Thomas H. Kean, Chair and Lee H. Hamilton, Vice Chair**
**National Commission on Terrorist Attacks Upon the United States**
**before the Senate Committee on Governmental Affairs**
**July 30, 2004**

Madame Chairman Collins, Senator Lieberman, Members of the Committee: It is a great honor to appear before you today, to open our public testimony on behalf of the recommendations in the final report of the 9/11 Commission.

We also want to thank the leadership of the United States Senate. Both the Majority Leader and the Democratic Leader have shown strong support for our work. We commend them, and we commend you, for your leadership. Like you, we share a sense of urgency. The United States government must take all the steps it can to disrupt and defeat the terrorists, and protect against and prepare for terrorist attacks.

Our recommendations to address the transnational danger of Islamist terrorism rest on three policies, to:

- attack terrorists and their organizations;
- prevent the continued growth of Islamist terrorism; and
- protect and prepare for terrorist attacks.

The long term success of our efforts demands the use of all elements of national power: diplomacy, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense. If we favor one tool while neglecting others, we leave ourselves vulnerable and weaken our national effort.

Our recommendations about "what to do" encompass many themes: foreign policy, public diplomacy, border security, transportation security, the protection of civil liberties, and setting priorities for national preparedness. We also make several recommendations about "how to do it" – how to organize the United States government to address the new national security threat of transnational terrorism.

We understand that the topic of today's hearing is governmental organization. We will address in detail some of our key recommendations in this area. However, we do want to pause for a moment to make clear that changes in government organization– and they are important – are only a part of what we need to do. If we do not carry out important recommendations we have outlined in foreign policy, border security, transportation security, and in other areas, reorganizing the government alone will not make us safer and more secure.

There is a fascination in Washington with bureaucratic solutions –rearranging the wiring

diagrams, creating new organizations. We do recommend some important institutional changes. We will articulate and defend those proposals. But we believe reorganizing governmental institutions is only a part of the agenda before us.

Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individual officials straining, often without success, against the boundaries of the possible. Good people can overcome bad structures. They should not have to.

We have the resources and the people. We need to combine them more effectively, to achieve unity of effort. This morning, we will address several major recommendations on how the Executive branch can work better to:

- unify strategic intelligence and operational planning against Islamist terrorists across the foreign-domestic divide with a National Counterterrorism Center;
- unify the intelligence community with a new National Intelligence Director;
- unify the many participants in the counterterrorism effort and their knowledge in a network-based information sharing system that transcends traditional national boundaries; and
- unify our national effort by strengthening the ability of the FBI and homeland defenders to carry out the counterterrorism mission.

We will address each of these in turn.

**The National Counterterrorism Center**

Our report details many unexploited opportunities to disrupt the 9/11 plot: failures to watchlist, failures to share information, failure to connect the dots. The story of Hazmi and Mihdhar in Kuala Lumpur in January 2000 is a telling example. We caught a glimpse of the future hijackers, but we lost their trail in Bangkok. Domestic officials were not informed until August, 2001that Hazmi and Mihdhar had entered the United States. Late leads were pursued, but time ran out.

In this and in other examples, we find that no one was firmly in charge of managing the case. No one was able to draw relevant intelligence from anywhere within the government, assign responsibilities across the agencies (foreign or domestic), track progress and quickly bring problems forward so they could be resolved. No one was the quarterback. No one was calling the play. No one was assigning roles so that government agencies could execute as a team.

We believe the solution to this problem rests with the creation of a new institution, the National Counterterrorism Center. We believe, as Secretary Rumsfeld told us, that each of the agencies needs to "give up some of their existing turf and authority in exchange for a stronger, faster, more efficient government wide joint effort." We therefore propose a civilian-led unified joint command for counterterrorism. It would combine intelligence (what the military calls the

J-2 function) with operational planning (what the military calls the J-3 function) in one agency, keeping overall policy direction where it belongs, in the hands of the President and the National Security Council.

We consciously and deliberately draw on the military model, the Goldwater-Nichols model. We can and should learn from the successful reforms in the military two decades ago. We want all the government agencies that play a role in counterterrorism to work together in a unified command. We want them to work together as one team in one fight against transnational terrorism.

The National Counterterrorism Center would build on the existing Terrorist Threat Integration Center, and replace it and other terrorism "fusion centers" within the government with one, unified center.

The NCTC would have tasking authority on counterterrorism for all collection and analysis across the government, across the foreign-domestic divide. It would be in charge of warning.

The NCTC would coordinate anti-terrorist operations across the government, but individual agencies would execute operations within their competences.

The NCTC would be in the Executive Office of the President. Its chief would have control over the personnel assigned to the Center, and must have the right to concur in the choices of personnel to lead the operating entities of the departments and agencies focused on counterterrorism, specifically the top counterterrorism officials at the CIA, FBI, Defense and State Departments. The NCTC chief would report to the National Intelligence Director.

We appreciate that this is a new and difficult idea for those of us schooled in government of the 20th century. We won the Second World War and the Cold War because the great departments of government – the State Department, the Defense Department, the CIA, and the FBI – were organized against clear nation-state adversaries. Today, we face a transnational threat. That threat respects no boundaries, and makes no distinction between foreign and domestic. The enemy is resourceful, flexible and disciplined. We need a system of management that is as flexible and resourceful as is the enemy. We need a system that can bring all the resources of government to bear on the problem – and that can change and respond as the threat changes. We need a model of government that meets the needs of the 21st century. We believe the National Counterterrorist Center meets that test.

**The National Intelligence Director**

As part of the 9/11 story, we spent a very considerable time looking at the performance of the Intelligence Community. We identified at least six major problems confronting the Intelligence Community that became apparent in 9/11 and still continue today.

First, there are major structural barriers to the performance of joint intelligence work. National intelligence is still organized around the collection disciplines of the home agencies, not the joint mission. The importance of integrated, all-source analysis cannot be overstated. Without it, it is not possible to "connect the dots."

Second, there is a lack of common standards and practices across the foreign-domestic divide for the collection, processing, reporting, analyzing and sharing of intelligence.

Third, there is divided management of national intelligence capabilities, between the Director of Central Intelligence and the Defense Department.

Fourth, the Director of Central Intelligence has a weak capacity to set priorities and move resources.

Fifth, the Director of Central Intelligence now has at least three jobs – running the CIA, running the Intelligence Community, and serving as the President Chief Intelligence Adviser. No one person can perform all three.

Finally, the Intelligence Community is too complex, and too secret. Its 15 agencies are governed by arcane rules, and all of its money and nearly all of its work is shielded from public scrutiny.

We come to the recommendation of a National Intelligence Director not because we want to create some new "czar" or a new layer of bureaucracy to sit atop the existing bureaucracy.

We come to this recommendation because we see it as the only way to effect what we believe is necessary: a complete transformation of the way the Intelligence Community does its work.

You have a chart of our proposed organization in front of you. It is on page 413 of the report; it is also shown on a poster board. Unlike most charts, what is most important on this chart is not the top of the chart, it is the bottom.

We believe that the Intelligence Community needs a wholesale Goldwater-Nichols reform of the way it does business. The collection agencies should have the same mission as the Armed Services do: they should organize, train and equip their personnel. Those intelligence professionals, in turn, should be assigned to unified joint commands, or in the language of the Intelligence Community, "Joint Mission Centers." We have already talked about a National Counterterrorism Center. A joint mission center on WMD and proliferation, for example, would bring together the imagery, signals, and HUMINT specialists, both collectors and analysts, who would work together jointly on behalf of the mission. All the resources of the community would be brought to bear on the key intelligence issues as identified by the National Intelligence Director.

So, when we look at the chart from the bottom up, we conclude you cannot get the necessary transformation of the Intelligence Community--smashing the stovepipes and creating joint mission centers--unless you have a National Intelligence Director.

The National Intelligence Director needs authority over all intelligence community elements, including authority over personnel, information technology and security. Appropriations for intelligence should come to him, and he should have the authority to reprogram funds within and between intelligence agencies.

The National Intelligence Director would create, and then oversee, the joint work done by the intelligence centers.

He would be in the Executive Office of the President, and would have a small staff – an augmented Community Management Staff.

He would not be like other "czars" who get the title but have no meaningful authority. The National Intelligence Director would have real authority. He will control National Intelligence Program purse strings. He will have hire and fire authority over agency heads in the Intelligence Community. He will control the IT. He will have real "troops," as the National Counterterrorism Center and all the Joint Mission Centers would report to him.

We have concluded that the Intelligence Community isn't going to get its job done unless somebody is in charge. That is just not the case now, and we paid the price: information wasn't shared, agencies didn't work together. We have to–and can–do better as a government.

To underscore again, we support a National Intelligence Director not for the purpose of naming another Chief to sit on top of all the other Chiefs. We support the creation of this position because it is the only way to catalyze transformation in the Intelligence Community, and manage a transformed Community afterward.

**Unity of Effort in Sharing Information**

What we learned in the 9/11 story is that the U.S. government has access to a vast amount of information. But the government has weak systems for processing and using the information it possesses, especially across agency lines. Agencies live by the "need to know" rule and refuse to share. Each agency has its own computer system and its own security practices, outgrowths of the Cold War. In the 9/11 story we came to understand the huge costs of failing to share information across agency boundaries. Yet, in the current practices of government, security practices encourage over-classification. Risk is minimized by slapping on classification labels. There are no punishments for *not* sharing information.

We believe that information procedures across the government need to be changed, to provide incentives for sharing.

We believe the president needs to lead a government-wide effort to bring the major national security institutions into the information revolution. The president needs to lead the way and coordinate the resolution of the legal, policy and technical issues across agency lines so that information can be shared.

The model is a decentralized network. Agencies would still have their own databases, but those databases would be searchable across agency lines. In this system, secrets are protected through the design of the network that controls access to the data, not access to the network.

The point here is that no single agency can do this alone. One agency can modernize its stovepipe, but cannot design a system to replace it. Only presidential leadership can develop the necessary government-wide concepts and standards.

**Strengthening the FBI**

The other major reform we want to recommend to you this morning concerns the FBI.

We do not support the creation of a new domestic intelligence collection agency. We believe creating such an agency is too risky to civil liberties, would take too long, cost too much money, and sever the important link between the criminal and counterterrorism investigative work of the FBI.

We believe Director Mueller is undertaking important reforms. We believe he is moving in the right direction.

What is important at this time is strengthening and institutionalizing FBI reforms, and that is what we are recommending.

What the FBI needs is a specialized and integrated national security workforce, consisting of agents, analysts, linguists and surveillance specialists.

These specialists need to be recruited, trained, rewarded and retained to ensure the development of an institutional culture with deep expertise in intelligence and national security.

We believe our other proposed reforms – the creation of a National Counterterrorist Center and the creation of a National Intelligence Director– will strengthen and institutionalize the FBI's commitment to counterterrorism and intelligence efforts. The NCTC and the NID would have powerful control over the leadership and budgets of the Counterterrorism Division and Office of Intelligence respectively. They would be powerful forces pressing the FBI to continue with the reforms Director Mueller has instituted.

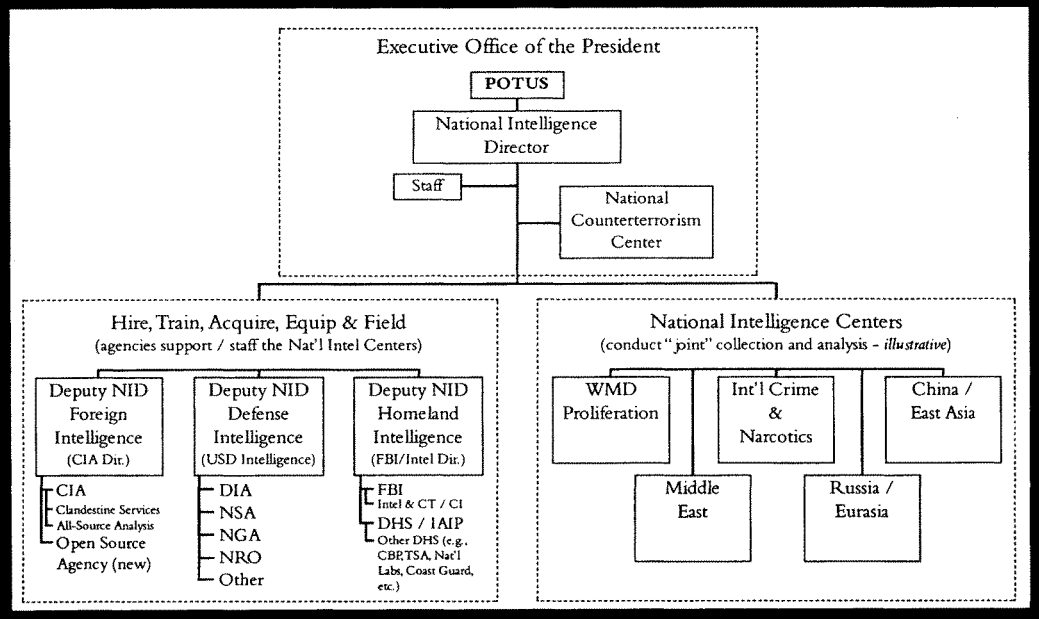
* * *

Taken together, we believe these reforms within the structure of the Executive branch, together with reforms in Congress, and the many recommendations we have proposed for foreign policy, public diplomacy, border and transportation security, the protection of civil liberties, and setting priorities for national preparedness – can make a significant difference in making America safer and more secure.

We believe that reforms of executive branch structures, in the absence of implementing the other reforms and recommendations in our report, will have significantly less value than the value of these reforms as a complete package. In short, while we welcome each step toward implementation of our recommendations, no one should be mistaken in believing that solving structural problems in the executive branch addresses completely, or even satisfactorily, the current terrorist threat we face.

With these watchwords, we will close. We would be pleased to respond to your questions.

# The 9/11 Commission's Recommendation for Restructuring the Intelligence Community



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# United States Senate

SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, DC 20510-6475

COMMITTEE SENSITIVE

## MEMORANDUM

TO: Members, Senate Select Committee on Intelligence
FROM: Arlen Specter
RE: Ames Damage Assessment Inquiry
DATE: December 5, 1995

On November 29, 1995, Charlie Battaglia, Fred Ward and I and Gerry Prevost, from CIA's Office of Inspector General, went to the home of L in Springfield, VA, to take his testimony because L advised that his medical condition was such that he could not come to the Committee. The deposition lasted about one hour and 45 minutes. The transcript is available for your review.

L began working for the CIA in 1950 and during the period from 1980 to 1991, L was Chief of Reports and Requirements in CIA's Soviet East European Division. He was responsible for determining the quality of Soviet sources, assessing the authenticity of the intelligence, and disseminating those reports to policymakers.

L readily conceded that he knew intelligence data came from Soviet controlled sources and that he disseminated such data to the highest levels of our government without disclosing the fact that it came from such controlled sources.

When I expressed shock at this, L confidently responded that he had acted entirely properly because disclosure of the controlled source would have made it even harder to "sell" the intelligence to policy makers, there was no reason to believe the Soviets used deception, no customer could use it unless his unit gave permission, and no customer would make any decision based on one or two documents.

L boasted that often U.S. general officers came to him directly for assessments of Soviet information much to the consternation of his division director.

When L was told that his successor, Z, denied knowing that such intelligence data came from a source known to be controlled by the Soviets, L responded "bullshit." Z received only a letter of reprimand for passing on intelligence data from Soviet controlled sources without appropriate disclosures.

It is hard to comprehend: 1) how L failed to understand that his conduct posed a grave threat to U.S. national security and was an unconscionable arrogation of power unto himself; 2) how his superiors (some of whom reportedly knew what he was doing) could permit him to function in this manner for so long; and 3) why the Agency has not turned heaven and earth to root out this kind of attitude and conduct. From the Ames case and other matters, L's conduct and attitude appears to represent a deep-seated institutional problem for the Agency.

Detailed questioning must be undertaken of the supervisors of L and Z, including the Directors, to determine how this could have gone on so long. Extensive work remains to be done to trace to whom the controlled data went, what decisions such data influenced and what damage the U.S. sustained from such decisions.

*December 9, 1996.*
*To:* ***MR. ESPOSITO***
*From:* ***DIRECTOR***
*Subject:* ***DEMOCRATIC NATIONAL CAMPAIGN MATTER***

As I related to you this morning, I met with the Attorney General on Friday, 12/6/96, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first rate DOJ legal team from outside Main Justice to conduct that inquiry. In fact, I said that these prosecutors should be ``junk-yard dogs" and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of ``pressure" on him and PIS regarding this case because the ``Attorney General's job might hang in the balance" (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

I also stated that it didn't make sense for PIS to call the FBI the ``lead agency" in this matter while operating a ``task force" with DOC IGs who were conducting interviews of key witnesses without the knowledge or participation of the FBI.

I strongly recommended that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity.

We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the ``investigative team" and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Litt will also attend.

I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation--both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances--including Huang's recently released letters to the President as well as Radek's comments--whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.

It was unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referrral deliberations. I agree with you that based on the DOJ's experience with the Cisneros matter--which was only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General--it was decided to exclude us from this decision-making process.

Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

**Post-Hearing Questions for the Record**
**Submitted to Chairman Thomas H. Kean**
**And Vice Chair Lee Hamilton**
**From Senator Susan M. Collins**

**"Making America Safer: Examining the Recommendations of the 9/11 Commission"**

**July 30, 2004**

1. The Commission cites the DCI's lack of hire and fire authority over senior intelligence managers as one of the key sources of the DCI's institutional weakness. The Commission recommends that the NID "approve and submit nominations to the President" of the heads of the CIA, DIA, the FBI Intelligence Office, NSA, NGA, NRO, and the Information Analysis and Infrastructure Protection Directorate. But the report is silent regarding the NID's ability to fire these officials. The Commission also recommends that the NID have three deputies, namely the head of the CIA, the Undersecretary of Defense for Intelligence, and either the FBI Executive Assistant Director for Intelligence or the Undersecretary of Homeland Security for IA&IP. But the report is unclear regarding the NID's role in hiring and firing these officials. Please clarify the NID's role in hiring and firing these major subordinate officials, particularly if they are Senate-confirmed positions.

   **Answer: We believe that the NID should have significant input in the hiring and firing of his/her deputies. Not having that input would leave the NID without the authority he/she must have to be effective.**

2. Your report recommends moving some "departmental intelligence agencies", such as the Defense Intelligence Agency, into the NID structure, while leaving others, such as the State Department's Bureau of Intelligence and Research, outside of it. Please elaborate on the reasons for your recommendations in that regard. In particular, did you have any concerns that including DIA within the NID structure might detract from its "departmental" mission?

   **Answer: The service intelligence elements (Army, Navy, Air Force, Marine Corps) should be considered departmental intelligence assets and be managed by DoD. We now believe DIA should be treated the same way.**

3. Currently, the Defense Intelligence Agency, the CIA's Directorate of Intelligence, and the State Department's Bureau of Intelligence and Research are the major participants in the process of competitive analysis, by which they and other relevant Intelligence Community entities formulate national intelligence estimates under the rubric of the National Intelligence Council. Your report recommends placing DIA but not INR within the NID structure. Does keeping DIA within the NID structure - under an official presumably more powerful than the current Director of Central Intelligence - risk decreasing DIA's analytic independence and undermining the process of competitive analysis?

   **Answer: We strongly support analytic independence and competitive analysis. Please see answer to question 2 above.**

**Post-Hearing Questions for the Record**
**Submitted to Chairman Thomas H. Kean**
**And Vice Chair Lee H. Hamilton**
**From Senator Daniel Akaka**

**"Making America Safer: Examining the Recommendations of the 9/11 Commission"**

**July 30, 2004**

1. You propose that paramilitary operations be taken away from the CIA and made the sole responsibility of the Department of Defense. After September 11th, the military was forced to reallocate its resources and create an executable plan for the invasion of Afghanistan. Yet as the Defense Department struggled with this problem, the CIA figured out a way to go in. The United States' invasion could have been delayed if DOD was the only one working on the problem.

   My question to you is, will the United States risk losing some of its current capability if paramilitary operations are transferred to DOD? Isn't the CIA more naturally suited for these types of activities?

   **Answer: We recommend that "lead" responsibility for these operations should shift to DoD. This would concentrate responsibility and necessary legal authority in one entity. This recommendation envisions that CIA would continue to play an important role, but that the leadership role would be concentrated in one place in the USG, at the Department of Defense.**

2. The report calls for the National Intelligence Director to have three deputies, one of whom would oversee homeland intelligence. This deputy would be drawn from either the FBI or the Directorate of Information Analysis and Infrastructure Protection.

   Given the differing nature of these two entities, and the fact that one is not a stand alone agency but housed within the Department of Homeland Security, how would you avoid complications arising from one official overseeing another?

   **Answer: We think a strong NID will be able to iron out any conflicts that arise.**

3. According to Ambassador James Lilly who is a former CIA officer, "Structure isn't the problem. Its people. We're falling down in getting good information because we don't have good case officers, and analysis is demonstrably weak."

I too fear the problem is being overly complicated.

Would you comment on Ambassador Lilley's analysis? Wouldn't increasing education and training to upgrade the caliber of our intelligence officers or recruiting officers from a more diverse pool solve much of the problem?

**Answer: Ambassador Lilley is correct. We do need to improve the capabilities of our operations officers and analysts. That alone will not be sufficient. Our report identified serious problems that existed before 9/11 in how the agencies in the intelligence community shared information. Their lack of sharing handicapped us in responding to the al Qaeda threat. The structural changes we have proposed will address those deficiencies; at the same time, by giving the DNI increased authorities to set priorities across the community, those changes will also ensure that improvements in collection and analysis will be met.**

4. You do not recommend the creation of a new domestic intelligence agency - a MI-5 type organization - but you do recommend the establishment of a strong national intelligence center that will oversee both foreign and domestic counterterrorism intelligence work.

You suggest that the operational side be kept separate - back in home agencies - but having one person oversee the work of both foreign and domestic intelligence could result in the concentration of extraordinary power and access to unlimited information.

How would you avoid such an intelligence center from becoming – in effect – a new domestic intelligence agency that might lead to the abuse of the rights of American citizens?

**Answer: The NCTC we have proposed will analyze and disseminate all terrorism threat information. It will also have the responsibility for joint operational planning against the terrorist target. In effect it will set priorities and agree on common plans. It will not direct the execution of operations. That job is left to the lead agencies. For example, the FBI, would still have the lead for apprehensions and/or other operations in the United States and would be subject to the laws that constrain and guide its actions; we do not recommend any changes in those laws.**

**Post-Hearing Questions for the Record**
**Submitted to Chairman Thomas H. Kean**
**And Lee H. Hamilton**
**From Senator Richard J. Durbin**

**"Making America Safer: Examining the Recommendations of the 9/11 Commission"**

**July 30, 2004**

**INFORMATION SHARING:**

1) Governor Kean and Congressman Hamilton, you and your able staff have zeroed in on the problem of information sharing. The Joint Inquiry has thoroughly studied it. What is your reaction to the idea that we need to have a high-level leader whose job – with no (or very limited) other distractions - is to establish and oversee a functional "trusted information network"? How do we make "sharing" happen?

   **Answer: We support the creation of a National Intelligence Director to ensure that the vital priority of information sharing takes place across the Intelligence Community.**

2) One of the primary lessons drawn by many investigators of the September 11 terrorist attacks was that law enforcement and foreign intelligence information was not shared especially at the level of working analysts. Some statutory barriers to the sharing of information have been removed by the USA Patriot Act and Intelligence Authorization legislation. What is your assessment of how effectively information is being shared by components of the Intelligence Community? What actions would you propose to enhance information sharing?

   **Answer: In the three years following the 9/11 attacks, agencies have taken steps to improve intelligence information sharing, but there is still substantial room for further improvement. Moreover the administrative changes agencies have made must be codified in law so that there is no backsliding. We need to promote a "need-to-share" culture of integration of information. We recommend providing incentives for sharing information. We recommend that the President lead a government-wide effort to create a trusted information network.**

**PLACEMENT OF THE NID IN THE EXECUTIVE OFFICE OF THE PRESIDENT**

3) The Commission recommended the creation of a National Intelligence Director (NID) who would oversee national intelligence centers and intelligence agencies. The Commission recommended that this position be "located in the Executive Office of the President (EOP)." What is the significance -- both legally and politically -- of placing the NID in the Executive Office of the President? How can the person in this position be an objective advisor to the President on intelligence matters -- as a matter of both perception and reality -- if the position is organizationally located on the President's political/policy team?

**Answer: The integrity of the NID is the best guarantee against politicization. In our view, where the NID is located has little to do with the integrity of the intelligence he/she produces, or the advice he/she offers to the President and top policy makers. Whatever its relationship to the White House, the President is best served by assessments that are honest, dispassionate, and relevant.**

**CLASSIFICATION OF INTELLIGENCE INFORMATION**

As part of its discussion of Unity of Effort for Sharing Information, the Report calls for a reevaluation of classification and how that has contributed to a turf-conscious, information hoarding environment which has permeated the intelligence and homeland security communities and has precluded sharing.

As the 9/11 Commission Report suggests, ***"Current security requirements nurture overclassification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks*** [sanctions] ***but few rewards."***

4) Representative Hamilton and Governor Kean, can you please elaborate on this and share your practical suggestions for addressing the classification issue. Does overclassification complicate an effort to try to change the culture from a "need to know" to a "need to share"? How do we overcome that?

**Answer: In conducting our investigation, we came upon countless examples of information that had been classified but that had long since been in the public domain. While it is important to maintain the secrecy of our nations real secrets—among them, sources and methods of intelligence collection—classifying information that is not truly sensitive has the cumulative effect of hindering information sharing on vital issues such as terrorist threat information.**

**We need to create a culture of "need to share". Information should be classified at the lowest classification level, rather than at the highest, in order to foster information sharing among agencies that have common objectives, including state and local authorities. We should also provide incentives to share information.**

5) Governor Kean, you indicated in a recent interview that over half of the classified materials you reviewed in the course of the Commission's work did not need to be classified. Can you explain what you meant?

**Answer: Please see our answer to question 4 above.**

**IRAQ**

6) Conspicuously absent from the 9/11 Commission's report was any judgment on the most compelling policy debate of this Administration: Was the war against Iraq an essential part of -- or a distraction from -- the fight against al Qaeda and international terrorism? In a July 25, 2004 editorial entitled, "Honorable Commission, Toothless Report", Richard Clarke stated that "...because the commission had a goal of creating a unanimous report from a bipartisan group, it softened the edges and left it to the public to draw many conclusions. Among the obvious truths that were documented but unarticulated were the facts that the Bush administration did little on terrorism before 9/11, and that by invading Iraq the administration has left us less safe as a nation." Do you agree with Mr. Clarke's assessment? Why or why not?

**Answer: The 9/11 Commission's mandate was to investigate the facts and circumstances surrounding the 9/11 attacks and to issue recommendations to make the country safer. Decisions relating to war in Iraq were not part of our mandate and post-dated the creation of the Commission.**

**Based on our understanding of the Commission's mandate, the only relevant question regarding Iraq had to do with whether or not Iraq had any connection with the al Qaeda attacks on the United States. We investigated that question thoroughly, and found no collaborative operational relationship between Iraq and al Qaeda.**

**Post-Hearing Questions for the Record**
**Submitted to Chairman Thomas H. Kean**
**And Vice Chair Lee H. Hamilton**
**From Senator Frank Lautenberg**

**"Making America Safer: Examining the Recommendations of the 9/11 Commission"**

**July 30, 2004**

**Questions on Emergency Defense during a Terrorist Attack**

We now know that al Qaeda operates with attacks that are likely to be imaginative, coordinated and spread out over a period of minutes or hours.

One component of our counter-terrorism strategy must therefore be to prevent or mitigate follow-on attacks once an initial attack has taken place. Decisions need to be made in a matter of minutes or seconds, likely in response to an event that may not be immediately recognizable as a terrorist attack. However, your report does not address this issue. I would therefore like your responses to several questions along this line of thinking.

· If fighter jets had been scrambled from Otis AFB at 8:19, when American first knew Flight 11 was hijacked, or at 8:25, when Boston center first knew this, those fighters would have arrived in New York in time to intercept and shoot down United 175, had they been such authorization. Instead, these fighters were not scrambled until 8:46. What protocols and procedures need to be in place to reduce the 21-27 minutes it took to make and relay this decision?

**A: Rather than attempt to manage NORAD, TSA, and FAA on matters of such operational detail, we have documented the problems, expecting the agencies to respond. They have. Our lingering concern is that new procedures need to be tested and practiced in operational interagency exercises so as to form new habits of cooperation and communication.**

· According to your report, it took as long as 34 minutes after AA11 hit the World Trade Center North Tower for the FAA Indianapolis Center to learn about it, even though this information was being broadcast live on news networks within 2 minutes. As a result, the Indianapolis Center did not suspect that AA77 might be a hijack until 26 minutes after it lost contact with the flight – 26 minutes that might have saved lives at the Pentagon. What kind of current information should air traffic controllers – and others who may see the first signs of an impending terrorist attack – have to give context to what they are seeing so they can react quickly and effectively?

**A: We believe situational awareness for air traffic controllers throughout the system is critically important. We leave it to agency managers to spell out and implement how such**

**situational awareness can be improved.**

· From your report, it seems that the most complete and accurate picture of the events of 9/11 as they were happening was at the FAA National Command Center in Herndon. The President, Vice President and other key decision-makers had, at best, spotty and delayed information about what was happening, and their orders were not relayed appropriately. How can we expedite and streamline the reporting chain and the chain of command during a terrorist attack or other emergency to ensure that key decision-makers have timely and accurate information and that their orders reach the front lines?

**A: We believe that tighter collaboration between FAA and NORAD is essential. Overall situational awareness must be improved. Managers of civil aviation and Northern Command must work out detailed and comprehensive procedures and test and practice them frequently.**

· The response to a military attack involves coordination of services and units that are used to working together, and have likely been trained to respond to the kind of attack they are facing. However, the response to a terrorist attack will include the coordination of agencies that are geographically, jurisdictionally, culturally and functionally diverse. For example, an attack in one city may signal an impending attack in another in a different state or even on a different coast. Everyone from the FAA to the Coast Guard to local fire departments may be involved. What do we need to do to ensure that all of these agencies are able to gain situational awareness and quickly and effectively make and execute joint decisions?

**A: In local emergency response, the Commission endorsed an Incident Command System. The same basic concepts of unity of command applies on a larger scale as well.**

· It almost seems from reading your report that had communication between the FAA and the military been better, the improvised defense might almost have worked. For example, when FAA's Boston Center circumvented protocol to call NEADS, this was the most advance warning the military had on any of the four flights. To what extent can a first-response and defense be worked out by communications between low-level supervisors at each agency? How much is it helpful for high-level officials to be involved in an immediate response at all?

**A: The strength of a network is to allow communication along the edges of the network, even as those communications are monitored or facilitated by those at the center. But some decisions, such as those involving the use of force, should require careful attention to rules of engagement and procedures for delegation of authority. The Department of Defense has given signficant attention to this issue since 9/11.**

· Al Qaeda's attacks are imaginative – an attack is not likely to be something that our first

responders and those who are most likely to see the beginnings of an attack have trained for. How can we train or empower those who notice what may be the beginnings of an attack to recognize and report suspicious occurrences? What structures need to be in place to ensure that such information gets quickly to people who can act on it?

In short, when a possible terrorist attack is in progress, the following steps need to happen as quickly as possible:

- Front-line information needs to reach those with authority to make decisions
- Those decisions need to made speedily
- Orders must be relayed back to the front lines

I have some preliminary thoughts, to which I would appreciate your response.

I suggest that in the event of an unfolding emergency, a crisis command center should exist that can respond in real time to prevent or mitigate follow-on attacks. The center should be capable of coordinating not just a military response, but many other agencies as well. In particular, we need to create structures to ensure that:

- The crisis command center stands ready to receive information and top decision-makers within a matter of minutes.

- Protocols exist for those on the front lines – air traffic controllers, train dispatchers, port officials, and other personnel in government – to circumvent the upward reporting chain and get information directly to the White House and top commanders in the Pentagon.

- Front-line personnel have real-time access to big-picture information, from news reports if necessary, that will allow them to evaluate which information may be crucial to pass up the chain, and to allow them to take preventive measures of their own.

**A: Our recommendations are along similar lines to yours. One element omitted from your three requirements is the need to frame issues for decision – to help policymakers identify which decisions they need to make. This was a critical deficiency on 9/11.**

**Questions on the September 19 Flight of the Bin Ladens**

When the Bin Ladens left the country on September 19, 2001, the 9/11 Commission Report makes clear that no real interrogation was conducted on the Bin Laden family. Rather, the report indicates that "interviews" were conducted at the airport by an FBI Agent from the Baltimore Field Office. The Report says that the FBI agent cleared them after passengers claimed that they had "no recent contact with Osama Bin Laden" and "knew nothing about terrorist activity." The passengers were not under oath and they were not interrogated ¬ they were simply interviewed at the airport on their way out of the country.

Law enforcement experts have told my staff that the Bin Ladens could have been held on a material witness warrant and put under oath. Among the questions that could have been asked under oath: do you know where Osama is? Do you know where his safe houses are? Where does he hide his money? Who are his associates?

I want to ask you about the September 19, 2001 flight of the Bin Ladens out of the country, because the FBI has given conflicting answers about the circumstances of that flight. The 9/11 Commission Report indicates that Bin Laden relatives were "interviewed" by the FBI at the airport.

To try to straighten the record, I would like to ask you a few questions:

· Were the Bin Laden family members interrogated or merely "interviewed"?

· Were the Bin Ladens put under oath for these questions?

· After the murder of 3,000 Americans, do you think that was a sufficient way to question the prime suspect's family?

· The FBI disputes that they cleared these 13 Bin Laden family members to leave the country. Who gave final clearance for this flight to leave?

The 9/11 Commission Report also indicates that "two passengers" on the September 19 flight had, in the late 1990's, been under investigation by the FBI for links to terrorism. The report does not say which passengers they are referencing. The 9/11 Commission report says that two passengers on the September 19th flight out of Boston had been the subjects of preliminary investigations by the FBI for involvement in terrorism. However, the Commission did not name the passengers.

· Was Omar Bin Laden one of those passengers that was previously under investigation? What about Khalil Bin Laden?

· Why would the FBI clear two Bin Laden family members to flee the country so quickly even though they had been under investigation for terrorist activity?

**A: The FBI sought to interview persons on this flight to determine whether anyone posed a threat to civil aviation and to determine whether they possessed knowledge relevant to the 9/11 terrorism investigation. According to records we reviewed, the FBI interviewed 19 of the 23 passengers on the Bin Ladin flight, some of them more than once. These interviews took place in a number of locations, including the passengers' homes, in automobiles, and in the airport. Some took place on the telephone. Many of these individuals were interviewed at length. They were questioned, for example, about their personal biographical information; where they lived; which of their relatives lived in the United States and where; what relationship, if any, they had with Usama Bin Ladin; when, if ever, they had seen Usama Bin Ladin; their knowledge of terrorist groups or activity; whether they had ever traveled to Afghanistan or Pakistan; whether they knew any of the 9/11**

hijackers; and whether they had any information about the attacks. FBI records of these interviews fill 39 single-spaced pages.

FBI records do not indicate that the Bin Ladins were put under oath for this questioning. Like other law enforcement officers, FBI agents do not routinely place witnesses under oath for questioning. Regardless whether they were put under oath, knowingly making a false statement to an FBI agent is a felony punishable under 18 U.S.C. § 1001.
Many of the Bin Ladin family members were known to the FBI prior to 9/11. They had been investigated by the FBI before 9/11 when Bin Ladin had been placed on the FBI's Most Wanted List. The Bin Ladin family had cooperated with U.S. authorities before 9/11 in investigations of financial issues.

The FBI concluded from its interviews and other screening of the passengers on this flight—including physical searches of the plane and baggage and checks of watchlists--that no one on the flight posed a threat to civil aviation, nor did they have any information useful to the 9/11 investigation. In 2004, the Commission ran the names of all passengers on this flight against the current TIPOFF terrorist watch list. There were no hits. Based on these facts, the Commission judged that the FBI handled the screening of these flights in a professional manner consistent with the many other pressing matters being faced in the immediate aftermath of the 9/11 terror attacks.

The flight was cleared to depart by Richard Clarke at the NSC. He told us he approved the departure of the Bin Ladins subject to the FBI being satisfied that they had adequately screened the passengers. Senior FBI officials told us they were consulted by mid-level managers and told those managers the flight could depart so long as the passengers had been identified by FBI agents prior to their departure and screened with the two goals described above in mind. The Commission found that no one at the White House above Clarke's level was involved in the decision.

The Commission report stated that two of the passengers on the Bin Ladin flight had been the subjects of preliminary investigations by the FBI, but both their cases had been closed, in 1999 and March 2001, respectively, because the FBI had uncovered no derogatory information on either person linking them to terrorist activity. Their cases remained closed as of 9/11, were not reopened before they departed the country on this flight, and have not been reopened since. The names of the subjects of FBI investigations are classified, and the Commission did not seek to release the names of these two individuals.

**Post-Hearing Questions for the Record**
**Submitted to Chairman Thomas H. Kean**
**And Vice Chair Lee H. Hamilton**
**From Senator Robert F. Bennett**

**"Making America Safer: Examining the Recommendations of the 9/11 Commission"**

**July 30, 2004**

1. Your report recommends a new structure for the Intelligence Community depicted in a chart on page 413 of the report entitled Unity of Effort in Managing Intelligence. That structure calls for the creation of three Deputy National Intelligence Director positions for Foreign Intelligence, Defense Intelligence, and Homeland Intelligence. Where will these three national intelligence centers fuse their intelligence? Will there be a mechanism for intelligence sharing among these three organizations? How will the stovepipes that exist among the existing intelligence organizations be eliminated?

   **Answer: The fusion of intelligence will take place within national centers, for terrorism as we recommend, and in other national centers the NID establishes. The office of the NID will be the mechanism for ensuring that intelligence produced by individual intelligence collection agencies is shared. The stovepipes will be eliminated by a strong NID who has the authority to order the changes in agencies' cultures that inhibited information sharing before 9/11.**

2. It appears that the proposed National Counter-Terrorism Center (NCTC) will be effective with regards to tactical intelligence and providing warning of impending terrorist attacks. It will be a good example of cooperation among the various intelligence agencies. How will similar cooperation be accomplished in terms of strategic intelligence?

   **Answer: NCTC will be an all-source intelligence center on the terrorist threat. But our recommendations also call for the creation of other centers, some on strategic threats such as proliferation, and other critical regional issues of national security priority.**

3. There is general agreement that the US human intelligence (HUMINT) collection capability has not kept pace with the more technical means of gathering intelligence. In your new structure, would the HUMINT capabilities of the Intelligence Community be consolidated or would the Foreign, Defense, and Homeland national intelligence centers? Would each organization that currently has a HUMINT capability retain that capability?

**Answer: Yes, each organization that currently has a HUMINT collection capability will retain that capability. Under our proposal, the fruits of the HUMINT capabilities of these separate collectors would be better shared within the NCTC and within other national centers established by the NID.**

4. Restructuring government organizations takes considerable time and effort. Even after the directive has been made to make the necessary changes, it takes much time and effort to implement them. In the case of the intelligence community, we don't have the luxury of time to make these important changes; terrorist threats are constant and will not wait for us to re-organize. What temporary changes could be implemented immediately to ensure we have fused intelligence while the permanent organizations are put in place?

   **Answer: We agree. It has already been three years since 9/11. The time to make these changes is now. Although restructuring takes time and effort, we believe it will have important benefits, and it is necessary for the security of the country. We cannot afford to wait any longer.**

**Post-Hearing Questions for the Record**
**Submitted to Chairman Thomas H. Kean**
**And Vice Chair Lee H. Hamilton**
**From Senator Richard Shelby**

**"Making America Safer: Examining the Recommendations of the 9/11 Commission"**

**July 30, 2004**

Mr. Chairman,

Could you clarify further the role and status the Commission envisions for the National Intelligence Director? It appears from the report that while the NID would have cabinet level status, he would not be a statutory cabinet member. Is this correct?

**Answer: Yes, that is correct. We recommend that the NID be appointed by the President and confirmed by the Senate. He would not be a statutory cabinet member, but would report directly to the President.**

I have long advocated for a NID who holds a cabinet seat, who has strict budgetary control and who is ultimately responsible for the successes and failures of our intelligence. I am concerned that the Commission's recommendation that the NID be housed within the Executive Office of the President rather than hold a seat in the Cabinet, could compromise his or her ability to forcefully and effectively execute the mandates of the new position. Can you speak to that please?

**Answer: We believe that the integrity of the NID is the best guarantee against the politicization of intelligence. In our view, where the NID is located has little to do with the integrity of the intelligence he/she produces, or the advice he/she offers to the President and top policy makers. Whatever its relationship to the White House, the President is best served by assessments that are honest, dispassionate, and relevant.**

Specifically, the Commission recommends that the NID have budget authority to rival other Cabinet Members and would, in many cases, consume large portions of current cabinet members' jurisdiction and budget authority. However the NID would sit a level below those that are members by law. How do you expect the NID to function as an equal among them? Are you concerned that such an unequal footing will lead to many of the same problems that the DCI currently encounters?

**Answer: The NID would be the pre-eminent voice on intelligence among the President's top advisers on national security. Moveover, power derives from the**

**President. The President must make it clear that the NID is exercising presidentially-delegated authority. That will allow the NID to hold his own against any official, cabinet member or not.**

When the Congress created the DCI position they intended it to be much of what the commission described in the report for the NID -- control over the entire community and greater personnel and budgetary authority. What can be done to ensure that the NID attains the stature and role that you have laid out in your report?

**Answer: By giving the NID real authority over the budget and over key personnel in the intelligence community, we believe the NID's stature and role will be preserved. Much will depend on his/her relationship with the President. This is particularly so for the first NID, who will serve as an example for future occupants of that position. Hence the importance of the President making clear that the NID is to exercise the authorities statutorily granted.**

Does the Commission believe that we should dissolve the current fusion centers that exist throughout the federal government or rather maintain those and establish a separate, central clearinghouse for intelligence analysis and operational planning?

**Answer: The Commission recommends the creation of a national counterterrorism center as the fusion center for terrorist issues. We also recommended similar centers for proliferation and regional issues of national security priority. We believe it is extremely important to establish such national centers. Agencies may continue with their own fusion centers for their own purposes, but the national mission should shift to national centers.**

The report also recommends significant changes to congressional oversight and resource allocation. What is the purpose in having a single committee that both authorizes and appropriates funds? Did the Commission draw on any precedent in order to make this recommendation?

**Answer: One of the possible models we recommended was a joint committee for intelligence based on the precedent of the Joint Atomic Energy Committee. The purpose of having a single committee that both authorizes and appropriates funds is to allow that committee to have control over the budget that could not be second-guessed by committees with sequential referral or appropriations authority. We found in our review that the intelligence community would often bypass the intelligence authorization committees when it did not get the answer it wanted.**

While I agree that it is crucial to move forward as quickly as possible, are you concerned that moving with too much speed might backfire and put us in a more disjointed situation than we are currently in?

**Answer: No. We do not think implementing these recommendations would put us in a worse situation. Their implementation would put us in a better situation. The status quo failed us on 9/11 and is unacceptable. We investigated those attacks for 18 months. We considered proposals and recommendations to improve the intelligence community, some of which had been made and considered decades ago. The time to act is now.**

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