

**HOMELAND DEFENSE: EXPLORING THE HART-  
RUDMAN REPORT**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM,  
AND GOVERNMENT INFORMATION

OF THE

**COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

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## **HOMELAND DEFENSE: EXPLORING THE HART-RUDMAN REPORT**

**TUESDAY, APRIL 3, 2001**

U.S. SENATE,  
SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND  
GOVERNMENT INFORMATION,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:05 p.m., in room 226, Dirksen Senate Office Building, Hon. Jon Kyl, Chairman of the Subcommittee, presiding.

Present: Senators Kyl and Feinstein.

### **STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA**

Chairman KYL. The hearing will come to order.

I welcome everyone to this hearing of the Subcommittee on Technology, Terrorism, and Government Information. At today's hearing we will examine the findings of the United States Commission on National Security/21st Century, as presented in its report entitled, "Road Map for National Security: Imperative for Change".

I know that one of our witnesses, Hon. Lee Hamilton, will be arriving shortly, but in view of the fact that we may have a vote in the 3:30 timeframe, Senator Feinstein and I would like to proceed. We will make our opening statements, and we can brief Mr. Hamilton on the wonderful things we had to say after he arrives, but that way we can get more quickly to the comments that the two of you have to make. So, with your indulgence, we will proceed with our opening statements.

This is the third hearing that this Subcommittee has held on the subject of terrorism and homeland defense in the past year. Each hearing has focused on the findings of a different commission. Each of the commissions has approached the issues from a slightly different perspective. It is the intent of this Committee to examine the details of their recommendations and arrive at a common understanding of the critical vulnerabilities that must be addressed through legislative action.

We are poised to begin a new era, and all of the recent commission reports have emphasized the changing nature of the challenges to the security of our Nation and our people and our interests abroad. Although we're considered by most to be the sole super power in a complex world, capable of projecting power around the globe, the security of our citizens, both at home and abroad, is threatened. Terrorist organizations and states that support terror-

ism have recognized the need to attack the U.S. in an asymmetric fashion, spending time and resources to locate seams in our protection before striking.

From the tragedy of the bombing of the World Trade Center in New York City, to the horrific destruction of the Federal building in Oklahoma City, the last decade has witnessed an increase in the scale of devastation sought by terrorists within our borders. As deadly and devastating as these two attacks were, imagine the level of carnage if those responsible had been more technically proficient or had weapons of mass destruction. And as the bombings of U.S. embassies in Africa and the USS Cole demonstrate, Americans abroad remain tempting targets for terrorism.

The Commission represented before us today was established by Congress and faced the daunting task of examining the entire spectrum of national security, of which homeland defense is only a segment. Understandably, its treatment of the issues is broad-based. It is my hope, and I think the hope of Senator Feinstein and others on the committee, that we can draw from these witnesses a greater depth of understanding of the vulnerabilities they uncovered in the study, of the structure and capabilities of the agencies charged with our Nation's homeland defense.

There are a variety of recommendations presented in the report. Some of them, like combining the Coast Guard, Customs Service and Border Patrol under the control of a National Homeland Security Agency, built upon the foundation of the Federal Emergency Management Agency, would entail the wholesale restructuring of multiple Federal agencies. Other recommendations, like increasing the intelligence capabilities of the Customs Service, are less sweeping in nature.

Regardless of the perceived complexity of the recommendations, our discussion here today will lead to a clearer understanding of the issues that must soon be addressed by the Congress if we are to adequately prepare for the national security challenges of the new millennium.

Senator Feinstein and I, over the course of the next few months, will work with members of the Judiciary Committee and other committees in the Congress to synthesize the recommendations of the Hart-Rudman Commission, and the other commissions that have appeared before us, into legislation that will address the weaknesses and vulnerabilities highlighted in their respective reports.

We are both pleased to welcome Senators Hart and Rudman back to the Senate. Your leadership and diligence as co-chairs of the Commission is greatly appreciated. We are also glad to see that Commissioner Lee Hamilton, former Chairman of the House Committee on Foreign Affairs, could join us here. As we mentioned, Representative Hamilton, we decided to begin before you arrived, since you probably wouldn't miss much in our presentation, but that would enable us to have more time to hear from all of you before we have to proceed with other Senate business.

Before we hear from the three of you, I would like to turn to Senator Feinstein for her opening remarks.

**STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR  
FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. Thanks very much, Mr. Chairman.

Let me welcome our witnesses. I think this is certainly a consequential panel. You are three people, two in the Senate and one in the House, who, have literally decades of experience between them, and all of you very respected on both sides of the aisle. So thank you so much for being on the Commission and also for being here today.

Let me begin by saying that I agree with the thrust of your recommendations, that we need to make fundamental changes in our counterterrorism policy. I couldn't agree more that our current policy is fragmented, uncoordinated, and unaccountable. As I see it, a main problem here is that we don't know who's in charge of preparing for and responding to a catastrophic terrorist act. We discussed this Mr. Chairman, at the last hearing we had.

For example, the GAO recently found that Federal, state and local governments had not agreed on a clear chain of command for dealing with a terrorist incident. I disagree with those who suggest that such a clear chain of command is impossible, or that bureaucratic "turf wars" would prevent us from designating a lead agency to take charge in the event of a terrorist attack. After all, other western industrialized countries facing terrorists have met this challenge. As another recent GAO report found, of six countries surveyed—ours, Canada, France, Germany, Israel, and the U.K.—only the United States has failed to determine clearly who would be in charge of responding to a terrorist incident.

Another problem is that the government has spread counterterrorism assets over at least 45 agencies, and these agencies are not coordinated to prevent or protect against or respond to a major terrorist attack. One result is that terrorism has a tendency to drop off the radar screen of the national security establishment.

As a former United States Customs Commissioner, Ray Kelly, a man for whom I had a great deal of respect, has said, "The whole issue of counterterrorism needs an advocate, a high-level person, perhaps a Cabinet officer, to make certain that there's consistent attention to the issue."

Another problem is that agencies tend to duplicate each other's efforts, thus getting in each other's way and wasting taxpayers' dollars. As former FEMA chief, James Lee Witt, said recently, "You've got too many agencies doing the same thing."

In addition, many Federal agencies seem to be focusing on general vulnerabilities, rather than credible threats, and on worst-case scenarios, instead of likely probabilities. For example, HHS has recently tried to establish a national pharmaceutical and vaccine stockpile that doesn't match intelligence agencies' judgments of the most likely chemical and biological agents that terrorists might use.

Now, such problems are not just bureaucratic. They could result in needless loss of tens of thousands of lives in a catastrophic terrorist attack. Many experts, including members of the Commission, believe that a catastrophic terrorist attack is virtually inevitable in the next 25 years. Such an attack could take many forms. The most

likely one would be an assault on a large city with a germ weapon or cyber attack on the East Coast air traffic control system. In fact, as a witness told us last week at a Subcommittee hearing, a group or nation with a budget of around \$10 million, and a team of about 30 computer experts, could wreak billions of dollars of damage to the United States infrastructure.

Also, we cannot forget the most obvious and probable terrorist threat, that from simple conventional weapons. The terrorist who bombed the USS Cole, our African embassies, the Atlanta Olympics, and Alfred P. Murrah building in Oklahoma City, and the World Trade Center all relied on a range of readily available, easily obtainable bomb-making materials. For example, the urea nitrate bomb used at the World Trade Center costs about \$400 to make. That bomb caused at least a half-a-billion in damages and the loss of a lot of American lives.

To be sure, America has always viewed itself as relatively safe from terrorist attack, surrounded as it is by friendly neighbors and large oceans. However, the threat of attack remains quite real.

So, Mr. Chairman, I want to commend these witnesses and I look forward to hearing their comments. As we discussed at the last hearing, I'm one that does believe that we need to have a central person in charge, and perhaps the legislation that we've been talking about might deal with that question.

Chairman KYL. Thank you very much, Senator Feinstein.

As Senator Feinstein said, we have represented at this table here a considerable degree of expertise in former Members of the U.S. Congress, and we take very seriously the recommendations of the report that you put together and look forward to continuing to consult with you as we proceed to try to take the three different commission recommendations, and to meld them into some cohesive format for legislative purposes, and we recognize there will be other responses as well as purely legislative.

Then, as we begin to work with our colleagues in the House who have a similar effort underway, to consult with you to get your ideas about how best to proceed with this, with the goal in mind of at least dealing with the legislative side of this, if we can, this year, so I appreciate very much the work you have done.

Let me call upon you, Senator Hart, Senator Rudman, and Representative Hamilton, to proceed in the way you best deem appropriate.

**STATEMENT OF HON. WARREN B. RUDMAN, CO-CHAIR OF THE U.S. COMMISSION ON NATIONAL SECURITY, AND FORMER U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE**

Senator RUDMAN. Thank you very much, Mr. Chairman and Senator Feinstein. Thank you so much for having us here today.

First let me ask that a rather long statement representing the collective view of those of us here, plus former Secretary of the Air Force Rice, who was delayed in California, a flight that couldn't get here, we ask that that statement be placed in the record.

Chairman KYL. That will be a part of the record, as well as his letter indicating his inability to be here. We certainly appreciate his testimony as well. Thank you.

Senator RUDMAN. Thank you, Mr. Chairman.



Let me give you a quick background on this Commission. We have been working now for two-and-a-half years. This was the brainchild of former Speaker Gingrich and President Clinton, who in a conversation 1 day at the White House decided that this kind of a broad-ranging study of the United States national security for the 21st century ought to be done. The Commission was put together by them. It was then turned over to DOD for funding.

Let me just remind you who the members were, because it's remarkable when you look at the diversity of the membership of this committee, politically and philosophically, that you have a consensus on 50 specific recommendations that there was total agreement on.

Of course, Senator Hart and I co-chaired this. Anne Armstrong, former Chairman of the President's Foreign Intelligence Advisory Board and former Ambassador to Great Britain; Norman Augustine, a former Chairman of Lockheed-Martin, and a member of many commissions in defense.

John Dancy, former NBC News foreign correspondent and Congressional correspondent; John Galvin, former head of NATO; Les Gelb held several very important positions in the administration, I believe, of President Carter, and then went on to become president of the Council of Foreign Relations.

Also, Newt Gingrich, Lee Hamilton, and Lionel Ulmer, who was Undersecretary of Commerce for International Trade; Donald Rice, former Secretary of the Air Force, former Chairman of Rand Corporation; Jim Schlesinger, who has so many titles, if I went through them, I would consume all the time of the hearing; Harry Train, a four-star admiral, former CINCLANT; and Andrew Young, former Ambassador to the United Nations and, of course, Mayor of Atlanta, and the head of many other organizations.

We worked for two-and-a-half years. This is not a staff-driven report. This is driven by the Commissioners themselves. We had a number of weekend meetings away from the city, in which we worked on all of these issues.

I am pleased to tell you that this report was written not to make it easy for you. We did not sit down and decide we will recommend what is politically possible. We put down what we thought ought to be done. The making of policy, of course, is up to you, not us. So we gave you recommendations that we truly believe in.

Before I proceed, let me introduce for the record someone who contributed enormously to our effort, and that is former retired, four-star Air Force General Chuck Boyd, who was our Executive Director. He assembled an incredible staff of people who are truly experts in the area to guide the Commission.

We have been thinking about this issue very diligently now for almost 3 years. Remember, our Commission was created to provide a long-term perspective on national security problems and the structure of the Federal Government. We were not looking for easy challenges or easy fixes. We were empaneled to make sure our National security mechanisms were not calcified in place during the cold war, and that the policies, processes and structures we have today are appropriate for the new century.

I am particularly proud of how well the Commission worked together and how the Commission applied themselves to some tough issues.

Over the course of those two-and-a-half years, perhaps the knottiest issue we uncovered is the one we are here to talk about today—the problem of securing our homeland. The emerging world we came to understand and described in the first of our three reports has sobering implications for this Nation's security. That world is one of proliferating dangerous technologies in the hands of all manners of actors on the world stage, who never before in history could seriously threaten a great state such as ours. There are demagogues and tyrants, zealots and sophisticated international criminals, and those who are, to put it bluntly, just plain nut cases. We have the whole panoply of people that we have to be concerned about.

Add to that resentment against the United States because of our success and the prominence that we have—because we are the symbol of globalizing trends which are leaving much of the world behind, and because, frankly, of the arrogance and self-absorption we sometimes display—this Nation is more likely than ever before to be a target.

Convinced that the threat is real, dangerous and growing, we looked for the overall strategy that we could come up with to address the threat, and found none, nor did we find a coherent organizational structure designed to implement such a strategy, should one exist.

So, Mr. Chairman, Senator Feinstein, our Commission took this issue on in its entirety, and made it our No. 1 national security concern, which may surprise you. With all of the things we looked at, this was our No. 1 national security concern, because we truly believe that, with the enormous military power we possess, it is the asymmetric threat that an adversary would be able to bring against this great Nation.

This approach is supported by the principle that authority, accountability, and responsibility need to be matched. The President is the only one that meets this principle when it comes to the overall strategy. Other departmental heads meet this criteria for their respective functions and missions for certain functions, namely, border security and consequence management. We did not find adequate matching of authority, accountability, responsibility, or, if you will, budget authority. Accordingly, we proposed a realignment of these areas to provide the basic tools needed to enhance our security and to reduce our gaps.

Of particular concern is the gap in capability and in budgetary resources for these missions. I realize that this Committee has endeavored to provide oversight and resources to growing demands on our border activities. We salute your insight and your resolve in helping these critical activities to get the funding they need to meet future threats. But much more is needed.

Thanks, again, for your invitation. I will turn it over now to Senator Hart.

Chairman KYL. Thank you.

**STATEMENT OF HON. GARY HART, CO-CHAIR OF THE U.S. COMMISSION ON NATIONAL SECURITY, AND FORMER U.S. SENATOR FROM THE STATE OF COLORADO**

Senator HART. Mr. Chairman, Senator Feinstein, I join my colleague, Warren Rudman, in thanking you for your hospitality and the work that you're doing on what we believe, collectively, to be, as Senator Rudman has said, the No. 1 security threat to this country in the next 25 years.

We know that you have already put a great deal of effort, collectively and individually, to examine an agency such as the Border Patrol, the Customs Service, you and other members of this subcommittee, as well as the full committee. We want to share with you our thoughts on why consolidation is extremely important.

The Customs Service, of course, was originally created, I think, under Alexander Hamilton as a revenue device, a means by which we would collect revenues from imports. The role of the Customs Service has changed enormously. It is now a law enforcement agency, obviously. The Border Patrol has been added.

The Coast Guard, which obviously has had a mission of defending or monitoring our shores for 200 years or more, carries out its mission. But the fact of the matter is, under the revolutions now going on in this country and the world, all of these agencies, individually, are challenged, because none of them, individually, can answer the threat to this country.

To quantify that threat, I think some figures are important. These are figures from 1999 and, of course, the numbers have gone up since then.

Four hundred and seventy five million crossed our borders in 1999, 125 million vehicles, 16.5 million trucks, 5 million imported maritime containers, and 21.5 million import shipments that needed to be monitored for compliance with over 400 laws and 34 international treaties.

The point is that the volume and velocity of the challenges to these separate agencies and, added on to that, the terrorist threat which each of these individual numbers represents, or could represent, simply overwhelms the maize of 40 or 50 agencies that Senator Feinstein has mentioned, presently trying in some way or other to deal with this problem.

That's why we have come up with the need for a National Homeland Security Agency. It is not, by any means, any imperative on anyone's part of this commission, or collectively the commission, to create some new Federal agency. We're all familiar with the resistance to that kind solution. As my colleague, Senator Rudman, has colorfully said, I think, on other occasions, the notion of the Tsar doesn't work here any better than it worked in Russia, so why should we think about creating some sort of a tsar to oversee this maze of Federal bureaucracies.

The fact of the matter is, each of these agencies that we recommend consolidating under the National Homeland Security Agency, those I have mentioned and those I have not, are intended to be brought to bear in favor of a strategy which this Commission strongly recommends. Some of our critics have already said that we have no strategy for this.

Indeed, we have a strategy for this security agency. It is, first of all, prevention, finding out the threat, identifying the threat in very concrete terms, and preventing it from being carried out.

Second, protecting our borders, if that threat gets as far as the U.S. borders, either land or sea or air. And then, finally, responding. If the worst possible thing should happen, an American city or a collection of American cities being prepared immediately to respond and limit the damage and take care of those in need.

It has been said that our idea for a homeland security agency completely overlooks the state and local component. That, also, is not the case. We refer in a number of points in our third report—by the way, this is the third volume of three reports, the first two laying out the groundwork for this one—that this homeland security agency must cooperate, in very detailed ways, with state and local authorities, as the Federal Emergency Management Agency itself does already.

Finally, there has been criticism, including from the National Guard itself, about the role we propose for the National Guard in this new agency. The National Guard is given a lead, if not the leading role. Certain spokespersons for the Guard have resisted that on the ground that this will deprive them of their current mission of supporting expeditionary forces abroad, follow-on forces and augmenting forces. That is not our intent at all, and this has been explained in great detail by General Boyd and other representatives of this Commission.

We worked with the Guard throughout the preparation of this report. In fact, those of us who have read the Constitution, as members of this Subcommittee have done, understand that the principal mission, not the sole mission, but the principal mission of the militia in this country, from 1789 forward, has been the defense of the homeland. So all we're proposing is that the Guard restore its primary constitutional obligation to its primary mission in the 21st century.

This is not to deprive the Guard of a role in expeditionary activities in the future. It is simply to say that they need to pay attention to their primary constitutional duty.

Mr. Chairman, we are living in a revolutionary time, as we did in the mid-20th century. The precedent for this Commission can only be found in 1946 and 1947, the period immediately following World War II and preceding the cold war. Then a collection of commissions—no single commission such as ours—led to the designation of a foreign policy and national security policy, briefly described as containment of communism. But that policy led to the creation of the Defense Department, the United States Air Force, the Central Intelligence Agency, and the statutory framework of the National Security Act of 1947 which gave us the basis for carrying out the cold war for half-a-century.

The fundamental fact that we all face today is we're no longer confronted with a cold war. We are confronted with a totally different world: economic globalization and finance, world of information and communications technologies, and of political democratization and integration. All of those, as we have indicated, cause us to believe, and we know will cause you to believe, that we must examine every one of our Federal structures, as we advocate in this

report, including those that presently exist and those that need to exist, to address this new world.

I join my colleague, Senator Rudman, in paying enormous compliment to General Charles Boyd, a genuine war hero, and the superb national security study group, the staff that he put together, for the work they have done tirelessly for almost 3 years to make this report possible, and I hope to make this Nation more security.

Thank you very much.

Chairman KYL. Thank you, Senator Hart.

Representative Hamilton.

**STATEMENT OF HON. LEE HAMILTON, COMMISSIONER, U.S. COMMISSION ON NATIONAL SECURITY, AND FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA**

Representative HAMILTON. Thank you very much. I apologize for being a few minutes late, but I got here—

Chairman KYL. You didn't miss a thing.

Representative HAMILTON. I got here in time enough to hear both the major part of your statement and Senator Feinstein's statement. It very quickly became apparent to me that you don't need much advice from us. You've got a pretty good understanding of the problem of terrorism and what this Nation confronts.

I do want to say a word of appreciation to Senators Rudman and Hart. Senator Rudman read a moment ago the members of the Commission. If you can get Andy Young and Newt Gingrich to agree on things, you're doing pretty well. They did it time and time again. They did it on 50 separate occasions. That's no small achievement. So we've had very, very good leadership.

I was impressed, too, in the opening statements that you made, about the emphasis you put on how poorly organized we are in this government of ours to deal with terrorism, and that's really the principal point. We believe that a direct attack upon American citizens, on American soil, is very likely in the next 25 years, and some of these attacks could be catastrophic. That's really what drives this recommendation.

We made 50 recommendations in this report overall. Seven of them were related to terrorism, and that shows you the emphasis that the Commissioners gave to this problem. We believe, in short, that homeland security simply has to be addressed with greater urgency. There is not a single Member of the U.S. Senate, and there is not a single Member of the U.S. House of Representatives, who does not want to do all they possibly can to protect the national security of the United States. We're saying that you had better pay a lot more attention to how this government—not just this government, but state and local governments as well—are organized and financed to deal with terrorism.

We believe that the U.S. Government is very poorly organized to deal with these threats, and that the threats are genuine. So I endorse the statements that my two leaders have made here. We see, as you do, that the growth of terrorism is very strong, and the growth of terrorist groups, the availability of all kinds of weapons of mass destruction and weapons of mass disruption, the vulnerability of the United States to all kinds of terrorist threats were very obvious to us.

Most of our recommendations pertained to organization. Now, I don't know that we've got it right. It's a complicated matter in our government. I think we should be given some credit for addressing in detail how we think the U.S. Government should organize itself to deal with terrorism. You might have a different view of it and different opinions on it. You probably do. I'm not sure that any one set of answers is the answer

But we've made a stab at it, and we've made a stab at it in very great detail. The central part of it, of course, is the establishment of the National Homeland Security Agency. You have already indicated the changes that it would require in the government. They are very substantial and they hit upon some of the most sensitive political groups in this country, and it will not be easy to bring about a reorganization. But we think it must be done in order to fight more effectively terrorism.

I will conclude there because my role here is kind of backup to the chairmen, but I fully endorse their leadership and the report recommendations.

Chairman KYL. Thank you very much, Representative Hamilton, and all three of you.

I think probably the best place to start is with some very general questions that are pretty well explained in the written report, but I would like to have confirmation of exactly how you think this would work and how to address some of the sensitive political issues just identified by Representative Hamilton. I take your point, Representative Hamilton, that almost all of us appreciate fairly well the degree and, to some extent, the nature of the threat. The real question then is exactly what to do about it.

I would like to have you identify for everyone present what you think the primary mission of this new agency is. Specifically, is it to keep terrorists out of the country and, in that regard, what do you mean by protecting our borders? Is it to gather intelligence and thereby prevent attacks, since that's deemed to be probably the most effective way of dealing with the terrorism problem, before the fact? Is it to gather information relative to an investigation after an attack? Is it primarily to deal in a responsive way to the various human needs, noninvestigative needs, following an attack, or all of the above? That's A.

And then B, if I could, since you have identified existing agencies to perform some of these functions, clarify for us whether these agencies will continue to autonomously provide the service currently provided, or whether they will necessarily be changed, as they are to some extent, incorporated into a new agency, to wit: for example, the National Guard, will it still have a mission of supplementing forces abroad, will the Customs Service still deal with the issues of inspecting cargo coming into the country, and will the Border Patrol still try to prevent illegal alien smuggling, drug smuggling and the like?

Senator RUDMAN. Let me lead off and maybe answer your questions that way, with all three of us commenting on the questions, because I think we all have a different portion of the report that we've worked on and I think you would get a more complete answer.

To answer your first question, prevention, protection, response, is what's built into this new agency. However, let me be very clear that when it comes to prevention, you are quite right, Mr. Chairman, that in terms of certain kinds of things that could happen in this country, particularly weapons of mass destruction, intelligence is the No. 1 factor in doing that.

We do not suggest for a moment that the major intelligence activity will change from where it is today. The major intelligence activity resides in the FBI's counterintelligence department, its so-called National Security Division, and in the Central Intelligence Agency's divisions overseas, including, very importantly, their liaison relationships with foreign intelligence services. So we are not talking about changing that.

Frankly, as you probably know, I still continue to serve as Chairman of the President's Foreign Intelligence Advisory Board. I will tell you that, to the extent I can say anything, I think they do that very well. It's too bad that most Americans can't know what they do because they do it well.

Now, once you get beyond that, however, we are talking about protection and prevention. Let's take the Customs Service—and all of them, by the way, will have these roles. As to the Customs Service, Senator Hart read a statistic, which is a fascinating statistic—I forget the precise number—on how many million cargo containers come into this country every year. It shocked all of us to know that not only are a fraction of those every inspected, for a whole bunch of reasons—and I suppose technology will change and maybe they'll be easy to inspect them other than the conventional way—but many of them are transported huge distances from the port of embarkation. They might go from San Francisco to Phoenix and be put in a truck depot and not opened for weeks or months. So there is a major prevention component with Customs and with the Border Patrol in both of those instances.

All of these agencies would continue to do the functions that they do now. The difference is there would be a strategy and there would be direction and there would be response.

Now, let's talk about response. We believe, and we say so, that in the event of the unthinkable, a weapon of mass destruction essentially being imposed upon the people of any major American city in which the loss of life and property would dwarf anything we are familiar with, that the only organization in the U.S. Government that can deal with it, once that happens, is the United States military.

This is what happens today when we have natural disasters. We say the Guard is a very important part of that. But somebody has to plan what you do when it happens. Quite frankly, although the military spends some time at it, that is not their primary mission. So this agency would plan, it would prevent, it would protect, and it would plan the response.

I think I have tried to answer both of your questions.

Chairman KYL. That's very helpful. Thank you.

Senator HART.

Mr. HART. I concur very strongly.

Again, I think the basic answer to the first question is the agencies that currently have statutory task to perform will continue to

perform them. They will be more closely integrated in the performance of those tasks, given, as we have indicated, the volume and velocity of the challenge, and they will be integrated more closely with the intelligence collection agencies and services of the government. So they will know, in real time, where the threat is coming from, how it is likely to be carried out, rather than just hope that these 40 or 50 agencies that presently exist will talk to each other when the time comes, when the threat arrives.

Finally, on response, the investigating agencies—you particularly questioned the investigation of the crime, if you will; terrorism is a crime—that will continue to be the job of law enforcement agencies, including the FBI and the others. We don't envision the FBI being folded into the Homeland Security Agency. It might be, but that's not part of our recommendation. The investigation of how this matter occurred will happen in due course, given the established capabilities.

What we're more concerned about in the response is the human and property damage, particularly the human damage, and the management of that. The Guard's role here is so important.

As you know, in military terms, we talk about forces being forward deployed. The forward deployed forces in our homeland is the National Guard. It's not the 82nd Airborne Division or the First Marine Division. It's the National Guard, in 2,700 different units. They are the forward deployed forces under our Constitution for this mission. They are not presently properly trained or equipped for this mission of response, taking care of human casualties, and reorganizing communities that have been terribly damaged by such a threat, but they can be, and they can be in reasonably short order.

Finally, anticipating a question, Mr. Chairman, the whole issue of civil liberties is one that we dealt with at great length, as you can imagine. I will just quote one passage from our report because it does involve those of you on that side of the table.

"Congress is crucial as well, for guaranteeing that homeland security is achieved—" and this is emphasized—"within a framework of law that protects the civil liberties and privacy of American citizens." We see you, the Congress, the representatives of the people, as the defenders of the people's civil liberties in this respect.

Chairman KYL. Thank you.

Representative HAMILTON. Mr. Chairman, with regard to your comment on the mission of the National Homeland Security Agency, I think what impresses me is how dispersed and diffused the government is today in dealing with the threat of terrorism. We know how hard it is in this government to get action unless somebody is in charge. You have got to have somebody in charge, and you don't have that today.

So the principal recommendation, I think, here is that the agency will have a leader, that leader will be in the President's cabinet, and that leader will have the responsibility to plan and to coordinate and to integrate all of the activities of government with regard to terrorism.

If you don't make that change, you will not have an effective attack on terrorism in this country. If you've got 50 people directing the attack on terrorism, you've got nobody directing it. You have



got to concentrate authority, I believe, in order to get things done in the war against terrorism.

The second point, you asked about the National Guard. That's a tough one, and it is politically very difficult for each of you to deal with it. The National Guard today is equipped to conduct sustained combat overseas missions. What we're saying in this report is that the primary mission of the National Guard has to be homeland security. That means, without any question, that its resources and its organization will have to change in a major way.

They're onsite already, as Senator Hart has said. We think it's the natural organization to do it. Every one of us knows they step in when you have an emergency in your state today, or a disaster, and they do a marvelous job. We think they're the key agency here. But it will require a redirection of their mission.

Chairman KYL. I've got some specific follow-up questions, but why don't we go back and forth here, Senator Feinstein, and I'll give you an opportunity to step in now.

Senator FEINSTEIN. Thank you, Mr. Chairman.

Who would you put in charge? Would it be a cabinet officer, would it be a military person, would it be an FBI person, would it be the Vice President?

Senator RUDMAN. Who in the cabinet would do this?

Senator FEINSTEIN. Yes. You said it should be a cabinet responsibility.

Senator RUDMAN. It should be a nominee confirmed by the U.S. Senate, a civilian, to be secretary of this agency, who will essentially be the director of all these other agencies which will be contained therein. It's all in the report, in the chart and so forth. So we're talking about elevating this.

You know, a good question. If I was sitting where you're sitting, as Gary and I did for a long time, I would probably ask me the following question: "Well, why don't you give it to DOD?" Well, the simple answer is (a), they don't want it, they don't think they ought to have it, because it's a totally different mission than the mission of the United States military. And they're right. They understand fully that there is no one else in this country, in the event of a weapon of mass destruction being visited on an American city, there is no one else that can respond. The communications, the transportation, the medical necessities, the U.S. military is primed. But they don't want the responsibility of essentially managing and preparing and preventing, other than the intelligence they do. That's not what they want.

If you then look at it, you say, "Well, do you want to put it over at the FBI and move everybody there? Or do you move it all under Treasury?" When you look at all of the options, which we did, it became very apparent to us that FEMA had the national organization that we were thinking about, but we're not talking about putting everybody under FEMA. We're talking about merging it into a FEMA-like agency, which is thought of as a Federal Emergency Management Agency.

Well, "emergency", I don't know how it's defined in the statute, but we're now defining it as not only a natural disaster but man-made disasters.

Senator FEINSTEIN. Because one of the problems, of course, is that FEMA is going to be up for a big cut. I know first hand that FEMA is severely taxed. I mean, we have big earthquakes, we have big fires, big floods. FEMA seems to me to have a major emergency just about every year, using all of its resources.

You point out in your report that FEMA would be the core of a new National Homeland Security Agency. I would question that, in view of what they already have to do.

Senator RUDMAN. Well, we believe, Senator Feinstein—of course, you're quite right. I mean, they have a great deal to do. If I was from California, I would be very concerned about reducing FEMA, because you seem to have all of those big things happening out there.

Senator FEINSTEIN. Right.

Senator RUDMAN. The bottom line is, if you bring in the other agencies with their budgets, you're not affecting FEMA's ability because you're going to bring in some additional budgetary authority for the directorate of this new cabinet-level agency. It's very small, because you're not talking about heavily staffing at the top. You're talking about a regional organization.

Could I just come back to something that Congressman Hamilton mentioned about the National Guard? What he said was correct, but I think the Commission says fairly clearly in their report that we're not telling the Guard that you're foregoing your traditional role. We're saying you need a dual role and you need to be cross-trained, because the chances that you're going to be called on for a homeland emergency, in our view, is more likely in the foreseeable future than being deployed overseas.

Senator FEINSTEIN. Could I ask you, Senator Hart, do you have a figure of how much it would take to fund this new agency? Mr. Hart. No, we did not—We specifically decided not to try to get into the budgetary consequences. The issue is, it's a little like saying the national security of the United States for the second half of the 20th century will be containment of communism. Now, how much is that going to cost? There was no way to know.

When George Kennan wrote that famous phrase and it became the central guiding principle of our National security and defense policy for 50 years, it would have been impossible in 1947 or 1948 to say what that's going to cost. As it turned out, it cost trillions and trillions of dollars. I think this is for you all to work out.

Let me follow up on something that Senator Rudman just said. We contemplate very clearly this to be a civilian agency. In our report we say, given also what he said earlier about the role of the Defense Department, its subordination—"it" being DOD—its subordination to civil authority needs to be clearly defined in advance.

You have the bureaucratic problem; you've got the budgetary problem; and you also have the constitutional problem. This committee, of all the committees in Congress, knows there is such a thing called the "posse comitatus" act, passed, curiously enough, after a very close national election in the century before last, 1876, that said you cannot use the military in this country for peacekeeping purposes, in effect. That was very clearly and strongly founded in constitutional principle from the 18th century.

That principle permeates our thinking about this agency, and hopefully will permeate yours, as I'm sure it will. You cannot make this a military mission. That's why the Guard's role is curious, historically curious. It is important to note here that one aspect of what Senator Rudman said about the traditional role of the Guard, the traditional role of the Guard, in the late 18th and throughout the 19th century, was homeland defense. It only became an expeditionary force, if you will, in World War I and World War II, actually more World War II and the Korean War and thereafter, and now in peacekeeping roles in the late 20th and early 21st century. So its traditional role and constitutional mission is defense of the homeland.

Senator RUDMAN. I just want to add one thing, to try to give you some sort of answer to your question.

What we say is, if you take all of these agencies we're talking about, take their budgetary authority as it presently exists, calculate what essentially the cabinet directorate will cost, essentially the staff of who's directing it, the deputy directors and so forth, that will give you a pretty good idea of the number. In other words, I'm talking about a huge number.

Now, once they start working and decide a lot of training and planning has to take place, you could need a lot of money for states and localities to get that done. It is not done today. Some cities and states do a good job, others do none at all.

Senator FEINSTEIN. Representative Hamilton, you also recommend that the Border Patrol and the Customs Service be part of this Homeland Security Agency. Those of us, particularly from the southwest, see a very severely taxed Border Patrol. As a matter of fact, I think for the last 4 years we have added a thousand new Border Patrol agents to the budget every year, but there still isn't enough. The same thing with Customs. And that is just to do those agencies' traditional jobs.

I think you made a good point about the number of people coming in, the number of vehicles, the number of ships—I mean, the Nation is like a sieve, basically. It's very hard, because of the established precedence, to make changes.

I would see considerable opposition coming from Justice to taking Border Patrol and Customs and putting it into a new agency. Mr. Hamilton. I suspect you'll see considerable opposition to a good many parts of this report, Senator. I don't underestimate the political problems that you and others would confront.

I would like to comment first on FEMA, if I may, and then on the others.

I think the Commission really does give a vote of confidence to FEMA. We greatly respect the work that it does. I think every Member of Congress appreciates how important FEMA is in dealing with natural disasters that hit our respective states. We think they've done a good job of that. So it's a very genuine and logical concern that you would say to yourself, "if it ain't broke, why fix it?" It's doing a good job.

But our sense is that, if the premise here is that we've got to reorganize the government because of the terrorist threat, then you have to draw together all of the expertise in the government to deal

with that threat. It is so imminent, it is so powerful a threat, that we've got to rethink the way we put this government together.

So we asked ourselves, which of the present agencies have a major responsibility relating to terrorism. We think that FEMA does in this respect, and we expand this. But FEMA today deals with disasters. If you have a terrorist strike, like Oklahoma City, you have a disaster and you have to be able to deal with that. So it's a logical extension, it seems to me, to have FEMA deal with that kind of a problem, because they do a good job of it.

But it is also true that, if you're going to deal with terrorists, you have got to watch what kinds of goods and services come into this country, and you've got to keep an eye on what kind of people come into the country. Rather than deal with that as a separate, isolated problem—with the people over here in the Border Patrol and the goods and services over here in the Customs Service—you had better get some kind of a plan to integrate and coordinate all of this or you're not going to do an effective job, because there is obvious overlap in all of these things.

So it is true, that each of these suggestions with regard to the Border Patrol, the Coast Guard, the Customs Service, there is an understandable esprit in each of those organizations because they do an excellent job. But they are also operating on a small part of the total problem. You need something overall to coordinate it in order to make it more effective.

Senator HART. May I add—

Senator FEINSTEIN. Senator, before you answer—you know, even the name, the National Homeland Security Agency, has a certain "Third Reich" tinge to it—when you take all these agencies and you consolidate them into a homeland-security kind of agency, I wonder what kind of criticism will come on that kind of analysis.

Senator HART. I'm sure there will be some. We place no great emphasis on the name. I am sure that such an agency is going to be created because it must be created. What it's called will be up to all of you, of course.

I think you have to take your question and stand it on its head. If the worst possible thing happens, as Congressman Hamilton has said, we all believe more likely than not that it will. It's not a question of whether. It's when. And it's not a question of where, but how many.

Will the American people then want to hear from their representatives, when we are unprepared, whose response was, "Well, Justice didn't want to turn over its jurisdiction", or we didn't want to interfere with existing bureaucratic relationships? That answer just won't wash.

Senator RUDMAN. Incidentally, Senator Feinstein, each of these agencies would keep its name. We're not saying they suddenly get stripped of their identity. They keep their total identity, as do the divisions now in DOT or in Justice, such as the FBI. They would keep their identity, their budget authority, their structure, their system. The difference is, they would be part of an agency that is dealing with a problem that they all deal with.

Senator FEINSTEIN. Thank you.

Chairman KYL. Let's go back and forth here.

What about dividing the function into the two seemingly logical components? One is the prevention and the other is dealing with the disaster after the fact, with prevention being primarily the law enforcement responsibility—I mean, that’s what our police do. They prevent crime and then they investigate crime and try to prosecute.

The Department of Justice has primary responsibility here, the FBI, the National Infrastructure Protection Center located in the FBI, in the Department of Justice, and the FBI itself in terms of its intelligence gathering, plus the CIA. And then you have the border protection and Border Patrol, Customs, the Coast Guard. Those are the entities that both physically protect the border and try to gather the intelligence and investigate after the fact.

Then you have the other component, which is the disaster itself, the aftermath of the disaster and how to deal with it. The need to have FEMA as the coordinating agency of local police and fire, the National Guard, if that’s appropriate, and for the unthinkable maximum catastrophe, not only the National Guard but perhaps other military assets, as you point out.

What about dividing it into two components so that you, in effect, have two umbrella functions, both dealing with terrorism, but the two separate aspects of terrorism?

Senator RUDMAN. My response would be that the prevention function is already split substantially, because the intelligence agencies will not be part of this new agency.

In terms of pure prevention, history has taught us that it is very seldom that it’s an accident, that we discover that something is about to happen that’s going to be very deleterious to our health. Normally, as you know, from the briefings you have had, this comes from very diligent intelligence work, here and overseas, done by traditional intelligence agencies, including our liaison relationships with foreign services, that lead us to this.

The prevention that we are talking about in this particular agency has to do with the prevention of what comes across our borders. This is a serious problem. I don’t like to talk about some of these things, except they’ve been written about in national magazines and in the public sector.

Let me just tell you why I don’t think that works and what we’re talking about. Unless you have a coordinated prevention activity against goods coming into this country, that could conceal things that should not come into this country, with all those people who are charged with that, the Coast Guard, Customs, Border Patrol, essentially working in concert, I mean you probably are not going to get it done because you won’t have a consistent strategy.

Chairman KYL. Can I just interrupt and say that point is crystal clear and I, for one, couldn’t agree more. I think that’s one of the real values of your report here.

But my question was, why couldn’t you have that coordination in organization No. 1, or A, the border protection organization, which takes these Customs and Border Patrol functions and the Coast Guard and so on, and then have a separate disaster response organization which is the FEMA-led organization?

Senator RUDMAN. You might. I’m not going to—I just want to finish one point, though—

Chairman KYL. I’m sorry I interrupted.

Senator RUDMAN.—and then turn it over to my colleagues.

You know, I hadn't thought about that, but certain, we didn't invent the wheel here. We're delighted to stimulate conversation and discussion and let the Congress work its will.

I would strongly recommend that this Committee look at two pieces of legislation introduced in the House, one by Congressman Thornberry and one by Congressman Skelton, which takes a slightly different approach. But they are both very well worth looking at, and they are based to a large extent on this report that we've done.

But to get back to my point—and I take no position on this; I have a position—but we're talking a lot about missile defense, and we're talking about spending a large amount of money for it, and maybe we should. But let me submit to you, Mr. Chairman, and Senator Feinstein, that if somebody wanted to really do that to us, there's an easier way. There's a way to do it without leaving a return address. What is it, 21 million cargo containers coming to this country, the majority not looked at? How many ships come into this country and dock in San Francisco harbor, in New York harbor, in Boston harbor and Portland, ME and sit there?

Unless you have something going on that is focused on that, the terrorist, at least the state actor, not the non-state actor—even the non-state actor in some of these cases—but a state actor is going to find it's going to be better for their health to do it without leaving a so-called return address. Therefore, if you're going to have a truly effective prevention function, it ought to have a strategy and a coordination. That's why we recommend it.

However, Mr. Chairman, what you recommend might well work, as long as those principles are kept in mind.

Representative HAMILTON. Mr. Chairman, we're dealing with a single phenomenon, and the phenomenon is terrorism. The question is, how do you secure the homeland and how do you organize yourself best to do that.

You put forward a very logical solution, and my reaction is it's an awful lot better than what we've got now, the way you would organize it.

But I would go further. I don't think a separation between prevention and response is advisable, because I don't think the U.S. Government does a very good job on interagency coordination. My experience with the Federal Government is that you have to have somebody in charge. When you have interagency or interdepartmental groups meeting, nobody is in charge unless the President is there or his representative—and that's not usually the case in interagency meetings. Therefore, you have nobody in charge and everybody is protecting their turf, and you do not have the kind of sharing of information, communication, intelligence, coordination and integration that you really deal with the phenomenon.

I, then, think you're better to have a single agency here, but your proposal is a lot better than what we've got because what you've got today is 40 or 50 or 60 agencies out here, all going their own way, and you cannot get interagency coordination under that circumstance, no matter how smart you are.

Chairman KYL. Could I ask you this question, then, just so it's clear in my mind.

Let's say that you have either one or two agencies—leaving that issue aside—but you have a cabinet level officer in charge of what is currently called the Coast Guard, the Border Patrol, Customs, and various intelligence gathering activities that relate to that as well, which has as one of its missions the ferreting out and protection against terrorism. But those same entities have an existing function as well, which presumably would remain as part of their mission. In the case of Customs, inspecting cargo for other purposes as well, collecting duties and so on, the Border Patrol dealing with the influx of illegal aliens as well as drug smuggling and so on, and Coast Guard, the drug smuggling and other activities that it engages in.

Is it your view that [a], all of those missions would still remain missions, in addition to the terrorist mission, and [b], that they would all perform those missions under the new jurisdiction of this new entity, rather than the Treasury, Justice, and Coast Guard, Transportation?

Senator HART. Yes. I think the answer, Mr. Chairman, is yes. I don't think you can move part of these agencies. That's inviting bureaucratic chaos, I think. I think that if you move the agency there would probably be, who knows—you all would decide this. A new directorate for the sub-responsible official for the terrorist threat under that agency head reports to the head of the Homeland Security Agency, whatever it's called.

Chairman KYL. And in the case of the other—Let's assume we divided this into two pieces, rather than have one overarching, just for the sake of discussion here. The other piece is the aftermath, the disaster response.

Now, there, of course, you mentioned the local responders. Obviously, they're still local, but they're coordinated better from someone nationally. But you have the National Guard and it would still remain with its current organizational structure, presumably, but there would be some general in charge of the terrorist response function of the National Guard within this overall organization, is that correct?

Senator RUDMAN. And the regular forces response.

Chairman KYL. Right. I mean, maybe you have two—

Senator RUDMAN. You might have only one who would have to have liaison with both.

Chairman KYL. Right.

Senator RUDMAN. Let me make one comment, though, before we leave this subject. I think it's one that you will quickly, knowing your jurisdictional responsibilities, recognize.

You know, I had the pleasure of either chairing or being the Ranking Member of the State, Commerce, Justice Subcommittee of Appropriations for a long time—in fact, Senator Hollings and I used to play musical chairs, depending on who was in the majority. It was very much of a bipartisan committee—

Chairman KYL. We still can't make up our minds.

[Laughter.]

Senator RUDMAN.—dealing with some pretty interesting issues. I will tell you that, from my observation, agencies like Customs, a part of Treasury, Border, part of Justice, Coast Guard, part of

Transportation, are kind of the “poor cousins” within those agencies, and they really are—

Chairman KYL. You won’t get any argument from us there.

Senator RUDMAN. You’re going to be very, very fortunate if the cabinet officer in charge goes down there and says “hello” once every year, let alone get around to the various stations where people are working.

We think this is a national security issue of paramount importance. It ought to have strong leadership, strong strategy, and strong organization.

I will tell you, without quoting anyone—because they would probably find their desk cleaned out tonight—that a number of folks we have talked to who work for these places would love to be part of an organization that cared about them and their mission.

You know, as far as the difficulty that Congressman Hamilton was referring to, and what you referred to, Senator Feinstein—and you’re quite right—I would tell you that in reading the history of 1947, 1948, 1949, when there was going to no longer be a Secretary of War who had the authority, or a Secretary of the Navy who had the authority, the Army was going to lose the Air Force, you would think you were cutting the Nation in half—I mean, the debate that went on here in these halls and in these rooms.

I think this is hard, but more difficult reorganizations have been undertaken in the national interest.

Chairman KYL. Senator Feinstein.

Senator FEINSTEIN. Thanks, Mr. Chairman.

You’re right. I think one of the problems with Customs right now that it’s kind of a stepchild in Treasury. I think it has a mixed mission. Treasury Secretaries generally want it to more of a trade facilitation agency rather than a law enforcement agency, so you have that natural conflict.

I know when I came here we had a trade man in charge of Customs, and then Ray Kelly, who, of course, had a law enforcement orientation, became the new Director of Customs. So I can understand taking Customs and putting it into this security agency. I think there is a good fit. But I think when you take the Border Patrol you’ve got a possible problem there.

Now, having said that, there has been discussion about taking the Justice agencies dealing with immigration-related concerns and doing a split there between enforcement and non-enforcement responsibilities. Maybe that could happen. And I see a natural with the National Guard.

Let me ask this question. If you involve the Coast Guard, do you have a posse comitatus problem?

Senator RUDMAN. I don’t believe so. They have a very substantial law enforcement authority now, and have for a long time, the enforcement of maritime laws, drug smuggling, espionage. They are not considered traditionally a defense agency. They are considered something quite different. I do not think posse comitatus has the same relationship with the—

Senator FEINSTEIN. You see, part of the problem, too, with Customs, is that it has a much broader responsibility. All kinds of contraband comes into the country, agricultural contraband, drug contraband, money contraband, you know, as well as weapons. It’s a



two-edged sword. There is virtually no transparency today in weapons trafficking. As you know, the United States is a big small arms supplier and the largest weapons seller in the world today is the United States.

I have problems with including FEMA in a homeland security agency, but I can see an agency where you have the National Guard, you have the Coast Guard, you've got Customs, you've got perhaps some connection into the Border Patrol or an adjunct to Border Patrol that deals with these issues, under a cabinet level, anti-terrorist security-type infrastructure.

My big concern is that I've had a hard time really getting the American people to take terrorism seriously. Our national identity is not to be protectionist. It's to be open: everybody visits, everybody comes, everybody goes, and nobody wants to worry about whether documents are counterfeit-proof. We also get into this in other areas with green cards and things, and there's a horror where people are worried about national identification cards. So I think there's a fine line that this agency would have to tread, to avoid giving goose-bumps to the American people.

Senator HART. We had the same problem throughout the cold war, at the beginning and throughout, and that was the division in this country as to how big that threat was, how real it was. You know, I suppose it divided us in a way, all the way up until the fall of the wall. There was resistance in creating a Department of Defense at all, and certainly a resistance in creating a permanent intelligence agency. People resisted that on civil liberties grounds and so forth. I think that struggle, that tension in American society, continued throughout the—

Senator FEINSTEIN. But the American people don't have the ability to have a classified briefing on terrorist cells in this country, and once you've had that briefing, you can't really discuss it with them, either. Therefore, how you can get national support for a homeland security agency is of great interest to me.

Senator HART. There's only one person that can do that, and that's the commander in chief, the President of the United States.

Senator RUDMAN. There's no question in my mind that you focus in on an extraordinarily difficult subject for anybody in public office, and that is, how do you convince the American people that the year 2001 is very different than the years past, that there are people who cannot assault us in a conventional military way and would like to find a way that was asymmetrical, nonconventional, to hurt us.

Some people who are experts in the field, academics and others, have said to us you will never have people understand it until it happens. That's a horrible thought. But I can only think of your State, Senator Feinstein, and all of a sudden people take for granted all these lights and the air conditioning, and those who live in rural areas, their water pumps, nobody even thinks about it until suddenly there's a major shortage. Then the area goes into some sort of an outrage, a panic, how did this happen.

What we are talking about, Mr. Chairman, Senator Feinstein, is very different than that. We are talking about a major blow against a major American city, and we think this government ought to look at it very closely.

Of all the things we looked at, if anyone told me when I took on this assignment 3 years ago—I thought we would look at the organization of the military and the CIA, the State Department, and we did. We did all of those things. But if anybody told me that the No. 1 concern of this diverse group of Americans, including several four-star flag officers who had served this country so well, including Chuck Boyd, would be that homeland security was the No. 1 threat to this country in the next 25 years, I would have been very, very surprised. But we came to that conclusion.

Chairman KYL. Well, that's the headline for the press release.

[Laughter.]

Senator RUDMAN. We don't issue any.

Chairman KYL. But your point is well taken, that part of this is an education process.

I have a question that I kind of was saving until last, and I don't want to ask it yet, but it has to do with how we persuade our Congressional colleagues on how to give up jurisdiction so there's coordination in the Congress as well. Think about that for a moment.

But do you have recommendations—because we're just as diffuse in our organization here, as you well know, as the executive branch is—do you have any ideas about the increase in expenditures that will be necessary to meet these needs, both generally -because I'm sure the existing functions of these organizations, like Customs and Border Patrol and so on, are going to have to continue to be funded at increased levels just to do what they currently do.

Secondly, specifically with regard to intelligence, and I especially address this to Senator Rudman, but either of the other two are also able to get into that, not in terms of actual dollars but some kind of percentage increase, because you make that recommendation, and yours is not the only commission to recommend a greater intelligence commitment, which takes dollars.

Senator RUDMAN. My view on the intelligence commitment in particular, or the commitment—

Chairman KYL. Well, both. I was asking generally about what kind of a cost you might associate with the creation of this new entity and the performance of its function well—I mean, when you talk about some kind of mechanism for inspecting a lot of cargo holds and so on, obviously that's going to be a new commitment. And then, second, specifically as to the intelligence function.

Senator RUDMAN. I have felt for a long time that, although the intelligence numbers are not known in detail, they were known a couple of years ago, the top line, and they haven't been published since.

But I have been a strong advocate, to anyone who would listen, that we need a substantial—I'm talking maybe as much as a quarter increase across the major intelligence agencies, of whom, as you know, Mr. Chairman, the CIA is the smallest of those agencies.

Your second question is very difficult. I would have to answer it parenthetically this way. You are in a better position to know currently what is needed to buildup Customs and Border Patrol, to take those two—certainly the Border Patrol—to meet its current function. You have some thought about that because you've been doing it. So I won't deal with that. But to do this incremental function, I think it's a fairly small increment because they would be

doing much of this in terms of what they're doing already. When you're inspecting cargo for contraband, you're inspecting it for weapons of mass destruction as well. I don't think you're talking about a huge amount of money for those agencies. I think you are talking about some money for a directorate.

Chairman KYL. Well, the directorate would probably be the smallest amount.

Senator RUDMAN. Very small.

Chairman KYL. But the operational part, as you point out, as Senator Hart pointed out, we inspect only a fraction of—I mean, those were startling statistics, the number of cars, the number of people—

Senator RUDMAN. It's unbelievable.

Chairman KYL. Right. And we can today only inspect a fraction because of the huge costs associated with that.

Now, we are developing some relatively sophisticated equipment which makes it a lot easier. That will also cost money. So if we do this right, I'll bet you, if we increased by an order of magnitude the amount of money available to Coast Guard, Customs, and to some extent, Border Patrol, for just these kinds of inspections, we would also have more than an order of magnitude increase in confiscation of contraband, including drugs, arms, et cetera, as well as have a lot better handle on finding terrorist equipment or people.

Senator RUDMAN. You're in a better position to know that, certainly today, than I am. But I would make this observation. Years ago, when I was sitting where you're sitting, if you look at those expenditures compared to the other expenditures of this government, and what they can bring us in returns, it's a relatively small amount of money.

Chairman KYL. Could I make just one other point before one of you make it, and that is, of course, while most of the work is tough, gumshoe kinds of intelligence work, we did, in fact, stumble upon something, and it was the Customs Service which stumbled upon the illegal entry into the country from Vancouver, Canada into the United States, which then led to, through some very good intelligence work, the information that enabled us to stop certain terrorist activities that related to foreign terrorist cells.

Senator HART. We didn't have the staff capability to do a complete budget of this new agency. I can see one area of increased expenditure would be in the response area, frankly, and that is for the acquisition of mobile hospitals, portable communication systems in the affected areas. We had those during the cold war. We had buried kind of container-sized small hospitals underground throughout the United States. We might need to have some capability of that sort. But in the grand scheme of things, it's budgetarily not that much.

On the role of Congress, you did, in fact, touch a sensitive nerve. There were four members of this Commission who were former Members of Congress, both House and Senate, and we grappled with the Congressional problem. In Recommendations 46 through 49, we, in effect, say Congress, get your act together. There's one in 48 that says Congress should rationalize its current Committee structure so that it best serves U.S. national security objectives.

Specifically, it should merge the current authorizing committees and the relevant appropriation subcommittees.

Senator RUDMAN. That's on page 111, by the way.

Senator FEINSTEIN. Thank you very much.

[Laughter.]

Chairman KYL. My question was, do you have any suggestion to us as to how we can override the natural turf protection of our colleagues so that they can posit it all within the Subcommittee of the Judiciary Committee, before—

Senator RUDMAN. I would answer this way, Mr. Chairman. With great determination.

[Laughter.]

Representative HAMILTON. I think probably as an initial step, what you would have to consider is some kind of a special ad hoc committee, made up of the various committees that have jurisdiction, and have them engage the question of homeland security, and then determine what kind of changes need to be made in the Congress.

I wanted to take your question on costs. One of the prerogatives of serving on a commission like this is that you don't have to deal with money problems. You do there. Nor do you have to deal with the priority question of all of these competing priorities that come to you. We didn't have to deal with all of that.

I have seen the figure that we now spend about \$12 billion a year dealing with homeland security, in a very broad sense. That's intelligence, FBI, DOD and everything else. My view of all of this on costs, in a general way, is that the primary recommendations we make really are organizational. They are not huge costs, but there are some costs involved. I suspect they would not be more than a few billion, two or three billion dollars per year, for a period of years, to meet the kind of problems we're confronting. In other words, we're not talking about huge new expenditures, I don't believe. We are talking about major and very difficult organizational changes.

What it all comes down to, in my mind, is a pretty simple question: how serious do you think this problem is? If you think, as Senator Feinstein says, what the American people think is not a big deal, then we're flapping in the breeze here. Our recommendations are worthless.

On the other hand, if you take the premise that we took on the commission, that this is the No. 1 national security problem, you are then prepared to make all kinds of organizational changes and resource allocation changes on the basis of that premise. It all depends on your premise.

Senator FEINSTEIN. Could I just say one thing?

You may have misunderstood me, Congressman. What I was saying was it is difficult to make the case for reforming our counterterrorism policy without violating classified information.

Representative HAMILTON. I understand the burden of political leadership is substantial here. It is not hard to make the case of the World Trade bombing. It is not hard to make the case of the Oklahoma City bombing. It is not hard to make the case in my home State of Indiana, where you have a reservoir that furnishes water to the entire city of Indianapolis that is totally unprotected,

and that all you've got to do is step up to that reservoir and toss an item this size into that reservoir and you bring down the entire city. It is not hard to make the case that a computer whiz bang who's 15 years of age can screw up the Pentagon computer systems. Those are not hard to make.

I don't think it's hard to make the case that the sophistication of the terrorist today is miles from what it was a few years ago. I don't think it's an easy case, but I think you can make that case. I think it's the responsibility of political leadership to try to make the case.

Senator FEINSTEIN. You also discuss State Department reorganization in this report. You make the point that, because of difficulties within the State Department, the department has been weakened.

But I'm curious, how does that relate to the security apparatus that you're proposing?

Senator HART. I think to a person we concluded that the State Department is becoming dysfunctional. It is simply not dealing with the world of the 21st century. It's not structured to deal with the world of the 21st century, not just the terrorist threat or its role in dealing with that, but its entire mission.

We have focused, by virtue of the mandate of this subcommittee, on terrorism, homeland security and so on. We think the entire national security apparatus of this government must be overhauled and reformed in light of a new world. Our first report was entitled, "A New World Coming". It's already here. But we're still dealing with the world as if it were the cold war world of the 20th century, and it's not. It's changing every day.

The State Department is not properly structured, internally or in its outreach function, to deal with that world. We lay out some guidelines and discussed those personally with Secretary Powell, and he took great interest in our recommendations because he has concluded himself, very early on, that he's dealing with an agency. He's being told by career Foreign Service officers in the agency that it's dysfunctional. That's almost not in dispute any more. The question is what to do about it. We have offered one blue print.

But it is very hard to find anyone to step up publicly out of that Department and say, "we're doing a great job and we shouldn't change a thing." They might say it inside, but they're not about to say it outside, and certainly not to you.

Senator FEINSTEIN. We have just gotten copies of both the Skelton and the Thornberry bills. Does the Commission have a preference?

Senator RUDMAN. We haven't had a chance to look at them in detail. One of them just came out recently. The Commission is going to get them circulated in the next few days.

I know, when I first looked at Congressman Thornberry's, I thought he was headed in the right direction. I haven't had a chance to look at Ike Skelton's that closely, but we will, and we'll tell you what we think.

Senator HART. By the way, unlike many other commissions, we are continuing on, not forever, you'll be happy to know, but under General Boyd's direction, we turn money back to the Federal Gov-

ernment, even though we traveled to 25 or so countries around the world—

Chairman KYL. This is outrageous.

[Laughter.]

Representative HAMILTON. One thing we do is we really try to strengthen the Department of State with our recommendations. We think the Secretary of State should be the principal foreign policy adviser to the President. We think that the National Security Adviser should play a less visible role, more of a coordinating role, and not be the principal adviser.

We've got a lot of very controversial recommendations in here with regard to the Department of State as well. We do put out a very detailed plan of reorganization. We think it would be better than what you now have. But there are many different ways to approach that question. But the bottom line is, we want to strengthen the Department of State and the role of the Secretary of State, and we're quite encouraged by the way the Bush administration and Secretary Powell are developing that aspect of their foreign policy mechanism.

Senator RUDMAN. In fact, the National Security Council model—not the subject of this hearing at all, but you might be interested—is remarkably very close to what we recommended. We take no credit for it. They obviously had in mind putting that in place based on a lot of folks who were witnesses, if you will, before us. Dr. Rice's role is very important and different than it's been in the past.

Chairman KYL. I think both of us are ready to conclude this hearing. But we're going to need your continued input and help. We appreciate the fact that you have some continuing role and would very much appreciate the ability to visit with your staff as well because of the significant amount of work that they have put in for the evaluation of not only the legislation already introduced, but to help us put things together.

I must say that the final result may not look exactly like what you have proposed, but clearly, the thought you put into this and the recommendations will generate the conversation that will certainly, at least, I hope generate a response that we can, at the end of the day, be proud of here.

With that, Senator Feinstein, any other closing remarks?

Senator FEINSTEIN. Yes, Mr. Chairman. My view is that we are not ready, we are not prepared, we are disorganized. We don't really understand this world of terrorism. And terrorism is antithetical to American values because it's so bloody cowardly. So there is a disconnect there.

Having said that—and I can only speak for myself—I think we need to do some things. I think we need to sit down and take counterterrorism policy in a different direction. I think we need to put together a better way of functioning. So my mind is open and I would like to work toward proposal that makes practical sense, is realistic, and has the critical mass—though I hate that phrase—to move the proposal forward. I think it would be imperative that we work with you, that we work with others who have become heavily involved in this field, and I would think we're in for a long-term haul. But I think we need to do it.

Both Senator Kyl and I have had briefings, and I think we're of a like mind, that we're not where we might be, not where we should be, that there are better ways of doing it. Maybe we ought to just get cracking and look at them and try to put something together.

Chairman KYL. I totally concur. You might be aware that we tried a modest, a very modest approach at an anti-terrorism bill at the end of last session and were unsuccessful in persuading our colleagues of the urgency of it, as well as the efficacy of its provisions. And it was really modest.

Senator RUDMAN. Mr. Chairman, let me just respond to both of you.

This Commission not only has a small staff that is still in place, but we use a working group of 20 of the great experts in their fields in this country, academic and otherwise. Any help that you or your staff needs, General Boyd assures me we can furnish it, in any subject that we have covered in our report. I hope you will call on us.

Chairman KYL. We certainly will.

Senator HART. Mr. Hart. Mr. Chairman, two observations. One, by and large, the media has taken this report seriously. I think there is a little confusion as to whether or not this is just another commission and may not have gotten the perspective. There have been one or two major news agencies that for some reason have not paid as much attention to this report as they should have. We're hopeful that they will. That is also, as you well know, part of the education process of the people in this country.

Finally, if I may, with your permission, I would like to amend a previous answer regarding the role of the National Guard by a quotation from the new commander in chief, President Bush. He said to the Guard, within the past several weeks, "As threats to America change, your role will continue to change. The National Guard and Reservists will be more involved in homeland security, confronting acts of terrorism, and the disorder our enemies may try to create. I welcome the important part you will play in protecting our Nation and its people."

So, for those who have taken issue with us on this question, I think the President of the United States understands very clearly the direction we should be going.

Chairman KYL. Thank you, and thanks for that clarification. Thank you very much for your testimony and we very much look forward to working with you on this important problem.

With that, this meeting is adjourned.

[Whereupon, at 3:36 p.m., the Subcommittee was adjourned.]

[A submission for the record follows:]

#### SUBMISSION FOR THE RECORD

#### **Statement of Gary Hart, Warren Rudman, Lee Hamilton, and Donald Rice, Members of the U.S. Commission on National Security/21st Century,**

Mr. Chairman,

We are honored to be here today on behalf of the U.S. Commission on National Security/21st Century, which, as you know, submitted its final Phase III Report on January 31st. As you also know, this federal Commission was chartered to undertake the most comprehensive examination of the national security apparatus of the United States Government since the passage of the National Security Act of 1947.

It has done so. The Commission examined national security in its broadest sense, not “defense” as traditionally defined. We looked well beyond budgetary and election cycles, out to a quarter century. We decided among ourselves that we owed the American people our best, not the most easily agreed, solutions to the problems we face.

The Phase III Report recommends an integrated program of reform built on a sound analytical foundation, based on a single key premise, and shaped by a unitary core principle.

That foundation consists of the first two phases of our work: a thorough analysis of the future global security environment and the development of a U.S. National Security Strategy to deal with that environment. That foundation generated the premise that habits hardwired into government during a half-century of Cold War, grown bureaucratic and lethargic, now inhibit our capacity to understand and manage new challenges and opportunities.

Those habits must be replaced by a new principle: that a culture of strategic thinking and action permeate the U.S. national security establishment. That principle, however, requires that there be a coherent strategy process and a sound organizational structure for national security—and right now we have neither. We have not had in recent years an adequate top-down process of integrated strategy formulation, where priorities were determined and maintained, and where resources were systematically matched to priorities. There has been almost no effort to undertake functional budgeting analysis for problems that spread over the responsibilities of many Executive Branch departments and agencies—the result being that it is very difficult for Congress to have a sense of what an administration is doing with respect to major national security objectives. There has been no systematic effort from the NSC to direct the priorities of the intelligence community, to align them with the priorities of national strategy.

The Commission has made several recommendations with regard to this larger, generic problem. We believe that significant policy innovations cannot be generated or sustained in the absence of managerial reform.

In our view, the need for such a process and structure is urgent, and the stakes are high. In the world we have left, for example, the designs of other states occupied us. In the world we have entered, political forces both above and below the state are increasingly important, and some of them are very dangerous. To deal with the specter of mass-casualty terrorism on American soil, for example, we urge the U.S. Government to realign and rationalize its approach to homeland security. We propose the consolidation of several existing assets into a National Homeland Security Agency, with cabinet status and a director who is a statutory advisor to the National Security Council. By bringing the Federal Emergency Management Agency together with the Coast Guard, the Border Patrol, and the Customs Service—and by combining the government’s dispersed cyber-security programs, as well—the whole of our effort will exceed the sum of the parts. Only by planning ahead, too, can the assets of the Department of Defense be engaged in homeland security without jeopardizing core constitutional principles.

We will return to this proposal in a moment, for it is clearly the focus of this hearing today. But since the Phase III Report is an internally integrated program of reform, predicated on the centrality of strategy, it is not possible to appreciate fully our proposal for a National Homeland Security Agency without the proper context. That context includes the Commission’s proposals to reform the State Department, the Defense Department, government personnel systems, and the Congress, too.

Thus, in the world we have left, the strength of our adversaries concentrated our attention. In the world we have entered, the weakness of other countries is among our greatest problems. We need a State Department—and an intelligence community—sophisticated and adept at anticipating and preventing conflict, economic instability, and terrorist mayhem. The Commission thus recommends major changes to the crippled and resource-starved State Department that exists today, and it recommends new emphases in intelligence efforts as well. We also urge that the Secretary of the Treasury be made a statutory member of the National Security Council, for a preventive strategy must incorporate fully the economic dimension of statecraft to succeed in the era ahead.

In the world we have left, too, mass and might constituted the sinews of national power. In the world we have entered, knowledge and agility are vital. This Commission views U.S. shortcomings in science policy and education as national security problems. We recommend major investments to bolster science and mathematics teaching, and a doubling of the public research and development budget within this decade. In this light, we also recommend major changes in how the Defense Department does business for, as it stands now, the Pentagon is manifestly incapable of transforming American military capabilities to accord with 21st century conditions.



It is so massive and mighty that it is muscle-bound; it is not flexible and agile enough even by half.

The Commission also urges major initiatives to stem an incipient crisis of competence in government due to looming personnel deficiencies in the Civil Service, the Foreign Service, and the Armed Forces. And we call upon Congress to facilitate Executive Branch reform and to put its own two houses in order. To that end, we recommend that authorization and allocation processes be combined into single committees and subcommittees.

We four and the other ten members of this Commission together represent a diverse array of political views and professional experiences. Yet, we propose fifty major recommendations for change without a single dissent or reservation, suggesting that our road map for reform is politically practical. And reform we must. The consequences of embracing the status quo are more dangerous to this nation than any likely external foe. If we hold to the present, we will lose the future. We challenge the complacent among us to show otherwise, and we applaud those Members of this Sub-Committee, and other committees in the Senate and the House of Representatives, who understand the imperative for change.

Let us now return to the matter at hand: terrorism, counter-terrorism, and their related intelligence aspects. Other Members of Congress have already asked this Commission why is there no comprehensive national strategy to combat terrorism? We started our answer by pointing out that dealing with terrorism is an inherently difficult problem, for several reasons.

As we all understand, terrorism is varyingly motivated. Sometimes the motives are instrumental—a desire to draw attention to a cause, to extort money, to goad a target government into counterproductive responses. But sometimes the motives are not instrumental—revenge for slights real and imagined, religious exoneration, or cult-like impulses—such as those of the Aum Shinrikyo movement—difficult for outsiders to fathom.

Sometimes terrorism emanates from states, sometimes from small groups or even individuals, and sometimes it comes from combinations of state-sponsorship with other actors. Determining the source of any particular terrorist act can be difficult, and it is often the intention of terrorists to make it difficult.

The geographical sources of terrorism are wide. Terrorism comes from no one region of the world and, as we have learned, it includes domestic elements as well.

The wages of terrorism are also wide. Aside from Americans who are killed by terrorist acts, we and others pay a host of indirect prices—from expensive security precautions to the institutionalized fear that comes from having hideous acts imposed upon us. The crushing of entire societies, too, such as that of Algeria in recent years, imposes a price on the entire international community, one with which the United States invariably must deal.

Terrorism also takes several tactical forms: assassination, bombing, biological or chemical attack, cyber-terror, and, potentially, terrorism involving weapons of mass destruction. It is very hard to plan adequately for such a wide array of problems.

There is a wide array of targets, too, a complexity that has generated considerable confusion. While most scholars define terrorism, in its basic form, as essentially attacks on civilians, some observers include attacks on uniformed military personnel operating abroad as forms of terrorism. Others disagree, considering such attacks, such as those on the U.S.S. Cole, Khobar Towers, and the Marine compound in Lebanon in October 1983, to be more like forms of warfare.

The distinction is not just definitional or theoretical, as those on this Committee well understand. It influences how the U.S. government approaches policy solutions to such problems. This raises a key issue, which is the increasing tendency for national security and law enforcement to merge with one another. The present inclination of the U.S. government, which is to treat even the most expansively defined “terrorist act” as a criminal act, is, in our judgment, the right thing to do. At the very least, however, we must be honest with ourselves about the consequences of the choices we make.

Clearly, too, such choices have organizational implications. This Commission has concluded that, with respect to terrorism, the current distinction between crisis management and consequence management is neither sustainable nor wise. The duplicative command arrangements that have been fostered by this division are prone to confusion and delay. We believe that the National Homeland Security Agency should develop and manage a single response system for national incidents, in close coordination with the Department of Justice and the FBI. This would require that the current policy, which specifies initial DOJ control in terrorist incidents on U.S. territory, be amended once Congress creates NHSA. We believe that this arrangement would in no way contradict or diminish the FBI’s traditional role with respect to law enforcement. Obviously, the organizational implications of how we define and

deal with terrorism are wider even than this. Given this diversity of motives, sources, tactics, and definitions, the responsibility for dealing with terrorism within the U.S. government ranges over several Executive Branch departments and agencies, as well as over several Senate and House committees on the Legislative Branch side. Developing an effective comprehensive strategy for dealing with terrorism would be difficult in any event, but under these circumstances it becomes more difficult still.

The U.S. Commission on National Security/21st Century concluded that, however difficult the problem of terrorism may be, we simply must do a better job of dealing with it. The problem has already caused us grievous trouble, and it is getting worse. The vector between the threats we face and the organizational responses at our disposal is getting wider. The Commission's Phase I Report concluded that the prospect of mass casualty terrorism on American soil is growing sharply. That is because the will to terrorism and the ways to perpetrate it are proliferating—and merging. We believe that, over the next quarter century, this danger will be one of the most difficult national security challenges facing the United States—and the one we are least prepared to address. The Commission's Phase II Report, on strategy, focussed directly on this challenge, arguing that the United States needed to integrate the challenge of homeland security fully into its national security strategy. The Phase III Report devotes its entire first section—one of five—to the problem of organizing for homeland security. We have argued that to integrate this issue properly into an overall strategic framework, there must be a significant reform of the structures and processes of the current national security apparatus.

Before discussing the details of a National Homeland Security Agency, we wish to stress what the Commission intends, and does not intend, to achieve with this recommendation.

We conceive of the National Homeland Security Agency is a part of, not a substitute for, a strategic approach to the problem of homeland security. Some have claimed that this Commission's proposal for a National Homeland Security Agency is an organizational fix without a strategy. This claim is twice mistaken.

First, within Section I of the Phase III Report, the rubric "Organizational Realignment" is item "B." Item "A" is called "The Strategic Framework," where we make clear that the Commission's proposed strategy for homeland security is three-fold: to prevent, to protect, and to respond to the problem of terrorism and other threats to the homeland.

Second, the Commission insists that its strategy for homeland security must be part of a broader national security strategy itself. That is why we argue that a "Czar" model to deal with this problem is inappropriate. Nothing would be more likely to keep homeland security separate and apart from national security writ large than such an "off-line" approach.

Clearly, then, the National Homeland Security Agency is embedded within a strategy for homeland security, and the strategy for homeland security is embedded in a national security strategy. It follows, therefore, that the National Security Council will still have the critical role in coordinating the various government departments and agencies involved in homeland security. In the Commission's three-fold strategy for homeland security—prevent, protect, and respond—many departments and agencies must concert their efforts. The Department of State has a critical role in prevention, as does the intelligence community and others. The Department of Defense has a critical role in protection, as do other departments and agencies. Many agencies of government, including, for example, the Centers for Disease Control in the Department of Health and Human Services, have a critical role in response.

Obviously, we are not proposing to include sections of the Intelligence Community, the State Department, the Defense Department, and the Department of Health and Human Services in the National Homeland Security Agency. Nor are we attempting to exclude or to diminish their roles in the interagency process. As with any other complex functional area of government responsibility, no single agency is adequate to the task of homeland security.

That said, the United States stands in dire need of stronger organizational mechanisms for homeland security. It needs to clarify accountability, responsibility, and authority among the departments and agencies with a role to play in this increasingly critical area. Authority and accountability for the strategic direction of the federal government rest with the President, not a policy coordinator or staffer. Authority and accountability should be vested in the same individual to the extent possible for specific functions, not spread across jurisdictional boxes that have no relation to 21st century challenges. We need to realign the diffused responsibilities that sprawl across outdated concepts of jurisdictional boundaries.

We also need to recapitalize several critical components of U.S. Government in this regard. Some of these components are now in the wrong departments, which accounts for the lack of attention and support they receive. While the overall strategic direction of the federal government must start with the President, supported by the NSC and its staff, stronger organizational mechanisms are needed to execute the layered strategy we propose. Our strategy, which emphasizes prevention and response as a means of strengthening our deterrent, reflects the realities of the 21st century. But our organizational entities to execute the border security and crisis management functions are too fragmented. We need to realign these capabilities to make them more flexible and agile. At the same time, we need to ensure that we can provide maximum support to the State and local officials who will ultimately face the crises. In our view, we need a Cabinet-level agency for this purpose. The job is becoming too big, and requires too much operational activity, to be housed at the NSC staff. The NSC and staff should focus on the strategy and the matching of resources to objectives. Operational details and daily operations cannot be successfully managed out of the White House. As we have already said, they are much too important to a properly integrated national strategy to be handled off-line by a "czar," which would split out a major national security threat from the NSC and staff that should be dealing with it.

Most important, the task requires an organizational focus of sufficient heft to deal as an equal in this domain with the Departments of State, Defense, and Justice. Lacking such a focus, it is hard to see how we will ever be able to create an efficient and effective interagency mechanism to deal with this problem.

Mr. Chairman, this Commission's proposal for a National Homeland Security Agency is detailed with great care and precision in the Phase III Report. With your kind permission, we would like to include both our institutional reform section and our homeland security section for the record—for we see no need to repeat word for word what the Report has already made available to all. However, we would like to describe the proposal's essence for the subcommittee.

We propose a Cabinet-level agency for homeland security, whose civilian director will be a statutory advisor to the National Security Council, the same status as the Director of Central Intelligence. That Director will be appointed by the President and confirmed by the Senate. The basis of this agency will be the present Federal Emergency Management Agency (FEMA). Added to FEMA will be the Coast Guard (from the Department of Transportation), the Border Patrol (from the Department of Justice), the Customs Service (from the Department of the Treasury), the National Domestic Preparedness Office (NDPO), currently housed at the FBI, and an array of cyber-security programs now housed varying in the FBI, the Commerce Department, and elsewhere.

Together, the National Homeland Security Agency will have three directorates (Prevention; Critical Infrastructure Protection; and Emergency Preparedness and Response), and a National Crisis Action Center to focus federal action in the event of a national emergency. The Agency will build on FEMA's regional organization, and will not be heavily focussed in the Washington, DC area. It will remain focused instead on augmenting and aiding state and local resources. The purpose of this realignment of assets is to get more than the sum of the parts from our effort in this area. Right now, unfortunately, we are getting much less than the sum of the parts.

Thus, we are not proposing vast new undertakings. We are not proposing a highly centralized bureaucratic behemoth. We are not proposing to spend vastly more money than we are spending now. We are proposing a realignment and a rationalization of what we already do, so that we can do it better. In this regard, we intend for the union of FEMA, Coast Guard, Border Patrol, Customs, and other organizational elements to produce a new institutional culture, new synergies, and higher morale. We are proposing to match authority, responsibility, and accountability. We are proposing to solve the "Who's in charge?" problem at both our borders and in disaster management.

Perhaps most important, we are proposing to do all this in such a way as to guarantee the civil liberties we all hold dear. In our view, it is the absence of effective strategies and organizations that is a threat to civil liberties. Since Defense Department assets would have to come into play in response to a mass-casualty attack on U.S. soil, the best way to ensure that we violate the U.S. Constitution is to not plan and train ahead for such contingencies. The Director of the National Homeland Security Agency, I repeat, is a civilian, subject to confirmation and oversight by the Congress. If no such person is designated responsible ahead of time to plan, train, and coordinate for the sort of national emergency of which we are speaking, I leave it to your imaginations—and to your mastery of American history—to predict what a condition of national panic might produce in this regard.

Let us now briefly address the matter of intelligence as it relates to the matter of homeland security. The Phase III Report addresses this question in two places: in Section I in the context of the NNSA proposal, and in Section III on Institutional Reform under the heading of "The Intelligence Community."

As to the former, the Report stresses that good intelligence is the key to preventing attacks on the homeland and urges that homeland security become one of the intelligence community's most important missions. Better human intelligence must supplement technical intelligence, especially on terrorist groups covertly supported by states. Fuller cooperation and more extensive information-sharing with friendly governments will also improve the chances that would-be perpetrators will not reach U.S. borders. In our view, the intelligence community also needs to embrace cyber threats as a legitimate mission, and to incorporate cyber-intelligence gathering on potential strategic threats from abroad into its activities. To advance these ends, we recommend that the National Intelligence Council: (1) include homeland security and asymmetric threats as an area of analysis; (2) assign that portfolio to a National Intelligence Officer; and (3) regularly produce National Intelligence Estimates on these threats.

As to the last, we stress the need for better human intelligence on terrorist threats. We need not rehearse for this subcommittee all of the sensitive and difficult areas that attend this question. But it is our judgment that we must bolster the quality and quantity of those entering the community's clandestine service, as well as the recruitment of those foreign nationals with the best chance of providing information on terrorist threats to the homeland. Along with the National Commission on Terrorism, we believe that guidelines for the recruitment of foreign nationals should be reviewed to ensure that, while respecting legal and human rights concerns, they maximize the Intelligence Community's ability to collect intelligence on terrorist plans and methods. We recognize the need to observe basic moral standards in all U.S. Government conduct, but the people who can best help U.S. agents penetrate effectively into terrorist organizations are not liable to be model citizens of spotless virtue. This is not a choice, in our view, between values and pragmatism. After all, the saving of many thousands of innocent lives is a value, too. Finally in this regard, we have recommended giving greater intelligence priority to the analysis of economic and science and technology trends, where the U.S. Intelligence Community's capabilities are inadequate. We also recommend that Congress support this new emphasis by increasing significantly the National Foreign Intelligence Program (NFIP) budget for collection and analysis. What has this to do with terrorism? Plenty!

The sources of terrorism overseas inhere in cultural proclivities and socio-economic conditions. If we do not understand those proclivities and conditions, we will be unable to anticipate and prevent terrorist movements from arising to harm the United States, its interests, and its allies. Moreover, as we and others have indicated, terrorists, along with all essentially weak actors, incline toward asymmetric strategies in attacking the United States. Non-state groups can get enormous leverage in the pursuit of such asymmetric strategies through new technologies, particularly well-funded political movements in which terrorism is a tactic but not a *raison d'être*. In an age when critical scientific discoveries and technological innovations are being generated increasingly in the private sector—and when technological security itself must therefore be redefined—it is incumbent on U.S. intelligence agencies to monitor carefully the potential interstices between technological innovation, high-end science and technology espionage, and terrorist organizations.

Mr. Chairman, one final point, if we may. All fourteen of us on this Commission are united in our belief that our Report constitutes the best road map for the United States to see to the common defense. All fourteen of us, without dissent, agreed to put the subject of homeland security first and foremost in that Report. All fourteen of us, seven Democrats and seven Republicans, are determined to do what we can to explain our recommendations on this matter in a fully bipartisan manner. We thank you, Mr. Chairman, and this subcommittee for the opportunity to testify today. We look forward to working with you to advance our common goal of a safe and secure America

