

**NATIONAL COMMISSION ON TERRORIST
ATTACKS UPON THE UNITED STATES**

HEARING
BEFORE THE
**SELECT COMMITTEE ON HOMELAND
SECURITY**
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTH CONGRESS

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NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Tuesday, August 17, 2004

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON HOMELAND SECURITY,
Washington, DC.

The committee met, pursuant to call, at 9:40 a.m., in room 345, Cannon House Office Building, Hon. Christopher Cox [chairman of the committee] presiding.

Present: Representatives Cox, Dunn, Smith, Shays, Camp, Diaz-Balart, Goodlatte, Istook, King, Linder, Shadegg, Souder, Gibbons, Granger, Sessions, Sweeney, Turner, Thompson, Sanchez, Markey, Dicks, Frank, Harman, Cardin, Slaughter, DeFazio, Lowey, Andrews, Norton, Lofgren, McCarthy, Jackson-Lee, Pascrell, Christensen, Etheridge, Langevin, Meek, and Chandler.

Chairman COX. Good morning. The Select Committee on Homeland Security will come to order.

The prior business of the committee will stand adjourned, and the committee will proceed to hear testimony pursuant to notice on the 9/11 Commission recommendations concerning homeland security information sharing. Let me welcome the distinguished chairman and vice chairman of the Commission, Tom Kean and Lee Hamilton.

We appreciate your appearance before us today. This committee, Republicans and Democrats alike, commend you for your work and for your significant contribution to our national effort to apply the lessons learned from the tragedies of September 11th.

This committee and the 9/11 Commission both have a common origin. We were formed because of and in the wake of the catastrophic terrorist attacks against America. Both Congress and the President swiftly recognized that neither the executive nor the legislative branch of our government was organized to deal with this terrorist assault. This committee, as you know, represents the only structural change thus far in Congress, since September 11th, which was undertaken specifically to deal with the threat of international terrorism to the United States. As such, you can understand why we are here to conduct this hearing into your findings and your recommendations.

As chairman, I can report that this committee has consistently pursued a legislative and policy agenda to focus congressional attention on preventing and preparing for acts of terrorism targeting the United States. This has been a bipartisan effort owing in part to the strong and able leadership of our ranking member, Jim Turner, and also to the recognition by all our members that the se-

curity of the American people must transcend politics, even in an election year. Partisanship will surely cause us to fail.

The theme of today's hearing is information sharing, which was a primary focus of the Commission, as it has been of numerous hearings of our committee. In the fight against international terrorism there can be no higher priority.

Nor do we treat this subject narrowly. It encompasses fundamental issues of structure, systems, policy, and leadership. It is about getting vital information to those who need it in time to prevent harm to Americans.

The 9/11 Commission has done a superb job in investigating and recounting for the American people the details of the Al-Qa'ida attacks on our Nation nearly 3 years ago. In 77 minutes on that fateful day, terrorism on U.S. soil took over 3,000 innocent American lives.

The report shows in graphic detail how the terrorists exploited systemic weaknesses to defeat one U.S. Government agency after another. These were agencies that we reasonably could have expected to stop the terrorists—the Intelligence Community, law enforcement, the Federal Aviation Administration, the State Department, and the Department of Defense.

Nor does the report spare the Congress. The Commission concludes that the Congress had failed to organize itself to deal effectively with post-Cold War national security threats in general and international terrorism in particular.

Your indictment, therefore, is not just of our Intelligence Community, but of the way the entire U.S. Government was organized with respect to counterterrorism.

The Intelligence Community does not exist in a vacuum. Its priorities and performances are clearly influenced both by executive branch structures and by the authorization and appropriations committees in the Congress.

Reforms will not succeed, the report concludes, unless the priorities of the President, the Federal Government, and the Congress are brought into alignment for the future. And this means each branch must be properly organized to do this, which is still not the case today.

President Bush has gotten ahead of this issue by accepting two principal recommendations from the Commission. First, with regard to establishing the National Counterterrorism Center, and second, by proposing a National Intelligence Director. These swift and bold decisions are consistent with his repeated statements that whatever we have achieved over the past 3 years, we have much more work to do to protect the American people. The President clearly sees the 9/11 Commission report as helping toward this end, and so should we here.

I know the Commission will stay engaged with us as we grapple with these active issues in the months ahead. You have not just delivered a carefully prepared historical analysis, but you have also significantly advanced the long-term prospects for fundamental reform.

Finally, let me turn to the Commission's look at the performance of Congress over the past several years. The report found Congress wanting in several key areas. Congress, the report says, is too

much oriented toward domestic rather than foreign affairs. Congress has resisted reorganizing itself to deal with the post-Cold War threat environment, including international terrorism. Congress has focused on selective investigations over comprehensive and thorough oversight. And Congress has allowed rigid and unchanging committee jurisdiction to skew priorities, often against heightened security concerns in a changing world.

That is an unflinching diagnosis. All of us, Republicans and Democrats alike, would have preferred a different one. But we do hear you, and we must now do something about it.

The Commission follows this provocative analysis with a recommendation that permanent standing committees on homeland security be established in both the Senate and the House. These far-reaching recommendations I know will be delved into even more deeply this morning.

Let me thank you both once again for coming before our committee this morning. I am eager to hear your testimony and to remain engaged with you in the challenging year ahead.

Let me now turn to our distinguished ranking member, Jim Turner, for his opening remarks.

Mr. TURNER. Thank you, Mr. Chairman. Thank you for calling this very important hearing.

I want to acknowledge the presence of all of our colleagues here today to deal with this very critical issue. And I have been a part of several other hearings where many of the family members of the families of the 9/11 victims have been with us. I want to acknowledge their steadfastness in following this issue and working together with the 9/11 Commission to bring us to the point where we can make America safe.

Governor Kean and Congressman Hamilton, we are very pleased to have you before us. I know you have had a rigorous schedule of testifying. I know, Governor, you are probably tired of hearing all of Lee Hamilton's former colleagues brag on him, but we want to do that once again here today. I was listening to Congressman Hamilton's successor, Baron Hill; in talking about him the other day in the Armed Services Committee, he pointed out that following Lee Hamilton in office was kind of like following Abraham Lincoln in office. Lee Hamilton did such an outstanding job for many years leading us, particularly in the area of foreign policy.

So we are very honored by your presence and we thank you for being with us. Most importantly, thank you for your leadership of a bipartisan commission. Your unanimous report creates, I think, the political conditions that are necessary to advance meaningful reform. You have invited all to embrace your report and its recommendations. And in the partisan world of Washington, D.C., you have produced a truly bipartisan product. We commend you in that effort. You have not dealt with the blame game, wisely recognizing that prior to 9/11 failing to take Al-Qa'ida seriously was a pervasive fault.

Now, here we are almost 3 years after 9/11, and frankly we have no excuse. We have heard repeatedly from numerous scholarly reports, recommendations for action. Today, we are confronted with the clear threat of another major attack on our country. The reality

of these continued threats should be a stark reminder to us that we have much more to do to make America safe.

You have been very clear in your recommendations that just moving a few positions around on the organizational chart as the proposed National Director of Intelligence will not get the job done. You have said we need a grand strategy, a comprehensive, long-term approach to address a new enemy, militant Islamic jihadism.

Defeating this enemy, you say, requires a three-pronged approach: one, attacking the terrorists more aggressively; two, securing our homeland better; and three, pursuing policies and initiatives to prevent the rise of future terrorists.

Only one of your recommendations, I note, deals with the role of the military; 21 of your recommendations deal with strengthening homeland security, 10 of your recommendations deal with preventing the rise of future terrorists. Clearly we must transform the military to defeat this new enemy.

Condoleezza Rice testified to your commission that in June of 2001 when she was tasked with drawing up plans to attack Al-Qa'ida and the Taliban, in her words, quote, "The military didn't particularly want this mission." We are trained and equipped to fight nations and armies, but the new enemy requires new training, new capabilities, and new missions.

We defeated communism in the last century by maintaining superior military capabilities and by projecting our values and our ideals as a nation to the rest of the world. When the Berlin Wall fell, not one shot was fired. Radical Islamic fundamentalism must be defeated by the same force of our ideals and our values. Secretary Rumsfeld, in his now famous memo, asked this: He said, "Are we capturing, killing or deterring and dissuading more terrorists every day than the madrasas and the radical clerics are recruiting, training, and deploying against us? The United States is putting relatively little effort into a long-range plan, but we are putting a great deal of effort into trying to stop terrorists." That is from the Secretary of Defense.

The 9/11 Commission gives us a long-range plan to stem the rise of future terrorists, and it begins with supporting the voices of moderation in the Islamic world. The Commission recommends investment in education and economic partnership in the Muslim and Arab world with America offering, in your words, an example of moral leadership in the world committed to treat people humanely, abiding by the rule of law and being generous and caring to our neighbors.

This clearly will require American leadership in building strong alliances and coalitions around the world. If our government continues to ignore the 10 recommendations of the Commission to prevent the rise of future terrorists, we have no strategy for victory over terrorism. We will be left to decades of fighting the terrorists both abroad and here at home. And until we achieve this ultimate victory over terrorism, we have no option but to implement vigorously the 21 recommendations of your report dealing with securing the homeland.

I am pleased that we can report to you that our committee has already taken action on your recommendation to distribute homeland security funds based solely on the assessment of threats and

vulnerabilities. We acted on this in a unanimous and bipartisan way last February. Now this legislation should be set for debate on the House floor.

For over 2 years we have called on the administration to close the security gaps facing America as outlined in many of your recommendations. The 9/11 Commission has stated that unscreened air cargo is a threat to our security. Congressman Markey and Congressman Shays have called for action on this for over 2 years, yet little has been done to close that security gap, and the vulnerability remains.

The 9/11 Commission has stated that we need a biometric interoperable border screening security system. Members of Congress on both sides of the aisle have been advocating for such a system for many years. Yet the 9/11 Commission has concluded that the US VISIT system, initiated by the Department of Homeland Security, is built on, and I quote, "antiquated computer environment." That will have to be replaced.

Almost 3 years after 9/11 we still do not have an interoperable border security system. We still have not achieved integrated information sharing among intelligence agencies.

The 9/11 Commission has noted that even after the deadly rail attacks in Madrid, the Department of Homeland Security has failed to develop an integrated strategic plan for the transportation sector. My colleague, Congresswoman Holmes Norton, called for this action months ago in our legislation to better secure our rail and public transportation sector, but there has been no action. The list could go on.

The 9/11 Commission report is a wake-up call for our government. We need to regain the sense of urgency that we all had after September 11th. With 21 recommendations on homeland security, we should, Mr. Chairman, schedule hearings on each of these recommendations jointly with other committees when appropriate to be ready to act on comprehensive legislation that addresses each of the Commission's 41 recommendations.

We also should be proceeding with the suspended markup of our Homeland Security Authorization Act. Many of the amendments that my colleagues and I would offer to that bill relate directly to the recommendations of the Commission.

Democrats met last week with Governor Kean and Lee Hamilton to talk about the report and to let it be known that we are ready to get to work. I hope that this committee can provide and will provide the leadership necessary over the next few weeks to move forward on this important task.

Governor Kean, Mr. Hamilton, thank you again for your leadership in helping make America safe. America is grateful for what you and your colleagues have done, and for your dedication and your commitment we will be eternally grateful.

Thank you, Mr. Chairman.

Chairman COX. I thank the gentleman.

I would advise members of the outset that both Chairman Kean and Vice Chairman Hamilton have been generous with their time today. They are available to be with us all morning, and they have requested that they be dismissed at 12:15. In order to provide sufficient time for questioning by all members, I would ask members

to consider waiving or limiting the durations of opening statements. If members have written statements, they may as always be included in the hearing record.

The vice chairman of the full committee, the gentlelady from Washington State, Ms. Dunn, is recognized for her opening statement.

Ms. DUNN. Thank you, Mr. Chairman. I too thank the witnesses for coming yet another time to testify before our committee—a very important committee, though, I believe, of people who are representative of districts all over the Nation. And we have flown in today to make sure that we hear from you firsthand. It is a credit to you that you have got so many members here today, because we believe that you have done a very thoughtful job and have brought sensitivity and attention to an issue that we have been dealing with now for almost 2 years. So thank you for being here.

The terrorist attacks on September 11th forced all of us to think differently about life in America. We realize we faced a new enemy, one that is not easily contained or eliminated. That day we shifted our focus and our resources. The terrorists didn't make us fearful as they had hoped they would do. They strengthened our resolve. They have not made us cower. We have confronted them with international might. Most of all, the terrorists have reminded us of what is great about America: freedom, democracy, justice, values that we will always fight for.

These radical groups are creative and enduring in their effort to bring down the values of the Western civilization. We must be just as unwavering and innovative in our effort to prevent them from doing so. The 9/11 Commission's report has provided an insightful road map for our continuing effort to reform systems and processes that were not designed to confront the present enemy.

Today, we will hear firsthand from Commission leaders as well as Federal officials of counterterrorism responsibilities. House and Senate leadership are committed to swift action on the Commission's report. In the following weeks, the American people will see a careful and thoughtful process that takes into account the progress that already has been made by the administration and the Congress as well as the equally thoughtful calls for action in the Commission's report.

We have a lot of work to do. The President has already proposed creating a National Intelligence Director as well as a National Counterterrorism Center, two changes suggested in your report. It is also important to note that of the 19 recommendations for intelligence reform issued by the joint Senate-House inquiry last year, which are consistent with the 9/11 Commission's recommendations, Congress and the administration already have implemented or addressed all but three of those.

As we take action on the 9/11 Commission's ideas, we will also consider the Commission's recommendation to focus congressional oversight. Successful reform of Federal Government agencies will absolutely depend on effective oversight. And the current system which requires Homeland Security Secretary Tom Ridge and his chief deputies to report to an estimated 88 committees and subcommittees reinforces the status quo and is unacceptable. We will continue to seize this opportunity for reform. And during our con-

sideration of bold proposals, we will not discount the reform that has already taken place—the consolidation of 22 Federal agencies within the Department of Homeland Security; the establishment of the Terrorist Threat Integration Center, centralizing information and manpower from several intelligence agencies; the passage of Project BioShield—all bold steps that have made us safer than we were on 9/11.

In a Presidential election year, it is especially tempting to focus on what has been done wrong and not what has been done right.

As we focus on the Commission's recommendations, I am confident that all of us will put politics aside. It would be a mistake and a disservice to our constituents to ignore the progress we have made since 9/11. Today we welcome ideas for continued process.

Thank you, Mr. Chairman.

Chairman COX. I thank the gentlelady. Does the gentleman from Mississippi, Mr. Thompson, have an opening statement?

Mr. THOMPSON. Mr. Chairman, in the interest of getting to the substance of why we are here, I will reserve the time allotted to me.

Mr. FRANK. Mr. Chairman, as greatly as I respect my colleagues, I would not have interrupted my vacation to come listen to us all make speeches. I ask unanimous consent that we waive opening statements and get right to the witnesses.

PREPARED STATEMENT OF THE HONORABLE DONNA M. CHRISTENSEN

Thank you Mr. Chairman. I want to, at the outset, commend you Mr. Chairman for scheduling a hearing before this committee on the recommendations of the September 11th Commission.

Mr. Chairman, I welcome the opportunity to discuss the Commission's findings and recommendations with the Commission's distinguished Chairman and Vice-Chairman. They are to be commended for the remarkable job they have done, not only in spearheading the drafting of the report but also for the generous way that they have given of their time in appearing before a number of other committees to press for the enactment of their recommendations in their entirety. I also appreciate that we will hear from the Mr. Brennan of the TTIC again, as well as a comprehensive list of witnesses who will allow us to fully explore the need for a better homeland security information sharing system between agencies and state and local governments.

Coming close to the end of the committee listing, I am sure that most of the broader questions will have been asked. My interest then is in border security, the treatment of the territories and Indian reservations, funding and preparedness of first responders, and how we regain our position of moral leadership in the world.

Over the past two weeks, in response to the 9/11 commission report and in preparation for this hearing, I convened Town Meetings across my Congressional District to gauge my constituent's reaction to the commission's recommendations. These meetings were hugely successful in demonstrating the importance the people of the Virgin Islands place on the protection of the community and the United States as a whole.

Overall we endorse the findings and recommendations of the Commission, but stress the need for a planned approach developed on the basis of study and research. To the extent we are still not as well prepared as we should be and limited in our capacity to adequately respond, I believe it is because all along we have "reacted" instead of "responded."

I daresay, if lack of imagination was a fault before 9/11, it continues to be so today, closely followed by being entrenched in the old ways things were always done. This and the other legislative body bear much of the responsibility for the latter, and I see little signs of willingness to change.

Change was and is needed to meet new threats and new methods of attack that are only limited by the imagination, will and ingenuity of those who would do us harm.

If we fail to imagine and change, our constituents will always remain at great risk.

Political posturing which is dominating much of our reaction has no place. To eliminate it requires presidential leadership of a kind we have not seen in the life of this Committee.

More specifically, where you address the need for a comprehensive border strategy, the 175 miles of unsecured border in the U.S. Virgin Islands, my district—a cross over point for illegal entrants from distant places remains unsecured. We fully support that all borders must be secured.

We support an all hazard approach that protects our communities' safety at all times, for we cannot know where the terrorists will next strike or how. This includes a fully prepared and intact public and private health system with emphasis on poor and minority communities where it is weakest—including Indian reservations, with clear lines of authority and accountability.

One area not specifically iterated in the report, but very relevant to improved intelligence, is the need to diversify our intelligence workforce if we are ever to penetrate the enemy cells.

Realizing that this is a report on 9/11, I would nevertheless add that the focus of our terrorist identification and eradication cannot be focused on Islamic believers only. Continuing to do so leaves every other flank open.

Lastly, and this is my greatest concern—as you have so accurately said, we have done nothing to reduce the growth of the numbers of those dedicated to doing harm to our citizens and our country.

We have failed to look within, to go beyond getting back to “normal”. It—normal—was and remains not a nice place to be for many of us, and the world can see that. Our failure to deal fairly with those who are “different” right here in the US portends the impossible for our dealings with those in foreign lands.

To gain respect we not only have to reach out with educational, political and economic opportunity elsewhere, we must begin that process here at home. We have yet failed to do so, and any outreach across the seas will be seen for the empty, false gesture that it is.

So we have a lot of work to do. We are grateful for your service, and the blueprint you have so ably provided.

It remains for the president and us to respond appropriately. The only hope I hold out that we will do so is your promise to follow through on the recommendations to the end, and the commitment of the families of those who were so brutally assassinated on September 11, 2004, whose efforts made the commission possible.

Thank you once again Mr. Chairman for the opportunity to give these brief opening remarks. I look forward to hearing from our witnesses.

PREPARED STATEMENT OF THE HONORABLE NITA M. LOWEY

I want to welcome Commission Chairman Kean and Vice Chairman Hamilton to the Committee. I commend you for the thorough and dedicated way in which you have carried out your work on behalf of our country. It is clear that this Committee, and this Congress, has a great deal of work to do.

I share your commitment to act expeditiously to implement the recommended reforms, some of which can be put in place without major structural changes and without enacting legislation. It is on these recommendations I would like to focus today.

This Committee has an awesome responsibility as the first oversight panel of the Department of Homeland Security. But despite the best intentions of many of my colleagues, the Select Committee has not become the perfect *solution* to the question of how to oversee this new Department. Instead, this arrangement has turned out to be the perfect storm.

We have been hamstrung by jurisdictional disputes that the leadership has been unwilling to resolve. We passed a First Responder bill out of Committee five months ago that would have ensured that our formula for disbursing homeland security dollars was based on threat, population, and vulnerability, just as the Commission has recommended. But it has been stalled on its way to the floor by Members who disagree with the Commission's recommendation that “Congress should not use this money as a pork barrel.” We could act on this recommendation right now, but we have not.

Since the summer of 2003, the Department of Homeland Security has cited consistent intelligence reports that terrorists remain interested in using aircraft as weapons against the United States. A GAO report released in June concluded our airports and aircraft are still vulnerable—passengers are not checked adequately for explosives, and more than 1 million airport workers, many of whom have antiquated

background checks, enter secured areas each day without being physically screened. The Commission recommended that we give priority attention to improving screening of passengers and more closely oversee screener performance. We could act on this recommendation right now, but we have not.

Our communication systems failed our first responders on September 11th, leading to many deaths that could have been prevented. In May, I introduced the CONNECT First Responders Act, a bill that would fund the creation of a nationwide interoperable communications infrastructure. The Commission recommended that Congress support efforts to improve communications connectivity. We could act on this recommendation right now, but we have not.

The Commission has also made recommendations that are more long-term, recognizing that homeland security is not only a matter of practice; it's a matter of policy. I appreciate the Commission's focus on the importance of providing a quality education in the Muslim world that teaches tolerance, the dignity and value of each individual, and a respect for different beliefs. As Ranking Member of the House Appropriations Subcommittee on Foreign Operations, I have worked to quadruple U.S. spending on basic education abroad, from \$98 million in FY 2000 to a total of \$400 million for FY 2005. I have always maintained that support for this objective is a matter of national security—not just a nice thing to do—and I am pleased to have the unanimous support of the Commission in this endeavor.

The Commission's report has provided Congress with a road map. The speed and resolve with which we follow this road map will have serious consequences for the security of the American people. I urge this Committee and this Congress to listen carefully to our witnesses today, and to act quickly to make our country more safe.

PREPARED STATEMENT OF THE HONORABLE KAREN MCCARTHY

Thank you Chairman Cox and Ranking Member Turner for convening this important hearing.

On September 11, 2001 the world watched in horror as terrorists attacked our country. They were able to invade our country and commit these terrible acts of violence.

The release of the bipartisan 9/11 Commission Report has told us what went wrong but most importantly provides us a roadmap to prevent this from happening in the future. Their recommendations are the actions that we in Congress must take to prepare and prevent another attack.

The Commission found that lack of intelligence information sharing between the CIA, FBI and other government agencies was the greatest weakness leading to the 9/11 attacks. They found that even when intelligence was shared there still was an inability to make sense of this information and take immediate action. I strongly agree with the Commission's recommendation that the President should lead a government wide effort to help fix these critical problems within our intelligence gathering organizations. If this had happened before the 9/11 attacks many lives may have been saved. These institutions must be able to collect, analyze and share intelligence expeditiously and have the means to pass on and collect intelligence to and from our state and local officials who serve on the front lines.

The Commission recommends the establishment of a National Counterterrorism Center, built upon the foundation of the existing Terrorist Threat Integration Center (TTIC). They also recommend the consolidation of budgetary and operational oversight of all fifteen intelligence agencies and the naming of a new National Intelligence Director to unify the intelligence community. As the Ranking Member on the Intelligence and Counterterrorism Subcommittee of the Select Committee on Homeland Security, I whole heartedly support these recommendations.

The international collection and sharing of information is extremely important to stopping terrorists. The Commission recommends a global strategy for the United States to “. . . reach out, listen to, and work with other countries. . .” Congress must embrace this strategy. During the first part of August, I joined with my Homeland Security Committee colleagues on an intelligence gathering trip to the UK and Northern Ireland and the Republic of Ireland. We learned about the existence of foreign terrorist cells from their intelligence agencies and had a very frank exchange about how we can help each other in the fight against terrorism. I was very pleased to see that the 9/11 Commission Report recommends that United States “. . . should reach out, listen to, and work with other countries. . .” as a means of gathering intelligence.

Now that the 9/11 Commission has done its job, we need to do ours. Today's hearing puts us a step closer to preventing another terrorist attack. I urge the leadership of Congress to follow the lead of this Committee.

I want thank the 9/11 Commissioners and the staff for their hard work and dedication. This report should become our bible in winning the war on terrorism.

I look forward to hearing from our witnesses today on how we can quickly move forward to create a new National Counterterrorism Center, name a National Intelligence Director, develop a global strategy for working with our allies and implement all of the Commission's recommendations. Thank you Mr. Chairman.

PREPARED STATEMENT OF THE HONORABLE LOUISE M. SLAUGHTER

Thank you, Chairman Cox and Ranking Member Turner for holding this timely and important hearing, and thank you Governor Kean and Representative Hamilton for joining us.

I would like to start by giving special recognition to the two fine men before us today for their yeoman's work.

The fortitude and great character that Governor Kean and Representative Hamilton exhibited *at every point* in the process is truly remarkable. From the very beginning, we could see that these two men took their responsibilities to the 9-11 families and the American people very seriously.

As we are all aware, the process for investigating the attacks was not always smooth. In some corners, there were those who tried to denigrate the effort to secure key testimony and access to records. There were even some who chose to characterize the effort to secure this information *as partisan*. Those critics were blind to what was really behind this effort.

On 9/11, I stood on the steps of the Capitol building, arm-in-arm with my colleagues in Congress to sing God Bless America. On that day, there was no such thing as Democrat or Republican. We were all just Americans. *It is that sense of unity and patriotic spirit that guided this Commission's work.*

Governor Kean, the other Commissioners, and the Commission staff were executing their solemn oath to the 9/11 families and the nation.

They did not execute their responsibilities to serve the interests of any one political party. No, they were on a mission to get to the truth to make America safer.

The 9/11 Commission was not focused on pointing fingers or laying blame. Rather, it was focused on providing the truth about what happened on that terrible, terrible day to the families of those lost in the September 11th attacks and all Americans.

The 9/11 Commission was also focused on providing us with a plan to ensure that our country is never as vulnerable as it was on September 11, 2001.

They could not have provided a higher service to this country.

I am pleased that the reaction to the 9/11 Commission report recommendations has been overwhelmingly positive. However, the Commissioners are right to be concerned that this report, like so many well-regarded reports before it, will be relegated to sitting on a shelf in all our offices, and see no action.

We cannot not—*we must not*—let that happen.

My constituents, the 9/11 families, and all Americans expect more than cosmetic changes from our government.

We must act on all 41 recommendations outlined by the 9/11 Commission—not merely the provisions that the President supports.

The focus of today's hearing is on information sharing—an area that has received significant attention by this panel since the Committee's inception in January 2003. The 9/11 Commission's findings seem to support what I have come to believe.

Despite the creation of the Department of Homeland Security in March 2003, our information sharing system is weak and the problems of interagency coordination that existed on September 11th *persist*.

The people I represent in Western New York are the kind of people who "call it like they see it". When it comes to current state of homeland security, they don't know what to think.

In the wake of the September 11th attacks, they stood ready to sacrifice; many going down to Ground Zero to help in the search and recovery. They still stand ready to withstand delay and discomfort, if it means our country will be safer.

But today, *nearly three years later*, they ask me how duct tape will make their families safer. They ask me why there are chronic delays at the U.S.-Canadian border, even when we're not at a heightened Orange Alert. They ask me how confiscating a key-chain pocketknife from an elderly man at the airport will make them safer.

As the Ranking Member of this panel's Rules Subcommittee, I am keenly interested in the Commission's views on the weaknesses in the current congressional oversight model.

Today, DHS officials must come before 88 congressional committees and subcommittees. How does that impact the Department's ability to execute its mission and Congress' ability to conduct oversight?

When it came to creating DHS, Congress accepted, on a bipartisan basis, that the merger of 22 Executive agencies would be required to ensure greater coordination and accountability.

Congress must now put aside its petty jurisdictional fights and enhance accountability by adopting a centralized model of oversight.

This is not just my opinion, it's what the 9/11 Commission recommends.

In fact, the Commission calls on Congress to "create a single, principal point of oversight and review for homeland security." By the Commission's own admission, "[o]f all our recommendations, strengthening congressional oversight may be among the most difficult and *important*."

As someone who has served in this body for 18 years, I must commend the Commission for its accurate assessment of the challenges ahead.

I am interested in hearing from Representative Hamilton, a 34-year veteran of the House, on how to overcome the jurisdictional hurdles and develop a centralized approach to oversight.

I am also interested to hear the panelists' views on making *this Committee* permanent—as the primary House Committee in charge of overseeing the Department of Homeland Security.

After months of study, I strongly believe that this Committee is uniquely situated to undertake the challenges of enhanced congressional oversight. Congress should make *this Committee* permanent to do just that.

I also must reiterate that Congress must act on all forty-one recommendations. For this to be accomplished, Congress will not only have to put partisanship aside but also abandon jurisdictional wrangling. Such action is essential to giving the American people the homeland security they deserve.

Thank you Mr. Chairman and Ranking Member Turner for holding this important hearing.

Chairman COX. Is there objection?

Hearing none, we will move immediately to the testimony of our distinguished witnesses, the chairman and vice chairman of the National Commission on Terrorist Attacks Upon the United States.

Chairman COX. Governor Kean, we will begin with you.

**STATEMENT OF THE HONORABLE THOMAS H. KEAN, CHAIR,
NATIONAL COMMISSION ON TERRORIST ATTACKS UPON
THE UNITED STATES**

Mr. KEAN. Chairman Cox, Ranking Member Turner, distinguished members of the House Select Committee on Homeland Security, I want to thank you, the ranking member and the chairman for their statements. We appreciate that it is a wonderful summary of our recommendations and your statements of support. I thank you on behalf of the Commission and the American people very much.

We are honored to appear before you today. We want to thank you and the leadership of the House of Representatives for your very prompt attention to our recommendations. We are very grateful to you and the leadership for that attention.

The Commission's findings and recommendations, as you know, were strongly endorsed by all commissioners, five Democrats, and five Republicans. We share a unity of purpose and we call upon Congress and the administration to display that same bipartisanship and that same unity of purpose as we all strive to make our country and all Americans safer and more secure. How information is shared in our government, and not just at the Federal level, but with State and local agencies, is a matter of critical importance to homeland security and to national security.

As we looked at the 9/11 story, we found that the failure to share information cost us very dearly. All agencies, Federal, State, and local, need to have information available in a timely manner because they all have responsibilities to protect Americans. We need to get this right.

What we learned in our 9/11 story is that the U.S. Government has access to a vast amount of information. We have Customs and immigration information, FBI and police reports, and so much more. The storehouse of information is immense. But the government has very weak systems for processing and using that information it possesses, especially when that information has to be used across agency lines.

Our report details many unexploited opportunities to disrupt the 9/11 plot, failures to watchlists, failures to share information, failures to, as we say, “connect the dots.”

The story of Hamzi and Mihdhar in Kuala Lumpur in January of 2000 is just one of a number of examples. We caught a glimpse, we found those future hijackers, but we lost their trail somehow in Bangkok. And because information wasn’t shared when these people came to the United States and were living openly on the West Coast, Los Angeles and San Diego, the FBI didn’t know about it. And the FBI didn’t learn until August of 2001 that Hazmi and Mihdhar were in the United States. And so they suddenly started pursuing leads, but that was too late, and time on that fateful day just simply ran out.

Agencies live by the need-to-know rule. They limit the sharing of information. Each agency has its own computer system, its own security practices, and these are outgrowths of the Cold War. Implicit in their practices is the assumption that the risk of inadvertent disclosure outweighs the benefits of larger sharing among agencies. And we believe, as a commission, that that is a Cold War assumption and it is no longer appropriate.

In the 9/11 story we came to understand the huge cost of failing to share information across agency boundaries. Yet the current practices of government, security practices encourage overclassification.

Now, we understand the critical importance of protecting sources and methods. We believe it is also important to share information. There are plenty of penalties for unauthorized disclosure, but you know there isn’t one single penalty for not sharing information.

We believe that information procedures across the government need to be changed, that there should be incentives provided for sharing information. Intelligence gathered about transnational terrorism should be processed, turned into reports, and distributed according to the same quality standards whether it is collected in Indonesia or Minnesota.

We believe the President needs to lead a government-wide effort to bring the major national security institutions into the information revolution. The President needs to lead the way and coordinate the resolutions of the legal, policy, and technical issues across agency lines so that we can make sure in the future that this important information is shared.

The model is a decentralized network. Agencies would still have their own databases, but those databases would be searchable

across agency lines. In the system, in this system, secrets are protected. They are protected, though, through the design of the network that controls access to the data. They don't prevent people from having access to the network.

An outstanding conceptual framework for this kind of trusted information network has been developed by a task force of leading professionals in national security, information technology and laws as they are all assembled by the Markle Foundation. Its report has been widely discussed throughout the U.S. Government, but so far it has just been discussed; it hasn't been converted into action.

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

In a hearing that Lee Hamilton and I testified at last week, a Member of Congress asked us what information about terrorism did the pilot of American 11 have available to him on the morning of September 11th? And the answer is very simple: He had none. Despite his professional training and military experience, he was given no useful information to help him or the crew to protect the passengers of that plane. In fact, his training told him that if there was a hijacking, you submit to it, protect the passengers, and eventually perhaps you would land in Havana and then go home.

Now, contrast this with the situation on United 93 when the passengers and crew learned from phone conversations with their loved ones about the attacks on the World Trade Center. They took action as citizens. They saved the Capitol, or the White House, we don't know which, from probable destruction. An informed citizenry, a citizenry that knows the facts, is this Nation's best defense.

For the same reason, we believe it is imperative that as much information as possible be shared with State and local authorities. There are a lot more of them than there are Federal authorities, and they too can take action to protect the homes of their fellow citizens.

There are some 18,000 State and local law enforcement agencies in the United States. If we can harness the awareness and experience of these dedicated professionals, as a Nation we will greatly enhance our security. Reforms of the kind we recommend will push more important information out to State and local agencies. The more everyone charged with our security knows, the more information they have, and the safer we all will be.

Let me turn for a moment to some of our findings and recommendations. As our report makes clear, the decade before 9/11 border security was simply not seen as a national security matter. From a strategic perspective, border policy focused on counter-narcotics efforts, illegal immigration, and more recently perhaps, the smuggling of weapons of mass destruction.

Our government simply did not exhibit a comparable level of concern about terrorists' ability to enter and stay in the United States. During that same period, Al-Qa'ida was working very hard. They were studying all our systems. They were learning how to exploit gaps and weaknesses in our passport system and our visa system, our entry systems of the United States and other countries. Al-

Qa'ida actually set up its own passport office in Kandahar and developed working relationships with travel facilities, travel agents, some of them witting, some of them unwitting, document forgers, corrupt government officials to move their people around.

More robust enforcement of routine immigration laws, supported by better information, might have made a real difference in stopping these hijackers. Had information been shared and these terrorists watchlisted, border authorities could have intercepted up to three of those hijackers. Two hijackers made patently false statements on their visa applications. They could have been shown to be false by U.S. Government records, and those records were available to consular officials. Many of the hijackers lied about their employment or lied about their educational status. Two hijackers could have been denied admission to ports of entry based on violations of immigration rules themselves governing the terms of admission. Three hijackers violated the immigration laws after entry. One who said he was going to enroll in school and then never did, two by overstays of their terms of admission.

Although the intelligence as to their tactics was not known at the time, examining their passports could have allowed authorities to detect at least four and possibly up to 15 hijackers.

Neither the Intelligence Community, nor the border security agencies or the FBI, had programs in place to analyze and act upon intelligence about terrorists' travel tactics—how they obtained their passports, how they made travel arrangements and subverted national laws and processes governing entry and stays in foreign countries.

Now, Congress during the 1990's took some steps to provide better information to immigration officials by legislating requirements for a foreign student information system and entry-exit system. As we know, these programs had not yet successfully been completed by 9/11.

Since 9/11, some important steps have been taken to strengthen our border security. The Department of Homeland Security has been established, combining the resources of the former Immigration and Naturalization Service and the Customs Bureau into new agencies to protect our borders and to enforce the immigration laws within the United States. The visa process and the terrorist watchlist system have been strengthened. DHS has begun to implement, through the US VISIT program, a biometric screening system for use at the borders.

Now, we believe, as a commission, there is no question that these efforts have made us safer, but they have not made us safe. As a nation, we have not yet fully absorbed the lessons that we should have learned from 9/11 with respect to border security. When they travel, that is the time that terrorists are at their most vulnerable. You see, they have to leave safer havens where they have been. They have to travel secretly. They have to use evasive techniques, from altered travel documents to lies or cover stories. Terrorist entry can often be prevented and terrorist travel can be constrained by acting on this knowledge and understanding it. Targeting terrorist travel is at least as powerful a weapon against terrorists as targeting their finances. The Commission therefore has recommended that we combine terrorist travel intelligence, oper-

ations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility.

Frontline border agencies must not only obtain from the Intelligence Community, on a real-time basis, information on terrorists, they must also assist in collecting it. Consular officers and immigration inspectors, after all, are the people who encounter these terrorists. They encounter travelers, they encounter their documents.

Specialists must be developed and deployed in consulates and at the border to detect terrorists in their travel practices, including looking very carefully at their documents. Technology has a vital role to play. Three years after 9/11 it is more than time for border officials to integrate into their operations terrorist travel indicators that have been developed by our Intelligence Community. The Intelligence Community and the border security community, they really haven't been close partners in the past. This simply must change.

We also need an operational program to target terrorist travel facilitators—forgers, human smugglers, travel agencies and corrupt border officials. Some may be found in this country. Most will be found abroad. Disrupting them will seriously hurt the terrorists. While there have been some successes in this area, intelligence far outstrips action. This should be rectified by providing the inter-agency mandate and the necessary resources to Homeland Security's enforcement arm, immigration and customs enforcement, and other relevant agencies, including, by the way, the FBI.

This problem illustrates the need for a National Counterterrorism Center. Investigations of travel facilitators invariably raise complicated questions. For instance, should a particular travel facilitator be arrested or should he be the subject of continued intelligence operations? If he is going to be arrested, in which country do you do it? A National Counterterrorism Center is needed to bring the numerous agencies to the table so that they can talk together in a unified way, decide in each case what is the best course of action.

And I now turn to my partner and friend and teacher, Lee Hamilton.

STATEMENT OF THE HONORABLE LEE H. HAMILTON, VICE CHAIR, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. HAMILTON. Thank you very much, Governor. Let me join you in thanking you Chairman Cox, Ranking Member Turner, Congresswoman Dunn, for your really superb statements. It was very pleasing to us to hear the manner in which you summarized our report.

I want to say just a word, that it has been a high personal privilege for me to work with Tom Kean. He is a consensus builder, a talent I think that is rare even among politicians today. And it has been one of the great privileges of my public career to work with Tom.

And I also want to express a word of personal appreciation to each of the members for returning for this hearing in August. That

is really unprecedented. And Tom and I and the Commission are very grateful to you for your interest in our report.

I will begin on screening systems. To provide better information to our consular officers and immigration inspectors, the government must accelerate its efforts to build a biometric entry and exit screening system. This is an area in which Congress has been active since the mid-1990's, and it has been a frustrating journey.

Congress first legislated an entry-exit system in 1996 to increase compliance with our immigration laws. It was not associated with counterterrorism nor with biometric identification. As a practical matter, the entry-exit effort was not seriously funded until the end of 2002. By that time, aspects of the system were directed by four separate laws. The establishment of the Department of Homeland Security then changed the organizational context for implementing those laws.

The new department is emerging from its difficult start-up period and is, we believe, poised to move forward to implement Congress' mandates in this area. We stress four principles that we believe must guide our efforts:

First, the U.S. border security system is effectively a part of a larger network of screening points that includes our transportation system and access to vital facilities such as nuclear reactors. The Department of Homeland Security should lead an effort to design a comprehensive screening system, addressing common problems and setting common standards with system-wide goals in mind.

Second, a biometric entry and exit screening system is fundamental to intercepting terrorists, and its development should be accelerated. Each element of the system is important. The biometric identifier makes it difficult to defeat a watchlist by slight alteration in the spelling of a name, a technique relied upon by the terrorists. The screening system enables border officials' access to all relevant information about a traveler in order to assess the risk they may pose. Exit information allows authorities to know if a suspect individual has left the country and to establish compliance with immigration laws.

Third, United States citizens should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified, nor should Canadians or Mexicans.

Fourth, there should be a program to speed known travelers so inspectors can focus on those travelers who might present greater risks. This is especially important for border communities.

We believe that the schedule for completion of this biometric entry-exit screening system should be accelerated to the extent feasible. This will require additional annual funding and a mandate to a central organizational authority such as the US VISIT office to manage the effort. We need much greater collaboration with foreign governments on border security. This means more exchange of information about terrorists and passports and improved global passport design standards. Implicit in this recommendation is continued close cooperation with Mexico and Canada.

It is especially important to improve screening efforts prior to departure from foreign airports, especially in countries participating in the visa waiver program. We must be able to monitor and re-

spond to entries along our long borders with Canada and Mexico, working with those countries as much as possible.

Our law enforcement system ought to send a message of welcome, tolerance, and justice to members of the immigrant communities in the United States. Good immigration services are one way to reach out that is valuable, including for intelligence. State and local law enforcement agencies need more training and partnerships with Federal agencies so they can cooperate more effectively with those Federal authorities in identifying terrorist suspects.

Finally, secure identification should begin in the United States. We believe the Federal Government should set standards for the issuance of birth certificates and sources of identification such as driver's licenses.

The agenda on immigration and border control, then, is multifaceted and vital to our national security. The bottom line is that our visa and border control systems must become an integral part of our counterterrorism intelligence system. We must steer a course that remains true to our commitment to an open society and that welcomes legitimate immigrants and refugees, while concentrating our resources on identification of potential terrorists and prevention of their entry into the United States.

We recommend that homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Now, in 2004, Washington, D.C., and New York City are certainly at the top of any such list.

We understand the contention that every State and city needs to have some minimum infrastructure for emergency response. But Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel.

The 9/11 attacks showed that even the most vigorous emergency response capabilities can be overwhelmed if an attack is large enough. We recommend that emergency response agencies nationwide should adopt the incident command system. When multiple agencies or multiple jurisdictions are involved, they should adopt a unified command. Both are proven frameworks for emergency response.

We strongly support the decision that Federal homeland security funding will be contingent, as of October 1, 2004, upon the adoption and regular use of ICS and unified command procedures. In the future, the Department of Homeland Security should consider making funding contingent on aggressive and realistic training in accordance with ICS and unified command procedures.

The inability to communicate was a critical element at the World Trade Center, Pentagon, and Pennsylvania crash sites where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.

Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes. Furthermore, high-risk urban areas such as

New York City and Washington, D.C., should establish signal corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding for such units should be given a high priority by Congress.

The private sector controls 85 percent of the critical infrastructure of the United States. The Department of Homeland Security's mandate includes working with the private sector to ensure preparedness. Preparedness in the private sector and public sector for rescue, restart, and recovery of operations should include a plan for evacuation, adequate communications capabilities, and a plan for continuity of operations.

As we examined the emergency response to 9/11, witness after witness told us that despite 9/11, the private sector remains largely unprepared for a terrorist attack. We were also advised that the lack of a widely embraced private-sector preparedness standard was a principal contributing factor in this lack of preparedness. The Commission, therefore, endorses the American National Standard Institute's recommended standard for private preparedness, and we thank them for developing that. We were encouraged by Secretary Tom Ridge's praise of the standard and urged the Department of Homeland Security to promote its adoption.

We also encouraged the insurance and credit rating industries to look closely at a company's compliance with the ANSI standard in assessing its insurability and creditworthiness. We believe that compliance with the standard should define the standard of care owed by a company to its employees and the public for legal purposes.

Private-sector preparedness is not a luxury, it is a cost of doing business in the post-9/11 world. If we ignore it, the potential costs in lives, money and national security will be inestimable.

Mr. Chairman, we believe the recommendations we have presented this morning, as well as the many other recommendations we have made on foreign policy, public diplomacy, and transportation security, can make a significant difference in making America safer and more secure.

We also recommend reforms in the structure of the executive branch and the Congress. We believe that organizational reforms in the absence of implementing the other reforms and recommendations in our report will have significantly less value than the value of these reforms as a complete package.

In short, while we welcome each step toward implementation of our recommendations, no one should be mistaken in believing that organizational reforms alone can address the current terrorist threat we face. We are very gratified by the rapid response of the President and the White House to our recommendations. We welcome the President's support for a National Intelligence Director and National Counterterrorism Center. We welcome the support of Senator Kerry.

We look forward to working with you on our recommendations.

We should seize this historic opportunity and move expeditiously. With your counsel and direction, we believe the Nation can and will make wise choices.

And we are pleased now to respond to your questions.

[The statement of Messrs. Kean and Hamilton follows:]

PREPARED STATEMENT OF CHAIRMAN THOMAS KEAN AND VICE CHAIR LEE HAMILTON

The 9/11 Commission's Findings and Recommendations

Chairman Cox, Ranking Member Turner, distinguished members of the House Select Committee on Homeland Security. We are honored to appear before you today. We want to thank you and the leadership of the House of Representatives for your prompt attention to the recommendations of the Commission. We are grateful to you, and to the leadership of the House.

The Commission's findings and recommendations were strongly endorsed by all Commissioners—five Democrats and five Republicans. We share a unity of purpose. We call upon Congress and the Administration to display the same spirit of bipartisanship as we collectively seek to make our country and all Americans safer and more secure.

How information is shared in our government—not just at the federal level, but with state and local agencies—is a matter of critical importance to homeland security, and to national security. As we looked into the 9/11 story, we found that the failure to share information cost us dearly. All agencies—**federal, state, and local**—need to have information available in a timely manner to protect Americans. We need to get this right.

Unity of Effort in Sharing Information

What we learned in the 9/11 story is that the U.S. government has access to a vast amount of information. We have customs and immigration information, FBI and police reports, and much more. The storehouse of information is immense. But the government has weak systems for processing and using the information it possesses, especially across agency lines.

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

Agencies live by the “need to know” rule. They limit the sharing of information. Each agency has its own computer system and its own security practices, outgrowths of the Cold War. Implicit in their practices is the assumption that the risk of inadvertent disclosure outweighs the benefits of wider sharing. We think this Cold War assumption is no longer appropriate. In the 9/11 story we came to understand the huge costs of failing to share information across agency boundaries. Yet, in the current practices of government, security practices encourage overclassification.

We understand the critical importance of protecting sources and methods. We believe it is also important to share information. There are plenty of penalties for unauthorized disclosure; there are no punishments for *not* sharing information.

We believe that information procedures across the government need to be changed, to provide incentives for sharing. Intelligence gathered about transnational terrorism should be processed, turned into reports, and distributed according to the same quality standards, whether it is collected in Indonesia, or in Minnesota.

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

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

An outstanding conceptual framework for this kind of “trusted information network” has been developed by a task force of leading professionals in national security, information technology, and law assembled by the Markle Foundation. Its report has been widely discussed throughout the U.S. government, but has not yet been converted into action. The point here is that no single agency can do this alone. One agency can modernize its stovepipe, but cannot design a system to replace it. Only presidential leadership can develop the necessary government-wide concepts and standards.

Sharing Information with State and Local Authorities

In a hearing last week, a Member of Congress asked us: what information about terrorism did the pilot of American 11 have available to him on the morning of September 11? He had none. Despite his professional training and military experience, he had no useful information to help him or the crew protect the passengers or plane.

We contrast this with the situation on United 93. When the passengers and crew learned from phone conversations about the attacks on the World Trade Center, they took action. They saved the Capitol or White House from destruction. An informed citizenry is the nation's best defense. For the same reason, we believe it is imperative that as much information as possible be shared with state and local authorities. They, too, can then take action to protect their homes and fellow citizens.

There are some 18,000 state and local law enforcement agencies in the United States. Harnessing the awareness and experience of these dedicated professionals can greatly enhance our security. Reforms of the kind we recommend will push more important information out to state and local agencies. The more everyone charged with our security knows, the more information they have, the safer we will all be.

We will turn to some of our other findings and recommendations.

Border Control

As our Report makes clear, in the decade before 9/11, border security was not seen as a national security matter. From a strategic perspective, border policy focused on counternarcotics efforts, illegal immigration, and, more recently, the smuggling of weapons of mass destruction. Our government simply did not exhibit a comparable level of concern about terrorists' ability to enter and stay in the United States.

During that same period, however, Al-Qa'ida studied how to exploit gaps and weaknesses in the passport, visa, and entry systems of the United States and other countries. Al-Qa'ida actually set up its own passport office in Kandahar and developed working relationships with travel facilitators—travel agents (witting or unwitting), document forgers, and corrupt government officials.

More robust enforcement of routine immigration laws, supported by better information, might have made a difference in stopping the hijackers.

- Had information been shared and the terrorists been watchlisted, border authorities could have intercepted up to three of the hijackers.
- Two hijackers made statements on their visa applications that could have been shown to be false by U.S. government records available to consular officers.
- Many of the hijackers lied about their employment or educational status.
- Two hijackers could have been denied admission at the port of entry based on violations of immigration rules governing terms of admission.
- Three hijackers violated the immigration laws after entry, one by failing to enroll in school as declared, and two by overstays of their terms of admission.
- Although the intelligence as to their tactics was not developed at the time, examining their passports could have allowed authorities to detect from four to 15 hijackers

Neither the intelligence community, nor the border security agencies or the FBI, had programs in place to analyze and act upon intelligence about terrorist travel tactics—how they obtained passports, made travel arrangements, and subverted national laws and processes governing entry and stays in foreign countries.

Congress during the 1990s took some steps to provide better information to immigration officials by legislating requirements for a foreign student information system and an entry-exit system. As we know, these programs were not successfully completed before 9/11.

Since 9/11, some important steps have been taken to strengthen our border security. The Department of Homeland Security has been established, combining the resources of the former Immigration and Naturalization Service and the Customs Bureau into new agencies to protect our borders and to enforce the immigration laws within the United States. The visa process and the terrorist watchlist system have been strengthened. DHS has begun to implement, through the US VISIT program, a biometric screening system for use at the border.

Targeting Terrorist Travel

These efforts have made us safer, but not safe enough. As a nation we have not yet fully absorbed the lessons of 9/11 with respect to border security. The need to travel makes terrorists vulnerable. They must leave safe havens, travel clandestinely, and use evasive techniques, from altered travel documents to lies and cover stories. Terrorist entry often can be prevented and terrorist travel can be con-

strained by acting on this knowledge. Targeting terrorist travel is at least as powerful a weapon against terrorists as targeting their finances.

The Commission therefore has recommended that we combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility.

Front line border agencies must not only obtain from the Intelligence Community, on a real-time basis, information on terrorists, they must also assist in collecting it. Consular officers and immigration inspectors, after all, are the people who encounter travelers and their documents.

Specialists must be developed and deployed in consulates and at the border to detect terrorists through their travel practices, including their documents. Technology has a vital role to play. Three years after 9/11 it is more than time for border officials to integrate into their operations terrorist travel indicators that have been developed by the intelligence community. The intelligence community and the border security community have not been close partners in the past. This must change.

We also need an operational program to target terrorist travel facilitators—forgers, human smugglers, travel agencies, and corrupt border officials. Some may be found here, but most will be found abroad. Disrupting them would seriously constrain terrorist mobility. While there have been some successes in this area, intelligence far outstrips action. This should be rectified by providing the interagency mandate and the necessary resources to Homeland Security's enforcement arm, Immigration and Customs Enforcement (ICE), and other relevant agencies, including the FBI.

This problem illustrates the need for a National Counterterrorism Center. Investigations of travel facilitators invariably raise complicated questions: Should a particular travel facilitator be arrested or should he be the subject of continued intelligence operations? In which country should he be arrested? A National Counterterrorism Center is needed to bring the numerous agencies to the table to decide on the right course of action.

Screening Systems

To provide better information to our consular officers and immigration inspectors, the government must accelerate its efforts to build a biometric entry and exit screening system. This is an area in which Congress has been active since the mid-1990's. It has been a frustrating journey.

Congress first legislated an entry-exit system in 1996, to increase compliance with our immigration laws. It was not associated with counterterrorism, nor with biometric identification. As a practical matter, the entry-exit effort was not seriously funded until the end of 2002. By that time, aspects of a system were directed by four separate laws. The establishment of the Department of Homeland Security then changed the organizational context for implementing those laws.

The new Department is emerging from its difficult start-up period and is, we believe, poised to move forward to implement Congress's mandates in this area. We would like to stress four principles that we believe must guide our efforts in this arena.

First, the U.S. border security system is effectively a part of a larger network of screening points that includes our transportation system and access to vital facilities, such as nuclear reactors. The Department of Homeland Security should lead an effort to design a comprehensive screening system, addressing common problems and setting common standards with system-wide goals in mind.

Second, a biometric entry and exit screening system is fundamental to intercepting terrorists and its development should be accelerated. Each element of the system is important. The biometric identifier makes it difficult to defeat a watchlist by a slight alteration in spelling of a name, a technique relied upon by terrorists. The screening system enables border officials access to all relevant information about a traveler, in order to assess the risk they may pose. Exit information allows authorities to know if a suspect individual has left the country and to establish compliance with immigration laws.

Third, United States citizens should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified. Nor should Canadians or Mexicans.

Fourth, there should be a program to speed known travelers, so inspectors can focus on those travelers who might present greater risks. This is especially important for border communities.

We believe that the schedule for completion of this biometric entry-exit screening system should be accelerated to the extent feasible. This will require additional annual funding, and a mandate to a central organizational authority, such as the US VISIT office, to manage the effort.

International Collaboration

We need much greater collaboration with foreign governments on border security. This means more exchange of information about terrorists and passports, and improved global passport design standards. Implicit in this recommendation is continued close cooperation with Mexico and Canada. It is particularly important to improve screening efforts prior to departure from foreign airports, especially in countries participating in the visa waiver program.

Immigration Law and Enforcement

We must be able to monitor and respond to entries along our long borders with Canada and Mexico, working with those countries as much as possible. Our law enforcement system ought to send a message of welcome, tolerance, and justice to members of the immigrant communities in the United States. Good immigration services are one way to reach out that is valuable, including for intelligence. State and local law enforcement agencies need more training and partnerships with federal agencies so they can cooperate more effectively with those federal authorities in identifying terrorist suspects.

Finally, secure identification should begin in the United States. We believe that the federal government should set standards for the issuance of birth certificates and sources of identification such as drivers' licenses.

The agenda on immigration and border control, then, is multi-faceted and vital to our national security. The bottom line is that our visa and border control systems must become an integral part of our counterterrorism intelligence system. We must steer a course that remains true to our commitment to an open society and that welcomes legitimate immigrants and refugees, while concentrating our resources on identification of potential terrorists and prevention of their entry into the United States.

Setting Priorities

We recommend that homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Now, in 2004, Washington, D.C., and New York City are certainly at the top of any such list.

We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel.

Command, Control, and Communications

The 9/11 attacks showed that even the most vigorous emergency response capabilities can be overwhelmed if an attack is large enough. We recommend that emergency response agencies nationwide should adopt the Incident Command System (ICS). When multiple agencies or multiple jurisdictions are involved, they should adopt a unified command. Both are proven frameworks for emergency response.

We strongly support the decision that federal homeland security funding will be contingent, as of October 1, 2004, upon the adoption and regular use of ICS and unified command procedures. In the future, the Department of Homeland Security should consider making funding contingent on aggressive and realistic training in accordance with ICS and unified command procedures.

The inability to communicate was a critical element at the World Trade Center, Pentagon, and Pennsylvania crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, state, and federal levels remains an important problem.

Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes. Furthermore, high-risk urban areas such as New York City and Washington, D.C., should establish signal corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress.

Private-Sector Preparedness

The private sector controls 85 percent of the critical infrastructure of the United States. The Department of Homeland Security's mandate includes working with the private sector to ensure preparedness.

Preparedness in the private sector and public sector for rescue, restart, and recovery of operations should include (1) a plan for evacuation, (2) adequate communications capabilities, and (3) a plan for continuity of operations. As we examined the emergency response to 9/11, witness after witness told us that, despite 9/11, the private sector remains largely unprepared for a terrorist attack. We were also advised

that the lack of a widely embraced private-sector preparedness standard was a principal contributing factor to this lack of preparedness.

The Commission therefore endorses the American National Standard Institute's recommended standard for private preparedness. We were encouraged by Secretary Tom Ridge's praise of the standard, and urge the Department of Homeland Security to promote its adoption.

We also encourage the insurance and credit-rating industries to look closely at a company's compliance with the ANSI standard in assessing its insurability and creditworthiness. We believe that compliance with the standard should define the standard of care owed by a company to its employees and the public for legal purposes.

Private-sector preparedness, we believe, is not a luxury; it is a cost of doing business in the post-9/11 world. If we ignore it, the potential costs in lives, money, and national security will be inestimable.

Closing Comments

Mr. Chairman, we believe the recommendations we have presented this morning—as well as the many other recommendations we have made on foreign policy, public diplomacy, and transportation security—can make a significant difference in making America safer and more secure.

We also recommend reforms in the structure of the Executive branch and the Congress. We believe that organizational reforms, in the absence of implementing the other reforms and recommendations in our report, will have significantly less value than the value of these reforms as a complete package.

In short, while we welcome each step toward implementation of our recommendations, no one should be mistaken in believing that organizational reforms alone can address the current terrorist threat we face.

We are gratified by the rapid response of the White House to our recommendations. We welcome the President's support for a National Intelligence Director, and a National Counterterrorism Center. We welcome the support of Senator Kerry.

We look forward to working with you on our recommendations.

We should seize this historic opportunity and move expeditiously. With your counsel and direction, we believe that the nation can, and will, make wise choices.

We would be pleased to respond to your questions.

Chairman COX. I thank you both for your excellent statements.

I would like to begin with the point that Lee Hamilton has just made, that organizational changes will not be enough—your report makes this very, very clear—unless we also address the deep-rooted cultural resistance to sharing that is shot through the executive branch. Your report states that, quote, “The biggest impediment to all-source analysis is the human or systemic resistance to sharing information.”

I want to ask you whether or not one of the highest purposes, therefore, to which a National Intelligence Director might be addressed is enforced sharing. Might we not consider that the National Intelligence Director have as his or her highest order of business the enforced sharing of information across jurisdictional lines?

You mentioned, Governor Kean, the Markle report, which you have also drawn attention to in your Commission report. It is something that we have focused on in this committee. We must move, in my view, I agree completely, to a trusted information network along the lines of the Markle commission has proposed because agency-owned databases have to be made accessible across agency lines.

That is a step beyond the TTIC concepts. Might this not be something that the National Intelligence Director would be tasked with enforcing?

On the other side of this coin, I would like you to address concerns that a National Intelligence Director, to the extent he or she has programmatic responsibility, might homogenize the require-

ments that are currently in place across the Intelligence Community.

As you know, we employ enough people in the Intelligence Community to populate a midsize U.S. city. There are 15 separate intelligence agencies, each with their own unique capabilities and missions, each of those critical to our national security. Currently, our chief national security priority is fighting terrorism, but if history is any guide, we will in the future at some point in the indefinite future face a war between nations. And one of the highest purposes of intelligence is to forestall conflict between nations.

What can we do to make sure that we don't dilute the positions on the field played by each of these intelligence agencies, to make sure that by funneling everything through a single National Intelligence Director we don't—to make sure that we maintain the distinct purposes of each of these 15 agencies in our Intelligence Community.

Separately, from NID, I would like you to address the question of the National Counterterrorism Center, in specifics, its relationship to the Department of Homeland Security. As you know, Congress created within the Department of Homeland Security the Information Analysis and Infrastructure Protection directorate with the purpose of fusing both domestic and foreign intelligence and then disseminating that to State and local government and the private sector. One of the reasons, one of the several reasons that CIA was not given this function is that there is significant reach into our local communities, into the domestic United States, into the private sector beyond anything that we have asked CIA to do in the past; and we have abiding civil liberties concerns with breaching those walls that have been erected in the past for a very good purpose.

The Department of Homeland Security now having been created for that purpose, TTIC now having been created separately from it outside the department, we are now faced with a proposal for a National Counterterrorism Center. Will it subsume TTIC? Will it subsume IAIP? Will it move its analysis directly to State, local, and private-sector entities?

So if you would please address both the National Intelligence Director and the National Counterterrorism Center proposals and recommendations with those questions in mind, I would appreciate it.

Mr. HAMILTON. That is a very formidable list you have us, Mr. Chairman. On the first point, you are absolutely right. We think that someone has to enforce sharing and that is a principal role of the national intelligence director. You have a lot of marvelous groups out here in the intelligence community who do very good work. The intelligence community is organized basically on the method of collection. And they do an excellent job in developing information through their particular means of collection. What does not happen is that intelligence community agencies share that information and our analysis of 9/11 was that a principal cause of 9/11 was because the intelligence agencies did not share. You have to find some way to smash the stovepipes.

And I think that can be done—has to be done by someone above them and therefore, the national intelligence director would have

that role and it is a critically important role as we understand it. You simply got to get a better flow of intelligence information across all of the intelligence agencies and make that information available, more available than it is—has been in the past. I think some progress has been made here since 9/11. I know a lot of dedicated patriotic officials are trying to do a better job of it, but the organization is standing in the way of the sharing.

Now the second point you raised with regard to homogeneity of intelligence is likewise an enormously significant question and one that we wrestle with a great deal. We do not believe that combining the intelligence agencies under one official undermines competitive analysis. Indeed, we want to encourage competitive analysis, and I think everybody does. It is a question of how best to put the structure together. I don't think anyone can claim that the current structure fosters tears competitive analysis. We just had the Senate report come out the other day on group think. And the whole idea there is that everybody is thinking the same way with regard to Iraq and you did not have competitive analysis. So it seems to me the status quo is not satisfactory with regard to the competitive analysis. Under our system, I want to emphasize that we have recommended not all of the analysis would fall under the director. The State Department would still have the INR. The Treasury would still have their intelligence. The Energy Department would still have their intelligence. The Army, the Air Force, the Navy, the Marine Corps would all have their intelligence units.

So the competitive analysis situation is very lively and viable. And the other point I would want to make here is that the focus we put on open source information, indeed we make it a special part of the national counterterrorism center, calls for the development of a new office or agency to collect and analyze intelligence that is available on the open source. I know that kind of runs counter to what you think with regard to intelligence agencies, but if you look back on 9/11, the fact of the matter is that almost all of the information that was available was available to all of us. All you had to do was read the newspaper. The problem was we just didn't put it together, none of us put it together, or at least very, very few of us put it together. So open source analysis is important and will help competition.

So we don't see any reduction of competitive analysis under our plan. We think even more. And we also would mention that very same objection was made to Goldwater-Nichols prior to that being brought into effect. We think our military is the best in the world today. We think it performs far better than ever because of the joint command system, and we believe that the intelligence community will perform better with joint mission centers.

The final point you made with regard to the NCTC, its relationship to the DHS, let me just say that there are two parts of our organizational chart. I don't know if you have that in front of you. It perhaps would be helpful if we did have it, the DHS, the Department of Homeland Security, is very much a part of the national intelligence centers. And they sit on the agency or the board where you have the deputy national intelligence director, who oversees homeland security. There are three deputies to the national intelligence director. One relates to the foreign field. That is CIA

clandestine services. The other relates to defense. That is NSA, NGA, NRO. And the third relates to homeland security or homeland intelligence and that is where the tie would be to DHS. We think that TTIC is the right concept, but it needs to be strengthened.

Mr. KEAN. I would add just very little to that except that we believe our proposal will strengthen analysis and enhance competitive analysis, right now viewed as marginalized from some of the agencies. And it can have dire consequences. An example, easy example of not sharing information is when we found Moussaoui. The FBI identified him as the guy trying to learn how to fly jumbo jets and not much else. That information was gathered by the FBI. It got to the CIA. It went right up to the director of the CIA. The director of the CIA said that is an FBI matter, and so he ignored it. It never got to the FBI. If there was at that point a counterterrorism center, that kind of information would have surfaced and people would have shared information and we believe there would have been fairly prompt action. And of course, there was no action on this before 9/11.

Mr. HAMILTON. You mentioned, Mr. Chairman you mentioned specifically and I neglected to respond to it, what happens to IAIP, the information analysis and infrastructure protection agency within the Department within the homeland security, the answer is under our proposal, the locus of analysis moves to the national counterterrorism center, but IAIP continues to exist and continues to support the Department requirements, infrastructure protection, support to State and local authorities, but the overall analysis moves to the national center.

Chairman COX. I thank you. We have a great deal more to delve into on these subjects, but my time has expired and I want to move this along, we are going to be operating on a strict five-minute rule to give members who travelled great distances to be here, the opportunity to ask their questions. And I now recognize Mr. Turner for his questions.

Mr. TURNER. Thank you, Mr. Chairman. Governor Kean, in your statement, you say, and I am looking at it here, we believe the President needs to lead a government-wide effort to bring the major national security institutions into the information revolution. And you also say further down in your statement, only presidential leadership can develop the necessary government-wide concepts and standards. And I hope we don't miss that message, because as I have reviewed the efforts to bring about an integrated information sharing system, it is clear to me that the Congress has made repeated efforts to accomplish that. We have passed, as Lee Hamilton said, four separate laws mandating an interoperable border security system. Back in 2000, Congress created an independent commission appointed by the Attorney General to report on how border agencies could efficiently and effectively carry out the mission of creating an integrated collection and data sharing system, including an integrated entry and exit system which was mandated by the Congress in 1996. It seems that this law creating this independent commission followed 4 years of costly delays at the former INS when they failed to develop such an integrated entry exit system. Congress authorized the task force that was created. It au-

thorized funding for fiscal years 2001 through 2008. In the first report of that Commission issued in December, 2002, the task force included an entire chapter on subjects that the task force would continue to research through 2003 and 2004, which included the development of an interoperable entry exit border system.

In December of 2002, Attorney General Ashcroft renewed the task force charge to study this issue, provided \$5.6 million to do it and assigned seven new staff divisions to accomplish it. And among the most significant efforts of this task force was to employ a group of eight scientists from the Los Alamos labs to study the 50 major border IT systems that are used in our government and to make recommendations. And when they issued their report in December of 2003, which, by the way, was on the eve of the implementation of this new U.S. VISIT program, these Los Alamos scientists stated that most of the existing border security systems could be readily integrated into an interoperable network so that one query could search numerous data bases simultaneously. They cautioned that the underlying technical infrastructure at the borders needed to be replaced with a more modern foundation in order to achieve interoperability.

It seems clear to me—oh, by the way, this task force was dismissed by the Department of Homeland Security after the task force warned, in its December 2003 report, that entry-exit U.S. VISIT is a critical component of the broader DHS strategy and any system that is designed or perceived as a stand alone system simply would not fit into a post-September 2001 world. The report went on to recommend an independent evaluation of U.S. VISIT. It seems very clear that this task force suspected that we were once again building another stovepipe. And it comes back down to your initial statement that I read when I began my question and that is, it takes presidential leadership to develop the necessary government-wide concepts and standards to have an interoperable system.

So I ask each of you if you were advising the President this morning and he were to say, yes, I will call in all the relevant players, the Cabinet secretaries and I will try to find out why after 3 years, we haven't created this interoperability that is so critical to preventing another 9/11, I would like you, based on your experience, to tell me what kind of excuses would we get from the relevant players for not moving forward more expeditiously to solve this problem? Where is the problem? You say it is presidential leadership. But even if the President were to lead, what kind of excuses would he get for this problem not being solved today?

Mr. HAMILTON. Well, first excuse would be need to know, I believe, because that is so embedded in our intelligence community today and we don't mean to dismiss that. That can be very important in protecting sources and methods. So you have to get a balance here. You have to get a balance on need to know on the one hand and need to share on the other. But the way we produce our intelligence in each of these areas, HUMINT over here, satellites over here, interceptions over here and other means, they all kind of hanging on to that information. And because the need to know philosophy is so deeply embedded in the intelligence community, they hang onto it. And they say, we are the only ones that really

have to know this information. Now that is understandable and it probably historically has validity to it, but we are in a different world now with terrorism. And we think that you have to elevate the need to share up to the need to know and maybe the balance has to tip a little towards need to share because it was precisely the lack of sharing of information that Tom has cited just a moment ago that created the circumstances that permitted 9/11 to occur. In addition to this, as we say in our report, there is this very strong urge, which every one of you has countered to overclassify. Look, a document becomes secret before a person has the authority to classify or not classify. He or she looks at that document. There is no incentive for that person to make it public. The incentive is to classify it and protect himself from the possibility of the information getting out and causing a problem, so they stamp it secret. And we pile up enormous amounts of information, warehouses of information that are secret because of the incentives are all on the side of classification.

Now this is a problem we think that no agency can deal with, no agency can solve this problem. It has to be done above an agency. And it has some very tough problems in it. There are technical problems, there are legal problems, there are political problems. And I think only the President can resolve those matters and has to resolve them, I believe, or you will not get the kind of information rights management that we think is necessary to protect ourselves.

Chairman COX. The gentlelady from Washington is recognized for her questions.

Ms. DUNN. Thank you, Mr. Chairman. Congressman Hamilton, 12 years ago, as you may recall, you and I served together on the joint committee for the organization of Congress. Our report included specific recommendations on consolidation within the committee structure. You devote some of your report to this subject, specifically noting that congressional oversight for intelligence and counterterrorism is dysfunctional. My question to you and certainly Governor Kean, please jump in because you have been through this thing for the past many months, and we are very intrigued to hear the results of your experience on this, if you were in charge of organizing Congress to provide particular focus to this new threat of terrorism, where would you start?

Would you, for example, divide the responsibilities for oversight and authorization in appropriations? What would you do with the terrorist watchlist, which is not currently under the aegis of our Select Committee on Homeland Security? What kind of a committee would you see happening? Would it be a joint committee between the House and the Senate? And I would suggest to you that just as you see what we are going through today with such a massive committee, it is hard for us to bore in and spend the time we need to spend to get precise answers and to follow up. It is very challenging. But the goal of all of us is to provide focus. I think, for example, that if something else does happen here in the United States, people will turn to Congress and say they had the chance to do the best job they could ever do to put such an oversight committee together. And so I am asking for your experience and for your thoughts as you have heard from other groups you have testi-

fied before and from the people who testified before your committee in the many, many hearings you have held, what is your suggestion to do with Congress?

Mr. KEAN. Well, we have general, what we have said has got to be consolidated. The importance came to me and I got this from the outside in that in this whole area, normally in areas other than intelligence, there is a lot of oversight from the press and from the public. People press in. People want questions answered. When you get into the counterterrorism area, so much of it is secret that that whole area doesn't exist. So you depend much more heavily on the Congress to do the oversight than you do than in almost any other area of government. And if the Congress can't get it done, nobody gets it done. If these agencies are allowed to go their own way or make use of multiple jurisdictions or not answer the questions properly from the Congress, then there is no oversight at all.

And we suggest in the report that—particularly homeland security where there is mention, they are responsible to 88 different committees. That doesn't mean oversight at all. What it does mean is that people who should be spending their time protecting us all are spending an enormous amount of time of time testifying before a whole vast majority of committees. We suggest consolidating homeland security into a committee in the House and committee in the Senate. We suggested intelligence doing something radical and that is taking the authorization and budget functions and combining them into one committee because we sense the intelligence committee without any budget authority doesn't really have the clout with the intelligence community that they need to do their job.

So it is moving in those directions so there is more concentrated oversight that can really understand these organizations, which are very complicated. Lee Hamilton knows more about this than I will ever learn in a lifetime, but he tells me that in the intelligence area, it is 4 years, 6 years before you really understand these agencies and are really able to ask the intelligent questions. So it is a question of consolidation. More authority for the committees.

Mr. HAMILTON. I think Tom has made the essential points. I must say, I have considerable sympathy for the Congress in putting this together, because Congresswoman Dunn, you and I served on the Joint Reform Committee and I might say that when the Democrats controlled the Congress, we weren't all that successful in making these reforms. It is very tough to do. I appreciate that. Very difficult to do, because when you are talking about reform of committee jurisdiction, you are talking about allocation of power, and power is the name of the game. Now what we are saying to you here is that this threat of terrorism is so urgent, so long-term, so difficult that not only must we do some reorganization of the executive branch, we also have to reorganize the Congress as well. And I will be quick to admit that it is a lot easier to say this from outside the body than from inside the body.

But I think you folks are at a crunch point. And I think you are exactly right when you say that if another incident were to happen and the Congress had done nothing to put its own house in order, I think the institution, and maybe some of you individually would be heavily criticized for not acting. In other words, I think there

is a political risk here. I may be wrong about that. I don't think so. I certainly don't think that the particular suggestions we made are carved in granite. You have to analyze the situation, understand the internal dynamics better than I do and you have to figure it out, but you have to get your house in order so you can have robust oversight of the Department of Homeland Security.

The Department of Homeland Security needs your advice and counsel. And they want to be able to come—as Secretary Ridge said to us, I want to be able to come to one body of expert members of the Congress and lay out my problems to them and tell them what we have done and tell them what we haven't done and get their advice and counsel, rather than going to 88 subcommittees, which Tom mentioned, 88 subcommittees. That really is absurd. And it is not fair, it simply is not fair to the executive branch to make them do that, I don't believe.

So we say OK, we have to have robust reform. Let me tell you what I did in the Senate. I was making a presentation on this for the Senate not long ago, and I asked them how long did you spend in the appropriations committee on review of the intelligence budget? And one Senator spoke up and said 10 minutes. The defense subcommittee appropriations in the United States Senate spent 10 minutes reviewing what we all know to be a \$40 billion budget. I used that illustration in another group of senators a day or two later. And one Senator got up and say Hamilton, you are all wrong, you greatly exaggerated it. It was 5 minutes. Now nobody can say that is robust oversight. And it is a very, very serious matter. So you work it out. We have made our suggestions on it. You know this place better than I know it, now.

But I think it is important for the Congress to get itself in shape so that it can perform one of its constitutional duties, which is oversight.

Chairman COX. The gentleman from Mississippi, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman. And let me welcome the two gentlemen here this morning. Let me join my colleague, Ms. Dunn, in saying that the notion that we have all these jurisdictional issues before us is a real problem and it is both—it is a bipartisan problem. Mr. Hamilton, you are absolutely correct. This institution loves power, individuals love power and the homeland security issue is really one that should not be about power, but one about the people and how we can secure the homeland.

So I will join you and other colleagues who testified before this committee that we ought to have a standing committee with all the jurisdictional authorities right within the committee. So I appreciate your comments on that respect. But there are some other issues associated with your report. One, it has to do with transportation. Many individuals in the public would like for people to try to prioritize transportation problems. Did you all look at transportation and try to give it a pecking order in terms of security or what did you do?

Mr. KEAN. I don't think we gave it a pecking order, but what we did was identify the various problems that had to be addressed in the transportation and security areas. And we are spending most of the money now on air safety, but we recognize that the transportation of containers, transportation of people via rail or subway,

there are a number of other areas we have got to give if not equal attention to at least more attention to than we are giving them right now.

Mr. HAMILTON. Mr. Thompson, I think we look quite a bit at the transportation sector and there are so many possible recommendations that you could make there. We did not try to do that. But what we did say is that you have to plan. We have been doing is planning on planning for the last 3 years. We have got to put into place plans and it has to be done urgently. A comprehensive plan for the entire transportation system that Tom mentioned, aviation, rail, all the rest of it, and likewise, sector plans so that you have some way of measuring what you have done, you know what your goals are, you establish your priorities, you do your budgeting and all the things that are necessary in good planning, we are not there yet.

We heard yesterday from the assistant secretary, Asa Hutchinson. We are moving forward on this. And I think some of these plans will be ready by the end of the year. We think it is terribly important to have integrated security plans for all of these modes of transportation. And the other things we mentioned were with regard to aviation security was to make sure you had layers of security, not just one checkpoint. What happened with the 9/11 terrorists was there was no layered security.

They had to get by one principal problem and that was the check-in. And incidentally, a number of them were screened twice, but we didn't stop them. But I think everybody acknowledges that in order to have an effective security system, you have to have layers of checks and so we emphasized that. We put a lot of emphasis on explosives, because we think that is a very major problem in transportation security today and recommended among other things, for example, that every airplane have an explosive proof container on it and very few airplanes have that today.

So those are some of the comments we made with regard to aviation security and rail security. But we didn't try to deal with it comprehensively but picked out two, three things that we thought were especially important.

Chairman COX. The gentleman from Texas, Mr. Smith. If the gentleman would suspend in order to permit time for all members' questions, I would ask that both members and our witnesses observe the green, amber and red lights that are there for your convenience. The gentleman from Texas.

Mr. SMITH. Chairman Kean, my first question is addressed to you and this goes to the statement on page 1 of your testimony today where you say the failure to share information cost us dearly. Today as we sit here, does ICE within the Homeland Security Department, the FBI and the CIA have the computer interface capability to exchange information, not whether they should exchange any and all information, but do they have the ability to exchange information?

Mr. KEAN. No.

Mr. SMITH. Do you have any idea when they will have that ability?

Mr. KEAN. No. We don't know what the timetable is. We know they are working on it, but we have not been given a timetable.

Mr. SMITH. Mr. Hamilton, page 3 of your testimony suggests pretty strongly that if a previous administration had enforced the immigration laws then in effect, we might have stopped the terrorist attack from occurring. You specifically refer to a number of laws, including laws—one law passed in 1996, Immigration Reform Act, which called for an entry-exit system, called for standardized birth certificates, called for better scrutiny of student visas.

And you give examples, in fact, there on page 3 of your testimony that pretty clearly implied that a majority of the terrorists might have been apprehended or at least not admitted had those and other laws been enforced. You then say that eventually in 2002, they were implemented or beginning to be implemented or enforced then. But we did have a terrorist attack in 1993. The basement of the World Trade Center was attacked. You are suggesting something pretty seriously.

If the Clinton administration had enforced the 1996 law which was passed by the House by a 3-to-1 margin, and in the Senate by a 9-to-1 margin, we might have avoided the terrorist attack; is that right?

Mr. HAMILTON. We certainly say that more robust enforcement of routine immigration laws supported by better information might have made the difference. Tom and I have been very, very careful not to say that if this step or that step had been taken, it would have prevented 9/11. Causation is much too complex to draw that conclusion.

Mr. SMITH. You said might have stopped. That is a very astounding statement. And is there any good explanation as to why the previous administration didn't enforce a lot of these laws considering the overwhelming support in Congress and considering the wake-up call we had in 1993?

Mr. HAMILTON. Two administrations have not enforced the 1996 law with regard to entry and exit systems.

Mr. SMITH. The current administration is enforcing that.

Mr. HAMILTON. I think our enforcement is better, and I agree with that, because we have learned a lot. Why didn't we enforce it back then, the reason is that none of us thought that this could happen. We just didn't expect it. And I think that made us all kind of lax probably in enforcement. What we are saying today—

Mr. SMITH. Let me interrupt you quickly. The 1996 bill was passed just a couple of years after the 1993 World Trade Center bombing. It seems to me that we were pretty much on notice that we should start enforcing immigration laws especially those that were passed by Congress. Is there any good explanation as to why we did not?

Mr. HAMILTON. I thought I just answered that. Any reason we why we did not enforce?

Mr. SMITH. 1993. We passed major legislation in 1996. It was ignored. I know we are talking in retrospect, but it seems to me that was a dangerous position.

Mr. HAMILTON. I think in retrospect, it is easy to see there should have been a much more robust enforcement of our immigration laws.

Mr. SMITH. Let me squeeze in one more question. The Commission relied upon an individual foreign national security advisor to

provide the Commission with information as to whether the previous administration had—how they had handled the Al-Qa’ida terrorist threat. Don’t you think there was some conflict of interest on relying upon a national security advisor with a previous administration to tell the committee whether or not the previous administration had, in fact, handled the Al-Qa’ida threat well or no? Wasn’t there some conflict of interest relying on a biased source there?

Mr. HAMILTON. We took the testimony of hundreds of people and I don’t think we relied on anyone. We tried to sort through all of it. And we certainly gave the national security advisors of both administrations ample opportunity to defend their administrations and they both did a very good job of it.

Mr. SMITH. My time is up. Thank you, Mr. Chairman.

Mr. PASCHELL. Mr. Chairman, point of inquiry?

Chairman COX. Gentleman of New Jersey.

Mr. PASCHELL. I must say after that line of questioning—

Chairman COX. If the gentleman is not stating a procedural inquiry, the gentleman is going to recognize the gentlelady from California.

Mr. PASCHELL. We have not had time for questions at our end many, many times on both sides. And I think that the line of questioning is improper and does not sit well—with the findings of this—

Chairman COX. The gentleman will suspend. The gentleman will suspend.

Mr. PASCHELL. You can suspend all you want.

Chairman COX. The Chair will take this opportunity to announce that in order to permit time for all members to ask questions, we are going to proceed in the order of questioning for this panel that we have been following until 12:15 when our panel members must leave, and then the testimony of the second panel. We will continue in that order without interruption. So we will not resume with questions from the chairman and ranking member until every member has had an opportunity to ask questions. The gentlelady from California is recognized for her questions.

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you again, gentlemen. I had the pleasure of questioning you last week in the defense committee. I have two questions, one for Governor Kean and one for my former colleague and let me say them both. The first one would be to Governor Kean. It is about the whole issue that you wrote about with respect to the relationship of strengthening and in some cases repairing our relationships with other countries. In your report, you recommend the formation of a flexible contact group of leading coalition governments. Can you elaborate more on what you meant by this; how do you see this contact group functioning; what would be its relationship to other multinational groups, like NATO, for example?

And then to my former colleague, great again to see you. If you take a look over there on the majority side right after Ms. Dunn, you will see a lot of empty seats. Those are all chairmen of other committees. I also sit on the subcommittee of this group, which is the rules subcommittee, the one tasked with trying to figure out how we make this or if we make this a real standing committee

with real jurisdictional power. When we had testimony before that rules subcommittee, most of those chairmen said make this go away. Comes back to that power struggle that you were talking about.

So I would like to ask you, after all of the experience that you have had and the changes that you were able to construct within the Congress, how do we get these gentlemen to sit here and have a real discussion about not having 88 subcommittees for the homeland security agency to report before the Congress?

Mr. KEAN. I guess I will start. Our recommendation was that there should be some sort of a forum. We have no forum now for talking with the countries of the Arab world. We meet a number of times a year with the European union and we have an organization to discuss with them. The Asian countries and we have a forum to discuss things with them. If you take the countries of the Muslim world, there is no forum of that kind and there is no occasion to get together with them to share our thoughts and share our differences and get to know each other in that kind of a relationship. And so the point of that recommendation is just to suggest that such a forum be created. And that we as a country, therefore, would have the ability to have the same kind of conversations with that part of the world as we do with other parts of the world.

Mr. HAMILTON. I am not sure I can be helpful to you in trying to figure out the best way to deal with your very real problems of jurisdiction, except I would recommend to you the Tom Kean approach. Tom deserves much of the credit for the fact that we had a consensus report. And it is worth looking at why we were able to reach it and I think it may have some lessons for the Congress. The first rule was that we are going to agree on the facts. It is amazing how often we disagree on facts. And the Commission again and again—somebody would say, what is the fact, what is the fact here? And we would kind of suspend everything in the work of the Commission until we agreed upon the fact.

So you have to figure out what the problems are and what the facts are. And then if you can get an agreement on the facts, it becomes not a cinch, but it becomes easier to get agreement on recommendations. But it can only be done with extended dialogue and deliberation. One of the things that really boaters me about the Congress today, looking at it from my posture is how difficult it is for you to deliberate, and that really is what the body is all about or should be, deliberation. But your schedules are so hectic and the time that you have to sit down with your colleagues and work through difficult problems is limited. I think one of the things you really have to do is to figure out how to engage in dialog with one another. And so much of the activity on the floor of the House, you are just kind of reading speeches and making speeches past one another. That is not deliberation. That is not dialog. That is not the way the body is supposed to work. And so I have that advice for you. And it all came about because of the remarkable leadership that Tom Kean showed in bringing a very disparate group of commissioners together. It is a hard business and it is tough to do and takes a lot of time.

Chairman COX. The gentleman from Connecticut, Mr. Shays.

Mr. SHAYS. Thank you very much, Mr. Chairman. I just want to say to both of you as the chairman and vice-chairman, I am in awe of the work you did on the 9/11 Commission. I am absolutely in awe of it. I am grateful that you made it unanimous and you didn't have to work hard to do that part. I mean, you had to work hard to make sure it didn't become partisan. And it is very clear that you put criticism on previous administrations, the present, Congress, our oversight and yet, you did it in a way that I thought was helpful in our getting and moving forward.

I believe some of this can be done in executive order, regulation, law and House and Senate rules. And I just want to say publicly that I will not, and if I am reelected and in a position to vote on the rules, I am not going to vote for any House rule that doesn't include a permanent committee on Department of Homeland Security, for instance. I just simply will vote against any rule. I will not vote for a rule that places our country in jeopardy because we don't have the good sense to make this a permanent committee.

And I think my colleague is correct that when she points out that the people who aren't here today are the Chairmen of the other committees. It is outrageous. We have to put this aside and do what is right and have a permanent committee. Lots of things to talk about with the limited time I have, I would like you both to address the whole issue of overclassification. And I would like you to just tell me when you see what is the incentive for change? I mean, we all know that we have too much classification. We read documents. And I think, Governor Kean, you told me that you just were amazed at the fairly average stuff you read that was classified.

So what is the incentive, though, that we put in to change that? We are going to have a hearing, my subcommittee is going to have a hearing on this next week, called too many secrets, overclassification, it is a barrier to information sharing. But I don't know what the incentive is. Tell me what the incentive is so we don't have so much overclassification?

Mr. KEAN. It is hard. I will tell you, Congressman, you are absolutely right, coming from the outside, it just absolutely amazed and appalled me the amount of information I read that was stamped, classified, top secret, all these stamps on it and then you would read it and it wasn't anything you hadn't read in the newspapers. And I was asking one of my watches that we used to call them and I said, why would 300 pages of it—why is it classified? And he said because he didn't know it was true when he read it before.

That is no answer. That is no answer. I think this overclassification is hurting us terribly right now. The public is not an enemy, it is an ally in this war against terrorism. The more they know, the more they can help us. The more local law enforcement knows, the more they can help us. I don't know whether you have somebody with all the incentives to declassify that you now have to classify. What Congressman Hamilton said before was absolutely right. If you have a document, you get in no trouble for classifying it secret. You might get in trouble if you don't. So everything is stamped secret. You have to somehow put the motivation on somebody to look at all this stuff and say why shouldn't the American people have

this information? Why shouldn't it be in the paper? Wouldn't it help if it was? Knowledge is power.

Mr. SHAYS. It would strike me that if you didn't classify as much, you would then know what are those classified pieces of information that have to be shared from one agency to another. So it seems to me like a huge issue. I have been wrestling with what the incentives are.

Mr. Hamilton.

Mr. HAMILTON. Congressman Shays, I am immensely pleased to learn that you are having a hearing in this area because it really does need to be explored and we need to get some more ideas into it. And what I am going to suggest may not be too palatable to this group. But my experience is the Congress has just defaulted on the question of classification, just been too timid and has said in effect, Mr. President, you deal with it. The President today—and look, presidents have many things on their plate. Presidents of the United States do not sit around stamping documents secret. They have the authority, but they delegate that authority all over the place so that every department of government you go into, they have classifiers whose job it is to stamp documents secret. And believe you me, they have got a good stamp.

I think the Congress has to assert itself and begin to find ways and means of setting standards, for example, for when a document should be classified and when it should not be classified. Now I don't suggest that is easy. It will be a tough task. It hadn't been done before. But I think the tumidity of the Congress, the willingness just to defer to the President, whoever the President is, the authority to stamp—to delegate this authority without any real review by the Congress is a major default of responsibility.

So I will be following your hearings. I would like to hear—we did not have time, I guess, maybe that is not a very good excuse—we did not get into the question of what incentives, the one you are raising—it is a hard one to answer—I would like to see what you come up with.

Chairman COX. The gentleman's time has expired. I will interject at this point that the comments that have been made about chairmen of other committees should be clarified by observing that the questioner himself is the vice chairman of the Full Committee on Government Reform and Oversight and top representative of that committee on the select panel. He is, of course, here today and has endorsed the concept of creating a permanent homeland security committee. Likewise, the chairman of the Committee on Intelligence who, with his ranking member, has strongly endorsed a permanent—

Mr. DEFAZIO. Mr. Chairman, we are running out of time. You said there would be no extraneous statements. Could we move on? We are not going to have a chance to ask questions.

Chairman COX. I appreciate the gentleman. I think we wish to point out that the chairman of the Intelligence Committee has recused himself from today's hearing because he has been nominated as Director of Central Intelligence, and likewise, the chairman of the Committee on Armed Services strongly supports the recommendations of this commission. The gentleman from the State of Washington, Mr. Dicks is recognized.

Mr. DICKS. I, too, want to thank the chairman and vice-chairman for their great work for the country—

Chairman COX. Would the gentleman yield for just a moment? I failed to recognize that Mr. Goodlatte, the chairman of the Committee on Agriculture is present.

Mr. DICKS. I want to thank you for your great service and I know particularly Lee Hamilton chaired the intelligence committee. I served for 8 years on the Intelligence Committee. One of the things that Secretary Kissinger reminded us of yesterday was that one of the biggest breakdowns is not necessarily in the collection of the information, but in the assessment of that information and it in almost every one of these intelligence failures we have had, we have had the information.

Either we have collected it through our national, technical means or we had information like that from the FBI field offices, but it was the failure of higher-ups who got that information to act upon it. When we think about this whole issue, we need to remember that. In many of these cases, we had the information. It is tragic, but we had it and we just didn't act on it. The group think, you know, like that which occurred going into the Egyptian-Israeli of 1973.

Another classic example was right before Desert Storm and Desert Shield. The information was there. We saw the tanks being fueled, but the President was talking to leaders in the region and they said Saddam won't do it and he did it. And to President Bush's great commendation, he came out and said this wasn't an intelligence failure but a failure to act on the intelligence.

But I think that is one thing we need to consider here. I think John Hamre has made an important point in his statement. Remember, this is the start of the debate. This is far too important a point on whether we create a national intelligence director and how that is done because you have the classic problem here. 80 percent of the intelligence budget is in the Defense Department. 20 percent is over at CIA. So how do you work out an arrangement so the Director of the Central Intelligence Agency, who has community-wide responsibility, can actually have authority over this budget? Hamre puts out a pretty good point.

You could put the NRO, the NSA, NEMA and the interspatial group all together and put the intelligence director over that so you would have diversity and you would have the CIA and director of CIA. You would have the DIA over in the Defense Department and their services.

So I think that deserves some consideration. Another idea here that we need to think about in trying to figure out a solution is there is a model where the head of the NRO, Peter Teets, is also the assistant secretary of the Air Force for science and space. You could have a model where the director of the Central Intelligence Agency would also be the deputy Secretary of Defense for intelligence. He would still have to work out his arrangement with the Secretary of Defense, but you could have then one person in charge of the entire intelligence community in terms of formulating the budget and the policy, but also he would have to coordinate with the Secretary of Defense, which is the situation that we have today.

So there is some concern, I think, about if we create a new national intelligence director, then we are going to have to create a new bureaucracy and all the staff to support that person. And what does the Director of the Central Intelligence Agency do besides run the CIA as part of this operation? I like the idea of the center. I think it is good. But I make the point. All this discussion about information sharing and tearing down the stovepipes, we have done a lot of that work. A lot of these interagency centers can get the work done. But don't forget, it is the failure of assessment. That is where the real failures have occurred in our history. I just would make that point.

Mr. HAMILTON. Well, Congressman Dicks, the two articles that you referred to by former Secretary Kissinger and John Hamre, need to be looked and studied carefully because both are highly respected figures who have had a lot of experience in this field. Secretary Kissinger obviously is correct when he says we have got to get the assessments right. The question I raise about that is how can you possibly get the assessment right if you don't have accurate sharing? You have to have the sharing of the information so that the analyst is able to see what these various agencies of intelligence have done. You have to pool that information. You have to bring it together somewhere or you cannot get an accurate assessment.

And that is what we are saying. We are saying we have to share that information and only then can the analysts have a chance of getting an accurate assessment. There is no quarrel with the idea that you have to put emphasis on assessment. I think he is exactly right in many respects. We have put most of our resources in intelligence on collection. And we collect so much data that we can't process it all.

Mr. DICKS. That is true. As you well know, there is only a fraction of this information that is analyzed in real-time, and that is a major problem. The assessment thing has to be considered. I agree completely with you on the information sharing, and I think that is a great concept. But it is the assessment phase, getting the equipment and getting the information so you can analyze this information as much as possible in real-time and then having people who are smart enough to be able to conclude that something is happening and convince their superiors to act upon it. Don't forget that part.

Chairman COX. The gentleman from—

Mr. KEAN. May I say one comment? You are absolutely right on the assessment side. And we think the director of the CIA is going to have a full-time job rebuilding the CIA. It will take 5 years to do that. We hope he can do it faster, but that is going to be a full-time job, getting diversity, language skills and getting the right people on board. So we think that is very, very important. And looking at the assessment, I will tell you, having read, I guess, the highest level briefings that were given to two presidents, I will say only as a citizen coming from the outside, I think our intelligence agencies failed two presidents.

Neither president had the information that he needed to assess the situation properly and make correct decisions. So I think the one thing we cannot do is allow a lot of status quo to exist.

Chairman COX. The gentleman from Michigan, Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman, and thank you for your service in making our country safer. My question is this, you both referred to our porous borders and some of the things we have done to address that issue. Certainly creating the Department of Homeland Security is one of those things to secure our borders. There is this U.S. VISIT program. The administration is ahead of the congressionally-mandated schedule. But my question is this recent change. As you know, border protection could deport at airports and seaports people found illegally. Now that has been extended to those found within 100 miles of our border. It is a new responsibility of our border protection. Is that something you would agree with? Is that moving in the right direction in terms of trying to address our border issue?

Mr. HAMILTON. Mr. Camp, I am not clear on what change you are talking about.

Mr. CAMP. The law was that if someone was found within 100 miles of our border, border patrol did not have the authority to deport people. However, if they were at a airport or seaport they were immediately deported to another country. There has been an administrative change allowing now inspectors at our borders to deport people who are found in this country illegally. Is that the sort of thing that would fit in with attempts to address our porous border?

Mr. HAMILTON. That is the so-called expedited removal program that was announced this week. That was announced after the Commission had completed its work. We do want to emphasize the need for terrorists' travel intelligence and operational strategy in this. And that step when I read it, I thought my reaction was positive to it. Of course it is implemented and makes all the difference, but it is a means of making a decision on site as I understand it, is that correct, to act?

Mr. CAMP. Yes, it is.

Mr. KEAN. It does give us an opportunity. Everybody who we catch who crosses the border on phony documents we shouldn't just send them back. We should get those documents, find out where those documents came from. Because if we can crack these illegal terrorist facilitators who are doing this work, we will go a long way to stopping the problem.

So I think we should look at any of these people we catch as not just somebody but as an opportunity to learn more.

Mr. CAMP. My second question is on the issue of airline security and particularly the No-Fly Lists and attempting to compare every passenger list with comprehensive lists or terrorist lists. This has been done primarily by the airlines. Recently, there is a suggestion to move that to TSA. And I would like to get your comments. It would seem to me that if the more everyone knows, the safer we are, I don't see why the airlines should not have a role in that as well. But I would be interested in both of your comments in that area.

Mr. HAMILTON. One of the recommendations we made was that you have to have an improved No-Fly List and you have to have an improved automatic selectee list and that we ought not to delay

the development of those while the argument goes on about the successor to the CAPS program.

We believe the screening function should be performed by the TSA, not by the air carriers. It certainly has to utilize the set of terrorist watchlists, all of them, that we have that are maintained by the Federal Government; and air carriers should be required to supply information that is needed for the system.

Mr. CAMP. Thank you very much.

Thank you, Mr. Chairman.

Chairman COX. The gentleman from Massachusetts, Mr. Frank.

Mr. FRANK. In your report you have a great deal about the FBI and quite thoughtfully note that there were past problems with the FBI in terms of getting into impingement on political freedom. And I was struck by the thoughtfulness with which you said that your recommendations—essentially, you rejected the notion that there should be a new agency that would take a big chunk out of the FBI but did say quite thoughtfully that you are expressing the hope that the FBI will be able to reform. We all share that hope.

I must say that my hope in that regard was given a little bit of a jolt yesterday when I read the New York Times article by Eric Lichtblau headed “FBI goes knocking for political troublemakers.” FBI officials, it says, are urging agents to canvas their communities for information about planned disruptions aimed at the convention and other coming political events.

Essentially what it says is that a significant number of FBI agents are questioning people about whether or not they know whether or not somebody is going to do something violent at the Republican convention. They had apparently done it with regard to the Democratic convention. The New York Times in today's editorial says, quite accurately, I believe, these heavy-handed inquiries are intimidating and they threaten to chill freedom of expression. They also appear to be a spectacularly poor use of limited law enforcement resources.

You pay some attention, I was pleased to see, about privacy and civil liberties. I wonder if you have any reaction to this. I mean, the notion the FBI is out there asking people if they plan to do things, there is a troubling tendency here to take the doctrine of preemption, which seems to me controversial enough in the international area, and apply it domestically. It is none of the business of law enforcement in the United States to preempt people of what some might think are whacky political views and I might think because they might be about to do something.

We have this new notion of free speech zones. Many of us had always thought that the free speech zone was called the United States of America, and efforts to kind of make it anything less than that were grave error.

In your judgment—you spent a great deal of time on this—is there any reason why we should be having the FBI going around anticipatorily asking people if they know anybody who plans to divert attention? Is the FBI that deep in extra agents that they got people with nothing else to do for the summer to go out and do this? I wonder if this in your mind raises the concern that it raises in mine.

Let me read, in your report, on page 75, you note Attorney General Levi, who did great work when he was under Gerald Ford in this regard, tried to clean it up and then talked about Attorney General Smith's revision. But this is the key point: Smith's guidelines, like Levi's, took account of the reality that suspicion of, quote, terrorism like suspicion of, quote, subversion could lead to making individuals targets for investigation more because of their beliefs than because of their acts. I am wondering if you think have we gotten that out of our system? Is it coming back?

Mr. KEAN. I don't know the facts other than what you have read behind this particular case. What we do believe is that, as we try to protect ourselves, there is always the danger as we get into these new methods of protection that our civil liberties will be jeopardized; and we have recommended creating something that does not exist right now, which is a board within the executive branch to examine these various things where in cases like this are raised to actually look and see is this getting unnecessarily into the jeopardies of our—

Mr. FRANK. Thank you, Chairman Kean. I would hope very strongly that we would make that part of any report. I hope it will get the attention.

Mr. Chairman, I ask unanimous consent to put into the record the New York Times article and the editorial.

Chairman COX. Without objection.

[The information follows:]

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HEADLINE: F.B.I. Goes **Knocking** for Political Troublemakers

BYLINE: By ERIC LICHTBLAU

DATELINE: WASHINGTON, Aug. 15

BODY:

The Federal Bureau of Investigation has been questioning political demonstrators across the country, and in rare cases even subpoenaing them, in an aggressive effort to forestall what officials say could be violent and disruptive protests at the Republican National Convention in New York.

F.B.I. officials are urging agents to canvass their communities for information about planned disruptions aimed at the convention and other coming political events, and they say they have developed a list of people who they think may have information about possible violence. They say the inquiries, which began last month before the Democratic convention in Boston, are focused solely on possible crimes, not on dissent, at major political events.

But some people contacted by the F.B.I. say they are mystified by the bureau's interest and felt harassed by questions about their political plans.

"The message I took from it," said Sarah Bardwell, 21, an intern at a Denver antiwar group who was visited by six investigators a few weeks ago, "was that they were trying to intimidate us into not going to any protests and to let us know that, 'hey, we're watching you.'"

The unusual initiative comes after the Justice Department, in a previously undisclosed legal opinion, gave its blessing to controversial tactics used last year by the

F.B.I. in urging local police departments to report suspicious activity at political and antiwar demonstrations to counterterrorism squads. The F.B.I. bulletins that relayed the request for help detailed tactics used by demonstrators—everything from violent resistance to Internet fund-raising and recruitment.

In an internal complaint, an F.B.I. employee charged that the bulletins improperly blurred the line between lawfully protected speech and illegal activity. But the Justice Department's Office of Legal Policy, in a five-page internal analysis obtained by The New York Times, disagreed.

The office, which also made headlines in June in an opinion—since disavowed—that authorized the use of torture against terrorism suspects in some circumstances, said any First Amendment impact posed by the F.B.I.'s monitoring of the political protests was negligible and constitutional.

The opinion said: "Given the limited nature of such public monitoring, any possible 'chilling' effect caused by the bulletins would be quite minimal and substantially outweighed by the public interest in maintaining safety and order during large-scale demonstrations."

Those same concerns are now central to the vigorous efforts by the F.B.I. to identify possible disruptions by anarchists, violent demonstrators and others at the Republican National Convention, which begins Aug. 30 and is expected to draw hundreds of thousands of protesters.

In the last few weeks, beginning before the Democratic convention, F.B.I. counterterrorism agents and other federal and local officers have sought to interview dozens of people in at least six states, including past protesters and their friends and family members, about possible violence at the two conventions. In addition, three young men in Missouri said they were trailed by federal agents for several days and subpoenaed to testify before a federal grand jury last month, forcing them to cancel their trip to Boston to take part in a protest there that same day.

Interrogations have generally covered the same three questions, according to some of those questioned and their lawyers: were demonstrators planning violence or other disruptions, did they know anyone who was, and did they realize it was a crime to withhold such information.

A handful of protesters at the Boston convention were arrested but there were no major disruptions. Concerns have risen for the Republican convention, however, because of antiwar demonstrations directed at President Bush and because of New York City's global prominence.

With the F.B.I. given more authority after the Sept. 11 attacks to monitor public events, the tensions over the convention protests, coupled with the Justice Department's own legal analysis of such monitoring, reflect the fine line between protecting national security in an age of terrorism and discouraging political expression.

F.B.I. officials, mindful of the bureau's abuses in the 1960's and 1970's monitoring political dissidents like the Rev. Dr. Martin Luther King Jr., say they are confident their agents have not crossed that line in the lead-up to the conventions.

"The F.B.I. isn't in the business of chilling anyone's First Amendment rights," said Joe Parris, a bureau spokesman in Washington. "But criminal behavior isn't covered by the First Amendment. What we're concerned about are injuries to convention participants, injuries to citizens, injuries to police and first responders."

F.B.I. officials would not say how many people had been interviewed in recent weeks, how they were identified or what spurred the bureau's interest.

They said the initiative was part of a broader, nationwide effort to follow any leads pointing to possible violence or illegal disruptions in connection with the political conventions, presidential debates or the November election, which come at a time of heightened concern about a possible terrorist attack.

F.B.I. officials in Washington have urged field offices around the country in recent weeks to redouble their efforts to interview sources and gather information that might help to detect criminal plots. The only lead to emerge publicly resulted in a warning to authorities before the Boston convention that anarchists or other domestic groups might bomb news vans there. It is not clear whether there was an actual plot.

The individuals visited in recent weeks "are people that we identified that could reasonably be expected to have knowledge of such plans and plots if they existed," Mr. Parris said.

"We vetted down a list and went out and knocked on doors and had a laundry list of questions to ask about possible criminal behavior," he added. "No one was dragged from their homes and put under bright lights. The interviewees were free to talk to us or close the door in our faces."

But civil rights advocates argued that the visits amounted to harassment. They said they saw the interrogations as part of a pattern of increasingly aggressive tactics by federal investigators in combating domestic terrorism. In an episode in Feb-

ruary in Iowa, federal prosecutors subpoenaed Drake University for records on the sponsor of a campus antiwar forum. The demand was dropped after a community outcry.

Protest leaders and civil rights advocates who have monitored the recent interrogations said they believed at least 40 or 50 people, and perhaps many more, had been contacted by federal agents about demonstration plans and possible violence surrounding the conventions and other political events.

"This kind of pressure has a real chilling effect on perfectly legitimate political activity," said Mark Silverstein, legal director for the American Civil Liberties Union of Colorado, where two groups of political activists in Denver and a third in Fort Collins were visited by the F.B.I. "People are going to be afraid to go to a demonstration or even sign a petition if they justifiably believe that will result in your having an F.B.I. file opened on you."

The issue is a particularly sensitive one in Denver, where the police agreed last year to restrictions on local intelligence-gathering operations after it was disclosed that the police had kept files on some 3,000 people and 200 groups involved in protests.

But the inquiries have stirred opposition elsewhere as well.

In New York, federal agents recently questioned a man whose neighbor reported he had made threatening comments against the president. He and a lawyer, Jeffrey Fogel, agreed to talk to the Secret Service, denying the accusation and blaming it on a feud with the neighbor. But when agents started to question the man about his political affiliations and whether he planned to attend convention protests, "that's when I said no, no, no, we're not going to answer those kinds of questions," said Mr. Fogel, who is legal director for the Center for Constitutional Rights in New York.

In the case of the three young men subpoenaed in Missouri, Denise Lieberman, legal director for the American Civil Liberties Union in St. Louis, which is representing them, said they scrapped plans to attend both the Boston and the New York conventions after they were questioned about possible violence.

The men are all in their early 20's, Ms. Lieberman said, but she would not identify them.

All three have taken part in past protests over American foreign policy and in planning meetings for convention demonstrations. She said two of them were arrested before on misdemeanor charges for what she described as minor civil disobedience at protests.

Prosecutors have now informed the men that they are targets of a domestic terrorism investigation, Ms. Lieberman said, but have not disclosed the basis for their suspicions. "They won't tell me," she said.

Federal officials in St. Louis and Washington declined to comment on the case. Ms. Lieberman insisted that the men "didn't have any plans to participate in the violence, but what's so disturbing about all this is the pre-emptive nature—stopping them from participating in a protest before anything even happened."

The three men "were really shaken and frightened by all this," she said, "and they got the message loud and clear that if you make plans to go to a protest, you could be subject to arrest or a visit from the F.B.I."

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CORRECTION-DATE: August 17, 2004

CORRECTION:

A front-page article yesterday about efforts by the F.B.I. to interview prospective political demonstrators in advance of the Republican National Convention in New York misidentified the Justice Department office that found the bureau's monitoring of previous protests to be constitutional. It is the Office of Legal Counsel, not of Legal Policy. A caption with a picture of four Denver residents who were questioned in the effort referred incorrectly to two of them in some copies. Sarah Graves, not Christopher Riederer, is the housemate of Sarah Bardwell.

GRAPHIC: Photo: F.B.I. agents and Denver police officers visited Sarah Bardwell, right, and a housemate, Sarah Graves, and two neighbors, Christopher Riederer, second from right, and Blake, who would not give his last name, at their homes to ask them about political and antiwar protest activities. (Photo by Carmel Zucker for The New York Times)(pg. A11)

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SECTION: Section A; Column 1; Editorial Desk; Pg. 20**LENGTH:** 542 words**HEADLINE:** Interrogating the Protesters**BODY:**

For several weeks, starting before the Democratic convention, **F.B.I.** officers have been questioning potential political demonstrators, and their friends and families, about their plans to protest at the two national conventions. These heavy-handed inquiries are intimidating, and they threaten to chill freedom of expression. They also appear to be a spectacularly poor use of limited law-enforcement resources. The **F.B.I.** should redirect its efforts to focus more directly on real threats.

Six investigators recently descended on Sarah Bardwell, a 21-year-old intern with a Denver antiwar group, who quite reasonably took away the message that the government was watching her closely. In Missouri, three men in their early 20's said they had been followed by federal investigators for days, then subpoenaed to appear before a grand jury. They ended up canceling their plans to show up for the Democratic and Republican conventions.

The **F.B.I.** is going forward with the blessing of the Justice Department's Office of Legal Counsel—the same outfit that recently approved the use of torture against terrorism suspects. In the Justice Department's opinion, the chilling effect of the investigations is “quite minimal,” and “substantially outweighed by the public interest in maintaining safety and order.” But this analysis gets the balance wrong. When protesters are made to feel like criminal suspects, the chilling effect is potentially quite serious. And the chances of gaining any information that would be useful in stopping violence are quite small.

The knock on the door from government investigators asking about political activities is the stuff of totalitarian regimes. It is intimidating to be visited by the **Federal Bureau of Investigation**, particularly by investigators who warn that withholding information about anyone with plans to create a disruption is a crime.

And few people would want the **F.B.I.** to cross-examine their friends and family about them. If engaging in constitutionally protected speech means subjecting yourself to this kind of government monitoring, many Americans may decide—as the men from Missouri did—that the cost is too high.

Meanwhile, history suggests that the way to find out what potentially violent protesters are planning is not to send **F.B.I.** officers bearing questionnaires to the doorsteps of potential demonstrators. As became clear in the 1960's, **F.B.I.** monitoring of youthful dissenters is notoriously unreliable. The files that were created in the past often proved to be laughably inaccurate.

The **F.B.I.**'s questioning of protesters is part of a larger campaign against political dissent that has increased sharply since the start of the war on terror.

At the Democratic convention, protesters were sent to a depressing barbed-wire camp under the subway tracks. And at a recent Bush-Cheney campaign event, audience members were required to sign a pledge to support President Bush before they were admitted.

F.B.I. officials insist that the people they interview are free to “close the door in our faces,” but by then the damage may already have been done. The government must not be allowed to turn a war against foreign enemies into a campaign against critics at home.

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Mr. FRANK. One last question. I was struck when you talked about the failure of immigration enforcement to exclude some of the people who came in. I was involved to state my role during the 1980's and 1990's trying to change the rules. I thought they were unduly restrictive on political grounds of people coming in. I take it from reading your report that you don't find that the problem is

in the definition statutory of who can be excluded but rather in the failure to use that definition appropriately. Am I reading that accurately?

Mr. KEAN. I think you are reading that accurately. We had a wonderful example of an immigration official in Orlando, Florida, who simply asked a couple of questions. A lot of these people just automatically granted access even to those that made false statements.

Mr. FRANK. Can I just say that the key point is that under the statutes as they now exist those people were excludable if the right procedures had been followed. It is not that the statute allows—

Mr. KEAN. No, they were excludable, and they were not. I am saying there was at least one case of a very alert Customs agent who simply started asking questions, and that was probably the 20th hijacker who was excluded because of a good civil servant doing his job.

Mr. FRANK. We have FBI agents asking too many questions and immigration officials not asking enough. Maybe they can trade off.

Chairman COX. The gentleman from Virginia, the distinguished chairman of the Committee on Agriculture, Mr. Goodlatte.

Mr. GOODLATTE. Mr. Chairman, thank you very much for holding this very important hearing. Thank you for the excellent work that both of you and your colleagues have done in preparing this report and providing us with many thought-provoking ideas that the Congress and the executive branch need to act upon and act upon aggressively.

I would like to follow up on two areas that have been talked about thus far. Governor Kean, you mentioned in your opening comments and in the report your note that in the past the wall that we have built between intelligence-gathering agencies like the CIA and law enforcement agencies like the FBI was due to the risk of inadvertent disclosure that outweighs the benefit of sharing information with other agencies.

That certainly is one of the concerns, certainly, on the part of intelligence agencies why we had that wall, but it was not by any means the only reason. Another reason that the wall was built up was to address the concern about the use of intelligence gathering which is done with regard to foreign nationals but necessarily involves also gathering information about U.S. citizens when those foreign nationals have communications with them and so on. Even when done properly, information is gathered, and the concern was then that law enforcement agencies which could abuse that information would not have access to it.

Obviously, there is a big flaw in that; and September 11th is the greatest proof of that flaw. But, nonetheless, while we did in the PATRIOT Act, I would note, partially tear down that wall to enable the sharing of that information, we have also been careful to make sure that we not have the kind of abuses that some have suggested could occur.

I wonder if you have additional comments that you might make or recommendations that you might make to how the Congress can assure the public that the action taken as a part of the PATRIOT Act was a sound one for the reasons of September 11th but not one

that should cause them concern that their civil liberties are going to be abused.

Mr. KEAN. You know, in that regard I would say there is probably no substitute for the oversight of the committees. I mean, that is another argument for really having very, very vigorous oversight on the part of the Congress, to make sure that the public can be assured that it is being done properly.

Mr. GOODLATTE. Thank you.

Congressman Hamilton.

Mr. HAMILTON. Well, we think the provisions of the PATRIOT Act that facilitate the sharing of information between the law enforcement people on the one side and the intelligence on the other are very beneficial and very important in terms of a counterterrorism strategy overall. We are not experts on the PATRIOT Act, and there are many provisions of the PATRIOT Act, but this provision we think is very, very important.

Mr. GOODLATTE. Let me follow up also on the questions related to immigration. I was pleased to hear you both say that more robust enforcement of routine immigration laws—and the example you just cited is clearly one of those—is very important. I wonder how serious you are about that. This is, as you probably know, a major political issue here in the Congress. There are very widely differing opinions about what types of overall reforms, some related to national security, some related to a whole host of other interests, should take place. But we have been unable to reach conclusions about that except the law that we passed in 1996 that did provide for greater crackdown on illegal immigration.

Nonetheless, since that time I would argue, in part because of lack of enforcement of our current immigration laws, we have seen the number of illegal immigrants in the country rise. Obviously, not all of those are threats to our national security, but it is very difficult when have you a lack of information because people are operating below the radar screen which ones are and which ones are not of concern to the country because of national security. How aggressively should we be enforcing our immigration laws overall to avoid that very type of problem when that individual presented himself to that particular immigration officer in Florida, that officer had no reason before asking the questions whether that particular person was a threat.

We also have millions of people who never check in with an immigration officer to go through that kind of questioning who are here in this country, some of which have malicious intent; and I wish you would comment on the need to enforce our immigration laws overall and address this problem.

Mr. HAMILTON. I want to say, first of all, in responding to your question, that we were given a mandate and we did not construe that mandate to mean that we should review all of these immigration questions that you have presented.

Mr. GOODLATTE. I understand. I am talking about enforcement of current law.

Mr. HAMILTON. I think the enforcement has to be very robust. Let me say that we believe that border security is a part of national security and that we have to have an integrated, modern border and immigration system. You can't look at them as two sep-

arate things. You have got to have a border and immigration system that meshes. We make three specific recommendations, and they are fairly broad, but there is where we focused our interest.

Number one, we said you must move towards a biometric entry and exit system as soon as you possibly can. We think that is absolutely essential to getting control of the border and to providing an integrated border immigration system. So number one is the adoption of a biometric entry exit system.

Number two is to have accessible files on visitors and immigrants so that officials at all points who deal with people coming into this country—Customs, Border Patrol, immigration, visas, passports, whatever—you have to have an accessible file that people can tap into to learn about that person. Is that person who he says he is or she is? And we have got to be able to put that all together and integrate it.

And the third thing we say is you have to use intelligence on indicators of the terrorist travel tactics. Terrorists are great travelers. They have all kinds of tactics which we have already referred to earlier in our report, and you have got to get intelligence on those tactics so that you can effectively defend your borders.

We do not, Mr. Goodlatte, get into more detail on immigration than that. What we have suggested is—calls for major change, and I must say it is not inexpensive. It is going to cost a lot of money.

Mr. KEAN. It is probably the largest expense of all of our recommendations.

We also believe, by the way, as we move in this direction if possible it be coordinated with other countries, particularly like the European Union who have the same interest we do. And because the terrorists are so vulnerable when they are traveling, if we could have a biometric system as integrated with as many countries as possible, it is going to make the terrorist's job a lot tougher.

Chairman COX. The gentlelady from California, Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman.

I would first like to observe that many members of this committee in the lower rows here have traveled across the country today to participate, and I would urge you to gavel each person's questions closed at 5 minutes sharp, including the answers, because it is really unfair to other members that they will have so little time.

Chairman COX. I appreciate the gentlelady's comments.

Ms. HARMAN. And please gavel me closed. I don't plan to exceed the 5 minutes.

I would like to welcome our witnesses. I have had a lot of time to talk to them, to read their report carefully. I think it is an exceptionally good report. I think we will be measured, all of us in this committee, all of us in Congress, and the President, by whether we step up and act on the recommendations, not just talk about them but act on the recommendations.

If there are representatives of the 9/11 families in the audience today, as there have been in so many hearings, I would like to welcome you and tell you that, certainly speaking just for me, I will do everything I can to make sure that these recommendations are acted on in a timely way in this term of Congress.

I just want to mention several things. I was one who testified before the Rules Committee as a ranking member of the Intelligence Committee. I testified in favor of making this committee permanent, making it have real jurisdiction so that it could truly authorize a real homeland security budget. That will mean other committees giving up jurisdiction. I think we should be for that.

Similarly, I feel that the Intelligence Committee—realize I have an interest in it, but even if I were not a member—should have real jurisdiction and should have, as both witnesses have testified, control over both the authorization and appropriations of a stand-alone intelligence budget. We do not have that. In fact, the defense appropriations budget is already law. It appropriates funds for intelligence programs that have not yet been authorized. I think that that is a sad commentary on the state of power of the Intelligence Committees in the Congress.

At any rate, I want to focus today on one of what I think are two glaring gaps. One glaring gap is information sharing. We have had lots of conversation about the need—and I share this—for a national intelligence, a national counterterrorism director, technology reforms and so forth. These are great ideas.

I want to talk about the other glaring gap, and that is interoperable communications. Congressman Hamilton mentioned it this morning. Congressman Kean testified about it yesterday. There is a recommendation in your report that specifically says Congress should support legislation to expedite the assignment of radio spectrum. Legislation introduced in the House 17 months ago by Congressman Curt Weldon and me has been languishing because of jurisdictional disputes in various committees. It would close the gap and make certain that adequate spectrum is available by the end of 2002 which was the promise—2006, excuse me, a promise Congress made in 1997.

My question to you is, when you say we should expedite the assignment of radio spectrum, are you talking about closing the loopholes and making certain that that spectrum is available by 2006 or are you trying to argue that we should transfer that spectrum even sooner?

Mr. KEAN. As soon as possible.

Let me tell you what she is talking about. We have been told by respondents—firemen, policemen, first aid people—who respond to the scene that they do not now have the ability to communicate with one another and therefore save lives together. It puts their lives in jeopardy, and it puts people's lives in jeopardy. They can't do it because they don't have enough spectrum for their radios. This is a plea that came to us particularly from the New York Police Department and Fire Department but a number of others, also.

I recognize this is a tougher one because I guess you would be taking on the National Association of Broadcasters. They win most of their fights. But it is absolutely essential for the protection of the American people.

I can't tell you how important that is. Talk at home, talk to your responders, talk to your fire and police, talk to the people in your districts, because this has to be done. This is something which will not only in case of a terrorist attack but in case of the kind of terrible tragedy we had in Florida with the hurricane, in case of any

other emergencies like that, giving spectrum to our public safety officials is just going to make your constituents and our countrymen and women a lot safer.

Ms. HARMAN. Governor, I thank you.

I would like to quote Senator McCain from yesterday. He said, "I have been on this committee"—that is the Commerce Committee—"for 18 years and they"—that is the broadcasters—"won every time. Maybe we will have a victory on behalf of the American people. I surely hope so."

Thank you, Mr. Chairman.

Chairman COX. I agree.

The gentleman from New York, Mr. King.

Mr. KING. Thank you, Mr. Chairman.

First of all, I want to thank Governor Kean and Congressman Hamilton for the great job they have done. The country owes you a tremendous debt.

Also, as someone who lost well over 100 friends, neighbors, and constituents on September 11th, I want to thank Congresswoman Sanchez and Congressman Shays for the remarks they made about the importance that Congress has to give to this committee and to this entire issue of homeland security. I think it is really unfortunate that too many Members of Congress are still living back on September 10th, 2001. If another attack does come, we haven't done our job. There will be no forgiving any of us for not having moving forward when we should have.

Congressman Hamilton, I think my main question is to you. You touched on this before, but it is often the whole issue of TTIC and the National Counterterrorism Threat Center. I would ask you—first of all, I read the report. I am not certain exactly what you mean by saying that you would build on TTIC. In other words, will it still be there? Will it continue to function?

Second, if you could give us your analysis of the job that TTIC has done and is doing and how you expect that to be improved by the National Counterterrorism Threat Center. How and why will there be a better job done in the future than there will be now under TTIC?

Mr. HAMILTON. I think TTIC is a valuable concept. It is working reasonably well. We are concerned that the people that are assigned to TTIC are not at the highest level. In other words, it tends to be junior level people; and it doesn't quite have the overall clout that you want.

What you have today is a lot of different fusion centers around the government, and TTIC is one among several fusion centers, maybe even one among many. What we are suggesting here is a National Counterterrorism Center which would take the lead on strategic analysis and develop net assessments, and it would really have—it would not—it would replace all of the other fusion centers. This would be the center that you would look to for your strategic analysis, the President and Members of Congress, and to make assessments and to provide warnings of possible terrorist attacks. It would have the responsibility of tasking collection requirements.

In other words—and that is a terribly important role in the Intelligence Community—to say, OK, you are going to go after this, you are going to use these assets to go after this kind of intelligence.

And it would be—it would have that responsibility both inside and outside the United States. It would be a very—it would absorb and we think strengthen the analytic talent that exists today in TTIC and not just TTIC but the Counterterrorism Center, the DIA's Joint Intelligence Task Force combating terrorism. So it is a newer and much more powerful fusion center.

In addition to what I have said, it would have not just responsibilities in intelligence but it would have responsibilities in operational planning as well. And this is an important concept that we borrow completely from the military. It is not just an intelligence entity, it is a place where you pool and collect and analyze all of the intelligence from the various intelligence agencies of the United States, but, beyond that, it is an operational center in the sense that it plans operations.

The Governor mentioned early on in his testimony the case of these two muscular hijackers in San Diego. We had bits and information—bits and pieces of information about them. Nowhere did it all come together. Nobody was in charge in the sense of managing the case. And that is what you need. You need someone to step forward and say we are going to manage the case.

George Tenet was informed in August of 2001 about Moussaoui in Minneapolis. We asked him about it; and he said, first of all, he assigned some of his people to work with the FBI on it. Then we said, did you talk to the President about it? And he said, no, and said this was the FBI's case.

I don't think that answer was wrong. It was the FBI's case, but clearly insufficient. What was the problem? The problem was nobody was managing the case. Nobody was saying to themselves, I know about these two fellows out on the West Coast. I know this about them. I know that about them. It raises red flags. And somebody has got to take hold of that and management case, plan it operationally. And that is what this counterterrorism would do.

They are appointed by the President. It reports to the National Intelligence Director. It is a very, very important center. May I say that it is not just a center that deals with counterterrorism—excuse me, beyond that, we create centers for other threats. Because the same thing is needed with regard to other threats. WMD or maybe you put China or maybe you put the international crime and narcotics on the list. Whatever you think the major threats to the national security are, we create a center, if you would, to deal with it. Those would change from time to time, and the responsibility would be not just to pool all of the intelligence you have got but to operationally plan it and to see that the policy decisions of the President and the National Security Council are in fact carried out.

Chairman COX. The gentleman from Maryland, Mr. Cardin.

Mr. HAMILTON. It is a very new concept, and it is not easy to get hold of.

Mr. CARDIN. Thank you, Mr. Chairman.

Let me also offer my congratulations to Governor Kean and to Congressman Hamilton for their extraordinary service to our country. I also want to compliment the other members of your Commission for the extraordinary work that you were able to do. It is a very professional document.

I hope the fact that we are holding these August hearings, which are extraordinary for Congress to do, means that we will have action in September establishing a single point, single person for the collection and analysis of intelligence information and strengthening the entire process for dealing with intelligence information and protecting us.

I also cannot help but look at a comparison to the Cold War. Growing up in the Cold War, the fear of communism and the Soviet Union really prevailed throughout our community, similar to how the fear of terrorism is today. We developed a strategy in the Cold War to develop a very strong national defense, and we did that in the United States. But we also recognized we couldn't win the war on terrorism alone and the war against the communists alone, that we needed to develop international support. We worked with our friends in Europe, and we developed NATO, which was a way of shoring up our defense in Europe, and we shared a lot of information with the Europeans. And we won.

We developed a war of ideas, and we used new technology at that time to get information behind the Iron Curtain that there was a better way of life, with democratic principles and respect for human rights that led to economic advancements. And more and more people, more and more nations agreed with us; and we won the Cold War.

So I guess my point is, I looked at your report, and I am impressed by your commitment to expand our efforts internationally. Yes, we need to develop our capacities here for sharing information, but we also need to work with our friends around the world to share information. The people who travel to the United States, the terrorists go through other countries; and we need to share that information.

In 1975, we developed the Helsinki Accord, the organization for security and cooperation in Europe to develop an international regional forum to share a commitment towards democratic principles and respect for human rights. It helped us during the Cold War with a forum that we could go to challenge the actions of other countries and to help people who in their own countries were fighting a battle of ideas.

There is interest in the Middle East to do that, to develop forums where we can show hope to people and look at longer-range solutions to this battle.

So I just really wanted to give you an opportunity to underscore the importance not just for us to look inward at our own Nation to improve the collection of intelligence information and to deal with a better sharing of information, but this battle, if we are going to win it, also has to be engaged internationally with the U.S. leadership working with our friends around the world, particularly in the Middle East.

Mr. KEAN. Congressman, thank you very much for making that point. Because that is a very strong and important area of our recommendations and hasn't received the focus, frankly, that some the rest of it has. We have got to have a consistent message going out to that part of the world. And it is a message of hope. You are absolutely right. Bin Laden's message is one of despair that leads eventually to death. That is what he is talking about. If we don't

have a message to these people to show there is a better life, that we can actually provide a path to that better life, that we are on their side, not somebody else's side, we are not going to win this.

Because, as Secretary Rumsfeld said to us once, you know we can kill these terrorists, but if they are being created faster than we kill them, we are not going to win this one. That is one thing, the message of hope, certainly working with our friends and allies who have some of the same interests we do and share the same hopes and dreams and way of life and ideals, getting those across. We have specific recommendations, as you know, for some of the most important countries, we believe—Saudi Arabia, Afghanistan, Pakistan. The emphasis on those three countries in our report is very, very important.

We believe the whole way in which we do business in that part of the world, once we get a consistent message, has got to change—if we are, for instance, upset, as we should be, that these madrasas that kids are going to in that part of the world are teaching hate and teaching hate of the West and all of that, well, there has got to be some alternative. A lot of the young children are going to those madrasas because there is no other school. There is other opportunity for parents to send them anywhere except the madrasas. All right, let's help these countries to build alternatives.

There are a number of recommendations along this area in our report. We believe, frankly, they are among the most important recommendations.

Thank you very much for bringing them to our attention.

Chairman COX. The gentleman from Georgia, Mr. Linder.

Mr. LINDER. I want to thank you both for being here and for your service to our country. We appreciate it.

Lee, you mentioned something about biometrics early on. It strikes me that the terrorists need access to our traveling systems, our airplanes, our trains, and if we could get to biometric identifiers on people who are not risks quickly, could we spend more of our time on those who might be risks and cannot be identified with the biometrics? Would you expand on that?

Mr. HAMILTON. You always have a tension here. Most of the people that come into this country are peaceful and have good intent. The overwhelming number that come into the country do. You have a lot of people who come into the country every day to work and go back and you have to develop systems that sort these people out very quickly. That is one of the goals, I think, of the biometric entry exit system.

We have to develop the technology and the skill to let the peaceful people, if you will, through quickly and the person who is a regular commuter across the international boundary, to let him go through quickly; and we think the biometric system integrated with both border security and immigration is the way to do that. It is the quickest way to do it.

To pick up on the previous question, you have to have international cooperation on that. We want to develop a biometric system that is internationally recognized. Now, that is not going to be done in the next year or two, but it ought to be the goal in the long term, and it is the way to assure fluid commerce.

We are very concerned about the anecdotal, I guess, information we were getting about the number of scholars who are not coming into the country and the number of students who are not coming into the country. This is a serious matter for us in the long term, and we have to figure out a system. Now, we have talked to all of the top officials about this. They are very alert to it. They know the importance of it. So I think the system will move forward. But we have got to accelerate it. If we don't, we are going to be denying ourselves and this country a lot of talent that we need.

Mr. LINDER. Governor, you think alluded twice to are we staying ahead, are we killing more terrorists than we are creating or than are being created? You referred to the madrasas. I would like to ask you very bluntly, can we deal with this without dealing directly and frontally and bluntly with Saudi Arabia?

Mr. KEAN. No. And the relationship with Saudi Arabia has got to change. Our relationship in the past with Saudi Arabia, to be very blunt, is, as I understand it, has been oil. That has been the relationship with Saudi Arabia. Allies to the royal family, they ensure us enough oil, and that has sort of been the relationship.

That can't be the relationship anymore. We have got to continue to work with the royal family. There is no question about it. But we got to work with the royal family to bring some changes in that country.

It seems they are now recognizing that their way of life, the royal family's leaders of Saudi Arabia, is under attack; and these Islamic militants would like to overthrow them just as much as they would like to injure us at the moment. So they are, of necessity, our allies; and they also realize the need for change within their own borders. We have got to work with them on that. We have got to help them on that. We have got to work with them instituting the changes that are possible and then try to push and shove a little bit and get a few more changes to the system.

Because if Saudi Arabia—I mean, we identified those three countries—Saudi Arabia, Pakistan, Afghanistan—because if any one of them went the wrong direction, we would have a world of trouble on the international stage and in the terrorist problem. So, yes, the relationship with Saudi Arabia has to change, must change.

Chairman COX. The gentlelady from New York, Mrs. Slaughter.

Ms. SLAUGHTER. Thank you, Mr. Chairman. I am so happy to see both of you here this morning.

I think the whole world owes you thanks for what you have done. I want to express my thanks to your amazing staff as well. The report that they have produced is unequal to any report I have seen in three legislatures, and I am very grateful for that.

Personally, I lost any confidence I might have had that our intelligence agencies were any good when the CIA let Aldrich Ames sit with them for 8 years as a Russian spy and the FBI let Robert Hanssen do the same thing here in the shadow of the Capitol. It certainly was not lost on me that if they couldn't even find spies in their midst that worked with them on a daily basis that they probably weren't doing a great deal to protect us. So I was not surprised at that.

I agree with you absolutely about congressional oversight. We have got to get some control in this House and make this a strong

committee that really has the jurisdiction it needs to see to give the American people and the rest of the world confidence that we are doing our part to keep America secure.

In that regard, I have only got one complaint. I represent Niagara Falls, New York; and you have recommended that DHS lead the effort for the comprehensive integrated system. I would like to ask you to reconsider that. After 3 years, DHS has still not given us a threat assessment. At this point, Wyoming is getting the same amount of aid from our national security as New Yorkers on a per capita basis. This makes no sense since all of us are aware that if terrorists strike, two things they are going to want to do is, one, kill as many people as possible and, two, cause as much economic damage as possible. And while I don't mean to denigrate Wyoming, that is not likely to happen there.

On our border, since 9/11 there has been a complete backup of both commerce and people at our border crossing. It takes about five hours to get across. At the same time, you can still come across in a rowboat from Canada to the United States at many, many points; and people do that. DHS' plan for security on the Great Lakes was to set up something that would require every boat on the lake to report to a video phone somewhere, many, many of them 60, 70 miles apart, which are continuously out of order.

Now what people tell me is that fewer than 5 percent even attempt to use those video phones. The only thing that people who do not do so have to worry about, in some of our rural counties, is that the sheriff might somehow pluck them up from all of the hundreds of boaters who are there.

It simply does not work; and, beyond that, it doesn't make any sense.

At the same time, we have tightened up so much on our border on our side you cannot come in from Canada literally for hours. I am meeting tomorrow with my Canadian counterparts to see what we can do. DHS has come up with a Nexus card, which I think Congressman Hamilton referred to, which would work except it costs \$80 for 5 years and nobody will pay. In addition, in my area, you can only buy it in Canada.

So these are some of the things that we should be able to deal with, but at this point I would like to see if you would re-consider your border recommendation and see if one of the national laboratories or NIST or GAO or somebody could develop a better border plan do that in a hurry. Because we can't wait 3 more years for something like that.

So that is my major concern at this point having—representing one of those border States, I need to tell you that what DHS is doing there simply does not work.

Citizens tell me that in these rural towns, they see boats come in, cars drive on the bridge, pick up somebody or something from that boat and go away all night long. By the time they call the sheriff, they are long gone.

So this is a wide-open area which is of some concern. What the answer is eludes me, but I am very much concerned that after 3 years I think that all that we have accomplished there basically is to aggravate almost everybody who lives in that area. Most of these people cross this bridge almost on a daily basis; and if they try to

get to the Nexus lane, they can't. They are tied up so much in traffic.

So these are some of the things on a local basis that we are trying to deal with. My sense about DHS is 170,000 people trying to learn how to get along. I am not sure they are anywhere near close to that at this point.

So I just throw that out for your recommendation. But, beyond that, I cannot tell you how impressed I am on the work that you have done. Like Congressman Shays, I will certainly pledge to you my strong support that we will get your recommendations enacted into law. Thank you very much for what you have done and I appreciate, despite all that other work you have done, that you continue to make all these rounds and talk to all of us. Thank you both very much.

Mr. KEAN. Thank you very much.

Chairman COX. The gentleman from Arizona, Mr. Shadegg.

Mr. SHADEGG. Thank you, Mr. Chairman; and, gentlemen, I would like to echo the appreciation of the others on the panel. I greatly appreciate the work you have done. I think it is a great contribution to our efforts here in the Congress to move forward and to improve homeland security.

I want to begin with a question that goes to kind of one of the thrusts of the report. A great deal of your recommendations go to restructuring, restructuring particularly of the Intelligence Community, and not substantive recommendations. Some have criticized that. One prominent individual within the CIA has criticized that rather strongly. Others have said that at least a flaw they see in your overall report is its failure to emphasize revitalizing the clandestine service to infiltrate and destroy terrorist organizations, as opposed to making structural or restructuring recommendations.

I would like to give you a chance to respond to that and tell us why you think focusing on restructuring is important and, second, how important you personally believe it is to increase our efforts through the clandestine service to infiltrate and destroy terrorist organizations.

Mr. HAMILTON. We put a lot of emphasis on strengthening human intelligence, and I think that is part of the conventional wisdom today. Everybody agrees with it. I don't know anybody that disagrees with it.

Now, there are two problems with it. One is that it is very, very tough to penetrate these cells; and that is why you have to have a lot more diversity into the CIA. But these cells are very small. I suspect they are the most difficult intelligence targets there to penetrate. We must not have exaggerated expectations about our ability to do it.

I am all for doing it, I am all for strengthening the human intelligence, and it clearly needs to be done. But may I cite to you when I was chairman of the Intelligence Committee back in the late 1980's and the early 1990's that we were talking about strengthening human intelligence. This is not a new idea. It is just very hard to do. And Tenet testified before us that it will take him at least 5 years from now to get intelligence clandestine service where he wants it to be.

The second problem that I think we often overlook with regard to intelligence HUMINT, human intelligence, is you are asking a person to live a very dangerous life for a very long period of time, away from family, away from country, and it is not the easiest thing to recruit those kind of people. They have to be absolutely fluent in the language. They have to be able to be absorbed into the culture so that nobody would recognize them.

So I am all for human intelligence. I think it needs to be strengthened, but I also think we have to have some reasonable expectation of its limitations.

The second point about why did we put so much emphasis on the structure, I would only say to the person that made that criticism they haven't read the report. Look, we talk in here about the military actions that are necessary, attacking the Usama bin Ladens of the world, of not providing any sanctuaries. We have a whole chapter devoted to American foreign policy and how you prevent the growth of terrorism, how you have got to engage with ideas, how our policies have to understand the—we have to understand the consequences of our policies. We talk about the elements of a coalition strategy, public diplomacy, scholarship exchanges, agenda of opportunity, a better vision. We talk about how to stop terrorist financing or use terrorist financing to your advantage; and we have a whole list of recommendations, many of which we have been talking about today, about how to protect ourselves better.

So I understand that a lot of the discussion in the public press and in the media has been on institutional reform, and that is understandable because—but—

Mr. SHADEGG. I have just a little bit of time. Let me get in one other question.

Under the structure you envision there will be—several agencies will be able to search the database—we are talking about intelligence-gathering agencies—the database of other agencies. I think that is clearly necessary. But my question is, is not that or did you give thought to the fact that might, in fact, be a disincentive for the agencies to put information into their database and—since human nature being what it is—and are there recommendations you think within your report that go to that particular point?

Mr. HAMILTON. It is a good point, and what it means is you have to have someone above the agency who has the power to impose rules and regulations to force that sharing. I think you put your finger on a very good point. It is not automatic that you get the sharing, and the tendency of keeping the information you have got from everybody else is a very human one and a very strong one. The only way I know you can deal with it is through superior authority.

Mr. SHADEGG. I thank you for your report.

Chairman COX. The gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. Mr. Chairman, thanks for convening the committee during the August recess.

I have several questions. Stansfield Turner and others have postulated that a number of the more urgent reforms and requirements that you are putting forward in terms of a National Intelligence Director, budgetary control, basically putting someone in charge and making the agency share could be done by executive

order or modification of Ronald Reagan's executive order regarding the intelligence services. So that would be one question, to comment on whether or not, given the fact Congress won't act at least until September, very likely may be not even until later than that, shouldn't the President look at implementing some of these changes more quickly by executive order?

The second would be, you commented on interoperability and the focus was on spectrum, but I would like you to focus, if you could, on cost of interoperability. Because that seems to me to be the major barrier to all of the first responders I talked to. In fact, the President's budget this year zeroed out interoperability funds from the Federal Government. What priority would you put on that since you have talked about the fact that the funds are spread widely, but would you put a priority on a national interoperable communications system for all level of government since you rightly pointed out that Federal, State, and local are the eyes and ears and first responders are the State and local and they need to be there.

So, first, the executive order; second, interoperability; and then, third, if you could just come back to—I continue to be frustrated. I thought I was told at an aviation hearing that we now had an integrated watchlist or it was announced actually at a hearing by Admiral Stone, as I recall, that by the end of that month—and I believe that was the month of June—that there would be an integrated watchlist available so that the agencies and the TSA could access that.

If you could comment on those three things.

Mr. KEAN. I guess I will start.

While some of it could be done by executive order, we felt very strongly—we talked about this and talked about this on the Commission—that the Congress really ought to—is it ought to be law and Congress ought to have the input and Congress ought to be the designer and it ought to be permanent. And that things done by executive order are not permanent and sometimes they are not agreed to by the Congress and that creates all sorts of problems. So we felt very strongly in the Commission as we talked about it that this really should be congressionally inputted.

Mr. DEFAZIO. Quickly, because I hope you can cover the other two points, but I mean is it urgent that we begin to force the coordination more quickly and that perhaps at least as an interim step the President could appoint somebody or could force that change in terms of authority to the CID?

Mr. KEAN. He could do anything, I guess, in consultation with the Congress. My worry is if you start to put a new system in place or a new individual in place or what have you and then the Congress comes along behind that—for instance, a person who we would recommend should be Senate confirmed because it is such an important position. So you put somebody in, it is just—it raises problems that we would much rather have the Congress to obviously act with due deliberation but act as hastily as possible because we believe that until this information is shared the American people are not going to be as safe as they should be.

As far as the cost of trying to make a communication system, we leave it—we believe it is a national priority. These first responders

and people who are going to come to national emergencies need help and everything we can do to help them I think we ought to do.

And the third point.

Mr. DEFAZIO. Watchlist. We have been told it was going to be up and running.

Mr. HAMILTON. Our impression is we do not have a totally integrated watchlist, and there is still a number of different watchlists, and we are urge, of course, that it be integrated.

Mr. DEFAZIO. Thank you. Thank you, Mr. Chairman.

Chairman COX. The gentleman from Indiana, Mr. Souder.

Mr. SOUDER. Thank you, Mr. Chairman. I want to pursue a little bit the biometric indicators on the licenses. We have had a little bit of discussion about this, mostly as it relates to borders.

A couple of premises. One is that not every terrorist is going to cross the border. Some may already be here. second, they may even in fact, since they don't seem in a rush, get themselves into regular crossings and get into the fast pass lanes, get secured. It seems to me, in addition to kind of the way we are doing it now, the random or unexpected or occasional terrorist, we also have to have a system that has biometric indicators or other things more than just that.

Could you elaborate a little bit more on whether you see this as a watermark, whether you see this as indicators, what type of things, whether you see this for all citizens, for people who have Green Cards? And also address the question, as many cities in Indiana and other places are starting to accept non-American identification, which would include setting up a bank account which would make it very difficult for us to track financial funding, be able to go to a store to pick up precursor chemicals for bombs using a non-American ID, could you elaborate more in detail and specific how we should start to address this question?

Mr. HAMILTON. I don't think, Mr. Souder, that we consider ourselves any kind of experts on what kind of a biometric screening system you have. It is a complicated, technical question; and you do want to try to begin to implement the system as soon as you can and not wait for the perfect system to come along.

What we say is that the goal is an effective biometric entry/exit screening system, that it needs to be compatible with other countries to the extent possible so that we can exchange information about these people that cross international boundaries. We need to have border officials who have access to interoperable—access I guess to all of the information about an individual traveler; and we think it is just common sense to have a modern, integrated border immigration system.

Now, all of that, of what I have said to you, are kind of general principles and statements. That is as far as the Commission went in addition to saying that you have got to have all of the intelligence you can about individual travelers. When you get into the questions you are raising about the kinds of biometric systems and all, we did not address those.

Mr. SOUDER. Don't you agree it isn't just a matter of travelers? They may already be here. People can move and get work permits and say something more than a passport. Don't we need a system

internally as well? Can you comment on how can you track intelligence if you can't track the individuals? What good will a national intelligence center do if people can start bank accounts and pick up bomb supplies and we don't know who they are?

Mr. HAMILTON. Well, it is a very important point because what we know is that the terrorists are very good at exploiting the gaps. And if we have a marvelous system that works at the borders but it doesn't catch the illegals and it doesn't catch other people who come in different ways, it is not going to work. And that is really what we mean by the word integrated. It has to include all of the ways that we check on people coming into this country.

Mr. SOUDER. Mr. Hamilton, I have a question. As a fellow Hoosier, one of the difficult things we have, and you have this in your report, that we have to put the money to targeted higher-risk areas. Bottom line what that means is moving money from Indiana to the East Coast and hardening targets in the East Coast, which potentially leaves us more vulnerable in Indiana. We saw the incident in Ohio, that it can move to other places.

How do you advise those of us who are in those places to deal with this difficult political question? It is fine to say that is the case, but the terrorists may move around. They are going to go to softer targets. You may get copycats. What do you recommend we say, those of us who already see a lot of our dollars go to the East and West Coast?

Mr. HAMILTON. There are limited resources, and you have to make some tough judgments. I think it is likely that every State could make a claim for some of these funds. But to suggest that you are going to predict a rural county in southern Indiana—I will say southern rather than northern Indiana—to the extent that you protect New York City or Washington, D.C., just doesn't stack up with the intelligence information.

So you have a limited number of dollars. You can't protect against every threat, you cannot protect against every tactic that a terrorist will use, and you have to make some very tough judgments as to where you put those dollars. I know that those are very difficult judgments to make because you are dealing with a question of priorities, and priorities is always the toughest question in government. Where do you put limited resources?

The intelligence chatter is very clear. The intelligence chatter is that New York and Washington, D.C., are the primary targets and, therefore, the bulk of your resources have to go there. I know that may not be an easy message for somebody from Indiana because they see it, but I also think that there are many facilities—I mentioned in the testimony 85 percent of the facilities that need protection are in the private sector. You folks know better than anybody what facilities in your district need protecting, and I suspect some Federal funds should be made available for these most vulnerable facilities. You have to also take into account not just the vulnerability of the facility but how much damage would be done if the facility, in fact, were attacked.

Mr. HAMILTON. How many lives would be lost, what are the risks, all of those things have to be sorted through, and so we say money should be distributed largely on a risk assessment basis.

Mr. KEAN. There are two targets that come over and over and over again. These people want to kill as many of us as possible, so they are going to pick targets where the most people are. And second, they talk about the symbols of America. And so where those symbols are located are where the targets will be. We have to direct our resources to the places where those large numbers of people congregate and where the symbols exist.

Chairman COX. The gentlelady from New York, Ms. Lowey.

Mrs. LOWEY. Thank you, Mr. Chairman. And I want to join my colleagues in welcoming you, Chairman Kean and my good colleague, Lee Hamilton. I really appreciate your last comments, because it is an excellent segue way to several of the issues that many of us have been working on as New Yorkers. First of all, I would like to generally ask you to continue your involvement, to continue using your clout and influence in implementing the recommendations that don't require overall structure change. I support the structure change, but for those of us who have been trying to move some of these issues forward, we share the frustration of many here in this Congress that we can't get it done.

First of all, John Sweeney and I and others have been working on formula change. We have not been able to get that done. I won't repeat the statistics. You know, and Louise Slaughter mentioned it as well, when you compare the per capita of New York to the other areas, it should be an embarrassment to all of us: \$10.12 compared to the \$38 to other parts of the country. So please continue your advocacy. Whether it is done through the Congress or executive order, it must be done and it must be done as soon as possible, and I know you agree.

second, many of us have been talking about airport security. In your report, you say, quote, "It must take into consideration the full array of possible enemy tactics, such as the use of insiders." Did the Commission intend for airport workers, cabin cleaners, maintenance crews, caterers who are currently permitted to bypass metal detectors, or should everyone have to go through metal detectors? And I have been repeatedly told by TSA it is too inconvenient and costly to screen airport workers despite the fact that 100 percent of workers are physically screened at airports like Heathrow, almost 100 percent at Charles de Gaulle. This doesn't make sense to me. If you could, continue to weigh in on that issue, because I am sure you agree that everyone should be going through metal detectors. And I—as a New Yorker, it disturbs me that currently, we are so worried about security in the New York area, yet thousands of people are going through airports every day with antiquated identification badges.

I also would like to comment on your eloquent statements about education. You are very well aware that the whole budget for the foreign aid appropriations bill is \$19.3 billion—I happen to be the ranking member—and the budget for the military is upwards of \$416 billion.

We managed to get education dollars from \$100 million to \$400 million. I would be interested to know whether you think the current estimate of \$10 billion or more should be validated by this committee and this Congress by adding dollars to our overall allocation for education. The \$19.3 billion goes, as you know, to HIV—

AIDS, goes to all the work of US-AID, goes to education. I would like to hear your recommendations.

And since my time is running out, if you could comment on the formula change, if you could comment on airport security in particular, the fact that thousands of people are not going through the metal detectors with their badges; and third with regard to our foreign aid budget.

Thank you very much.

Mr. KEAN. Everybody should go through metal detectors, my belief, without exception.

Mrs. LOWEY. Do we have to wait for structural change or do you think it can be implemented now, or can it be implemented by executive order? We can't seem to move the FAA or TSA, and business keeps talking about an inconvenience. How can we get that done now?

Mr. KEAN. You probably could answer it better than I could. I don't know how you can do these things by executive order, or whether you can, or whether you have to have something through the United States Congress. I don't have the expertise to answer that, but it should be done. No question about it.

I believe that if we are going to create fewer terrorists, change minds in the Arab world, we have got to change—we just can't be viewed as a military power. We have to get back to some of the things we used to do in the Cold War, to try to win that Cold War and change minds, and that involves not only education expenses, but cultural exchanges, ways in which there are student exchanges, ways in which we allowed these people to get to know us and we get a better understanding of them. We have to get into those soft areas.

We have got to get into them. We have to let these people know who we are, and we have to understand in a much better way who they are. And I am not talking about the small percentage who want to kill us, but I am talking about the much larger percentage that don't really like us at all because of what they know of us right now, but if we are able to send a different message, might like us a bit better.

And the third question—

Mrs. LOWEY. The formula.

Mr. KEAN. My view and the Commission's view: You have to put the money where the greatest danger is, and that is measurable due to the chatter we hear and the estimates from the intelligence agencies. We know where the greatest danger is and that is where the money ought to go.

Mr. HAMILTON. Let me add to what Tom has said. What you are really wrestling with here is, what should the elements be of a counterterrorism policy. And the answer to that is that it takes a lot of elements. And if you think only in terms of one or two of those elements, you are not going to get it together.

You have to have military force. You have to have covert actions and the right kind of diplomacy, the right kind of public diplomacy, the right kind of law enforcement. You have to have the right kind of action in the Treasury Department to trace the flow of monies.

And I think the risk that you face in thinking about counterterrorism policy is that you grab on to one or two of those

and say you are going to solve counterterrorism with covert action or with military action or with educational reform.

You are not going to do it. You have to get the whole thing in balance and integrate it, and that is the big challenge of counterterrorism policy.

With regard to the education matter, we think that is a very, very important part of it. I want to pick up on what Tom has said. The challenge to American foreign policy is not the Osama bin Ladens. We know what we have to do with them. We have to remove them. We have to kill them. We think and we believe that is a very small portion of the Muslim world.

The challenge to American foreign policy is the great vast number of Muslims who are sympathetic to Osama bin Laden, who may admire him, but do not support the idea of violence. And that is— if you are going to win the war on terrorism, you have got to prevail, you have got to persuade those people that we offer a better vision and an agenda and an opportunity for them.

Now, you work all the time with the foreign aid budget and you know the limitations of that budget, but you also know the importance of it. You cannot solve the problem of these schools in Saudi Arabia and Pakistan in the United States—can't do it. You have money in the foreign aid budget today for Pakistani schools. What is it, 100 million or so?

Mrs. LOWEY. Out of the 600 million about 30 million is going to education.

Mr. HAMILTON. It is a drop in the bucket, isn't it? But it does say to these people who are seeking a better life, who want some of the same things you and I seek, that we are on their side and we are trying to help them with their problem; and that is a very important message to convey.

Fundamentally, Pakistan has to solve its own education program and so does Saudi Arabia. As Tom said a moment ago, you have to push and prod them in that direction. And we certainly do, and we could maybe encourage them a little bit with a few million dollars here and there, but we cannot solve their problem. But we want to let them know that it is not only in the American national interest that they reform their school systems; it is in their national interest that they do it, and if they don't do it with all of the technology available today to let these people know that their life is pretty miserable, if they don't begin to deal with those problems, they are not going to be in charge.

Chairman COX. The gentleman from Nevada, Mr. Gibbons.

Mr. GIBBONS. Thank you very much. And gentlemen, thank you very much for your patience with us here today. Your dedication to helping us better understand these issues is greatly appreciated. Thank you for your assistance in helping make America safer. We appreciate that as well.

Let me say that over the last 3 weeks as I sat here listening to each of you, I know we have talked about information sharing, the need for information sharing, the management and direction that information sharing should take.

We have talked about the overclassification of information, but you do not make a recommendation; in fact, you oppose a recommendation for an internal MI5-style intelligence agency which

would look at domestic or U.S. citizens' intelligence. I want to build on that concept, because I think the confluence of understanding your recommendations and our taking action has to understand a better—little bit better, this idea. Because what I see is an agency, the FBI, as needing some reform itself, because we have a construct in the FBI today which says that when we gather intelligence information in FBI, we are focused on prosecution and criminal action cases, rather than on anti terrorism intelligence.

Now, the focus on prosecution is highly appropriate for a law enforcement agency, but it is not appropriate for intelligence gathering in a counterterrorism, antiterrorism type environment. Should we, and here is my question and I will leave it to one question—should we divide the FBI into two intelligence-type agencies leaving to it law enforcement for the conviction and prosecution and that construct, and giving it an additional role, a different agency, which is intelligence gathering for antiterrorism?

What are your thoughts on that?

Mr. KEAN. Under the reforms that the director is trying to implement in the FBI, that would in a sense be a division in the FBI, an important division of the FBI, and that would be their job. Their job would be to collect information against terrorist efforts.

We on the Commission wrestled with this FBI problem, because the history of the FBI and the culture of FBI is as you so correctly stated. As you know, you break down the door, you make the case and you take somebody to trial and convict them. That is not gathering information for counterterrorism purposes.

There is now a large part of the FBI that is starting to be devoted to collecting information for counterterrorism purposes. But it is being done from a very top-down reform by Director Mueller. Our concern on the Commission was that this—these reforms were based on the work of two or three people at the very top, and if they were to retire, to leave or die or whatever, that the FBI culture would go right back to the way it was.

So we think it is very important and this again comes to oversight. I don't think you have to create something different, but you have to systematize these reforms. You have to make sure that the FBI doesn't slide back. The people that go into the intelligence gathering side have to have the same chances at promotion, same chances of salary increases, same chances to get to the top of the FBI as the people under the old J. Edgar Hoover side. If that doesn't happen, then it is not going to work.

So we endorsed the director's reforms with the proviso that the Congress in particular look and make sure that these reforms are implemented not only under this director, but with future directors. Because without it, it doesn't work. That was basically the view we came to.

Mr. HAMILTON. I think the Commission believed that there is a very important synergy between intelligence gathering on the one hand and law enforcement on the other, and you ought not to put a wall between them. The guy out here who is trying to prosecute somebody collects a lot of information. The fellow out here who is doing some surveillance on a prospective terrorist is also collecting a lot of information. And you want to make sure that they are talking to one another and that there is interaction between them and

that you not build that wall too solidly. So that is what we are really driving at.

Now, when you talked about the FBI collecting all antiterrorist intelligence, you are not talking about the foreign side?

Mr. GIBBONS. No.

Mr. HAMILTON. I may have misunderstood. We do think this synergy is very, very important and each benefits from the other in effect.

Mr. GIBBONS. Thank you.

Thank you, Mr. Chairman.

Chairman COX. The gentleman from New Jersey, Mr. Andrews.

Mr. ANDREWS. Thank you, Mr. Chairman. I want to express to Mr. Hamilton the honor of having served with him in this institution, and on behalf of our fellow New Jerseyans, express our pride to Governor Kean and the work you have done here. We are proud of you.

One of the most compelling parts of your report is the riveting discussion of those moments on the morning of September 11th when there were still two planes in the sky and there was a muddled and dysfunctional series of communications among decision makers as to what to do about those two planes. And in your report you address that, I think, in two places. One is in Recommendation 26 about incident command systems and the other is in Recommendation 40 about the role of the Northern Command.

I want to ask you this question based upon this chilling hypothetical. If we knew right now that someone had hijacked a tanker truck on the New Jersey Turnpike filled with chlorine gas and that the person was headed toward Washington, D.C., on I-95 and that their intention was to blow up that chlorine tanker truck and in fact create a chemical weapon on the Capitol Mall, and we had to make a decision about what to do about that truck right now, who should be in charge of making that decision and what should the chain of command be?

Mr. KEAN. Under the present system or under the system we—

Mr. ANDREWS. What does the Commission believe it ought to be?

Mr. HAMILTON. The question of who is responsible for defending us at home?

Mr. ANDREWS. During an imminent ongoing emergency.

Mr. HAMILTON. Very tough question. We think there are two answers. One is the Department of Defense, the Northern Command, and the second is the Department of Homeland Security. They both have the responsibility and the authority for defending the country. Now they have to work that out, how that authority is split.

I don't know the answer to your question specifically.

Mr. ANDREWS. As my colleague knows, one of the vexing questions here is the doctrine of posse comitatus and how it would play into the answer of this question.

I don't want in any way to erode our important tradition of separating the military from the control of civilian life. I think that is one of the key precepts of the country. On the other hand, just because something is taking place on or above our soil does not mean it is a domestic matter. And I think that is one of the key issues we have to grapple with.

My own suggestion is that we have to revisit the doctrine of *posse comitatus* in this terrible new world. We need to do so in a way that doesn't undermine civil liberties, but sorts this question out.

To answer my own hypothetical, if a decision were made to take paramilitary action to stop that truck, scramble a helicopter and shoot the driver of the truck, that is a function that I want the Department of Defense to lead and be responsible for. On the other hand, I think it has to be under extremely egregious and emergent circumstances like those on the morning of 9/11.

I think one of the most chilling things I read in your report is that the order that was given by President Bush to Vice President Cheney and then passed down the command to—as I understand it, to intercept and shoot planes that were hijacked was not communicated to the pilots in the cockpit; that they received an order that they should identify tail and type of the airplanes, but that is it.

That could have been—and I ascribe no fault here, but I blame all of us—that could have been a terrible miscommunication. I am interested in the Commission's thoughts on how to fix it.

Mr. KEAN. I had exactly the same reaction you did.

And there is another part to that story, that the Secret Service had some control of National Guard planes that they sent up, and they had the order to shoot. So the National Guard planes, without getting an order from the President, might have shot these planes that were supposed to have orders from the President to shoot, wouldn't have shot.

So we are told in questioning that that command and control problem has been straightened out. We hope it is true, but that was a moment for me, too, when I heard that information.

Mr. ANDREWS. This fall, the GAO will be issuing a report that examines in the war game context whether the problems have been straightened out, and we are anxiously awaiting that report and we would be interested in the Commission's review of it.

Mr. KEAN. Command and control, that whole day in the fog of war, as the President told us, Air Force One didn't work properly. The President was not—did not have the communicative skills above Air Force One as commander in chief. Now he told us as a commission when we met him that that has been straightened out.

We have to be sure of these things. It is too important for the defense of this country that these things cannot occur that way again.

Mr. HAMILTON. I want to amend. I think I said there are two people who had the responsibility to defend, the Department of Defense and Department of Homeland Security.

The Department of Defense would only defend in the event of a military attack, I think. And what you described, the example you gave about the truck on the turnpike, I think probably would not qualify as a military threat.

As a practical matter, if something like that happened, we would put every resource we had into it to try to stop it. That would include local sheriffs, National Guard and probably some military components as well.

Mr. ANDREWS. The question is not how we categorize it, but how we stop it.

Mr. HAMILTON. Mr. Chairman, we are hitting 1:00 and I had kind of planned finishing at 12:15 or 12:30.

Chairman COX. I understand and I want to at this point recognize that we have members on both sides of the aisle who have not yet had the opportunity to put questions, but out of courtesy to both of you, we will adjourn this panel at this time. And we want to thank you very much for the extended period of time that you have spent with us this morning. I know that when Congress reconvenes in 2 weeks that you will be available to continue to work with us on the implementation and further consideration of your recommendations.

At this time—

Ms. JACKSON-LEE. Mr. Chairman, I have an inquiry, please. This is such a moment in history and time for this committee, and I respect the gentlemen's time and I am always grateful for their work.

My request to the chairman, because other members have not had a chance to inquire and other members may have been on other committees, that the gentlemen be asked to come back. This is crucial. We are not acting, we are only hearing and listening. This committee is burdened with the responsibility of doing something. And I would ask respectfully if we could inquire of the gentlemen through the committee and have them come back to the Homeland Security Committee, the very committee you have asked to take up the responsibility singularly of oversight of the Homeland Security Department.

And I ask the chairman for a response, and I know the gentlemen may not have their schedules, but looking at the smiling face of the Governor, it looks as if we can work that out. You are cutting us off from doing the questions with respect to the gentlemen's time, and I do respect their time. Mr. Chairman. I yield back to the chairman.

Chairman COX. I know that both the chairman and vice chairman have committed to continue to work with this committee, both formally through the hearing process and informally. As part of the latter, I hope that members who have additional questions will feel free even before Congress reconvenes. And the hearing record will be held open for that purpose.

Ms. JACKSON-LEE. Will the gentleman extend an invitation to the Chair and Cochair? That is my inquiry and my question, and I think they would be receptive to that invitation. This is a work in progress and it is not complete.

Mr. SHAYS. Would the gentleman yield? It may be if these gentlemen cannot attend that—we had Mr. Lehman and Senator Kerrey come before us and they likewise did an excellent job and I think that is the strength of this Commission. There are other members who could come before us as well.

Ms. JACKSON-LEE. I would welcome that. I welcome any opportunity for us to pursue the work of the Commission. I think the two Chairs, Cochairs have done an excellent job. I think we should do that.

Chairman COX. Well, I don't wish to speak for our witnesses, but I know that they have on multiple occasions extended their full co-

operation to this committee, and I expect they and their staff and other commissioners will continue to do so.

We will be seeking that cooperation. It is a vital concern to our Nation. It is a point that I know we are in complete accord on.

There being no further questions at this time, I thank you, Mr. Kean and Mr. Hamilton, for your testimony. And at this time you are excused, and I call up our second panel. Members should be advised as we call up the second panel, following the testimony of this panel, questioning will resume with Ms. Granger and Ms. Holmes Norton; and we will proceed, continuing in the order that we have already adopted.

Our witnesses on this second panel will include Hon. J. Cofer Black, Counterterrorism Coordinator for the Department of State; Patrick Hughes, Assistant Secretary For Information Analysis for the Department of Homeland Security; John Brennan, Director of the Terrorist Threat Integration Center; and Maureen Baginski, the Executive Assistant Director for Intelligence for the Federal Bureau of Investigation.

Some of our witnesses are involved in White House discussions today on the very proposals for restructuring the Intelligence Community that are the subject of this hearing.

Members are informed that Mr. Hughes must depart no later than 2:45 p.m. today. Mr. Brennan will be with us until 3:45 p.m. We will do our best to get as much questioning done as we can today before those deadlines.

As the witnesses take their seats, I ask members to take their seats. The chairman will recognize first Mr. Black and Mr. Hughes, Mr. Brennan and Ms. Baginski. I think our panel is now all seated.

Chairman COX. Welcome, Ms. Baginski, Mr. Brennan, General Hughes, Mr. Black. Thank you very much for being with us. We look forward to an opportunity to have significant discussion with you.

I know that you have offered to forgo your opening statements and go directly into questions. We would like, nonetheless, to have you put a summary of your statement on the record; members, I think, will benefit from that. And we will begin with the Counterterrorism Coordinator for the Department of State, Cofer Black.

Mr. Black, your statement, please.

**STATEMENT OF THE HONORABLE J. COFER BLACK,
COORDINATOR, OFFICE OF THE COORDINATOR FOR
COUNTERTERRORISM, U.S. DEPARTMENT OF STATE**

Mr. BLACK. Mr. Chairman, thank you very much, distinguished members of the committee. Thank you for the opportunity to testify on the recommendations of the 9/11 Commission. I will attempt to summarize my formal, written statement and ask that you include my full testimony in the record.

Today's hearing offers a timely opportunity to examine broad recommendations to reorganize the national security institutions of the U.S. Government in order to combat terrorism. I welcome the invitation to contribute to this important debate on how to protect American citizens at home and abroad.

Following the September 11 attacks, the administration developed the National Strategy for Combating Terrorism, which outlines the broad policy framework for coordinated actions to prevent terrorist attacks against the United States, its citizens, its interests and its friends around the world. The national strategy is premised on the systematic application of the key elements of national security, diplomacy, financial, law enforcement, military and intelligence and information sharing. Today I would like to address the process in place at the Department of State.

The Bureau of Intelligence and Research, or INR, is the Department's liaison to the Intelligence Community at large. My office works closely with INR, with the Bureau of Diplomatic Security's Office of Intelligence and Threat Analysis, to assess the current intelligence information related to terrorist threats overseas and at home. Through these relationships, the State Department has ample opportunities to provide input to the U.S. Government's process for collecting and analyzing intelligence for counterterrorism purposes.

Finally, as a participant in the National Security Council's Counterterrorism Security Group, I have frequent interactions with other interagency officials who shape and direct the counterterrorism policies of the U.S. Government.

The State Department will play a crucial role in the President's strategy to implement reforms that will make Americans safer at home and abroad. I look forward to the role that the Department and my office will play in this process through the intra—and interdepartmental relationships briefly outlined in my testimony today.

Mr. Chairman, with this background and experience in mind, I will conclude my formal testimony. Thank you again for the opportunity to appear before your committee. I will be happy to take questions.

Chairman COX. Thank you.

[The statement of Mr. Black follows:]

PREPARED STATEMENT OF THE HONORABLE COFER BLACK

Chairman Cox, Distinguished Members of the Committee, thank you for the opportunity to testify today on the recommendations of the 9-11 Commission to reorganize the national security institutions of the U.S. Government to better combat terrorism. In light of the testimony you will hear from my co-panelists and other witnesses, I will keep my remarks brief.

Following the September 11 attacks, the Administration developed the National Strategy for Combating Terrorism, which outlined the policy framework for coordinated actions to prevent terrorist attacks against the United States, its citizens, its interests, and its friends around the world. Our work to implement the National Strategy will ultimately create an international environment inhospitable to terrorists and all those who support them. We have implemented this strategy to act simultaneously on four fronts:

- **Defeat** terrorist organizations of global reach by attacking their sanctuaries, leadership, finances, and command, control and communications;
- **Deny** further sponsorship, support, and sanctuary to terrorists by cooperating with other states to take action against these international threats;
- **Diminish** the underlying conditions that terrorists seek to exploit by enlisting the international community to focus its efforts and resources on the areas most at risk; and
- **Defend** the United States, its citizens, and interests at home and abroad.

Today's hearing offers an opportunity to examine the 9-11 Commission's recommendations on information and intelligence sharing. I welcome the invitation to contribute to this important national debate on how better to protect American citi-

zens at home and abroad. The National Strategy for Combating Terrorism is premised on five key elements of national security—diplomatic, financial, law enforcement, military, and, as we will discuss today, intelligence and information sharing.

Intelligence Analysis and Information Sharing

When discussing ways to improve information and intelligence sharing for counterterrorism, it is important to consider the foundation upon which we must build, in this case, the elements of intelligence analysis in place at the Department of State. The Department's Bureau of Intelligence and Research (INR) is one of the 15 members of the U.S. Intelligence Community. My colleagues in INR share my opinion that we need to do much more to make it easy, not just possible, to share information across agencies, with state and local officials and with our foreign allies. This is especially important to the State Department because widespread, timely, and routine information sharing facilitates decentralized and competitive intelligence analysis crucial to our mission. My office also works closely with the Bureau of Diplomatic Security Office of Intelligence and Threat Analysis (DS/ITA), which focuses specifically on threats against U.S. interests, to assess the current intelligence information on terrorist threats overseas and at home.

We also agree with the 9-11 Commission's recommendation to move from a system based on "need-to-know" to one based "need-to-share," consistent, of course, with the 9-11 Commission's recommendation to "safeguard the privacy of individuals about whom information is shared." Mechanisms for separating content from source information could help with classification levels. This is already accomplished to a certain extent with tear lines. Web-based systems will undeniably be part of the solution, given the ubiquitous nature of this technology. By following the progression of technology advances in the open market, information sharing can be made technologically easier and less cumbersome.

The Counterterrorism Security Group

Intelligence sharing within the Department and with other agencies was a reality before September 11, but it has since improved. Deepening our intelligence sharing through personnel liaison, we have provided the Terrorist Threat Integration Center (TTIC), among others, with State Department detailees, and we host detailees from the CIA and other agencies as well. In addition to the intelligence analysis work of INR and DS/ITA, S/CT and the Assistant Secretary for the Bureau of Diplomatic Security participate in the Counterterrorism Security Group (CSG). The CSG is chaired by the National Security Council and serves to share information and coordinate the response to terrorist threats against U.S. interests domestically and abroad. Each morning we join the NSC-chaired meeting of high-level representatives from the Homeland Security Council, the Departments of Defense, Justice, Treasury, and Homeland Security, the CIA, FBI, and TTIC. A staff-level meeting of CSG participants is conducted every afternoon.

Within the CSG structure, the Department has frequent and direct interactions with the other senior interagency officials who shape and direct the counterterrorism policies of the U.S. Government. Through these relationships, we have ample opportunity to provide input to the U.S. Government process for collecting and analyzing intelligence for counterterrorism purposes. The quality of information exchange and effectiveness has improved significantly since 9/11 partly because the CSG mechanism promotes proper coordination among agencies regarding terrorist threats globally on a daily basis.

Other Department Contributions to Information Sharing

Since 9/11, the Department of State's Bureau of Consular Affairs has worked with other agencies to make significant improvements to our ability to share information. Thanks to this new level of collaboration, the data holdings in the Department's consular lookout system now total almost 18 million records on people potentially ineligible to receive visas, nearly triple what we had prior to September 11. We now have more than eight million records from the FBI alone in our system. In fact, the majority of the data in the consular lookout system now derives from other agencies, especially those in the law enforcement and intelligence communities. Information sharing, of course, must be mutual.

The Department now provides access to 75 million visa records in our consular database so that Department of Homeland Security officers at ports of entry can view the electronic files of every passenger with a visa entering the United States. This database permits detailed examination of the information in near-real time for all visas issued, including the photographs of nonimmigrant visa applicants. We are also sharing our consular database with the National Targeting Center, a 24/7 operation of Customs and Border Protection in DHS.

The Department of State joined in the establishment of the Terrorist Screening Center (TSC), which integrates terrorist watchlists and serves as the centralized point of contact for everyone from the U.S. police officer on the beat to the consular officer in the farthest reaches of the globe. Together with TTIC, which maintains the principal database on known and suspected international terrorists in a highly classified form, we rely on the TSC to ensure that consular officers have access to the information they need to scrutinize applications and deny visas to those who would do us harm. These institutions rest on a foundation that the Department laid in the form of TIPOFF, a pioneering system in the use of classified information for screening purposes. Much of the cost of developing and operating TIPOFF was funded through the Border Security Program, which the Bureau of Consular Affairs manages for the Department. The TIPOFF database with its approximately 120,000 records, more than double the amount since September 11, is now housed at TTIC. TTIC and TSC together eliminate the stovepiping of terrorist data and provide a more systematic approach to posting lookouts on potential and known terrorists.

Conclusion

The President indicated in his speech on August 2nd support for the key recommendations of the 9-11 Commission, including the establishment of a National Intelligence Director and a National Counterterrorism Center. The Department of State will play a crucial role in the President's plan to implement reforms that will make Americans safer at home and abroad. I personally look forward to the role that the Department and my office will play in this process, through the intra- and interdepartmental relationships briefly outlined in my testimony today.

With this background and experience in mind, I will conclude my formal testimony. Thank you again for the opportunity to appear before the Committee. I would be happy to take your questions.

Chairman COX. General Hughes.

**STATEMENT OF LIEUTENANT GENERAL PATRICK M. HUGHES,
USA, RET., ASSISTANT SECRETARY FOR INFORMATION
ANALYSIS, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. HUGHES. Good day, Mr. Chairman and members of the committee. It is a privilege to appear before you today as I have in the past. And today, I would like to just give you a short version of my views.

We are very supportive of efforts to improve and enhance the Intelligence Community that are ongoing in the aftermath of the 9/11 Commission's report and recommendations. Today's hearing, I think, is in the context of information sharing and improvements; and in that category, the glue that links and holds our national intelligence and counterterrorist activities together is indeed the professional exchange of information that empowers knowledge and action, often referred to as "information sharing," but we would like to include the idea of "collaboration" in the construct.

We are supporting making information readily available rapidly to all who need it to accomplish their mission, while at the same time facilitating interaction to better understand and use the knowledge that collaboration produces while always protecting sources and methods.

It is a very simple philosophical underpinning; and I think I will give the rest of my time back to you, sir, and say I am willing to answer any questions you have today.

Chairman COX. Thank you.

[The statement of General Hughes follows:]

PREPARED STATEMENT OF PATRICK M. HUGHES

Good morning Chairman Cox and distinguished members of the Committee. I am privileged to appear before you today to discuss the role of the Office of Information Analysis (IA), within the Information Analysis and Infrastructure Protection Direc-

torate (IAIP) of the Department of Homeland Security (DHS), as well as IA's intelligence, coordination, and information sharing efforts to date.

September 11, 2001 forever transformed our nation. In one moment, we came face to face with a known enemy. . . on American soil. . . and a changed condition threatening to our way of life. This day seared images of devastating loss and destruction into our national consciousness, images that we—I—will never forget. I was present at the Pentagon minutes after the plane struck and I saw once again something I have become all too familiar with over the years. . . the violent outcome of a terrorist attack against unwarned unprotected people. The anguish and fear of the moment was written on the faces of many of my colleagues who never dreamed that their place of work in a bastion of Democracy would be struck. Our co-workers, soldiers all, lay in the wreckage. The damage was done.

However, on that day, something far greater than fear and something much stronger than despair took root. An unshakeable faith in our fellow citizens, in our ideals, in our nation and an unwavering determination to protect and preserve what we stand for as a country emerged from the destruction, to guide our efforts in the fight against terrorism and the quest to preserve liberty. I am at my place of work at the Department of Homeland Security because of that motivating set of beliefs.

In the aftermath of 9/11, the Department of Homeland Security was envisioned, formed, and is now in operation. Standing up the Department, the largest reorganization of government in fifty years, has been a great undertaking. Many employees of DHS have assumed new responsibilities, and all have put in long hours to ensure that while our strategies may change to meet the terrorist threat, our course as a nation will remain constant. President Bush's decision to establish the Department has enabled us to unify our resources into one team, to ready ourselves against our enemy, and to ensure the highest level of protection for our country and the citizens we serve.

I became a direct part of this Department's effort when I became the Assistant Secretary for Information Analysis, part of the Information Analysis and Infrastructure Protection Directorate, on 17 November 2003. Through the Homeland Security Act of 2002, IAIP is charged with integrating relevant information, intelligence analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) to identify protective priorities and support protective measures by the Department, by other executive agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities.

The philosophical underpinning of IA as an integral part of the IAIP Under-Secretariat of DHS is to provide the connectivity, the integration, the communication, the coordination, the collaboration, and the professional intelligence work necessary to accomplish the missions of, and the products and capability necessary for the customers and the leadership of DHS. Simply put, we perform the intelligence and threat analysis of Department of Homeland Security.

IAIP is moving forward in carrying out our statutory responsibilities which include:

- Providing the full range of intelligence support to senior DHS leadership and component organizations and to state and local and private sector respondents
- Mapping terrorist threats to the homeland against assessed vulnerabilities to drive our efforts to protect against terrorist attacks
- Conducting independent analysis and assessments of terrorist threats through competitive analysis, tailored analysis, and an analytical red cell
- Assessing the vulnerabilities of key resources and critical infrastructure of the United States
- Merging the relevant analyses and vulnerability assessments to identify priorities for protective and support measures by the Department, other government agencies, and the private sector
- Partnering with the intelligence community, TTIC, TSC, law enforcement agencies, state and local partners, and the private sector, as well as DHS' components to manage the collection and processing of information within DHS involving threats to the Homeland into usable, comprehensive, and actionable information
- Disseminating time sensitive warnings, alerts and advisories to federal, state, local governments and private sector infrastructure owners and operators

It is the mandate to independently analyze, coordinate, and disseminate information affecting the homeland that makes IA unique among its Intelligence Community partners. The analysts within Information Analysis are talented individuals who draw on intelligence from other components within DHS, IA's fellow Intelligence Community members, the Terrorist Threat Integration Center (TTIC), and federal, state and local law enforcement and private sector entities. The analysis

produced is coordinated with the vulnerability assessment and consequence predictions identified by the Infrastructure Protection half of the IAIP Directorate.

The Office of Information Analysis communicates timely and valuable threat products to state and local officials, federal sector specific agencies (as indicated in Homeland Security Presidential Directive-7, "Critical Infrastructure Identification, Prioritization, and Protection"), and the private sector as is appropriate. The relationship IA and indeed the entire Department of Homeland Security has with these contacts results in the IAIP Directorate being in the position to effectively manage information requirements from the state and local governments and private sector entities that are vital to protecting the homeland. DHS will continue to work in close communication with these officials, as well as with the other organizations it receives inputs from, to maintain the effective relationships that have been established.

IA is the heart of the intelligence effort at DHS. It is responsible for accessing and analyzing the entire array of intelligence relating to threats against the homeland, and making that information useful to first responders, state and local governments, and private sector officials. As such, IA provides the full-range of intelligence support to the Secretary, DHS leadership, the Undersecretary for IAIP, and DHS components. Additionally, IA ensures that the best intelligence information informs the administration of the Homeland Security Advisory System.

Central to the success of the DHS mission is the close working relationship among components, the Office of Information Analysis and the Office of Infrastructure Protection ("IP"), and the Homeland Security Operations Center (HSOC), to ensure that threat information and situational awareness are correlated with critical infrastructure vulnerabilities and protective programs. Together, the three offices provide real time monitoring of threat information and critical infrastructure to support the Department of Homeland Security's overall mission. This permits us to immediately respond to and monitor emerging potential threat information and events, and to take issues or information for more detailed analysis and recommendations for preventive and protective measures. The integration of information access and analysis on the one hand, and vulnerabilities analysis and protective measures on the other, is the fundamental mission of the IAIP Directorate.

IA and TTIC

The close professional associations that have been forged between the two offices will allow both organizations to work on complimenting each other in the best interest of the nation's security. For example, IA is responsible for translating the analysis done at the TTIC into actionable data for State, territorial, tribal, local, and private sector officials responsible for homeland security. From a personal standpoint, I believe both organizations are fulfilling their missions and enriching both each other and the wider Intelligence Community. My relationship with TTIC Director John Brennan could not be better. At present, we talk at least daily and as specific threats pertinent to the homeland arise. This opinion is backed by the tremendous track record of success TTIC has in supporting the Department of Homeland Security and its needs. As partners, IA and TTIC spend much time communicating, both through the DHS representatives located at TTIC and through direct communication of leadership.

IA and TSC

The Office of Information Analysis has a similarly productive relationship with the Terrorist Screening Center. While both perform duties that result in information being passed to local first responders and State, territorial, tribal, and local officials, both entities have separate missions. IA provides the full spectrum of information support necessary for the operation of the Department of Homeland Security and for the benefit of Federal, State, territorial, tribal, local, and private sector officials throughout the United States, to secure the homeland, defend the citizenry and protect our critical infrastructure. In contrast, the TSC is in the process of developing a fully interoperable watch list database which will provide immediate responses to border-screening and law-enforcement authorities to identify suspected terrorists trying to enter or operate within the United States.

Just as TTIC plays a vital role in supplying its federal partners with the broad threat picture, the TSC has quickly become an essential resource for local law enforcement, its federal government contributors, and other users. Through the matching and cross-referencing of lists, the TSC is allowing those personnel on the front lines of the fight against terrorism to access the information they need to identify and detain suspicious individuals.

DHS, IAIP, and especially IA will continue to work with the TSC to coordinate information sharing efforts and to establish requirements for accessing information.

IA and the TSC will grow together in their effort to serve the people and guardians of this nation.

Improving Information Sharing and Collaboration

While existing relationships are gaining momentum every day, we must assure that we formalize a process which will improve information sharing and collaboration. The Department is charged with this responsibility by law and by Executive Order.

Our goal is to effectively, efficiently, and synergistically pass and receive information in all of its forms for the benefit of the United States Government, our State, tribal, territorial, local, and private sector partners, and other DHS entities. In order to achieve this goal we must develop technical and procedural transparency and interoperability in mind to the greatest extent possible. However, the most significant impediments to information sharing are not technological, they are legal and cultural. We needed to start with the "business case" and work toward a common, integrated, and rational vision for the Department. That is precisely what we are doing.

Information sharing involves working with the Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and Department of Defense (DOD), the Central Intelligence Agency (CIA), the State Department and others. For instance, as part of this effort, the DOJ and DHS information sharing staffs are working hard to bring the Homeland Security Information Network (HSIN), Law Enforcement Online (LEO), and the Regional Information Sharing System (RISSNET) together with the goal of making the systems more compatible as quickly as possible. As we rely on existing systems, we recognize the significant work needed ahead to achieve compatibility and interoperability to meet the challenges faced by DHS.

In Conclusion

The Office of Information Analysis' unique position, roles and efforts have lead to many challenges. However, the work is not done. These challenges now lead us to the next logical step in protecting the nation, its people, and its infrastructure. Following careful review of the 9/11 Commission report, President Bush announced his support for the creation of National Intelligence Director (NID) and the establishment of the National Counterterrorism Center (NCTC). We at the Department of Homeland Security look forward to continuing to work with the Congress to take these important steps in preventing terrorist attacks against the United States.

The Department of Homeland Security is a prime example of how changes have already been made to the Intelligence Community and the counterterrorism community as they existed before September 11th, 2001. The creation of the NID and NCTC will enhance DHS' ability to better identify threats and map those threats against vulnerabilities. However, these are not the only recommendations the Commission made. The Commission also recommended continued improvements in information sharing among agencies involved in national security. DHS, especially the IAIP Directorate, plays a central role in this effort as we continue the work of communicating both with our partners in the federal government as well as with the State, territorial, tribal, local, and private sector officials charged with protecting the people and infrastructure of this country.

Building up the IA office, increasing our information capabilities, and coordinating information sharing across the entire federal government are monumental tasks. And, while we have accomplished much in a short period of time, we continue to press forward to strengthen this vital office and our ability to support the overall DHS mission of securing our homeland. In order for the Office of Information Analysis to accomplish its unique mission, we need the right organizational structure, qualified and cleared personnel, resources, and technical capabilities.

We are working hard to coordinate and integrate the intelligence and information necessary to protect our people and our critical infrastructure. Yet, we still have much work to do. We have made tremendous progress and the dedication and devotion to duty of those who do the work of intelligence at DHS is unparalleled.

We are meeting threats to the homeland with determination and dedication to lead this nation to a higher level of protection every single day. The sheer depth and breadth of our country means that one slip, one gap, one vengeful person, can threaten the lives of our citizens at any time, in any number of ways. There are no guarantees, but I firmly believe the American people are more secure and better prepared than before September 11th 2001, directly because of the Department of Homeland Security.

A brief note about the threat: it is real. Terrorists are at work around the world and when they succeed it seems our best efforts in intelligence, security, defense and protective measures have somehow failed, despite the many successes we have against terrorists. We continue to receive substantial information concerning ter-

rorist intent to strike us again in our homeland. As we approach the period of our national political process and the many associated events, it is my view that we are entering a period of significant risk, perceived by those who would strike us as an opportunity to tear our societal and cultural fabric. We cannot relax, we cannot falter, we cannot live in fear. Instead, we who do the work of intelligence and law enforcement must persevere and provide insight and knowledge to those who lead and decide.

We have accomplished much in IA since our inception and we are on course with our partners and colleagues to continue to achieve. We are fully connected to the U.S. Intelligence Community and well informed. We are integrated into the workings of the domestic security structure. We are connected with law enforcement. We have working analysts poring over the detail of intelligence and law enforcement reporting to discover the hidden patterns and concealed threads of terrorist activity and the manifestation of other threats to America from crime with national security implications and from other disasters and threatening conditions that come our way. We have a sense of purpose and we have embarked on what has likely never been done before with regard to information fusion. . . to fully understand the threat and the conditions extant in the “new normal” United States context that we see now and in the future. The 9–11 attacks, the December 2003–February 2004 period of heightened concern, the recent attack in Madrid and potential but largely interdicted attacks elsewhere, and the fact of anthrax and ricin attacks here in the United States, combine to form this “new normal” condition of constant possibility that we cannot ignore.

At the same time we are—I am—most mindful of the need to protect the civil liberties and personal privacy of our citizens and to preserve and defend our Constitution and our way of life. In the end, we are—I am—focused on defeating the terrorists before they can strike. That is why we exist.

Chairman Cox and Members of the Committee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

Chairman COX. Mr. Brennan.

**STATEMENT OF JOHN O. BRENNAN, DIRECTOR, TERRORIST
THREAT INTEGRATION CENTER**

Mr. BRENNAN. Good afternoon, Mr. Chairman and members of the committee. It is a pleasure to appear before you today to talk about information sharing and homeland security. And I would like to offer just a few brief ideas, as well as lessons learned from the TTIC experience on information sharing.

In order to minimize the potential for dangerous seams and coverage as well as to optimize the use of finite resources, we must continue building and implementing a national framework for the origination, analysis and dissemination of terrorism information by the U.S. Government. The delineation of such responsibilities must be as unambiguous and as straightforward as possible to ensure we continue building an agreed-upon information sharing architecture, both horizontal and vertical, that is based on a clear understanding of who is responsible for what.

Such an architecture must include an overall Intelligence Community business model framework to ensure comprehensive, robust and as appropriate, alternative terrorism capability; a national information sharing framework based on increased clarity of mission roles and responsibilities, including an understanding of the information needs of the Federal Government, State and local officials and law enforcement and the private sector; an overall blueprint for information technology systems, including strategic prioritization, implementation schedules and sunset requirements for legacy systems that impede interoperability; community-wide standards for reporting formats, dissemination requirements, interoperable hardware and software; and role-based data access.

There are important lessons in the establishment of TTIC. Assignees to TTIC retain authorities to home organizations, which allows TTIC to access more information than in any single government department or agency.

Now, a key TTIC objective has been to develop an integrated information technology architecture so its sophisticated analytic tools and search capabilities can be applied against the many terabytes of data available to the Federal Government. We must be able to cross-check these different data sets which are collected by departments and agencies statutorily authorized to do so. Our approach for this is called the Sanctum architecture, which will allow analysts to conduct simultaneous and federated searches against data sets resident on separate networks. By the end of this month, we will be able to conduct federated simultaneous searches against the data contained in six separate networks, and other networks will be added throughout the year.

An additional challenge is dealing with disparate information technology systems and nonstandardized information technology practices, processes and procedures, including a plethora of legacy information systems and networks that impede interoperability. This is not to say that there should be a single integrated database of all terrorism information in the U.S. Government. However, overall guidelines for U.S. Government information technology systems and enforced community-wide standards regarding metadata tagging, security practices and procedures would go a long way toward implementing an overall national framework that promotes interoperability and information sharing.

And I look forward to taking your questions.

[The statement of Mr. Brennan follows:]

PREPARED STATEMENT JOHN O. BRENNAN

Good afternoon, Chairman Cox, Ranking Member Turner, and the Members of the House Select Committee on Homeland Security.

I appreciate the opportunity to join my colleagues from the Departments of State and Homeland Security, and the Federal Bureau of Investigation, to discuss progress made, lessons learned, and areas that might be strengthened regarding information sharing and associated activities to protect U.S. interests at home and abroad from the terrorist threat.

Significant progress has been made on information sharing throughout the Federal government and beyond since the tragic events of September 11, 2001. The implementation of streamlined processes and procedures, enhanced partnerships bridging organizational boundaries, and the deployment of new technologies have enabled the integration and dissemination of information on terrorist threats to U.S. interests at home and abroad in a more timely and comprehensive manner than ever before. Likewise, the Department of Homeland Security (DHS) and the Federal Bureau of Investigation (FBI) are expediting the provision of terrorist threat-related and associated information to state and local government officials, the private sector, and law enforcement entities.

As we collectively continue efforts to improve information sharing, as well as move toward implementing recommendations made by the 9/11 Commission, I offer some core concepts as well as lessons learned based on the experience establishing the multi-agency joint venture known as the Terrorist Threat Integration Center (TTIC).

It is my personal opinion that in order to minimize the potential for dangerous seams in coverage as well as to optimize the use of finite analytic resources, we must continue building and implementing a national framework for terrorism analytic responsibility in the U.S. Government. The delineation of substantive responsibilities for terrorism analysis among the various members of the Intelligence Community must be as unambiguous and as straightforward as possible, while still allowing alternative views to be heard. An unambiguous delineation of roles and re-

sponsibilities is critical to ensure that we continue building an information-sharing architecture—both horizontal and vertical—that is based on a clear understanding of who has responsibility for analytic “output.” With well-defined responsibilities, we will have a system that identifies “who” is responsible for providing “what” to “whom.” We must continue progress already made in clarifying roles and responsibilities and the building of an information-sharing architecture, with particular emphasis on establishing:

- An overall Intelligence Community business model framework to ensure comprehensive, robust, and, as appropriate, redundant terrorism analysis capability.
- A national information-sharing framework based on increased clarity of mission roles and responsibilities, with a common understanding of the information requirements of individual U.S. Government components and beyond. This information-sharing framework should extend beyond the Intelligence Community and where appropriate, include linkages to state and local officials and law enforcement; commercial industry; foreign entities; and other non-traditional partners.
- An overall blueprint for information technology systems, including strategic prioritization, implementation schedules, as well as establishment of a “sunset” list for legacy systems that impede interoperability.
- Community-wide standards for reporting formats, dissemination requirements, and interoperable hardware and software, with an information technology architecture for role-based data access.

There are some relevant lessons from the establishment of TTIC. Assignees to TTIC carry the authorities of their home organizations with them, such that in TTIC there is the ability to access more information than in any single independent agency or department. In fact, TTIC has direct access connectivity with 26 separate U.S. Government networks, enabling access to terrorism-related information systems and databases spanning the intelligence, law enforcement, homeland security, diplomatic, and military communities. This unprecedented information access allows for a more comprehensive understanding of terrorist threats to U.S. interests at home and abroad and, most importantly, enables the provision of this information and related analysis to those responsible for detecting, disrupting, deterring, and defending against terrorist attacks.

A key TTIC objective is to develop an integrated information technology architecture so that sophisticated analytic tools and federated search capabilities can be applied to the many terabytes of data available to the Federal Government. We must be able to cross check these different data sets, which are collected by departments and agencies statutorily authorized to do so, in a manner that allows us to identify terrorists and their supporters before they reach our shores or when they emerge within our midst. Simply put, we need to create new knowledge from existing information currently resident in a distributed architecture. We must also implement the appropriate controls to ensure security and privacy of information. Progress has been made toward this end. Our approach, called the “Sanctum Architecture,” is expected to reach initial operating capability later this month, allowing analysts to search against data sets resident on 6 separate networks. Over time, the goal for the Sanctum architecture is to expand this capability to enable federated searches across multiple data sets—in other words, one query against the holdings of multiple systems and databases on multiple networks.

An additional challenge is that of disparate information technology systems and non-standardized information technology practices, processes, and procedures, including a plethora of legacy information systems and networks that impede interoperability. This is not to say that there should be a single, integrated database of all terrorism information in the U.S. Government. However, overall guidelines for U.S. Government information technology systems and enforced community-wide standards (metadata tagging, security practices and procedures, etc) would go a long way toward implementing an overall national framework that promotes interoperability and information sharing.

In conclusion, as we move forward with information sharing initiatives as well as address the broader issues associated with intelligence reform, integration of effort should serve as an important organizing principle. In particular, we need to enhance orchestration of the broad array of counterterrorism activities across the U.S. Government and beyond. In this regard, I support the concept of establishing a National Counterterrorism Center to orchestrate and integrate, as appropriate, the myriad of activities working to protect U.S. interests at home and abroad from the scourge of international terrorism. We all have a shared responsibility to continue implementing a new information sharing paradigm and an overall national counterterrorism system that maximizes the security and safety of all Americans,

wherever they live or work. I look forward to continue working with my colleagues here today and with the Members of this committee toward this end.

Chairman COX. Ms. Baginski, I should note for members, the title Executive Assistant Director refers to the Bureau and you are in fact the Director of the Office of Intelligence.

**STATEMENT OF MAUREEN BAGINSKI, EXECUTIVE ASSISTANT
DIRECTOR FOR INTELLIGENCE, FEDERAL BUREAU OF
INVESTIGATION**

Ms. BAGINSKI. Thank you very much. It is a pleasure to appear before you and I will make my remarks brief.

We applaud—at the FBI we applaud the work of the 9/11 Commission. We are grateful for their fine work. We are pleased they have embraced our reforms to date, and we agree with them wholeheartedly that we have additional work to do.

The adversary we face today is networked and enabled by information technology that allows it to have a shared view of the objective, a clear understanding of roles and responsibilities in carrying out the objective and very tight decision loops in taking action. To defeat this adversary, we, the intelligence and homeland security communities, have to look just like it. Each of us sitting here at this table represents a node on the Federal network. Our job is to interoperate with each other, but also ensure that we can interoperate with other information networks, particularly those at the State and local and tribal level, who will be the first to encounter threats and the first called upon to defend against them.

At the FBI, we define intelligence very simply. We call intelligence vital information about those who would do us harm; and we see the only true measure of intelligence, good intelligence, is whether or not it helps someone make a better decision. The decision makers who have to defend our Nation are varied indeed, and they range from the President to the patrolman. So our first commitment on the intelligence side is to invest very substantial resources in understanding the decisions that have to be made and ensuring that we provide the proper information to do that.

Over 2 years ago, Director Mueller recognized this and appointed an Assistant Director of the FBI for Law Enforcement Coordination. That Assistant Director is sitting behind me, Mr. Louis Quijas, who comes to us from High Point, North Carolina, where he was a police chief, and before that, the Kansas City chief.

Everything we have done since 9/11 in the FBI and across the Federal, State, local and tribal governments has been designed to create this information network, and it has been an evolutionary process. We began, I think, immediately after 9/11 with bringing foreign and domestic intelligence about the terrorist threat together in the Oval Office in the President's briefings. That evolved into the creation of a TTIC where we institutionalized the bringing together of information around the threat.

And we brought together intelligence and operations in the counterterrorism strategy security group headed by the National Security Council. We stood up the Department of Homeland Security designed to really overlay those threats, over our critical infrastructure, and to ensure that we were protected. And the reforms that the President has announced, the ones he has accepted from

the creation of the National Counterterrorism Center and the creation of a National Intelligence Director are embraced as logical next steps.

There is great parallel to that progression in the course we have taken with intelligence at the FBI, a very evolutionary path, beginning immediately after the events of 9/11 and standing up a very robust intelligence capability within our counterterrorism directorate focused basically on raw intelligence production and finished analysis; and then gradually, over a 3-year period, migrating to the creation of an enterprise-wide intelligence program led by an Executive Assistant Director. And I was pleased and honored to join the FBI in that position in May of 2003.

Our intelligence program is actually built on four key principles. We want an independent collection and requirements management system. What we can do and what we can collect should not be driving what we collect. What we must collect should be driving what we need to know and have to know to defend the country has to be defining it. So that process is managed in my office.

Another core principle is centralized management of intelligence. The power of the FBI intelligence process is in its distribution geographically in its 56 field offices, 400 resident agencies and world-wide legal attache offices. My trick is to ensure that that process is managed against common threats, but not micromanaged from headquarters so we unleash the power that is out in the field.

The third principle is focused strategic analysis. If all of our attention is on current reporting, then we are failing to devote the resources we need to step back from the threat so that we understand what we don't know and need to know, to put all of that information so we can make better decisions.

And finally: the core principle of integration of intelligence with law enforcement operations.

Those are our four principles.

I am the FBI official responsible for information sharing. So if there are problems with information sharing and information policy, you are looking at the person who has to put in place the proper policies to do that.

I come before you today to tell you we have made a very good step and we have more work to do. So that there is no confusion for you, it is my responsibility both within the FBI and outside of the FBI to ensure that the proper information is delivered to key decision makers, and with the timeliness they need it and at the classification level that they need it.

In the interest of brevity, I want to share with you some of the key accomplishments we have made, because they are substantial and they are a good start, but they are not yet enough.

First, we have issued our first-ever FBI intelligence requirements and collection tasking documents. These requirements are completely lined up with the national intelligence priorities framework and emanate from it. We have, in addition, issued an unclassified version for our partners in State, local and tribal law enforcement who continue to ask me, we will give you whatever it is you want: just tell us what it is you need from us.

We have become full members of the DCI's National Intelligence Collection Board and National Intelligence Analysis and Production

Board, and we are participating in the drafting of national intelligence estimates.

We have created a collection capabilities database that tells us what sources we have and could bring to bear on all threats facing the Nation. Most importantly, this database allows us to identify where we have critical gaps and need to develop new sources.

I chair a daily intelligence board every day to ensure that critical decisions are made about information sharing and that cross-programmatic analysis is done so all information is brought to bear on threats.

We completed our first-ever FBI dissemination manual. It is based on the principle “right to release” and requires a new classification requirement, “required to release.” We write to the lowest classification. We separate sources from methods. And we have just developed a Web-based intelligence authoring tool that requires the author to write their first version at the lowest classification level.

We have set unified standards and policies for training intelligence analysts. We are in the process of changing the critical performance criteria for agents to include emphasis on source development and production of intelligence.

We have tripled our raw intelligence production this year and doubled our production of Presidential assessments—of intelligence assessments.

I want to tell you the final thing we have done is to develop metrics to tell you, ourselves and others whether these changes are making any difference. And with that, I will be happy to take any of your questions.

[The statement of Ms. Baginski follows:]

PREPARED STATEMENT OF MAUREEN A. BAGINSKI

Introduction

Good afternoon, Mr. Chairman and Members of the Committee. It is my pleasure to come before you today to discuss the recommendations of the 9–11 Commission, specifically information sharing issues that face the Federal Bureau of Investigation and other members of the Intelligence and Law Enforcement communities. As Director Mueller has said, the FBI has worked closely with the Commission and their staff throughout their tenure and we commend them for an extraordinary effort. Throughout this process, we have approached the Commission’s inquiry as an opportunity to gain further input from outside experts. We took their critiques seriously, adapted our ongoing reform efforts, and have already taken substantial steps to address their remaining concerns. We are gratified and encouraged that the Commission has embraced our vision for change and has recognized the progress that the men and women of the FBI have made to implement that vision. Our work to date has been on strengthening FBI capabilities so that we can be a strong node on the information network of those who defend the nation. Vital information about those who would do us harm is not produced by the federal government alone. We are proud to also be part of an 800,000 strong state, local, and tribal law enforcement community who are the first to encounter and defend against threats.

On August 2nd, the President announced his intention to establish a National Intelligence Director (NID) and a National Counter Terrorism Center (NCTC). We look forward to working with you on these vital reforms.

Our core guiding principle at the FBI is that intelligence and law enforcement operations must be integrated. Under the direction of Director Mueller, the FBI has moved aggressively forward in this regard by implementing a comprehensive plan that has fundamentally transformed the FBI. Director Mueller has overhauled our counterterrorism operations, expanded our intelligence capabilities, modernized our business practices and technology, and improved coordination with our partners.

A prerequisite for any operational coordination is the full and free exchange of information. Without procedures and mechanisms that allow information sharing on a regular and timely basis, we and our partners cannot expect to align our oper-

ational efforts to best accomplish our shared mission. Accordingly, we have taken steps to establish unified FBI-wide policies for sharing information and intelligence both within the FBI and outside it. This has occurred under the umbrella of the FBI's Intelligence Program, and is my personal responsibility as the FBI executive for information sharing. We have made great progress and we have much work ahead of us.

Intelligence Program

The mission of the FBI's Intelligence Program is to optimally position the FBI to meet current and emerging national security and criminal threats by (1) aiming core investigative work proactively against threats to US interests, (2) building and sustaining enterprise-wide intelligence policies and human and technical capabilities, and (3) providing useful, appropriate, and timely information and analysis to the national security, homeland security, and law enforcement communities. Building on already strong FBI intelligence capabilities, Director Mueller created in January 2003 the position of Executive Assistant Director (EAD) of Intelligence and an Office of Intelligence. I was honored to join the FBI in May 2003 as the first EAD Intelligence.

Core Principles

We built the FBI Intelligence Program on the following core principles:

- *Independent Requirements and Collection Management:* While intelligence collection, operations, analysis, and reporting are integrated at headquarters divisions and in the field, the Office of Intelligence manages the requirements and collection management process. This ensures that we focus intelligence collection and production on priority intelligence requirements and on filling key gaps in our knowledge.
- *Centralized Management and Distributed Execution:* The power of the FBI intelligence capability is in its 56 field offices, 400 resident agencies and 56 legal attaché offices around the world. The Office of Intelligence must provide those entities with sufficient guidance to drive intelligence production effectively and efficiently, but not micro-manage field intelligence operations.
- *Focused Strategic Analysis:* The Office of Intelligence sets strategic analysis priorities and ensures they are carried out both at headquarters and in the field. This is accomplished through a daily production meeting that I chair.
- *Integration of Analysis with Operations:* Intelligence analysis is best when collectors and analysts work side-by-side in integrated operations.

Concept of Operations

Concepts of Operations (CONOPs) guide FBI intelligence processes and detailed implementation plans drive specific actions to implement them. Our CONOPs cover the following core functions: *Intelligence Requirements and Collection Management; Intelligence Assessment Process; Human Talent for Intelligence Production; Field Office Intelligence Operation; Intelligence Production and Use; Information Sharing; Community Support; Threat Forecasting and Operational Requirements; and Budget Formulation for Intelligence.*

Accomplishments

What follows are some of our key accomplishments:

- We have issued the first-ever FBI requirements and collection tasking documents. These documents are fully aligned with the DCI's National Intelligence Priorities Framework and we have published unclassified versions for our partners in state, local, and tribal law enforcement.
- We are full members of the National Intelligence Collection Board and the National Intelligence Analysis and Production Board, and soon will be participating in the drafting of National Intelligence Estimates and the National Foreign Intelligence Board.
- We have created a collection capabilities database that tells us what sources we can bring to bear on intelligence issues across the FBI.
- We have created FBI homepages on INTELINK, SIPRNET, and Law Enforcement Online (LEO) for dissemination and evaluation of our intelligence product.
- We have established a daily Intelligence Production Board to ensure that timely decisions are made regarding the production and dissemination of all analytical products. The Board reviews the significant threats, developments, and issues emerging in each investigative priority area, and identifies topics for intelligence products.
- We have completed the first-ever FBI intelligence dissemination manual.

- We have proposed and are building an Intelligence Officer certification program for Agents, Analysts, Surveillance Specialists and Language Analysts. Once established this certification will be a pre-requisite for advancement to Section Chief or Assistant Special Agent in Charge, thus ensuring that all FBI senior managers will be fully trained and experienced intelligence officers.
- We have completed and begun to implement the CONOPs for Intelligence Analysts. We have set unified standards, policies, and training for intelligence analysts. In a new recruiting program veteran analysts are attending events at colleges and universities throughout the country and we are offering hiring bonuses to analysts for the first time in FBI history.
- We are in the process of changing the criteria on which Agents are evaluated to place more emphasis on intelligence-related function.
- We are on course to triple our intelligence production this year.
- We have placed reports officers in our Joint Terrorism Task Forces (JTTFs) to ensure vital information is flowing to those who need it.
- We have developed detailed metrics to judge the results of our intelligence initiatives and are prepared to regularly report performance and progress to Congress and other stakeholders, partners, and customers.
- We have established Field Intelligence Groups (FIGs) to integrate analysts, Agents, linguists, and surveillance personnel in the field to bring a dedicated team focus to intelligence operations. As of June 2004, there are 1,450 FIG personnel, including 382 Special Agents and 160 employees from other Government agencies. Each FIG is under the direct supervision of an Assistant Special Agent in Charge.
- From October 2003 to April 2004, the FBI participated in more than 10 recruitment events and plans to add at least five additional events through September 2004. A marketing plan also was implemented to attract potential candidates. In February 2004, an advertisement specific to the Intelligence Analyst position at the FBI was placed in *The Washington Post*, *The Washington Times*, and the *New York Times*, and has since been run several more times. Our National Press Office issued a press release that kicked off an aggressive hiring campaign.
- The College of Analytic Studies (CAS), established in October 2001, is based at the FBI Academy in Quantico, Virginia. Since FY 2002, 264 analysts have graduated from the College's six-week Basic Intelligence Analyst Course. 655 field and headquarters analysts have attended specialty courses on a variety of analytical topics. 1,389 field and headquarters employees have attended specialized counterterrorism courses offered in conjunction with CIA University, and 1,010 New Agent Trainees have received a two-hour instructional block on intelligence.
- The Basic Intelligence Course currently offered by the CAS is being revised and updated to incorporate key elements of our intelligence program. Upon completion of this effort, the course will be retitled: Analytical Cadre Education Strategy I (ACES I) as outlined in the Human Talent CONOPS. An intermediate course entitled ACES II is anticipated in the future that would target more experienced analysts. Practical exercises and advanced writing skills will be emphasized, as well as advanced analytical techniques.
- The ACES I course will incorporate seven core elements of intelligence relevant for new agents and new analysts. Additionally ACES I will focus on assimilation, analytic tradecraft and practice, thinking and writing skills, resources, and field skills.
- Complementing ACES I and ACES II, the Office of Intelligence, in coordination with the FBI Training and Development Division, will identify, facilitate, and exploit training partnerships with other government agencies, academia, and the private sector to fully develop the career choices of FBI analysts. Whether an analyst chooses the specialized, interdisciplinary, or managerial career path, s/he will have the opportunity to attend courses offered through the Joint Military Intelligence Training Center, other government training centers, and private companies.
- The Office of Intelligence is also establishing education cooperative programs where college students will be able to work at the FBI while earning a four-year degree. Students may alternate semesters of work with full-time study or may work in the summers in exchange for tuition assistance. In addition to financial assistance, students would benefit by obtaining significant work experience, and the FBI would benefit through an agreement requiring the student to continue working for the FBI for a specific period of time after graduation. This program will be implemented in FY 2005.

- An Analyst Advisory Group has also been created specifically to address analytical concerns. I established and chair the advisory group—composed of Headquarters and field analysts. The group affords analysts the opportunity to provide a working-level view of analytic issues and to participate in policy and procedure formation. They are involved in developing promotional criteria, providing input for training initiatives, and establishing the mentoring program for new FBI analysts.
- The Career Mentoring Working Group of the Analyst Advisory Group is creating a career mentoring program to provide guidance and advice to new analysts. Once implemented, all new Intelligence Analysts will have a mentor to assist them. The career mentor will have scheduled contact with the new analyst on a monthly basis throughout the analyst's first year of employment.
- As of this year, the Director's Awards will feature a new category: the Director's Award for Excellence in Intelligence Analysis. Nominees for this award must display a unique ability to apply skills in intelligence analysis in furtherance of the FBI's mission, resulting in significant improvements or innovations in methods of analysis that contribute to many investigations or activities, and/or overcoming serious obstacles through exceptional perseverance or dedication leading to an extraordinary contribution to a significant case, program, threat, or issue.
- Turning to intelligence training for our agents, we are now working to incorporate elements of our basic intelligence training course into the New Agents Class curriculum. We expect that work to be completed by September. A key element of this concept is that agents in New Agents Training and analysts in the College of Analytic Studies will conduct joint training exercises in intelligence tradecraft. The first offerings to contain these joint exercises are expected in December of this year. In addition to this, we are in the process of changing the criteria on which agents are evaluated to place more emphasis on intelligence-related functions and information sharing.
- On March 22, 2004, Director Mueller also adopted a proposal to establish a career path in which new Special Agents are initially assigned to a small field office and exposed to a wide range of field experiences. After approximately three years, agents will be transferred to a large field office where they will specialize in one of four program areas: Intelligence, Counterterrorism/ Counterintelligence, Cyber, or Criminal, and will receive advanced training tailored to their area of specialization. In our Special Agent hiring, we have changed the list of "critical skills" we are seeking in candidates to include intelligence experience and expertise, foreign languages, and technology.
- Our language specialists are critical to our intelligence cadre as well. The FBI's approximately 1,200 language specialists are stationed across 52 field offices and headquarters, and are now connected via secure networks that allow language specialists in one FBI office to work on projects for any other office. Since the beginning of FY 2001, the FBI has recruited and processed more than 30,000 linguist applicants. These efforts have resulted in the addition of nearly 700 new linguists with a Top Secret security clearance. In addition, the FBI formed a Language Services Translation Center to act as a command and control center to coordinate translator assignments and maximize its capacity to render immediate translation assistance.

Information Sharing—Our Relationship with the Intelligence and Law Enforcement Communities

The FBI shares intelligence with other members of the Intelligence Community, to include the intelligence components of the Department of Homeland Security (DHS), through direct classified and unclassified dissemination and through websites on classified Intelligence Community networks. The FBI also shares intelligence with representatives of other elements of the Intelligence Community who participate in Joint Terrorism Task Forces (JTTFs) in the United States or with whom the FBI collaborates in activities abroad. FBI intelligence products shared with the Intelligence Community include both raw and finished intelligence reports. FBI intelligence products shared with the Intelligence Community include Intelligence Information Reports (IIRs), Intelligence Assessments, and Intelligence Bulletins. To support information sharing, there is now a Special Agent or Intelligence Analyst in the JTTFs dedicated to producing "raw" intelligence reports for the entire national security community, including state, municipal, and tribal law enforcement partners and other JTTF members. These reports officers are trained to produce intelligence reports that both protect sources and methods and maximize the amount of information that can be shared. It is the responsibility of the FIGs to manage, execute and maintain the FBI's intelligence functions within the FBI field office.

FIG personnel have access to TS and SCI information so they will be able to receive, analyze, review and recommend sharing this information with entities within the FBI as well as our customers and partners within the Intelligence and law enforcement communities.

In addition, classified intelligence and other sensitive FBI data are shared with cleared federal, state, and local law enforcement officials who participate in the JTTFs. The JTTFs partner FBI personnel with hundreds of investigators from various federal, state, and local agencies, and are important force multipliers in the fight against terrorism. Since September 11, 2001, the FBI has increased the number of JTTFs from 34 to 100 nationwide. We also established the National Joint Terrorism Task Force (NJTTF) at FBI Headquarters, staffed by representatives from 38 federal, state, and local agencies. The mission of the NJTTF is to enhance communication, coordination, and cooperation by acting as the hub of support for the JTTFs throughout the United States, providing a point of fusion for intelligence acquired in support of counterterrorism operations. The FBI will continue to create new avenues of communication between law enforcement agencies to better fight the terrorist threat.

The FBI has also established a robust channel for sharing information with the Terrorist Threat Integration Center (TTIC) by providing direct electronic access to classified and unclassified internal FBI investigative and operational databases, with narrow exceptions for certain types of sensitive domestic criminal cases unrelated to terrorism. TTIC also has direct electronic access to internal FBI headquarters division websites and e-mail capabilities on the FBI's classified intranet system. Both FBI and non-FBI personnel assigned to TTIC have access to this information.

The FBI has agreed to provide a substantial permanent staff to TTIC. TTIC's mission is to enable full integration of terrorist threat-related information and analysis. It creates a structure to institutionalize sharing across appropriate federal agency lines of terrorist threat-related information in order to form the most comprehensive threat picture.

Although the FBI retains authority to approve dissemination of raw FBI information by TTIC to other agencies, the FBI authorizes the TTIC to share FBI intelligence products by posting them on the TTIC Online website on Intelink-TS. The TTIC Online website provides additional security safeguards, and access is granted to Intelligence Community users who have a need-to-know for more sensitive classified intelligence on international terrorism from the FBI and other agencies. The FBI also authorizes the National Counterintelligence Executive (NCIX) to share FBI counterintelligence products on the Intelink-CI(iCI) website with similar safeguards and access by users who have a need-to-know for more sensitive classified counterintelligence products.

In addition to this, the Bureau also fully contributes intelligence analysis to the President's Terrorist Threat Report (PTTR). These products are coordinated with the Central Intelligence Agency (CIA), DHS, and other federal agencies. In addition to the PTTR, the FBI provides Presidential Intelligence Assessments directly to the President and the White House Executive Staff.

The FBI is also committed to providing those tools which assist law enforcement in intelligence-led policing—from the National Crime Information Center, the Integrated Automated Fingerprint Identification System, and the Interstate Identification Index, to Law Enforcement Online (LEO), a virtual private network that reaches federal, state, and law enforcement agencies at the Sensitive but Unclassified (SBU) level. LEO user's total nearly 30,000 and that number is increasing. That total includes more than 14,000 state and local law enforcement members. LEO makes finished FBI intelligence products available, including Intelligence Assessments resulting from analysis of criminal, cyber, and terrorism intelligence. Our LEO Intelligence Bulletins are used to disseminate finished intelligence on significant developments or trends. Intelligence Information Reports also are available on LEO at the Law Enforcement Sensitive classification level. The FBI also recently posted the requirements document on LEO, which provided state and local law enforcement a shared view of the terrorist threat and the information needed in every priority area.

LEO also has secure connectivity to the Regional Information Sharing Systems network (riss.net). The FBI Intelligence products are disseminated weekly via LEO to over 17,000 law enforcement agencies and to 60 federal agencies, providing information about terrorism, criminal, and cyber threats to patrol officers and other local law enforcement personnel who have direct daily contacts with the general public. The FBI will use an enhanced LEO as the primary channel for sensitive but unclassified communications with other federal, state and local agencies. LEO and the

DHS Joint Regional Information Exchange System (JRIES) will also be interoperable.

In the spring of 2002, the International Association of Chiefs of Police (IACP) met and agreed that a collaborative intelligence sharing plan must be created to address the inadequacies of the intelligence process that, in part, led to the failure to prevent the events of September 11. In response, the Global Justice Information Sharing Initiative (Global), which is a Federal Advisory Committee to the U.S. Attorney General, formed the Global Intelligence Working Group (GIWG). The GIWG is comprised of experts and leaders from local, state, and federal law enforcement, including members from the FBI. Their efforts resulted in the creation of the *National Criminal Intelligence Sharing Plan (NCISP)*.

On February 11, 2004 the Attorney General announced the creation of the Justice Intelligence Coordinating Council (JICC). I currently chair this Council, which is comprised of the heads of Department of Justice (DOJ) agencies with intelligence responsibilities. The Council works to improve information sharing within DOJ, and ensures that DOJ meets the intelligence needs of outside customers and acts in accordance with intelligence priorities. The Council will also identify common challenges (such as electronic connectivity, collaborative analytic tools, and intelligence skills training) and establish policies and programs to address them.

On February 20, 2004 the FBI formed the Information Sharing Policy Group, comprised of Executive Assistant Directors, Assistant Directors, and other senior executive managers. I serve as the co-chair. This group is establishing the FBI's information and intelligence sharing policies.

At the same time, we have intelligence analysts from other agencies working in key positions throughout the Bureau. The Associate Deputy Assistant Director for Operations in the Counterterrorism Division is a CIA detailee. This exchange of personnel is taking place in our field offices as well.

We have also worked closely with DHS to ensure that we have the integration and comprehensive information sharing between our agencies that are vital to the success of our missions. The FBI and DHS share database access at TTIC, in the National JTTF at FBI Headquarters, in the Foreign Terrorist Tracking Task Force (FTTTF) and the Terrorist Screening Center (TSC), and in local JTTFs in our field offices around the country. We worked closely together to get the new Terrorist Screening Center up and running. We hold weekly briefings in which our Counterterrorism analysts brief their DHS counterparts on current terrorism developments. The FBI and DHS now coordinate joint warning products to address our customers' concerns about multiple and duplicative warnings. We designated an experienced executive from the Transportation Security Administration to run the TSC, a DHS executive to serve as Deputy Director of the TSC, and a senior DHS executive was detailed to the FBI to ensure coordination and transparency between the agencies.

In order to improve the compatibility of information technology systems throughout the Intelligence Community and increase the speed and ease of information sharing and collaboration, the FBI's information technology team has worked closely with the Chief Information Officers of DHS and other Intelligence Community agencies, to develop our recent and ongoing technology upgrades to ensure the interoperability of the various information systems. To facilitate further coordination, the FBI Chief Information Officer (CIO) sits on the Intelligence Community CIO Executive Council. The Council develops and recommends technical requirements, policies and procedures, and coordinates initiatives to improve the interoperability of information technology systems within the Intelligence Community.

The CIO is also working with DOJ on interfaces between the Intelligence Community System for Information Sharing (ICSIS) and the Law Enforcement Information Sharing (LEIS) initiative, with the FBI's Criminal Justice Information Services (CJIS) Division, to increase the sharing of intelligence-related information to and from state and local officials.

In conclusion, the FBI has a responsibility to the nation, Intelligence Community, and federal, state, and local law enforcement to disseminate information, and to do so is an inherent part of our mission. Sharing FBI information will be the rule, unless sharing is legally or procedurally unacceptable.

Next Steps

We have made great progress, but we have much work to do. Our plan is solid and we believe we are heading in the right direction. We have enjoyed much support from your committee and we are very appreciative of the time your staff has spent in learning about our initiatives and giving us advice. What we need more than anything else is your continued support and understanding that a change of this magnitude will require time to implement. With your help, we will have that. Thank

you for allowing me the opportunity to testify before you today and I will be happy to entertain any questions you may have.

Ms. DUNN. Thank you, each of you, for your statements. We will begin the questioning with the gentleman from Florida, Mr. Diaz-Balart.

Mr. DIAZ-BALART. Thank you, Mr. Chairman.

I would like to thank you for testifying before us today. The first question I would like to address is to Mr. Brennan.

The 9/11 Commission report recommended expanding TTIC, enabling it to share foreign and domestic intelligence and conduct joint operational planning. So what I would like to ask you about is, in your opinion, what legal changes would be needed to accomplish that?

Mr. BRENNAN. Congressman, I think there is still a lot of discussion going on right now to determine exactly what the NCTC should do. The President has announced support for it and there have been important meetings over the past several weeks to look at the details on that. And depending on the extent of the change and the NCTC's responsibilities, I think there would have to be a careful look at whatever types of legislative action or executive order language that would need to be put forward. I think that is open to discussion; and as you point out rightly, it is talking about a new dimension to provide to TTIC in terms of this joint operational planning. And I think the 9/11 Commission report says that decisions would have to be made about how much authority should, in fact, be vested in the NCTC on that score.

Mr. DIAZ-BALART. Ms. Baginski, I appreciated very much your testimony, and as an admirer of the FBI, as I am—and you have a very solid team in south Florida dealing with multiple challenges on a daily basis—the community is very proud of the FBI.

The criticism in the Commission's report of the FBI was perhaps stinging, not only of the FBI, but as an admirer of the FBI, I noted it with much interest. You explained in some detail, and I appreciate you having done so, steps that the FBI has taken since September 11 with regard to the very specific criticisms by the Commission. And so I don't want you to expand more on those steps. But what I would ask you is to facilitate the steps you are taking, because some of them are continuing obviously. Especially with regard to information sharing, how can we in Congress be of help to you, to the FBI in the efforts being taken to improve information sharing?

Ms. BAGINSKI. The first dimension is the recognition that it is going to take some time. There are dimensions in this that are information technology, that are people, that are training issues. So that would be helpful to recognize. It is a combination of things.

And then, from our perspective, our biggest needs are for secure communications to our field offices and for secure compartmented information facilities. And these are not small requests. In order to join this large Intelligence Community and to be a healthy node on this network, we have to be able to operate in their information environment.

So those are the two areas. And I think third is to foster the debate that is necessary on important issues that people are raising about civil liberties as this work is done.

Mr. DIAZ-BALART. Look forward to continuing to work with you.

Ms. DUNN. The gentlelady from California, Ms. Lofgren.

Ms. LOFGREN. Thank you and thanks for your service to our country.

You know, as I have been listening both to the Chair and to the Vice Chair of the Commission before you and the questions of my colleagues, my thoughts have really turned to a broad question, which is the deployment of technology in the Federal Government. And we have talked about information sharing, but it is not just information sharing, it is the deployment of technology generally.

Listening to one of my colleagues talk about enforcement of the immigration laws, I was mindful of Commissioner Ziglar telling us that they didn't catch the terrorist who applied for a student visa because the application was on a piece of microfiche in a bucket in Florida and you couldn't do a data search of the microfiche in the bucket.

Listening to Mr. Andrews' hypothetical about a hazardous material truck on its way to blow up the Capitol, there is technology that Lawrence Livermore Labs has today that could be inserted on HAZMAT trucks that would allow those trucks to be stopped remotely, and yet we don't deploy that technology. Why not?

I am interested, obviously—have been on the Judiciary Committee since I became a Member of the House in January of 1995, and I have complained for nearly 10 years now about the lack of technology in the immigration function. And when our markup was interrupted before we recessed, I had several amendments that I had planned to offer and I shared with the majority to automate the I-94 entry-exit form, which is something that Director Mueller told me was a high priority for him and yet has not occurred, to require a study on digitizing all immigration applications and petitions with a mind towards cataloging all immigration applications by a unique biometric identifier such as a fingerprint and have the NIST biometric study go forward.

I understand since that time, US VISIT has ditched the idea of a broad biometric that would be cross-platformed and cross-agencied and instead is proposing to use the IDENT system, which uses a nonstandard fingerprint format. And maybe we need to do that because we need something in place. I voted to continue that, as a matter of fact, for that very reason, but it looks like we have now stopped the deployment of the broader effort.

So I guess my question to all of you is, in the Homeland Security—in the 9/11 Commission report, there is a recommendation that DHS take on the lead for integrating the larger network in terms of entry-exit. And the question I have is, is DHS capable of actually getting the technology deployed? If so, how are they going to do it? They haven't shown any capacity to do it yet. If not, how do we get technology identified and deployed on a Federal Government-wide basis to keep our country safe here?

Any of you who can answer.

General HUGHES. I am the representative from the Department of Homeland Security. I think the answer is that we can and are deploying technology across the board for many biometric and sensory missions to include on the borders and to include in ports of entry.

Ms. LOFGREN. Can I interrupt? I recently did some study on what technology is actually along the borders and interviewed a team that had been out from the national labs, had gone out to the borders. And this is 2 weeks ago. Basically, no technology has been deployed. They are short of gasoline for the trucks. They don't have any of the cutting-edge technology that America owns through our very excellent science centers. Why is that?

General HUGHES. May I ask which part of the border?

Ms. LOFGREN. They went to the southern border with the Lawrence Livermore National Lab. It has a whole unit to establish this technology.

General HUGHES. I am not familiar with which border site they went to, but if they covered the entire southwest border, they talked to the wrong people.

There are, of course, some problems. I am not sure what—some border areas being not directly covered by technology, but much of it is covered. We are flying unmanned aerial vehicles over the southwest border. We have placed sensors at border control points. We have a variety of checks against the immigration documents, persons coming across the border—there are a large number of illegal immigrants coming across the border every single day.

Ms. LOFGREN. I see that my time has run out, but we are still issuing paper on I-94s.

General HUGHES. That is true. We have not yet digitized the entire system. We are in the process, however, of trying to upgrade to a digital environment.

Ms. DUNN. The gentleman from New York, Mr. Sweeney.

Mr. SWEENEY. I thank the Chair. We have limited time and I want to thank our witnesses. I have about eight questions, two for each of you, so I am going to try to give them to you in "machine gun" fashion. Before I do that, I want to look back to the last panel and correct the record if I could regarding the contention by some that the Administration's proposal for funding on interoperability zeroed out the budget, as I am on the Appropriations Committee.

That didn't happen. There was a different set of priorities established and, in fact, \$2.5 billion first responder grant monies was put in the budget for those communications, and \$20 million specifically for DHS. I wanted the record to reflect that because I think it is important we have the facts.

The 9/11 Commission report says a lot of things. One of the things I think it says is that there is a general sense, an overwhelming sense, that we still don't have it right and what we effectively need, as Vice Chairman Hamilton said, is some superior authority over the information sharing part of this process. And, that is the reason why there is the call for the National Intelligence Director.

I have a real concern about it all, because as we all know, the IAIP directorate was set by Congress and the Executive branch to address the information sharing issues. What I have seen is that in a year and one half, we are at the point where it is all starting to come together. The right people have been hired, and we are beginning to set up protocols and standards that are beginning to be used. And I am worried about starting over, and I am worried about layering bureaucracies on top of each other.

General Hughes and Mr. Brennan, you two are going to be the ones who are going to probably most directly be impacted. I know the President has said he supports the idea of the national director. I don't expect you are going to be able to tell me as definitively or not whether you are, as well, concerned, but it is a concern I have in the creation of that position or any others. And I just don't know how it is going to work. I think it is important that we deliberate this in the next couple of weeks.

Mr. Black, can you guarantee that relevant information we receive from foreign partners gets to the FBI?

Mr. BLACK. The systems are in place. As an example, we have communications connectivity where the FBI has access to the traffic that we produce. We spent a lot of our time supporting the various elements, the practitioners of counterterrorism, whether it be intelligence, FBI and the rest. So we have an FBI officer in my office whose sole job is to facilitate this process.

Mr. SWEENEY. Ms. Baginski, that is happening? You are getting it into the threat integration center networks and it is getting out there?

Ms. BAGINSKI. Yes, sir. But I wouldn't be passing it to threat integration. That actually happens from Cofer's organization itself.

Mr. SWEENEY. So that is happening?

Mr. BLACK. Sure.

Mr. SWEENEY. One hundred percent capacity? How much improvement? How do we measure that?

Mr. BLACK. In terms of all of our cable traffic, it has full connectivity with the screening elements. So that, as an example, everything that we have, Visa Viper mechanism, which is a retrievable terrorist information system, is made available, 100 percent of it, to the Terrorist Threat Integration Center and the Terrorist Screening Center. And we have plugged in the system that we started off and contributed—TIC, the tip-off program, has been moved, so I think we are well ahead of the curve in making the information collected by the Department of State—

Mr. SWEENEY. Are we fully exchanging information with India, who has had hundreds of years of fighting Islamic extremists? Are we fully engaged in the exchange of information?

Mr. BLACK. We are fully engaged. I am always queasy when we use figures like 100 percent. There is not much in life that I would raise my hand to 100 percent on. But I could tell you—

Mr. SWEENEY. That is why you want us to quantify things?

Mr. BLACK. In all professional candor, this process has gone forward tremendously and that the impetus is on making all of the information that we have available to the practitioners of counterterrorism.

Mr. Sweeney. Okay, Mr. Brennan, do all the analysts at TTIC receive full access to databases which TTIC has access to, or do providing agencies limit distribution of that information?

Mr. BRENNAN. As I mentioned, we have over 22 networks that come into TTIC. Access within TTIC is based on what the role and the function of the analysts are, and so many analysts have access to many—most all of the information streams. All of them don't need all of the access.

Mr. SWEENEY. Could I follow up and have a real sense of the protocols that are in place there?

Mr. BRENNAN. Sure.

Mr. SWEENEY. Last question to you—have a couple more I am going to ask others for the record—but do you believe that some terrorist organizations have the intention, organizational capabilities, or technical acumen to produce and deliver a nuclear weapon to U.S. cities?

Mr. BRENNAN. I do not believe at the current moment that any terrorist organization has the capability to do that. I believe that terrorist organizations are pursuing a nuclear capability to include radiological devices, nuclear devices and other types of materiel. But I don't believe they have the capability right now to do that right now. No.

Mr. SWEENEY. Thank you. I thank the Chair.

Chairman COX. [Presiding.] The gentlelady from Texas, Ms. Jackson-Lee.

Ms. JACKSON-LEE. I thank the Chair very much and the Ranking Member for both convening this meeting, and I thank him for allowing me to pursue the line of questioning relating to the importance of the work of this body and the need to reconvene with the two members of the 9/11 Commission. I must say, Mr. Chairman, that in conversations with both the Governor and the Co-Chair Hamilton both agreed to welcome both an invitation and to return before this committee.

Because, as I said in the open session and as I have said in this direct conversation with them, this is ours, and our work is securing the homeland. Abbreviated hearings, mixed with no congressional and executive action, giving no legislative direction to the securing of the homeland is playing with fire. It almost reminds me of Rome burning while music plays. So I would just start out by saying then that I call upon the Speaker of the House to convene a session in Congress so that the legislative matters that need to be acted upon the 9/11 Commission Report can be done now and can be done immediately.

Mr. Chairman, I ask unanimous consent to submit into the record the first page of the legislation that I have offered giving Cabinet status to the National Intelligence Director—

Chairman COX. Without objection, so ordered.

Ms. JACKSON-LEE. —which would oversee budget operations and personnel of the entire Intelligence Community.

[The information follows:]

108TH CONGRESS
2D SESSION

H. R. 5050

To establish the Director of National Intelligence as a cabinet level position in the Executive Office of the President to oversee budget, operations, and personnel of the entire intelligence community of the Federal Government.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2004

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Select Committee on Intelligence (Permanent Select)

A BILL

To establish the Director of National Intelligence as a cabinet level position in the Executive Office of the President to oversee budget, operations, and personnel of the entire intelligence community of the Federal Government.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Director of National Intelligence Act of 2004”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Ms. JACKSON-LEE. Let me qualify it is Cabinet status without the responsibilities of policy. It will be operational, but that individual will have budgetary responsibility and control. It is crucial that these legislative initiatives be able to be filed and that we act upon them immediately.

Let me thank the panel, and I realize that we may be at a disadvantage for some of the concerns that I have, because, as I indicated, I frankly believe that Rome is burning and that we are literally playing with fire.

In conversations that have gone on that have evidenced themselves in the press, it is well-known that some terrorist act is expected before the elections. It is also well-known that we as Americans will not be intimidated, but certainly Congress has a crucial responsibility to be able to be part of the firewall, if you will, in protecting the American people. We cannot do that in an abbreviated framework, albeit with respect to our committee leadership, and with a Congress that is not in session.

So, first of all, I think that we must frame this in a way that Co-Chair Hamilton said, and that is to smash the stovepipe on intelligence. Because the very core of the disaster of 9/11 was the lack of transferring intelligence as it was needed.

So I would clearly like to hear from this group your sense of smashing the stovepipe and whether or not you believe it will interfere with competitive analysis. I say that straightforwardly, because I believe that our previous director, certainly a distinguished public servant, failed us in the inability to see the big picture, as did our other agencies pre-9/11.

Likewise, there was a failure in oversight in the intelligence disseminated on Iraq, and there was no objectivity as I perceived it in our Intelligence Community. It was only a "yes, sir, yes, boss" attitude in terms of taking America to war.

That is my first question.

The second is, any impressions, Mr. Brennan or General Hughes on a national I.D. card? My understanding is the Commission, has not, has not, has not confirmed or recommended such. Your view of that.

Civil liberties, I would like your view on the implementation of a board inside of the intelligence center that will be created that will oversee the protection of civil liberties.

And I would appreciate, Ms. Baginski, your comment on the FBI's seeming siege on peace activists in the United States and whether that has anything to do with protecting the homeland.

And lastly, the need for border security to be combined with intelligence, meaning to enhance the capabilities of border personnel in securing intelligence.

If I could get an answer to at least one of those questions since the Nation is at crisis.

Mr. Brennan.

Mr. BRENNAN. I will start. First of all, smashing the stovepipes and competitive analysis, I think we are all committed to smashing any stovepipes that remain. It is not sufficient though just to share hard copy information. It is important to have an information technology architecture that allows institutions to share information with institutions so that in fact you can search, retrieve that infor-

mation in a systemic manner, as opposed to having a lot of different hard copy files. That is not what we need, because there are so many different elements of the U.S. government that need that information. We need to put in place that architecture.

Competitive analysis, I am fully supportive of competitive analysis but done thoughtfully, as opposed to unnecessary redundancy that wastes resources. And, as I said in my statement, what we need to do is have a framework that allows for allocation of roles and responsibilities to include the assignment of competitive or alternative analysis.

Regarding national ID cards, I would refer to DHS on that, but what I would do is say the administration is looking at different standards and biometrics that in fact makes sense to apply at borders in other orders.

Civil liberties, since TTIC has access to so much data, we take very seriously the protection of U.S. citizens' rights and privacy obligations and we are committed to working with the rest of the government as far as having some type of board that in fact look at those issues very seriously.

General HUGHES. And I will have my views that we definitely believe in breaking or ending any barriers that exist. The term stovepipe is a little bit emotional, as far as I am concerned. We are in favor of horizontal and vertical integration at every part of the government, if we can get it. We are in favor of protecting civil liberties at every opportunity. I personally am and so is the Department. We are in favor of a board to oversee if this is a necessary development.

We are also working on the national I.D. card issue. It is more complex than simply saying, yes, we are in favor of it or, no, we are not. It has great implications for the United States, and one of the implications is the civil liberties of individuals. We have to deal with that, and so we are considering the issue.

Ms. JACKSON-LEE. Well, obviously, General Hughes, you will do that with the consent of Congress, because there are those of us who are not conceding a national I.D. card and particularly I do not sense and did not read that the Commission recommended a national I.D. card, and that is correct?

General HUGHES. That is correct.

Ms. JACKSON-LEE. Thank you, sir.

Ms. BAGINSKI. Yes, ma'am, on two issues. Stovepipes are not necessarily all bad. A stovepipe around an area of expertise, an analytical area of expertise, a center, if you will, is not something that necessarily would be negative.

But what I would say is we have done a remarkable job unifying our disparate collection resources against threats, and I think that is the core of the progress that we have made over time.

In response to your question about the articles that appeared in the New York Times, the—both the Democratic National Convention and the Republican National Convention have been designated national security special events. In accordance with that, every effort is made to insure that any threat to the security of that event is taken care of within the confines of the Constitution and the law as we always do. There is absolutely no truth to the allegation that

any of these things were undertaken outside of predication and outside the bounds of the Constitution.

I understand the press article. I did read it. I understand the concerns of citizens. But I also know the organization that I work in, and these were all done with regard for specific intelligence that caused us to have concerns about attempts to disrupt this event, and we had a similar series of events for the Democratic National Convention.

Ms. JACKSON-LEE. Well, I would ask that any peace activist that believes that they have been intimidated just for their opposition and first amendment rights need to be contacting both Members of Congress who are concerned, and I hope that you will be responsive to our calls regarding this intimidation.

Ms. BAGINSKI. Yes, ma'am.

Ms. JACKSON-LEE. Security is one thing, but intimidation and oppression is another thing.

Chairman COX. The gentlelady's time has expired.

Ms. BAGINSKI. We would be very anxious, ma'am, to have those reports and deal with that.

Ms. JACKSON-LEE. I thank you very much, thank you.

I thank the gentleman.

Chairman COX. Are there other members of the panel that would like to address any of the questions that have been put?

Mr. BLACK. I would just add one concluding remark. I think the stovepipe issue is very important. We are trying to institutionalize this. I think, Congresswoman, it is not only institutional but employees and individuals involved in this process don't have to put in Herculean efforts all the time.

I think in the past we have been relying on the work ethic of people working around the clock in defense of this country. What we are trying to do is put in a system that lends itself to people routinely doing their job in a more productive way. We no longer have the luxury to rely upon people working around the clock with no sleep, and I think we are heading in that direction.

I would also underscore that my exposure to this issue in terms of civil liberties is that we are very and profoundly interested in this. We are in the business of defending America, and America is based upon civil liberties. They go together. You can't have one without the other.

Chairman COX. The gentleman from Oklahoma, Mr. Istook.

Ms. JACKSON-LEE. Thank you.

Mr. ISTOOK. Thank you, Mr. Chairman.

I would like to address to the panel the issue of blind spots. We are all concerned, of course, realizing that terrorists want to attack us where we are not expecting it. We recognize the great symbolic value of attacks upon icons such as the World Trade Center, the U.S. Capitol or the Pentagon. Yet, being from Oklahoma City, I am certainly aware that terrorism can strike in the heartland.

It can strike where it is unexpected. In fact, that is the goal of terrorists is to do so. I am also aware that terrorism does not necessarily come totally from foreign nationals. Again, I cite the Oklahoma City example, although it was for different motives than Al-Qa'ida is pursuing.

But I would like the members of the panel to address these aspects. For example, in the testimony this morning, when we are talking about the great desire of people to blend into the landscape and to acquire documentation that will help them to escape detection—Mr. Kean certainly testified that terrorists are most vulnerable when they are traveling. So we have established networks, and we are trying to make them more robust, with the entry and exit programs focused mostly again on foreign nationals. Yet we have not only a great number of people who are in the country illegally, but we also have people who are American citizens that are involved in things, not just a Tim McVeigh. We have the American Taliban we have arrested that have been made up of American citizens in connection with foreign activities.

One thing that I did not see, and perhaps I overlooked it, but did not see among the Commission's recommendations was focusing on better screening in the naturalization process where someone wishes to become an American citizen, wishes to acquire a U.S. passport, to enable them to escape some levels of scrutiny.

We had several years ago a situation where some people said it was 50,000, some will say it was 100,000, people who applied to become American citizens were not put through the routine criminal background screenings. I do not know, and you perhaps can tell me, of any access to these information systems that is part of the naturalization process currently to make sure that the same level of screening that we are applying to people that want to come in and out of the country freely applies to people who want that great credential of U.S. citizenship and thus access to U.S. passports.

So I would appreciate the panel addressing how much of a potential blind spot we have when we either do not put enough focus on the soft targets or fail to recognize that some of the targets may have American citizenship or may be pursuing American citizenship.

General HUGHES. Perhaps I will start, since primary responsibilities lies with the Department of Homeland Security for these issues. I think I have got two questions here.

Mr. ISTOOK. Yes.

General HUGHES. The question of blind spots, especially dealing with documentation of proof of who you are and what you are doing, there are a variety of issues at work here, but the primary one is to focus on those persons that either have documentation that is questionable or illicit more—or on those persons who have a history or record we have now recorded in databases and in other ways that tells us that there are terrorists or terrorist-connected persons.

That testimony is not perfect, sir—and I would be the first one to admit that—but working; and it is being improved all the time.

The good news is that once again I think something that began before the Commission and the 9/11 report is—continues until this day is attempting to coordinate, collate and interact with all of the databases and all of the repositories of information.

Mr. Istook. Is that being done in the naturalization screening processes?

General HUGHES. Yes, it is. Yes, it is. Our Office of Citizenship and Immigration Services is the office that undertakes that. They

are not as fully integrated yet into the system as they will be in the future because when we absorbed them they were an analog organization largely. They are making rapid process to bring themselves into the digital environment, as Ms. Lofgren and others have remarked on here earlier, and that is an ongoing process.

I would like to just mention that the idea of blind spots is of great importance certainly to all of us here, I think, and we have detected instances where American citizens, where people with very, very good documentation who were indeed terrorists or terrorist connected have been able to travel or transit in some way across our borders. We regret that. We are trying hard to figure out how to solve it.

I think in the case of the American citizens who do want to do ill to the United States, we are not dealing there with identity, mirror identity. We are dealing also with their belief system, their values and their actions, and that is a more difficult kind of thing to reduce to a data entry that will show that in every case.

So we are trying to come to grips with that, but it is at that time primarily an interface process where we come to those persons, understand their actions or their professions, the views and ideas that they give, and then we deal with them on that basis. But their documentation or their previous identity may not show anything else at all that is wrong.

Mr. ISTOOK. Other panelists.

Mr. BRENNAN. The issue of blank spots is a very important one, and that is why I am a strong advocate of making sure that there is an allocation of responsibilities. Because there is a vast horizon of issues that need coverage from an analytic as well as a collection perspective, and the more that we can identify that universe and that horizon and assign responsibilities the better chance we are going to be able to cover that horizon.

On the issue of individuals here in the States who may in fact be part of transnational terrorist groups, the Homeland Security Presidential Directive 6, HSPD-6, that was promulgated last September streamlined the whole watchlisting and database process. It is still in the process of being streamlined and overhauled, but in the past when there were 12 different databases and nine different departments and agencies, that no longer is the case.

There is the terrorist screening center. That falls on the FBI that has responsibilities for and in fact providing the support to those screeners and watchlisters. TTIC now has the national responsibility to maintain the national database on known and suspected transnational terrorists to include U.S. citizens who are here in the United States. So we have absorbed from the State Department the tip-off program that has been in existence for close to 20 years. We are putting into that the names of U.S. citizens who are known or purported to be part of transnational terrorist groups, and we work very closely with the FBI on domestic terrorism responsibilities.

Mr. ISTOOK. And would that show up on a background check for someone seeking U.S. Citizenship?

Chairman COX. The gentleman's time has expired.

Mr. ISTOOK. Thank you.

Chairman COX. But the panel may address the question further if you choose to do so.

If not, the gentlelady from the Virgin Islands.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. I am going to go right into my questions.

Welcome, panelists. I wanted to follow up on the question on the board to protect civil rights and liberties, because my understanding is that the recommendation is that the board would insure that the government is adhering to guidelines and protocols for protecting civil rights and civil liberties. Can one person answer for me? Are there guidelines and protocols in place at this time for the government to adhere to?

Ms. BAGINSKI. Speaking from the FBI perspective, there clearly are those guidelines. We conduct all of our intelligence activities and all of our investigative activity under the attorney general guidelines that were just recently updated; and they give us those guidelines, clear guidelines, for predication for when one can collect information on U.S. citizens and under what circumstances. So those guidelines are in place and have been in place for many years, yes.

Mrs. CHRISTENSEN. OK. Unless we get good-quality intelligence, the best organization and collaboration won't help to give the people of this country the kind of protection they deserve.

I wanted to raise an issue that I wanted to ask the last panel about, which is diversity within the Intelligence Community, and it also speaks to how the data will be analyzed. We are dealing with people from a faraway country, different cultures, different ways of approaching things. What is the level of diversity, for example, within the FBI, TTIC? My experience in speaking with people within the Intelligence Community, from the African American point of view, is that they are few and far between and even rarer at the top of the spectrum. So what is it and to what extent are you seeking actively to bring diversity into the Intelligence Community?

Ms. BAGINSKI. I think the DCI—former DCI Tenet in fact led a very, very focused study of this issue; and I know that I in fact testified in front of this group on behalf of the FBI. Within the FBI, there is very great diversity among our intelligence analyst program. So I will just speak for that portion, not for the law enforcement portion.

What I would say is that your observation is correct in terms of African Americans and leadership positions, but we have a very healthy diversity, both in terms of gender—what Director Mueller's guidance to me is is to bring in people who understand the cultures, that we are actually—that we are actually analyzing that and that we are actually studying, as that is part of a very focused recruiting process, 33 recruiters focused on universities to be able to bring that kind of diversity thinking.

Mrs. CHRISTENSEN. So that focused somewhat also on HPCUs and Hispanic surveys of Americans?

Ms. BAGINSKI. Yes, ma'am.

Mrs. CHRISTENSEN. Anyone else? TTIC want to answer?

Mr. BRENNAN. TTIC doesn't have direct hiring authority. We rely on the different agencies and the departments. But integration by definition is diversity, and so what we are trying to do is make

sure we have that diversity perspective which includes diversity in terms of background.

Mrs. CHRISTENSEN. OK. One of the other recommendations is on incentive for information sharing. Personally, I don't see incentives as being the answer, because I believe that we should have a centralized system and one director. But if there were incentives for information sharing, what would you envision them to be?

Mr. BRENNAN. I agree with you completely that the reference in the 9/11 Commission to creating incentives to better balance security with information sharing, I believe it should be institutionalized, not incentivized. You want to make sure that you are able to facilitate that flow of information and require and mandate, in fact, that information be shared and so not leave it discretionary. What you need to do is put together a framework, though, that is sensible, that you can protect information as well as get it out.

Mrs. CHRISTENSEN. Can I just follow up with you?

Mr. Brennan, because you talk about—you said—talked several times about the architecture that needs to be in place to facilitate this, to what extent is any of it in place at this point? Where are we in having the kind of infrastructure to facilitate the collaboration and the sharing of information?

Mr. BRENNAN. I think there are many pieces of an architecture in place. But when we talk about a national architecture, you are talking about a very complicated multidimensional architectural system that in fact is trying to take shape right now. The FBI and DHS and other departments and agencies have their systems and networks that they are trying to interact with.

Mrs. CHRISTENSEN. But some of them don't talk to each other. Some of them are not able to talk to each other.

Mr. BRENNAN. That is a question in terms of interoperability. That is why we have to look from a government-wide perspective across all the departments and agencies. But then it is complicated by the fact you are bringing in State and local entities and local law enforcement that have their own systems, and so this is a challenge of, you know, enormous magnitude, and I think—

Mrs. CHRISTENSEN. So are we at the beginning of that process? Are we just at zero?

Ms. BAGINSKI. No, actually, ma'am, I don't think that we are at zero at all. In fact, in terms of the Intelligence Community classified architecture, that is very well established and we have been joining it.

I think in terms of the secret level and then in the sensitive but unclassified level there have been enormously positive efforts between DHS and the FBI to take the existing sensitive but unclassified infrastructure and join it with the DHS architecture so that they interoperate and so that information appears seamlessly to the users so that they don't have to actually worry about whose network that was actually carrying on. So I think there is very positive work going on there.

And in terms of incentives for information sharing, I happen to agree with John. I don't think he can do this through incentives, so we have actually done it through rules, which is essentially—we have created a category of information that is required to share,

and our authoring tool for reports requires the first version to be written at a low classification.

General HUGHES. Would you mind if I gave a brief follow-on?

Chairman COX. Please do.

General HUGHES. I would like to tell you last week we convened 324 persons from States, the territories and possessions, from a few localities here in D.C. and began in the process of training them in the handling of U.S. Federal Government information up to the Secret level. The system that will provide that information to them is also being fielded now. It is almost complete, called the Homeland Security Information Network, which was complementary and parallel with the JTTF structure from the FBI and other systems that are in use throughout the country. So we are definitely more than talking about or thinking about this. We are doing it, and we are some distance into it.

Chairman COX. The Chairman will recognize himself for 5 minutes.

Ms. Baginski, as the person responsible within the FBI for information sharing and also as part of a bureau that has nearly 100 JTTFs operating, not to mention the field offices and so on, do you see it as the role of the FBI to take the lead on information sharing with State and local governments?

Ms. BAGINSKI. We actually see it as the responsibilities of DHS and the FBI to speak from the Federal level to the various components of State and local government. In our case, we are focused on the law enforcement community. In DHS's case, they are focused on the municipal and the private sector.

Chairman COX. I am not quite sure I understand how that works. What you are saying is that information that is finished intelligence, analytical product, is in some cases shared by DHS with State and local government and some cases shared by FBI, but there isn't anyone with a lead on it?

Mrs. BAGINSKI. Actually, what General Hughes and I have done—and I think we are both enormously proud of it—when those communications occur, we have been doing them in the form of bulletins. I think you probably recognize those. Before, we were in a position where the FBI was issuing its own to the local law enforcement community and the DHS was issuing its own to the municipal and government and private sector.

What we have done is we issue now one bulletin, one set of information with both seals, so that the Federal voice to the local community is a single voice, and I think that is a very positive step forward that we have worked as a personal partnership and that our folks have executed very, very well over the past couple of months.

Chairman COX. So there isn't a customer that is getting information from FBI that is not under the aegis of DHS?

Ms. BAGINSKI. Yes, there is.

Chairman COX. There is. What customers are those?

Ms. BAGINSKI. The Intelligence Community is one of those customers. We, I think, as you know—

Chairman COX. I am sorry, talking within the realm of State and local governments in the private sector?

Ms. BAGINSKI. Uh-huh.

Chairman COX. Any customers within that realm?

Ms. BAGINSKI. Yes, I think it is fair to say in the State and local law enforcement community, we are, in fact, producing a number of intelligence assessments to include the raw intelligence that we produce that the Director of the FBI is actually responsible for producing; and through a number of mechanisms, to include our law enforcement online sensitive but unclassified Web-based network, we are posting intelligence assessments and raw intelligence for passage for our State and local partners at the same time that we are passing it to our partners at the Department of Homeland Security.

Chairman COX. We have simultaneously the bulletins going out which are jointly produced by DHS and FBI and we have things going directly from FBI that don't go through DHS? Same customers?

Ms. BAGINSKI. That is correct. And I think it is important to note here that you might be thinking about just terrorism, but you understand that we have three other missions as well, and there is the traditional criminal mission, where we produce a lot of intelligence that is of direct use to State and local law enforcement.

Chairman COX. Could be, but I am not addressing my question to that.

Ms. BAGINSKI. I am sorry.

Chairman COX. I am addressing my question entirely to the—

Ms. BAGINSKI. Counterterrorism.

Chairman COX. —issue that we have been focused on this in this hearing.

Ms. BAGINSKI. I am sorry, this is actual information that goes to State and local law enforcement and, of course, our JTTF constructs which is, of course, our operational arm. Information is in fact going in there to the JTTFs to take action on as well as the DHS, and the elements of DHS are partners in that.

But when you ask me the information—is there specific information, State and local, not going to DHS, our answer is yes. Our bulletins are putting threat information in perspective and giving State and local authorities a sense of what countermeasures they can take and be on the lookout for.

Chairman COX. I am sorry. My time is just about running out. I want to get to one other aspect here.

My question is that I don't think we have yet licked the problem of complete coordination between the Federal Government, certainly not through DHS and the State and local governments and the private sector customers for finished intelligence products. That raises then the question about the National Counterterrorist Center and the degree to which it might be viewed by some people, now that it is in the planning stages, as acquiring the responsibility that I think by statute now in section 201 under the Homeland Security Act is given to DHS.

General Hughes, since my time has expired, let me leave that question in your lap. What do you think we are headed for in terms of the executive branch's points of view on this? Is the National Counterterrorism Center going to be in the role of distributing information to State and local governments? Is DHS going to want to continue to do this, FBI or TTIC, or is TTIC going to be sub-

sumed in this? We don't know any more than what we read in the newspapers about this right now. While you are at it, what do you think will happen to IA in all of this process?

General HUGHES. I think the process and the point we were discussing, these issues, I don't think decisions have been made. If they are, I am not aware of them.

With regard to the idea that supposed that information will flow from the National Counterterrorism Center out to the States and localities, there is some discussion about that, how it will go, whether it goes through DHS or through law enforcement channels or through a direct channel. Because we certainly could do it directly. And, by the way, probably concurrently to not only the respondents of the State and local but also to Federal partners, much as Ms. Baginski just described, that has yet to be determined.

That is one of the many—I would say many thousands of details we have to work through here. But certainly it is intended for the National Counterterrorism Center to be the focal point for threat assessments regarding terrorism for the United States. So I can assume from that title, that idea, that concept, that if the NCTC embraces that mission, they will be issuing products that one way or another through a variety of conduits will go to the State and local level in our country.

Chairman COX. Mr. Etheridge.

Mr. ETHERIDGE. Thank you, Mr. Chairman.

Folks, we are here today because of this report. We would not have a meeting in August if it weren't for this 9/11 Commission, a Commission that many people in this body opposed and people in high office didn't want to happen. But because the families pushed hard and some Members did, we are here, and I want to thank them and the families, because they more than anyone else bear a lot of the burden of 9/11, and we want to fix that problem.

The previous testimony from two speakers talked about a problem that we face, one of many. I am going to ask my question, and I want each of you to comment on it, because they discussed the inordinate amount of classification of intelligence data, data and information that no one has any doubt about what it is, not really sure that it is secret, classified, et cetera, and that information is then out of the public domain.

Over the last couple of weeks I have had the opportunity to visit with a lot of police officers, police departments, fire departments, rescue squads and people that we say we really want to be in touch with, that we really need their help and their input. We are now just talking about the information that we are going to get to them. The problem is we don't get them the information quickly and we classify stuff that shouldn't be classified that would help.

I remember in the last several weeks—whether it comes to anything or not—a police officer just doing his duty saw someone in Charlotte filming buildings, may not mean anything. But that is how we get the job done. But if we classify everything that crosses our desk, they won't get the information.

So my question is this—and I don't think there is an adequate flow of information getting to locals, either that or the people I am talking with are not being honest with me, and I think they are being honest with me. I just think they are not getting the informa-

tion. I would like for each of you to discuss any attempt that your organizations are making to coordinate and revise the classification strategies that would make the accuracy, the collection and the effective information available to the first responders across this country and what is being done to put the stamps of classification to the side when it doesn't have to be put there. I think this is a huge problem that no one is doing any talking about yet. Because if we move all the blocks and the chairs we want to on the decks of the Titanic, if we keep doing that, we never get the information out in time no matter how many people we move and change.

Whoever would like to go first.

Mr. BLACK. I guess I have been elected to start.

I think you have asked one of the most profound questions for the future of this issue. I think it is important to note that essentially we are in a different environment than we were in the past. This is not the Cold War. The Cold War was slow and ponderous. It rewarded attention to detail. It rewarded secrecy. It rewarded keeping secrets from as many as possible to protect the source.

Immediate response to the high-velocity threat of terrorism requires accurate information, yet it requires speed. So I think the correct solution is to move away from where we were in the past. Speed counts, information has to be disseminated quickly so that people can take action to protect, especially since we are not interested in writing a intelligence report for its own sake. We are interested in using this information so it can protect people.

In the overall context, this is where we are going. This is the future. There is the caveat that has to be the preserve of the Intelligence Community and the FBI, and that is to protect those sources that do need protection.

Sometimes sources that are highly significant are rare. They need to be protected. But I think the community is working on that, and I would have to defer to Mr. Hughes and Mr. Brennan. But there is an effort in this direction.

So I think the answer—the response to your question would be, in the past everything was classified because it was slow and ponderous. Now you require speed for action purposes, yet at the same time we have to increasingly identify those several sources of those limited numbers of sources that need to be protected, because they are so hard to replace.

Ms. BAGINSKI. Yes, sir. I would like to comment on that. I think you have asked a very, very important question.

Our initiatives are twofold. The first is to separate the information from the source; and we think that can, in fact, be done. As long as you try to merge those two things, you are often dealing in a very difficult classification situation.

At the same time, when you separate those two things, we do require from the FBI analyst a source commentary that attests to the pedigree of the information, which generally can be described as the degree of separation of the source from the actual information itself and some characterization about its reliability. So there are two things, separation that allows us to write it to release it at the lowest classification in accordance with a DCI directive, I might add, a DCI directive that has been on the books since 1989 or be-

fore, requiring us to alternate at the lowest possible classification level.

Mr. BRENNAN. It is not just an issue regarding classification. It is the entire way that data is originated within the U.S. government. We need to reengineer that origination process.

And, as Maureen said, right to release, so that the technology exists right now that the thread of information that is required overseas can move at the speed of light all the way down to the police chief in a local jurisdiction where the thread of information focuses on.

But the policies and practices and procedures have to be put in place to reduce the number of human interventions that are required as the case exists right now. So what we need to do is—the natural default over the years in the intelligence business has been to declassify something. It is changing that mindset to make sure that the first piece out of the box in fact goes to the classified level that can go to the first responder or somebody else. Then you can follow with the more detailed, sensitive information.

General HUGHES. I will just give three short bursts here.

We are routinely producing in this community highly-classified information with tearlines or excerpts out of the information that are either at a reduced classification level or at unclassified level, sensitive but unclassified or law enforcement sensitive, that can be sent out to the field. That is an ongoing mechanism, and it seems to be working very well. It may not be yet where we would like it to be, but it is certainly a big improvement over the past.

Second, we have direct automated communications that are or were at the unclassified level every day going to all of the States. Many of the localities in this country are also receiving that information. It is not all-inclusive. We are Federal officers. We are bound to protect according to the law, the information we invest so much in and worked so hard to get. So we are doing the best we can right now with this effort.

I would also mention telephone calls, sir. Many of us make telephone calls. I personally make them to persons who are not—who do not have available to them some other kind of communication system that works. Sometimes those calls are secure, over classified telephone systems. Sometimes they are unclassified over the regular telephone system. Depends on the information. But that is happening now.

And the last point I would like to make to you is classification is really not a barrier to the communication of information if indeed the information indicates an impending act or a crisis or some kind of a problem that needs to be acted upon immediately. I can look you and any Member here in the eye and tell you that we will get that information out of its classified restricted environment and give it to the people who need it as rapidly as possible.

Chairman COX. Thank you.

The gentlelady from Washington.

Ms. DUNN. Thank you, Mr. Chairman.

Welcome to our panel today. It is very helpful, your testimony. We have appreciated it.

I have a couple of questions. I was very happy to hear Ms. Baginski talk about metrics being involved. Now measurements of

success, those are vitally important, and we take them seriously, but we also all know that structural change such as the sort of change we have gone through with the Department of Homeland Security can be as rational as possible and yet not really work because of cultural problems.

I am interested in asking you, first of all, what sort of challenges have you run into in terms of the culture of the organizations that you lead. In two of the cases, General Hughes, Mr. Brennan, you are leading new agencies since 9/11. You are dealing with details from legacies, responsibilities. Some of you are having problems attracting talent to come to work in your departments. What have you done within your departments since 9/11 to make sure that we can meet some of the—that we already have some of the shortcomings that were listed in the 9/11 Commission's report, and what do you have left to do?

Mr. BRENNAN. First of all, as far as we in TTIC have different representatives, there are assignees in the different organizations, people have asked how do you bring those different cultures? Quite frankly, we haven't had to work at it. Because if you give people an important mission like terrorism, you give them access to information across the U.S. Government. You find that they will work together seamlessly and collaboratively in a way that they haven't done before. So we feel as though there is a real benefit of the integration and colocation of these individuals with information systems.

This has been working in concert with FBI, DHS, CIA and others to bring together this—what I refer to as an architecture that is not just information technology architecture, it is also the business practices and interactions.

So I think one of the things that we represent up here is that we have regular interaction. And if we have the interaction at senior levels, the individuals who are working on the challenges really feel at liberty to be sharing this information among themselves to find the ways that they can in fact facilitate that sharing of information.

General HUGHES. I would like to give you just two quick answers here.

First is what we have done since 9/11, and in my case we are a couple of months beyond a year old, in organizational terms. Our mere—the mere fact that we have come into being is a response to the need for some organizational entity to provide an umbrella for many disparate organizations to work under the Department of Homeland Security and then to use the power of those organizational elements that were legacy organizations to feed information into a central repository, a central location and interact in the Federal and the State and local environment to make sure that information has utility. That is the single biggest thing I can think of.

We have many other issues, but I think that is enough on that topic.

I would like to say that the idea that it was hard to get legacy organization personnel to work together, in my case, is the same as John Brennan has characterized it. If you give them a mission and if you give them an identity, especially that goes with that mission, an organizational identity or even perhaps a philosophical

identity, they will do the job very well. They are, in fact, patriots as much as they are any other members of an organization.

So on behalf of the country, I haven't encountered any problems with people working together. Once they come into the Department of Homeland Security, they do very, very well together.

Mr. BLACK. I would just say that personally the threat of terrorism is not foreign to the State Department. We all know we have had our embassies overseas and Foreign Service personnel being blown up and dying in large numbers over the years. So this is not anything new to us under the leadership of Secretary of State Powell. He has reinforced in the minds of our employees but also the mission.

When we talk about counterterrorism, things come to mind like the FBI, CIA and the rest. The reality is that the Department of State has the privacy to be able to enable these other agencies, these practitioners of counterterrorism, to be able to do their work overseas and to prepare for that. To facilitate it, we have changed completely how we do our business. New officers coming in receive training in counterterrorism. Our consular programs receive pro forma counterterrorism training, how to contribute to the system. New ambassadors coming in, whether they are career with years of experience or new political appointees, get training programs. They are provided education in counterterrorism and the like.

We also have diplomatic security that does for us our threat assessments globally around the world. We also, through diplomatic security, have programs that reach out to the business and private sector around the world. We have 81 different offices overseas.

So—I mean, I have only been in the State Department a couple of years, having come from intelligence. The great thing about the State Department in the past was to protect U.S. persons overseas, to conduct diplomacy and to facilitate the process of containing the Soviet Union under the Cold War. Secretary Powell has completely changed that. Counterterrorism is one of our primary missions, and our success is important to the country, and we are determined to be successful in that regard.

Ms. BAGINSKI. Ma'am, if I might, I think what is more interesting to me is I haven't found the challenge—I think what I hear is what you have probably all heard, that there is something that is inherently incongruous between law enforcement operations and intelligence operations, and I can honestly say from the day I arrived there, I found just the opposite to be true. Just like my time working in DOD where we had fully integrated military operations and intelligence, what I have seen is fully integrated law enforcement operations and intelligence.

I have also seen two very strong strengths that actually come from intelligence being in the law enforcement community, and they are very important, the first being that there is enormous attention paid to the pedigree of the source. That comes from the heritage of the law enforcement culture that says that they would have to appear in court, therefore, they must be credible, and we must check them out. It is incredibly important to our intelligence capability. That kind of attention to pedigree of sourcing is critical to a good intelligence capability.

And the second I would say there is an enormous rigor and discipline in intelligence analysis that I find very comfortable for me, coming from the second world, which is that facts are facts and conjecture is marked as conjecture, and that also comes from the law enforcement community.

My challenges, though, have to do with an organization that has long been optimized for one of its missions, its law enforcement mission, and not as optimized for its overall intelligence mission. So in terms of infrastructure, hiring, training, recruiting, those kinds of issues, those are where I have had to spend the majority of my time.

Chairman COX. Mr. Langevin, the gentleman from Rhode Island. Mr. LANGEVIN. Thank you, Mr. Chairman.

I want to thank the panel for being here today and for your testimony. I could probably follow up on Ms. Dunn's question in the area of organizational culture, start with that.

It is clear from the findings of the 9/11 Commission report and subsequent things that we have heard in testimony, both on my work in Armed Services and also here at Homeland Security, that the way that we were fighting the war on terrorism, both before 9/11 and in many ways after 9/11, was according to the way we fought the Cold War, using the Cold War battle plan, if you will. And clearly that plan may have been successful in winning the Cold War, but it is not going to work in fighting this war on terrorism.

Now, Public Administration 101 will teach you that bureaucracies by their very nature are intransigent and that one of the most difficult things in changing the mission of an organization is changing its organizational culture. People basically keep doing things the way they have always done them because that is the way they have always done them.

I really do want to hear more about and I want to focus on the issue of incentives and what is being done to encourage information sharing. Mr. Brennan, you said that you want to institutionalize this effort to information share. Ms. Baginski, you said you have done it basically through rulemaking.

I have found in my experience that it doesn't work that way. You have got to have incentives to get people to buy into this. You either have to terminate people that are there—obviously, you are not going to do that across all lines and terms of the various agencies that deal with this—or you have to incentivise people to buy into changing the mission.

Clearly, patriotism is a major incentive. I will concede that. But there are also going to have to be additional things done to change the mission. So we need to focus on that, and I would like to hear more about that.

The other thing I wanted to ask, my second question, is that the Commission's recommendations for a National Intelligence Director have received a great deal of attention. In particular, I would like to ask about the recommendation that there be a Deputy of Homeland Intelligence, one of three deputies who would serve under the DNI. Basically, the Commission suggests that this role should be filled by either the Executive Assistant Director for Intelligence at

FBI or the DHS Undersecretary of Information Analysis and Infrastructure Protection.

I would like to hear your thoughts on which of these two would be the best option and how we can insure cooperation between the FBI and IAIP, if only one of the two were directly represented in the Office of the National Intelligence Director as a deputy.

A related question, is it even necessary or advisable to create these dual roles for certain intelligence officials?

Ms. BAGINSKI. I will go to your first question and then the second one. I think the notion of incentives is very powerful, and I hope I didn't misspeak. Rulemaking actually is a very strong incentive in the FBI through an inspections process, and what people get measured on is what they get evaluated on.

So when you create those rules that say you must do the following and you follow that up by inspecting them and ensuring that they are doing it, that actually becomes my incentive. So I didn't mean to suggest I was just writing manuals and hoping that they would—

Mr. LANGEVIN. So pay measurements are in some way associated with—

Ms. BAGINSKI. Yes. Yes. And then I think the other big incentive for us is to actually change the critical elements on which agents are judged to include performance in source development and intelligence production, and those are going to be very, very strong incentives in our culture.

So I think you and I are in violate agreement on what needs to be done, and we are searching for those things that actually work within a very proud and wonderful culture, actually, that the FBI has.

To your second issue of the deputies, I think as you know, nothing is off the table in the discussions. There are very high-level discussions occurring now. The three of us have been involved in them, and there is a lot of discussion about what is—what are the details surrounding the implementation of this particular model and the President's support for the NID, the national intelligence director.

The more important question is, organization or not, how do the two of us ensure that we are actually sharing the information so that—in coordinating, so that we are providing the information. And I think that General Hughes and I did have an agreement—and I know that he will tell me if we do not. I have a responsibility to produce raw information on all kinds of threats.

So there are many missions where my path is very, very focused on the terrorism mission, and my job is to get him the dots and to get John Brennan the dots, frankly, so that they can produce the all-source analytic work and path in particular. General Hughes can then overlay them on the territory of the United States so that he can do the very hard analysis he has, which is to do vulnerability assessments and to provide countermeasures.

So a good deal of our interaction is getting those relationships right. I have to serve John Brennan, and I have to serve Pat Hughes in order for both of them to be successful. So our 12,000 collectors of information out there are passing that information in such a way that it reaches all who have to act on it. Pat acts in

a certain domain. John Brennan acts in a certain domain, and Cofer Black acts in a certain domain, as well as do our State and local and tribal partners. I hope that made some sense.

Mr. LANGEVIN. Thank you.

Mr. BRENNAN. Maybe it is a difference in terms of our interpretation of the world scene, but I will stick with my earlier position that I don't think settlements work. I believe enforcement and compliance of standards, rules, regulations and the law—and if you look at the memorandum of information signing that was signed by Attorney General Ashcroft, Secretary Ridge and DCI Tenet in March of 2003, it lays out very clearly what the obligations are, the very positive obligations on the part of the law enforcement and the intelligence community, and those obligations need to be enforced and complied with; and so therefore—whether it is not—you know, an evaluation of somebody's performance, again, I don't see incentives, because I see that as more discretionary. I want to have compliance enforcement and make sure that the obligations—the positive obligations on individuals are being fulfilled.

As far as the deputy's issues, I will defer to FBI and DHS on this, but I just don't think that the model that is proposed by the 9/11 Commission is workable.

Chairman COX. The gentleman from Connecticut, Mr. Shays.

Mr. SHAYS. Thank you. All of you obviously are intricately involved in homeland security. I would like to know what you agreed with most with the 9/11, the recommendation that you thought was the soundest, the one you supported the most and the one you had the greatest reservation about. Why not the gentleman from Stamford, Connecticut answer first.

Mr. BLACK. I think that is a good choice. I think in reading the report, the recommendation that jumps to mind is what I recall would have been the advantage of centralization in terms of leadership and resources. In this and other hearings, oftentimes you hear a lot of emphasis on an organizational chart, how essentially units would be integrated among themselves.

I think in the past, we had very good people working very hard. I think it was over time from the 1990's underresourced. So I personally have put the greatest weight on the centralization of having a director of national intelligence. I think that is a very good idea.

I also like the idea of a director of national counterterrorism. As a customer now being at the State Department, because I think there is great advantage to have essentially one-stop shopping. Otherwise, it invariably puts me as the customer and the State Department into the business of having to evaluate competing analyses. Competition is good. I think competition is good among the collectors and those that analyze information. It is not necessarily good in terms of the customers.

The recommendation—maybe a little outside of the reserve of this—that I am a bit apprehensive about is that the idea of having the Department of Defense assume complete responsibility for paramilitary affairs. On the one hand, I like this very much, the greatest fighting force known to man. These are the people to go to, but I also at the same time think the Central Intelligence Agency is very adept at the use of clandestinity and that type of activ-

ity. So what I would encourage would be a solidification, a merger, not necessarily one subsuming the other.

Mr. SHAYS. Thank you.

Mr. HUGHES. In my case, I agree with the recommendations on information sharing. I support everything they advocate. I think actually I would like to go further perhaps in achieving information transparency inside this community so that the professional persons who work in this community under a common security standard know everything that they ought to know in order to accomplish their mission.

The thing that I like the least—there are two or three things I don't agree with, but I think the one that I will mention here is the organizational chart for the national intelligence director on page 413.

I don't believe that they got that right in several ways, and I believe that the administration and leadership here in Congress should carefully review the ideas regarding that structure and the missions and functions that a national intelligence director would have. That is my view.

Mr. SHAYS. Thank you.

Mr. BRENNAN. I agree with what my colleagues have talked about as far as conceptually I agree with a national intelligence director and a national counterterrorism center. There is so much engineering that needs to go on in order to make both of those very successful, and I think that is what we are seeing right now.

Quite frankly, the recommendation about having more streamlined congressional oversight I think is a good one. I think that is the way the executive branch needs to reshape itself so it does the legislative oversight function.

The reference here that the President should lead a government-wide effort to bring the major national security institutions into the information revolution, it is tremendously important that if we are going to achieve a national framework of sharing of information, that there needs to be this overarching effort on the part of the nation, not just the Federal Government, to ensure that we are moving together in concert as opposed to separate initiatives that are not in fact finding a way to meld together.

Ms. BAGINSKI. From our perspective, we were pleased with the FBI recommendations, I am sure as would surprise you. We were. But for us, the key recommendation is the director of the national intelligence director to allow the fusion of domestic and foreign intelligence. We are very excited about that.

Like Cofer, my personal reservations are with the recommendation to transfer all paramilitary activity to DOD. I think there is some complexity there that probably needs study.

Mr. SHAYS. Thank you. Thank you, Mr. Chairman.

Chairman COX. Mr. Meek.

Mr. MEEK. Thank you, Mr. Chairman. I want to thank our panelists that are here today. I just have an observation. I know we had the last panel with 9/11 Chairman and Vice Chairman Mr. Kean and Mr. Hamilton, and I just couldn't help but think about their experience in this area. I mean, you have a past governor, past speaker of the New Jersey House, and majority and minority leader Mr. Kean and Mr. Hamilton spent 34 years in this body, several

of those years on the Intelligence Committee serving, doing this kind of work.

You had 78 staff members on this 9/11 Commission that worked very hard over a period of 18 months, took a lot of testimony from everyday individuals, victims, families, also those that were injured in 9/11, professional staff, even in some of your own offices. Probably some of you came before the Commission.

And, you know, I couldn't help but take an opportunity to look at and go through the 9/11 book and really read some of the—I just wanted to just talk about chapter 8, where it says the system was blinking red, and then you go on to page 254, and it said, the summer of threat. And then you can go to chapter 13 and it says, how do you do it? A different way of organizing the government. You know, that is the most, I think, interesting chapter in the whole book when you start talking about how do you reorganize a government. That is just something that doesn't happen overnight.

General Hughes, I know you know that we had an opportunity and you were before our subcommittee, and it was maybe about 4 months you were on the job, and there is a lot of positive—and I want to commend you for your honesty, because a lot of the members on the Homeland Select Committee was, like, oh my God, we are in real trouble here, because this man doesn't have what he needs. You know, we talked about your clearance versus your No. 2 persons—or person clearance. If you caught a cold, he wouldn't have the clearance to be able to hear what you could hear, and you are the guy, you are the gate to getting information out.

We have this commission that is saying that we have a problem, and I will tell you many Members of Congress, I was a Member of Congress when they passed the PATRIOT Act. They couldn't tell you what was in the PATRIOT Act. They just voted for it, and that is dangerous. And I feel—and I agree with you, Director, when you said we need enforcement and we need oversight.

Well, you are testifying in front of a committee that is not even a committee. We are a Select Committee. We are temporary. We are like a syndication pilot that is out there right now, and we are here to hear you, but we don't even know if we are going to exist in the 109th Congress.

So we can, you know, go through and talk about what we agree and what we don't agree with, but the bottom line and the final analysis, it is people like yourselves that are sitting on this panel, the panel before you, the Commission and vice chairman and the commissioners don't demand a professional committee in this Congress to be able to become professionals in what we are talking about here, then we are just spinning our wheels.

And as far as I am concerned, with all due respect to my colleagues, to be able to pass something without a standing committee to say report to 88 committees so when something happens, the Congress can just do this, you know, is really inadequate and a disservice to those that have lost their lives and all this time that we are spending.

So I hope as we start to bubble things up to the director's office and to other folks that are making major decisions, even to the White House as they start talking about who is going to have power and who doesn't have power, that there is some discussion

about sharing some of the decision making and also some of the thought as it relates to protecting the homeland with the Congress. And some folks are going to have to give up power in this Congress, and for folks to start doing the Potomac two-step saying we have done something when we really haven't in the final analysis, it is really a disservice.

So I would hope—I am not asking you to make a career decision, but I am making a statement here today. But what I am saying is that we have to man-up, woman-up and leader-up to be able to let folks know that it is imperative that we have this kind of oversight, because if we don't have it, you can go before 100 committees before you circle back around to this one, but we can say can we pick up where we left off. And we have this 9/11 report out, and we are not the only ones reading it. I guarantee you that it is in the hands of terrorists abroad and domestic looking at where they can see through our lines of what we feel the defense that they know is not defense and take advantage of it.

So to move fast and quick is important, but to also have what we need is also important. I share that. I am on the Armed Services Committee that meets in this room. I shared that with the panel that came before us. I am sharing it with you, because I think it is the most important thing that we can do in correcting the oversight and making this Congress aware of what is going on and paying a service to those of you that are working professionally in this area to have members that understand the issues and are able to get you what you need as it relates to oversight and authority and all of those things what comes along with it.

So I just want to—Mr. Chairman, I am sorry for going over the time, but I just want to share with the panel if they can please pass that on to their superiors and colleagues.

Chairman COX. The gentleman's time has expired.

The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman. Mr. Brennan, currently the Terrorist Threat Integration Center, TTIC, does not collect intelligence. That function remains among the various other agencies within the intelligence community. TTIC analyzes the information provided by the community. How can a TTIC analyst trust raw data when he or she is not provided with some analysis on the background of the information, and how would the National Counterterrorism Center that is been proposed avoid this stovepiping that the report describes is a problem?

Mr. BRENNAN. Well, first of all, TTIC has access not just to the raw data, but the information that sort of underlies that in terms of information on sources. We have real-time access to the FBI's information system so that when an electronic communication comes in from New York into FBI headquarters, we see it at the same time the FBI headquarters sees it. When an operational cable comes in from the CIA, from overseas into CIA headquarters, we see it at the same exact time. So we have full insight, full transparency into that, which really helps to educate the analysts and inform them about the nature of the information that they are seeing so they can, in fact, tell us where it came from, how it was acquired, and as Ms. Baginski said, the pedigree of the information and the sourcing.

The national counterterrorism—

Mr. GOODLATTE. Let me ask you, with regard to that, do you feel that then that TTIC is already serving some of the functions of this suggested National Counterterrorism Center, then, if you are already—

Mr. BRENNAN. By all means. In fact, the Commission says that the National Counterterrorism Center shall be built upon the foundation of TTIC, because TTIC right now has been charged with the responsibility to access the information and provide all-source analysis that will integrate the information that is collected domestically as well as from abroad; so yes, we are far down this road to the National Counterterrorism Center analytic responsibilities.

Mr. GOODLATTE. Will the Center add another layer of bureaucracy, or will it enhance the process? In other words, in other words, we don't want information—the problem we had in the past is information would be gathered and it would lie on somebody's desk in somebody's computer and not get in the hands of people who can act upon it. The more people who can lay their hands on the information it could mean more people are aware of the problem and get to address it, or it could mean it has got to go through one more channel before it actually arrives where it is needed.

Mr. BRENNAN. Our obligation is to make sure we leverage that information to make it available to the different departments and agencies, and I talk about the architecture that is required in order to allow different departments and agencies to search against the largest volume of information so they can bring up the information that they need in order to fulfill their missions.

So what we are trying to do right now and the administration is to determine exactly what this National Counterterrorism Center should, in fact, include and involved. The 9/11 Commission talks about basically two distinct functions that TTIC does not do right now. One is joint operational planning and the second is doing net assessments, which is, you take the threat and the capabilities of the terrorist organizations and you apply it against the vulnerabilities and the infrastructure that is going against. We don't do that kind of assessment now.

Mr. GOODLATTE. As I understand it, TTIC is overseen by the CIA; is that correct?

Mr. BRENNAN. No, it is not. It is a direct report to the Director of Central Intelligence. So I don't have anybody in the CIA to go through, directly report to the DCI. Now, the DCI is dual-hatted as well as the director of CIA as well.

Mr. GOODLATTE. And how will this new—in your view. I don't know if it is specified in any of the discussions you have had already, but how will the new National Counterterrorism Center fit into that framework? Is it going to be overarching above all of the different intelligence agencies, or will it also be under the direction of the director of the CIA?

Mr. BRENNAN. Since it doesn't exist yet, I can talk about what the 9/11 Commission recommends, which is that the National Counterterrorism Center would be a direct report to the national intelligence director, so that it would not, in fact, go through any individual department or agency, but those digs are yet to be made about that—

Mr. GOODLATTE. Would that alter—in your view, would that or should that alter who you report to and where your organization lies in that framework?

Mr. BRENNAN. I think the reporting chain right now from TTIC to the Director of Central Intelligence is the appropriate reporting chain of command, and if, in fact, a national intelligence director position is established, I believe that the director of the National Counterterrorism Center should report to the national intelligence director.

Mr. GOODLATTE. So you think it should or should not be changed if that entity were created?

Mr. BRENNAN. I don't think that the—well, you will have a different person at top if the national intelligence director position is, in fact, legislated.

Mr. GOODLATTE. And you would report directly to them or continue to report to the director of Central Intelligence, in your opinion?

Mr. BRENNAN. Well, the national intelligence director would take the place of the director of Central Intelligence, and so in the future, if what they are proposing here, the director of CIA would be separate from the national intelligence director, so you would have two people there. Right now you just have one.

Mr. GOODLATTE. I understand, but which of those do you think you should be reporting to?

Mr. BRENNAN. The national intelligence director. We should not be embedded in one single department or agency since that transcends those individual mission responsibilities of individual departments and agencies.

Mr. GOODLATTE. Very good. Thank you, Mr. Chairman.

Chairman COX. Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman. Mr. Brennan, you have been a very active proponent of an integrated information-sharing architecture, and you have talked a lot about your efforts to get us there.

You mentioned in your statement that as of the end of this month, you will have six separate networks that will be integrated in such a way that searches can be done on all six separately accessing those networks as you do now at TTIC.

What networks are those going to be that are now going to be integrated?

Mr. BRENNAN. Believe it or not, it is different and distinct CIA networks. There is the CIA classification—classified system. There is the unclassified system. There is the open-source information system, the FBIS. And I will get back to you with precisely which of those networks, in fact, will be ready by the end of this month.

Mr. TURNER. When you make the effort to get integration, who leads in that? Who provides the necessary leadership, as you have said, to basically say this has got to be done, we have got to integrate these databases? Who does that?

Mr. BRENNAN. Right now there is an information program sharing office that TTIC chairs that includes the Department of Homeland Security and the FBI. It is to fulfill obligations that are contained in the MOU and information sharing in March of last year, and so there are a number of individuals who are a part of this in-

formation-sharing program office and a number of groups that have been established to address issues such as third-party rule, originated control, tear line standards and other types of things. So it runs across the different agencies and departments, these there is nobody at the top.

Mr. TURNER. Governor Kean this morning, in his oral statement, as well as his written statement, said, "Only presidential leadership can develop the necessary governmentwide concepts and standards," referring to information sharing.

Do you agree with that?

Mr. BRENNAN. I think looking across the different departments and agencies and based on the statutory authorities, vested in those departments and agencies, it would then go to presidential leadership to initiate an effort on the part of the executive branch to work with the Congress, to be able to transcend those different bureaucratic boundaries.

Mr. TURNER. Do we have any timetable that has been set forth by the President for integrating these databases?

Mr. BRENNAN. There is a timetable that we are operating within in the intelligence community structure to try to bring those different elements of the intelligence community architecture together, and I believe that the administration said that every one of the commission's recommendations are being followed up on and acted upon, and I know that there are efforts underway to try to address that specific recommendation here.

Mr. TURNER. But do we have timetables? Do we have benchmarks, goals that we are trying to integrate a certain number of databases by a certain date? Do we have an overall objective that is expressed as a time frame within—

Mr. BRENNAN. Across the U.S. Government?

Mr. TURNER. Yes.

Mr. BRENNAN. I don't believe. I would defer to the Office of Management and Budget on this issue since it, again, goes across them. We have one for TTIC internally.

Mr. TURNER. All right. When I look at the changes that are recommended by the 9/11 Commission in the area of the counterterrorism center, it seems that TTIC would be absorbed into that new organization and that this new responsibility of planning, joint planning, as they refer to it, would be an additional responsibility.

Is it your view that this new counterterrorism center is the best entity for carrying out that kind of joint operational planning?

Mr. BRENNAN. There is a lot that is to be defined by the term "joint operational planning" and what would actually be done within the center and what would be done outside in those individual agencies, departments that actually carry out those operations, and that is what the discussions have been taking place over the past two or three weeks have been, to try to define that appropriately to make sure that we continue to have chains of command between cabinet officers and the President, the White House and the Security Council.

So I am a strong opponent of a National Counterterrorism Center, but, again, like other things, the devil is in the details here,

and you have to make sure that you understand what you want to invest in that entity and what you want to leave outside.

Mr. TURNER. One of the comments that was made, I believe by General Hughes, expressing some concern about the proposed structure of the National Counterterrorism Center, am I correct to assume, General Hughes, that your concern relates to that portion of the proposed counterterrorism center that requires a deputy national intelligence director to oversee the operations of DHS and specifically the operations of your particular directorate?

General HUGHES. Sir, I believe that I don't think they have got the organization for the national intelligence director right, not the National Counterterrorism Center.

Mr. TURNER. Oh, all right. I am sorry.

General HUGHES. Sure.

Mr. TURNER. You agree with the proposed organizational chart on page 413 that you refer to?

General HUGHES. I do not think it is what we ought to do.

Mr. TURNER. Well, so specifically, what on that chart on page 413 do you disagree with?

General HUGHES. As a personal view, not representative of the DHS consolidated view, my personal view is that there should be three principal deputies, one for foreign intelligence, one for domestic intelligence and one for community management; and beneath those three principal deputies—and there could be other principal deputies, too, though. I am not sure, but I think the division of labor between foreign and domestic is an important issue to keep in mind in a bureaucratic sense.

Beneath those principal deputies, I personally think that there are to be an array of organizations and entities. Some of them would be the departments and their intelligence organizations that currently exist. Some of them would be offices and functional areas of the intelligence community that currently exists or may need to exist in the future, and of course there would be centers like the National Counterterrorism Center reporting directly to the national intelligence director. So it is kind of a mixture of issues here, and I personally do not think the three-deputy mechanism that is portrayed on this chart is the right approach. It doesn't incorporate all of the issues that the national intelligence director is going to be faced with. So I have a different hierarchical, organizational view than that portrayed by this chart.

Mr. TURNER. All right. Thank you, sir. Is my time up?

Chairman COX. The gentleman's time has expired.

The gentleman from New York, Mr. King.

Mr. KING. Thank you, Mr. Chairman. I want to thank, again, all of the members of the panel for their appearance here today, and I would like to direct my question to Ms. Baginski.

On the question of sharing intelligence and sharing information, I would like to focus on the issue of sleeper cells in this country. For instance, if you could give any detail on the extent of cooperation that you are receiving from the Muslim community, and when you do get information, how quickly would you share raw data, for instance, with the local police? I am thinking of the NYPD, for instance, where they have a number of mosques, where they received information that maybe isn't actionable but may be of some means

to the NYPD who has its own operations going. How quickly in real-time would that type of information be made available to the NYPD, and how closely is the level of cooperation at that level?

Ms. BAGINSKI. I would characterize the level of cooperation maybe three months ago and the level of cooperation today, and I personally have been involved in a lot of very hard work to close some of those seams.

What we did for the Republican National Convention was actually to accomplish an information architecture that made us actually write down the protocols for passing this information quickly, beginning with what it was the NYPD wanted from us, and this is just a first step, but we have, I think, very, very good working relationships when we are in a crisis situation and when it is identified as such.

I think we have work to do to make that the way we do business every day, and in a ready sense, we pass information to them, but also my talks with Dave Cohen have been about them passing that information to us and through the JTTF construct. I am very encouraged. With the working with a foundation who is actually helping us pull this together and engineering what the information sharing should be, and I have this responsibility myself given to me by the Director to make sure that we smooth this out in concert with Pat D'Amuro and Chuck Frahm, who is now up there, and I think we are making enormous strides, but we still have much work to do.

Mr. KING. Now, David Cohen, the one you deal with from—

Ms. BAGINSKI. Yes. David is the one I will deal with. We are going to do intel to intel so that we have the strength in that relationship that we have always had ops to ops.

Mr. KING. How concerned are you with the issue of sleeper cells, and I am concerned particularly with the city of New York, but nationwide.

Ms. BAGINSKI. I think we are always concerned about what we don't know. What I am encouraged by is that we have begun to attack that issue as an analytic problem, which is to say if there were, how would you find out, and then finding clues from intelligence reports that tell us they will use these kind of operatives, they want to come in from this kind of area and actually begin a full-court intelligence press to try to locate such cells. So I am encouraged with our methodology, and I am encouraged—I am concerned just as any citizen is with what we don't know.

Mr. KING. Do you believe you are making progress in developing sources in the community?

Ms. BAGINSKI. I do indeed.

Mr. KING. And without going into much detail, is much of the information you are getting overseas from overseas relating to operations here in the United States?

Ms. BAGINSKI. I think that is fair to say, sir.

Mr. KING. Thank you very much.

Chairman COX. The gentleman from Mississippi, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman. Based on the 9/11 report and everything you have learned to date—and I am speaking specifically about Iraq—what additional steps can we take to ensure that the mistakes of the past won't be repeated? And it is

based on this issue of faulty intelligence and the notion of weapons of mass destruction and a lot of other things. What have we done since the invasion of Iraq from an intelligence standpoint to get better intelligence from the field?

Ms. BAGINSKI. I can take a stab at it, and this would apply to, I think, all threats, not just Iraq.

There may be a difference between faulty intelligence and faulty intelligence analysis or insufficient intelligence analysis, but for us it is actually the core approach that we are taking to the whole business of intelligence, which is to understand at the base what information is necessary to make decisions but also accurately report what we know and what we don't know in terms of doing the analysis and then dedicating resources that specifically have the full-time job of positing hypotheses and then interacting with the data to prove or disprove certain theories.

So we have issues of analytic bias. We have issues of reporting only that which we have information on but not necessarily stepping back and saying, well, these are pieces of information that we have, but what are the pieces we don't have that would be necessary to actually help us make those decisions.

So mine are less about Iraq than analytic methodology is what I am actually responding to.

Mr. THOMPSON. Well, I guess in layman's terms, help me out. Who would make the call in terms of the intelligence that was being reviewed? Are the agencies now talking to each other so it would be a joint decision as to what this intelligence really means, or are we still separate and apart?

Ms. BAGINSKI. No, sir. I do not think we are separate and apart. I think that under the existing DCI, there have been processes and procedures that begin with national intelligence requirements and joint community assessments on issues that are actually performed, and all of us are, I think, very keen to improve the analytic methodology, the analytic discipline and the analytic trade craft that goes into providing those assessments to include competitive analysis and what others might call contrarian analysis.

Mr. BRENNAN. The whole concept of TTIC is to bring together those different agencies that have a shared responsibility to make sure they are sharing information, that they understand each other's assumptions, to make sure that there is a full transparency into sources and methods and so that there is no mistakes made or to minimize the chance of mistakes.

You want to put a rigor in analytic effort, an think that is what we have done in the terrorism environment, and so TTIC, which is very innovative within the U.S. Government, is basically the embodiment of FBI and Department of Homeland Security, State Department, CIA working collaboratively together to share that information and provide integrated assessments, working with them to identify if there are differences of view, you don't want to have just group think. You want to make sure that you are able to present different hypotheses and different perspectives, so this, in fact, is giving birth to trying to do this in other areas as well such proliferation, and so there are initiatives underway to try to have a proliferation, in fact, integration center.

So I think the lessons of 9/11, the lessons of Iraq have really propelled the government as a whole to try to find ways that you can share this information and have the best darn analysis and output possible, and that has to be fueled then by enhanced complex and TTIC doesn't do collection, but, you know, the FBI and CIA and others are, in fact, trying to improve their entire collection effort as well. So it is a cycle of collection, analysis, dissemination, the entire system.

Chairman COX. The gentleman from Oklahoma, Mr. Istook.

Mr. ISTOOK. Thank you, Mr. Chairman.

Before I ask another question, I would like to go back to what was hanging out there when my time expired earlier. I would like to make sure that I understand clearly, against what lists or databases currently are people checks when they are either, one, seeking to become a citizen, or they are seeking an adjustment in immigration status, whether it be permanent residency, entry-exit visas? What are those lists against which they are currently checked? Is there a difference between the lists against which they are checked depending upon whether it is naturalization status and so forth? And the last part of that is when will any differences be resolved? When are other cross-checks supposed to be coming on-line?

General HUGHES. If you don't mind, I would like to get you a written answer to that question. I think it is a very good question, and we ought to give you the right information. It is a little too complex for me to relay all of the databases or lists that are now used and whether or not there are some problems with one check being made with one group of knowledge bases and another check being made with another group of knowledge bases.

So I would like to reserve an answer to writing, and we will provide it to you as soon as we possibly can.

Mr. ISTOOK. I would appreciate that definitive answer, because obviously what I am concerned with, as I expressed earlier, is potential blind spots, and we know that this is part of the overall data integration that we are seeking to resolve.

Let me go on to the second topic. There was a lot of discussion about culture changes when you have the different information agencies, the consolidation of the homeland security, the potential further consolidations or revisions. According to the 9/11 Commission. And we have had discussion about culture changes among the Federal agencies, but culture changes are not confined to those agencies. You have a huge country, and if we want to take advantage of the citizenry, of the private sector, of the local and State, the law enforcement officials and take their knowledge of and put this to work, then we have to understand the culture of the country.

I think Governor Kean certainly made that point this morning, when he said that if we have everybody focused upon homeland security and we are able to use their input, then we are going to achieve the results that we want. We have more people helping.

But when there is constant change in the lines of authority, in the organizational structure, you confuse those potential people. A private citizen, if they see some sort of suspicious activity, typically will think of calling one of two law enforcement agencies, I believe.

They will contact their local police, or if in their mind they say, well, this is something bigger, they are going to think of the FBI. They are not going to think of any of the alphabet soup of other agencies which we are discussing about the reorganization.

I am concerned that further reorganization may create problems with culture change that requires a culture change of the entire Nation if we do not give easy-to-understand lines of authority that the private citizens can understand so that they can therefore be active helpers in our war against terrorism.

I would appreciate your comments and feedback on that concern.

Ms. BAGINSKI. Yes, sir. I would actually like to start with that. I take your point, and I think it is a very, very important point about passage of information to State and locals.

What I would like to highlight here is our agreement with you that this is terribly complex, and what we actually think is the solution, which is the Joint Terrorism Task Forces that we have had for many years, but I think as we have said earlier today, we are up to almost a hundred of them, which are literally that, joint task forces, State, local, tribal, DHS, intelligence community personnel, all in one area so that when that information is received that you are talking about, there is one place to go, into that task force, information is received, and there is the network that can pass it on to all of the people who need to know and to the appropriate people to act.

So I think in the operational construct what we have hit upon is a JTTF, and I think those things are some of the best operational paradigm I have ever seen. Whichever—

Mr. ISTOOK. A private citizen is not going to think of a joint task force.

Ms. BAGINSKI. But that is the FBI is the point I am saying, they would call the FBI, and that is done under their—

Mr. ISTOOK. They are the clearinghouse.

Ms. BAGINSKI. Yeah. And so General Hughes and I, our work is about ensuring that 99 know what the 100th is doing and getting that information passed between them for analysis, and that is what we are working on.

General HUGHES. Well, I think, first, I agree with your sentiments, and I think it is a concern. It is something we are going to have to work on. I am not sure if a single agency or a single organizational element can do the complete job. I am not positive of that, because there are differences between providing information to a law enforcement organization, providing information to a homeland security organization, providing information to an intelligence organization, specifically, and then providing information to other organizational entities that respond to the people of the United States.

Those differences have to be accounted for. I, indeed, think they are a part of our culture. We haven't got it right yet, but I think we have a lot of ideas and possibilities, and out of the 9/11 Commission report, this issue is being discussed and considered. As I think Chairman Cox asked me a question earlier about how the possible changes would affect the Department of Homeland Security, and I think there will be some changes coming to our Department out of the 9/11 Commission recommendations, as there probably should. We need to adapt and find the right pathway toward

the future. Just what those are, it is premature to say, but if you could just accept the idea of that I personally agree with your concerns. I think the Department of Homeland Security has your concerns in mind, and we are going to try to achieve the right answer for our country and our culture.

Mr. ISTOOK. Thank you. Thank you, Mr. Chairman.

Chairman COX. The gentlelady from California, Ms. Sanchez.

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you all for being before us today.

I have three quick questions. The first one is to Mr. Brennan. When my colleague, Mr. Meek, was questioning you, you said TTIC has been charged to analyze what has been collected. Who gave you that charge?

Mr. BRENNAN. I am sorry. Could you repeat that question?

Ms. SANCHEZ. You said that you had been charged to analyze the information that had been collected who gave you your charge? Who gave you your charter? Who put you up? How did we create you? Where did you get that charge from?

Mr. BRENNAN. First of all, the President announced in January of 2003 in the State of the Union address that was directing the director of Central Intelligence and the director of the FBI to form an integration center to deal with the terrorist threat. I was appointed in March of 2003. In May 1st we stood up. The Director of Central Intelligence issued a Director of Central Intelligence directive in May of 2003 that laid out under the DCI's authorities what the responsibilities would be of the Terrorist Threat Integration Center and what my charge and the charge of the TTIC would be.

Ms. SANCHEZ. What would you say to some of my colleagues here in the Congress who believe that as a joint sort of situation, really not under the jurisdiction of any particular statute or place in the Congress to have set you up, that, you know, they are not very happy, they don't feel that they have much oversight, much control or much ability to bring you forward and sort of figure out what you all are doing? What would you say to that comment?

Mr. BRENNAN. I would say it would be incorrect, because I have appeared in many different committees and subcommittees over the past year and a half. I think this is the third or fourth time I have appeared here. I also hope your colleagues would say that it is very good that the executive branch has found a way to bring together those different systems and agencies with shared statutory authorities and work together collaboratively in an integrated environment. I hope that is what they would say.

Ms. SANCHEZ. And then I have two other questions that I would ask of any of you or all of you. The first is what do you say to—you know, we are not the only ones who hopefully are reading this report, but there are a lot of Americans out there, and one of the things I am struck by when people ask me this, you know, we want to create this big position of a guy or gal overlooking intelligence. They are going to be in charge of these 15 agencies or departments or pieces or there might even be more, as some of us know. What would you say to the question about don't you think a lot of these agencies are duplicating effort or have the same information or why didn't the Commission address getting rid of some of these or

really rearranging things? What would you say, you know, to those people who say we just don't need to put somebody at the top and then put everybody underneath? Why don't we really make a reorganization?

That would be that question, and then the next question would be what role did each of your agencies play in the analysis of the information that Al-Qa'ida was trying to target the financial buildings in DC, New Jersey and New York City? And do you agree that Secretary Ridge should have issued that warning?

Mr. BRENNAN. On reorganization issues, I think it is a very worthwhile question to take look at all of those different intelligence agencies and what the responses are, and the ones that have been in fact set up by individual statutes. So I think that is an appropriate question for a review to take a look at ultimately.

Regarding the role of TTIC in this analysis, we, in fact, were working very closely with the Department of Homeland Security, FBI and others, as that information was coming in, and we had to integrate the information and put it in a context for the Department of Homeland Security. And we worked very closely with Secretary Ridge as he moved forward with his announcements and decisions.

General HUGHES. And I will chime in now and say I agree with the idea that these are very good questions to ask, and we should consider them in the future. With regard to the duplication of effort, the plethora of organizational entities and functions, we ought to try to more carefully consolidate and focus our efforts in some way.

With regard to the role that DHS played, we were the recipient of information from others. We examined that information in the cold light of day. We determined that we had a duty, and in fact, a promise to the American people to warn them about information that rose to the level of detail and importance that would generate an action on our part. The Secretary made a final decision in consultation with the other secretaries of the government and the leaders of the executive branch and went forth with the more precise raising of the alert level, focused on specific facilities that you know occurred. Not a generalized alert, not a broad warning but a very specific kind of function based upon the information.

I, as his intelligence officer, advised him on that, supported him on that. I believe that it was the right decision, and we did the right thing in this case with regard to our duties to the American people.

Ms. BAGINSKI. We received and reviewed a lot of the raw intelligence, shared it immediately with both of these gentleman and with Cofer as well and are fully supportive of the action that the Secretary of Homeland Security took in issuing the warning.

In terms of a duplication of effort, I think you are absolutely right to raise this issue, that it is a very fair thing to do, and I think as the President has made very clear, nothing is off the table as we look at intelligence reform.

Mr. BLACK. Lastly, I would just add having a strong national director of intelligence would allow this man or woman to rationalize the intelligence system so there would be some economies. One would hope along those lines. I think the warning was appropriate.

The Department of State was a recipient of this information, and our function was to communicate it overseas to our embassies and see if there is anything that is applicable to U.S. interests overseas.

Chairman COX. The gentleman from Indiana, Mr. Souder.

Mr. SOUDER. Thanks. I first want to say to Mr. Brennan, I agree with you. I am glad the President didn't sit around waiting for Congress to act. He needed to act far faster than we are going to get legislation done, and I appreciate that he attempted at least to bring as much fusion as possible.

I also want to thank all the men and women in your agencies, because, in fact, we have intercepted at least many potential incidents, and that is because of our increased efforts. It is not perfect. We clearly are moving far ahead, but we should thank the patriots on the line who have risked their lives and who have, in fact, averted continual incidents.

But one thing that really troubles me about today's hearing. I raised it in the first panel. We go there this big report and we talk about new information systems. I spent 3 years doing hearings on our borders and sitting in the booths with our people, but, you know, if they don't have an accurate ID, we put them into a system, and we don't know whether it is the same person.

So it isn't going to pop up if they are a terrorist that they have a fake ID. I have been at the State Department desks and other places. If the ID changes, they get false ones, they use different names, hey, our whole system, the idea of intelligence is that you are pooling, having a whole bunch of meetings about people who may have 16 different names in common with a hundred or thousands of other people in the United States. We have already had cases of identity theft where people have stolen people's IDs, and then one of the most common questions I get from Republicans, Democrats, all kinds of people in my district, is how do I get off a watchlist?

Well, if we had a biometric indicator, whether it is an eye or a fingerprint or a watermark so that you can't be duplicated, then we wouldn't have this problem. How in the world do we justify to the taxpayers not doing this type of thing and investing millions of dollars in new border equipment, millions of dollars at the airport? Every airport screener I talked to says it is so hard to match any kind of ID with the ticket. People's pictures don't look the same. You are guessing. These people have multiple names. How can we even be discussing all of this investment, billions of dollars, if everybody is afraid to go on record and say, look, this whole system isn't going to work unless we know the person we are dealing with is the person we are looking for? Any comments on this?

General HUGHES. Well, first, I think your characterization of this is right. It is a very difficult job, and we are not doing it perfectly in all cases. That is for sure.

I will have to tell you, sir, that there are others who have a differing view. They view a biometric identification as a controlled by the government as a potential for misuse.

There are other issues involved here, collecting the biometric, placing it in an identification medium that could be relied upon, suffering the cost of doing this across the country. That sort of thing is all the problems that we are trying to come to grips with.

On the face of it, emotionally, I agree that we ought to have a reliable form of identification for persons who come into the United States and those who reside here, but for the reasons that I mentioned and many others, it is proving harder than mere sentiment.

Mr. SOUDER. Let me follow up on that. Let me ask for the record—and you can just say yes or no—do you all agree, because certainly in material that has been released, that American citizens are included among the terrorist risks. It isn't just people who are foreigners. Let the record show do you agree with that, Mr. Black, that there are American citizens who are on terrorist watchlists as well?

Mr. BLACK. I think it would be prudent to assume that, yes, sir.

Mr. SOUDER. And do you agree that we have had some reports now of people being contracted as mules like in narcotics where people could bring money in for terrorists, people could bring other things in who are American citizens, who get contracted like they do in narcotics. They might not even realize they are part of a bigger plot but can do that.

In other words, this just isn't about foreigners, and furthermore, it isn't just about American citizens who go across the borders. It is about—and even for those foreigners, they can get false U.S. IDs. I have been against the national ID card. I am one of the conservatives who had a fear about this, but I don't hear anything that you are telling me today that gives me any comfort if you don't know who the individual is, and that the civil rights question, it can be done with a watermark.

There are other ways to do it other than something completely invasive, and besides that, if you are following the law and you have an eyeball scanner or a fingerprint, what is invasive about it if you are following the law? You have a social security number already, or you are supposed to in the United States. We have driver's licenses. What is the difference between a number with a picture—and a picture on your driver's license and a picture that actually is proven to be yourself as opposed to a phony picture?

I don't understand why a picture on a driver's license—I have a lot of Amish in my district. They are objecting to the pictures religiously, because they don't believe in a photograph, a graven image. OK, that is a problem on a spiritual way, so then they should have a fingerprint, but we actually require a picture of people, a number of people. I don't understand what exactly the civil liberty question here is and what is evasive—invasive about a fingerprint or an eye print as opposed to a picture and a number. That is the part I don't understand, and it is important, I believe, for the people who are doing this to let the American people know that we are dependent on the stupidity of the terrorists to use their real name. That is basically what we are right now. That is what we are dependent on, to use the same ID with the real name.

We just took down two fake IDs places in one of my mid-sized counties that were producing fake IDs. We are completely vulnerable unless we address this question.

General HUGHES. Would you mind if I just gave a very brief reply to the last issue?

Chairman COX. Please do.

General HUGHES. We do use fingerprints very successfully, sir, to identify persons. We do it at the borders, and we do it internal to the country.

Mr. SOUDER. Thank you.

Chairman COX. The gentleman from Massachusetts, Mr. Frank.

Mr. FRANK. Ms. Baginski, I apologize. I took about 20 minutes off to do business, and I missed your colloquy with Ms. Jackson-Lee, and I apologize for that and I want to go back to it.

I will tell you why I am disturbed. I was at the Democratic Convention, and the way the protesters were treated there was simply wrong. We had a case, for example, in South Carolina of a man who is now being prosecuted federally because he was carrying the wrong sign in a free speech zone, not that he was carrying a sign but it was the wrong sign. And I understand the need for security.

I also think too much attention is being given to our desire not to have our feelings hurt and that it isn't always easy for you to sort out, but I am troubled by this, and I am troubled again by the preemption doctrine. I don't want people to commit violent acts, but I don't think law enforcement should be spending a great deal of time—preventing violent acts, yes.

If you have got intelligence, fine, but questioning people, questioning people about what they know, asking them what their plans are and then getting into their politics, which I am told sometimes happens, seems to me entirely inappropriate. And the opinion or quote in The New York Times dismissing the chilling effect as being outweighed as the potential for cutting out grounds, yeah, you have a right to cut out grounds, but I think the chilling effect ought to be a fairly high barrier.

I am told you said there were legitimate needs. I would like to ask this and get it back in writing. How many inquiries did the FBI make with regard to the two conventions? How many different individuals were questioned? And I would like—and I appreciate what you said about getting out information and sources. So forget the sources and methods. What kind of crimes were you trying to forestall? You mentioned a couple, but what were the leads, and so I would like to know how many people were questioned, how many leads were there, and of what sort of crimes? Because I really am troubled.

Now, you tell me that nobody was questioned unless there was a reason to think that he or she—let me ask this, that they were going to engage or violence or they knew someone who would? Which is it?

Ms. BAGINSKI. I think it is both, but I would be loath to comment. I think your solution is the right one. This is a very reasonable request.

Mr. FRANK. I will tell you in the interim one of the things I did when I went off was to write to the Director to tell him that I was troubled by the New York Times article; if it was accurate, it seemed to be an overreach. So I would really like to know how many people were questioned? And it is hard—I know the people in charge don't—we don't like to be yelled at, some of us. Some of us don't mind. I find if you don't like being yell at, then you lose your right to yell. I would rather preserve both.

But the other point we have is this: I know it has sort of been ramped up since September 11, but they are unrelated. September 11, the terrible tragedy of September 11, the murdered innocent people, it is no reason to interfere with what people say, and I am troubled by what seems to me to be a crossing of that line.

Ms. BAGINSKI. We appreciate your concern. We do not consider that article to be accurate, but we will provide the information.

[The information follows:]

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F.B.I. Goes Knocking for Political Troublemakers

By ERIC LICHTBLAU

WASHINGTON, Aug. 15 — The Federal Bureau of Investigation has been questioning political demonstrators across the country, and in rare cases even subpoenaing them, in an aggressive effort to forestall what officials say could be violent and disruptive protests at the Republican National Convention in New York.

F.B.I. officials are urging agents to canvass their communities for information about planned disruptions aimed at the convention and other coming political events, and they say they have developed a list of people who they think may have information about possible violence. They say the inquiries, which began last month before the Democratic convention in Boston, are focused solely on possible crimes, not dissent, at major political events.

But some people contacted by the F.B.I. say they are mystified by the bureau's interest and felt harassed by questions about their political plans.

"The message I took from it," said Sarah Bardwell, 21, an intern at a Denver antiwar group who was visited by six investigators a few weeks ago, "was that they were trying to intimidate us into not going to any pro-

tests and to let us know that, 'hey, we're watching you.'

The unusual initiative comes after the Justice Department, in a previously undisclosed legal opinion, gave its blessing to controversial tactics used last year by the F.B.I. like urging local police departments to report suspicious activity at political and antiwar demonstrations.

In an internal complaint, an F.B.I. employee charged that bulletins that relayed that request for help improperly blurred the line between lawfully protected speech and illegal activity by suggesting suspicious activity included everything from violent resistance to Internet fund-raising and recruitment. But the Justice Department's Office of Legal Policy, in a five-page internal analysis obtained

by The New York Times, disagreed.

The office, which also made headlines in June in an opinion — since disavowed — that authorized the use of torture against terrorism suspects in some circumstances, said any First Amendment impact posed by the F.B.I.'s monitoring of the political protests was negligible and constitutional.

The opinion said: "Given the limited nature of such public monitoring, any possible 'chilling' effect caused by the bulletins would be quite minimal and substantially outweighed by the public interest in maintaining safety and order during large-scale demonstrations."

Those same concerns are now cen-

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F.B.I. agents and Denver police officers visited Sarah Bardwell, right, and a housemate, Sarah Graves, and two neighbors, Christopher Reederer, second from right, and Blake, who would not give his last name, at their homes to ask them about political and antiwar protest activities.

F.B.I. Knocking on Doors for Political Troublemakers

Continued From Page A1

trial to the vigorous efforts by the F.B.I. to identify possible disruptions by anarchists, violent demonstrators and others at the Republican National Convention, which began Aug. 30 and is expected to draw hundreds of thousands of protesters.

In the last few weeks, beginning before the Democratic convention, F.B.I. counterterrorism agents and other federal and local officers have sought to interview dozens of people in at least six states, including past protesters and their friends and family members, about possible violence at the two conventions. In addition, three young men in Missouri said they were trailed by federal agents for several days and subpoenaed to testify before a federal grand jury last month, forcing them to cancel their trip to Boston to take part in a protest there that same day.

Interrogations have generally covered the same three questions, according to some of those questioned and their lawyers: were demonstrators planning violence or other disruptions, did they know anyone who was, and did they realize it was a crime to withhold such information?

A handful of protesters at the Boston convention were arrested but there were no major disruptions. Concerns have risen for the Republican convention, however, because of antiwar demonstrations directed at President Bush and because of New York City's global prominence.

With the F.B.I. given more authority after the Sept. 11 attacks to monitor public events, the tensions over the convention protests, coupled with the Justice Department's own legal analysis of that monitoring, reflect the fine line between protecting national security in an age of terrorism and discouraging political expression.

F.B.I. officials, mindful of the bureau's abuses in the 1960's and 1970's monitoring political dissidents like the Rev. Dr. Martin Luther King Jr.,

say they are confident their agents have not crossed that line in the lead-up to the conventions.

"The F.B.I. isn't in the business of chilling anyone's First Amendment rights," said Joe Parris, a bureau spokesman in Washington. "But criminal behavior isn't covered by the First Amendment. What we're concerned about are injuries to convention participants, injuries to citizens, injuries to police and first responders."

F.B.I. officials would not say how many people had been interviewed in recent weeks, how they were identified, or what spurred the bureau's interest.

The line between preventing crimes and preventing lawful dissent.

They said the initiative was part of a broader, nationwide effort to follow any leads pointing to possible violence or illegal disruptions in connection with the political conventions, presidential debates or the November election, which come at a time of heightened concern about a possible terrorist attack.

F.B.I. officials in Washington have urged field offices around the country in recent weeks to redouble their efforts to interview sources and gather information that might help to detect criminal plots. The only lead to emerge publicly resulted in a warning to authorities before the Boston convention that anarchists or other domestic groups might bomb news vans there. It is not clear whether the lead was founded.

The individuals visited in recent weeks "are people that we identified that could reasonably be expected to

have knowledge of such plans and plots if they existed," Mr. Parris said.

"We vetted down a list and went out and knocked on doors and had a laundry list of questions to ask about possible criminal behavior," he added. "No one was dragged from their homes and put under bright lights. The interviewees were free to talk to us or close the door on our faces."

But civil rights advocates argued that the visits amounted to harassment. They said they saw the interrogations as part of a pattern of increasingly aggressive tactics by federal investigators in combating domestic terrorism. In an episode in February in Iowa, federal prosecutors subpoenaed Drake University for records on the sponsor of a campus antiwar forum. The demand was dropped after a community outcry.

Protest leaders and civil rights advocates who have monitored the recent interrogations said they believed at least 40 or 50 people, and perhaps many more, had been contacted by federal agents about demonstration plans and possible violence surrounding the conventions and other political events.

"This kind of pressure has a real chilling effect on perfectly legitimate political activity," said Mark Silverstein, legal director for the American Civil Liberties Union of Colorado, where two groups of political activists in Denver and a third in Fort Collins were visited by the F.B.I. "People are going to be afraid to go to a demonstration or even sign a petition if they justifiably believe that will result in your having an F.B.I. file opened on you."

The issue is a particularly sensitive one in Denver, where the police agreed last year to restrictions on local intelligence-gathering operations after it was disclosed that the police had kept files on some 3,000 people and 200 groups involved in protests.

But the inquiries have stirred opposition elsewhere as well.

In New York, federal agents recently questioned a man whose

neighbor reported he had made threatening comments against the president. He and a lawyer, Jeffrey Fogel, agreed to talk to the Secret Service, denying the accusation and blaming it on a feud with the neighbor. But when agents started to question the man about his political affiliations and whether he planned to attend convention protests, "that's when I said no, no, no, we're not going to answer those kinds of questions," said Mr. Fogel, who is legal director for the Center for Constitutional Rights in New York.

In the case of the three young men subpoenaed in Missouri, Denise Lieberman, legal director for the American Civil Liberties Union in St. Louis, which is representing them, said they scrapped plans to attend both the Boston and the New York conventions after they were questioned about possible violence.

The men are all in their early 20's, Ms. Lieberman said, but she would not identify them.

All three have taken part in past protests over American foreign policy and in planning meetings for convention demonstrations. She said two of them were arrested before on misdemeanor charges for what she described as minor civil disobedience at protests.

Prosecutors have now informed the men that they are targets of a domestic terrorism investigation, Ms. Lieberman said, but not disclosed the basis for their suspicions. "They won't tell me," she said.

Federal officials in St. Louis and Washington declined to comment on the case. Ms. Lieberman insisted that the men "didn't have any plans to participate in the violence, but what's so disturbing about all this is the pre-emptive nature—stopping them from participating in a protest before anything even happened."

The three men "were really shaken and frightened by all this," she said, "and they got the message loud and clear that if you make plans to go to a protest, you could be subject to arrest or a visit from the F.B.I."

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Interrogating the Protesters

For several weeks, starting before the Democratic convention, F.B.I. officers have been questioning potential political demonstrators, and their friends and families, about their plans to protest at the two national conventions. These heavy-handed inquiries are intimidating, and they threaten to chill freedom of expression. They also appear to be a spectacularly poor use of limited law-enforcement resources. The F.B.I. should redirect its efforts to focus more directly on real threats.

Six investigators recently descended on Sarah Bardwell, a 21-year-old intern with a Denver anti-war group, who quite reasonably took away the message that the government was watching her closely. In Missouri, three men in their early 20's said they had been followed by federal investigators for days, then subpoenaed to appear before a grand jury. They ended up canceling their plans to show up for the Democratic and Republican conventions.

The F.B.I. is going forward with the blessing of the Justice Department's Office of Legal Counsel — the same outfit that recently approved the use of torture against terrorism suspects. In the Justice Department's opinion, the chilling effect of the investigations is "quite minimal," and "substantially outweighed by the public interest in maintaining safety and order." But this analysis gets the balance wrong. When protesters are made to feel like criminal suspects, the chilling effect is potentially quite serious. And the chances of gaining any information that would be useful in stopping violence are quite small.

The knock on the door from government investigators asking about political activities is the stuff of totalitarian regimes. It is intimidating to be vis-

ited by the Federal Bureau of Investigation, particularly by investigators who warn that withholding information about anyone with plans to create a disruption is a crime.

And few people would want the F.B.I. to cross-examine their friends and family about them. If engaging in constitutionally protected speech means subjecting yourself to this kind of government monitoring, many Americans may decide — as the men from Missouri did — that the cost is too high.

Meanwhile, history suggests that the way to find out what potentially violent protesters are planning is not to send F.B.I. officers bearing questionnaires to the doorsteps of potential demonstrators. As became clear in the 1960's, F.B.I. monitoring of youthful dissenters is notoriously unreliable. The files that were created in the past often proved to be laughably inaccurate.

The F.B.I.'s questioning of protesters is part of a larger campaign against political dissent that has increased sharply since the start of the war on terror.

At the Democratic convention, protesters were sent to a depressing barbed-wire camp under the subway tracks. And at a recent Bush-Cheney campaign event, audience members were required to sign a pledge to support President Bush before they were admitted.

F.B.I. officials insist that the people they interview are free to "close the door in our faces," but by then the damage may already have been done. The government must not be allowed to turn a war against foreign enemies into a campaign against critics at home.

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Mr. FRANK. Let me ask you while I have a couple of minutes left, you heard Mr. Kean and Mr. Hamilton talk about this proposal for a board that would look into privacy and civil liberties. Do you all endorse that? Are you familiar with that recommendation? It would be particularly relevant to General Hughes and Ms. Baginski, but to everybody, do you endorse that, and what kind of powers would that board have? Would you agree that such a board ought to be able to commandeer any information from you it would want, the government officials?

I would hope that if we had such a board, they would have a pretty firm right to go to any of your agencies and get the information with appropriate secrecy that they had. Would you be supportive of such a concept? We will start with Ms. Baginski.

Ms. BAGINSKI. I am sorry. Yes. I think that that kind of concentrated look and responsibility at the whole civil liberties issue as we—

Mr. FRANK. I am talking specifically about their right to go to you and say we—you know, really full investigative powers, almost like an inspector general across the board with a civil liberties mandate.

Ms. BAGINSKI. There are many bodies that have that responsibility now.

Mr. FRANK. I am asking about this one.

Ms. BAGINSKI. I wouldn't hesitate to give that kind of information to any of the investigative bodies. If such a body were created, we would certainly do the same.

Mr. FRANK. General, you would be relevant as well.

General HUGHES. I think the answer is, as I tried to express earlier, if such a board is needed—

Mr. FRANK. Is such a board needed, General? Let me ask you a question. You have had a lot of opinions. I have been impressed by a lot of them. It is a little late for "if." Do you think such a board is needed?

General HUGHES. Yes, I believe it is.

Mr. FRANK. Thank you. And you think it should have then the full powers?

General HUGHES. I think it should have full powers, but it should follow the same rules as the government officials whom they are asking information from with regard to the safeguarding of the—

Mr. FRANK. Absolutely. Thank you.

Chairman COX. The gentlewoman from California Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman.

Chairman COX. I am sorry, Ms. Harman. I did not see that Mr. Shadegg was here. So we are going back and forth. The gentleman from Arizona Mr. Shadegg.

Mr. SHADEGG. Thank you, Mr. Chairman.

I appreciate all of your being here, and I appreciate your testimony. I think you have given thoughtful input to us on which of the recommendations are most valuable and which you have concerns about.

I have some concerns about some of them. I particularly have concerns about the issue of whether or not a clandestine military effort should be, in fact, handed over to the Department of Defense.

I am not certain that it isn't important to preserve that capability within the CIA.

But the issue I want to focus you on is one that orients itself towards human nature. The 9/11 Commission has recommended that the current spoke-and-wheel structure of our intelligence network where each agency cannot look at the other's database needs to be replaced with one where each agency can look at the other's database. While I see an advantage to that in terms of making sure that the information is out there for everyone to see, I am worried that human nature will cause that to cause perhaps a diminution in the value of the information that is put into the database.

It seems to me that human nature might cause an agency to put on the database—I don't want to be harsh about this, but there might be a tendency to put on there only things that were not particularly valuable, only things that they knew everybody else already knew, or only things that they were willing to let others know, and if it was this key bit of information that they wanted to take advantage of, it might not be put on the database. Short of—when I asked the Commissioners, the two vice chairs, cochairs, who were here earlier this question, their response was, well, that is why we have a singular czar overhead—I guess “czar” is a word not to be used—a singular person in charge over top to lay down edicts to force that data to be placed into the information network so that it can be accessed by everybody.

I am interested in, since you deal with this kind of data all the time and these kinds of incentives, your thoughts on how we approach that problem, or perhaps it is not a legitimate concern. We can start with whoever has strong feelings on it.

Mr. BRENNAN. The term “database” is used in different ways by different people. You can be talking about one set of data that is all together, that is just melded together, and everybody has access to that big soup, or you can talk about a database in terms of the distributed architecture where you have connectivity between the different data holdings that reside in different networks. And I think what the Commission is looking for is to have some type of overall architecture where there are connections between those different data holdings and data networks so you can pulse them to bring up the information.

That doesn't mean that everybody has access to everything, because I think that would be just a disaster. You want to make sure you maintain compartmentation for those things that need to be compartmented, but you want to make sure you make available to those individuals who need the information everything that should be made available to them. So I think it is more of an architecture as opposed to a single database.

General HUGHES. I will just add that some elements of the information should not be visible to everybody, but the essence of the information between databases I believe should be available generally. We should figure out a technical way to compartment sensitive sources, methods, and other identifying data that would give too much information to the broad user; but the essence of the data can be somehow provided to the larger audience. And I think that is a direction we ought to go in.

Mr. SHADEGG. Ms. Baginski, did you have—

Ms. BAGINSKI. Very similar to my colleagues, I think the truth of the matter is that when we each built our individual databases, there was never any thought about their utility outside of us. So what has happened is we have mixed things that are legal and things that are source and method, and so sometimes it looks to you like we are always saying no, but really you either have an all yes or all no answer. I mean, we haven't set these up to be flexible.

So my view is the solution is what you want to be able to do is essentially what you do in your living room, right, or wherever you might do your own Internet work, which is to do federated queries across disparate databases that are structured similarly so that they provide you results and answer questions that you may have. And what that is going to require is for each of us to agree to different standards, data standards, flagging, tagging, and the separation of the source and method so that we can provide that access, and I think—that is where I think we are moving.

Mr. SHADEGG. If you move in that direction, will there then not be a problem with agencies withholding data from that database which is accessible to other agencies?

Ms. BAGINSKI. There will be less of a problem. I guess we learn to never say never, right? But there will be less of a problem if the sourcing material is not automatically linked to the data. I think there will be less of a problem.

Mr. SHADEGG. So one agency would be able to get the data, but not necessarily the source of that information?

Ms. BAGINSKI. Exactly. I mean one example is to look at what State and local law enforcement have done for years with things like NCIC. There is a price of admission. It is called flagging and tagging data in certain ways, and you are able to ask questions of it and get answers back. And I think there is actually a lot the Intelligence Community could learn from the law enforcement community on this one.

Chairman COX. The gentlelady from California Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman. I was happy to defer my time to a USC parent.

Chairman COX. That makes at least three of us up here on the panel.

Ms. HARMAN. I would like to welcome our panel and make a couple of comments about several of them, whom I have known for some years. Ambassador Black's last incarnation was as head of the CTC at the CIA. He was there after 9/11 and before 9/11. His response to 9/11 is, I think, an example of the response of the hard-working men and women of the Intelligence Community, and his response was basically to camp out in his office for some weeks or months to make absolutely certain that he let nothing slip. And many of us worried about his health. He knows this. And all of us are very grateful for his dedication. And on behalf of those in Congress who knew you then and have watched you since, thank you very much personally for your service, and thank you to all of the men and women of the CTC for everything they have done and are doing.

Mr. BLACK. Thank you very much. You are awfully gracious. I appreciate it.

Ms. HARMAN. There are others on this panel, too, Mr. Chairman, who have done a great deal. Mr. Brennan runs a very interesting operation. I have been there. I don't know whether one can describe where it was or is, so I won't. But I have been to someplace called TTIC, and one of the interesting metaphors is that under the desks of the people that work there are all these hard drives lined up next to each other. Those are the stovepipes. I mean, you can visually see the fact that we don't have an integrated database. We have had a lot of conversation about this, and I guess we are getting there, but it has been a very hard slog. I think everything would agree.

And to Ms. Baginski, who worked at the NSA before this, that agency and her present agency, the FBI, have made enormous progress. I like to say that the FBI has transitioned from the abacus and the smoke signal in the 14th century to the late 20th century. You have only got about 5 years to go and you will be up to date, but it has been a huge transition. So many of us appreciate what you do.

Having said that, Mr. Chairman, we are the Homeland Security Committee. It may be that we don't have all the jurisdiction we need, but we are the Homeland Security Committee. So my one question to all these witnesses is what in your personal view is the likelihood that we will be attacked again? What is the time frame? And if you could just tell us on the public record to the extent you can what is the basis for your view?

Mr. BRENNAN. There will be inevitable attempts, I believe, including this year that try to carry out an attack by Al-Qa'ida. Since we are talking about anytime, anyplace, anywhere by Al-Qa'ida, I think Al-Qa'ida will succeed in penetrating certain security defenses whether it be overseas, potentially here in North America and the United States. I think that the Bureau, the Agency, Department of Homeland Security, have done a tremendous job as far as making this a very inhospitable environment.

Ms. HARMAN. I appreciate, that Mr. Brennan, but I asked you what the likelihood is that we will be attacked, and I mean in the homeland, again; not what you have done to protect it—

Mr. BRENNAN. Ever by any transnational group, I think it is probably inevitable that at some point in the future there will be a transnational terrorist attack here in the United States.

Ms. HARMAN. Others?

Mr. BLACK. I think the use of the word "inevitable" is good. I think from a standpoint of counterterrorism, we must consider it to be probable unless we work against in that process—we reduce the threat as much as possible to defeat them and, should they become successful, minimize the damage as much as possible.

General HUGHES. I don't think it is inevitable at all. I personally believe that we can succeed against the terrorists, and we are so far doing that.

Ms. HARMAN. Ms. Baginski.

Ms. BAGINSKI. I think Cofer said it the best. I think it is probable, and we are doing the best we can to make it inhospitable, but I do think it is likely.

Ms. HARMAN. I agree. I think it is likely, and I think the time frame is short, and I think the need to act is urgent, and I cer-

tainly hope that this committee gets real jurisdiction and that this Congress gets it and we move ahead on very careful recommendations to provide us the kind of interoperable communications and information sharing that are absolutely critical to making us aware of a threat in advance and hopefully preventing the next attack.

Thank you all. Thank you, Mr. Chairman.

Chairman COX. The gentleman from Maryland Mr. Cardin.

Mr. CARDIN. Thank you, Mr. Chairman.

Let me ask also thank our witnesses not only for their testimony today—this has been a long hearing—but for your service to our country. And what Ms. Harman said I would just like to underscore, particularly to the men and women who work in your agencies day in and day out at a great personal sacrifice under very difficult circumstances. If you would express our appreciation to the type of work they are doing for our country, I think every member of the committee would appreciate that.

Many of the areas that I was interested in inquiring have been asked, so I want to spend my time on one area that has been continuously brought to my attention by local law enforcement. I hear over and over again that, yes, things are much better than they were before September 11; however, it is still not where it should be. And part of it, they believe, is the culture of a resistance to consider local law enforcement full partners in the war against terrorism, and that there is not a view that there is really a willingness to totally share information, although they know under the current scrutinies that they will get access to some information.

So I really want you to go through for me where we are in this. If I am a detective in a Palmer City Police Department, and I am working on an investigation perhaps unrelated to terrorism, but I have reason to believe that there may be some connection to terrorist organizations, what do I have to go through in order to complete my investigation to make sure that there is not a terrorist contact here? Can I get the type of access to all the information I need, or do I have to send this to a third party, go through my Joint Terrorism Task Force? What have I got to do in order to be able to fully access in a realistic time frame to complete my investigation?

Ms. BAGINSKI. I think you have raised a very, very important point, so let me be the first to say I think we have a lot of work to do. I think there are three dimensions, but the most inhibiting is the technology dimension, and that is the actual connection of our various systems, the State and local systems, the systems at the JTTFs. They are, in fact, different, and we do have plans to actually work on that.

I think there is a cultural issue. My personal belief is that initiatives like the global—the criminal intelligence information-sharing plan that I am sure you have heard of is the notion that in terms of State and local, we have to allow State and local to lead and to dictate State and local needs as opposed to sort of coming in there like Big Brother and saying, we will tell you when you need to know something. So there is an interaction that needs to occur that has our State and local and tribal partners sitting at the table as a full partner expressing their needs from the Federal family. That is actually—I am watching that develop in certain areas, and I am

actually fairly encouraged by that. And the day-to-day operational level, what would have to happen for us to resolve the issue I think you laid out is if there were some suspicion, it would be into the JTTF, and the answer to the question would come from the JTTF, and I think what you are suggesting is that might not be the most efficient way to get the information.

Mr. CARDIN. Exactly. I understand that. And our Joint Terrorism Task Force is working, I think, very effectively, and I am very pleased by the way it is working. But to expect that a first responder needs to go through another layer of bureaucracy when they already are pressed for time and time might be of the essence, and then they have to fight with the priorities within the Joint Terrorism Task Force, I am not sure that is the most efficient or the best way for that information to be handled. Again, I think there is a view among the first responders that there is not really a trust in letting them have access to the type of information they need.

Ms. BAGINSKI. I can honestly tell you it is not a trust. It is not malice. It is incompetence perhaps sometimes or ineffective execution, and it definitely is not helped by a very difficult information technology issue.

Mr. CARDIN. On the technology point, let me point out that under our current system, of course, almost all of the funding has to go through the State. Now, our State, again, is working very carefully with local governments, but there are many local governments, and we don't always get the same degree of attention to the technology compatibilities for local law enforcement dealing directly with Federal agencies because it needs to go through the State as far as approval process is concerned. One of the issues came out again with the 9/11 Commission's recommendations on the funding issues, I think, also may play into making it a more cost-effective way for local law enforcement to access this information.

Ms. BAGINSKI. From our perspective, getting the Federal family sort of information act in order is job one so that we can interoperate with the State and local and tribal families systems, which they actually must have a voice in and lead in. We cannot be dictating hardware and software and business process to them. It is not effective.

Mr. CARDIN. Thank you very.

Thank you, Mr. Chairman.

Chairman COX. I thank the gentleman.

We have two Members who have not yet had the opportunity to question the panel, and with the indulgence of the panel, I know we are keeping you here an awfully long time, but if you will bear with us, I will give every Member here the opportunity to put questions.

The Chair recognizes the gentlelady from New York, Mrs. Lowey.

Mrs. LOWEY. Thank you, Mr. Chairman, and I want to add my appreciation to the panel for spending so much time with us here today.

Mr. Brennan, I wanted to follow up on a couple of things that were said. Lee Hamilton was here earlier, as you know, and he said TTIC is the right concept, but needs to be strengthened. And then in your presentation you said the model of the 9/11 Commis-

sion is not workable. You also referenced the memo of 2003 where you said there was an encouragement of cooperation and sharing of information, and in further remarks you said that that is improving. Then there was some discussion about upgrading computer technology and how it is so very essential.

What I am trying to understand is can TTIC and all the other agencies which you coordinate do the job that is recommended by the 9/11 Commission? What will be different by the institution of the NCTC if all the agencies are already willing to share and there isn't some embedded, shall we say, determination not to share? Why couldn't it be done right now with TTIC?

Along with that, I am concerned, and I would appreciate it if Mr. Brennan or each of you could answer, are there enough good intelligence people around? How do we encourage more people to enter the field? Should we be doing more training? I believe it is estimated that the new recommended agency will require over 100 new personnel.

So back perhaps to Mr. Brennan, given the fact that Lee Hamilton and the Governor both said that the concept is based on TTIC, from your perspective why can't you accomplish the goals of the new recommended agency? Is it that there isn't an adequate directive from on high? Is it that you haven't been given the authority on high? Is it that the President, as the Markle Foundation has stated, has to have a direct connection to this agency in order to make it succeed?

So perhaps I am throwing several questions, but after listening here all day, I am trying to understand whether it is structure or personnel, whether it is practice or it is policy, or whether it is inadequate directives? Why can't you do the job? I mean that seriously, obviously.

Mr. BRENNAN. First of all, when I made reference before to the model of the 9/11 Commission not being workable, that was the reference to the overall reform of the Intelligence Community, the National Intelligence Director, and the diagram that is on page 14 of their Commission report. That is what I said is not workable, and General Hughes did a good job of explaining some of the concerns that we have with that.

As far as the National Counterterrorism Center itself, the concept that is put forward by the 9/11 Commission, again, it calls for two things differently—two things that the NCTC would do that TTIC does not necessarily do. First is the joint operational planning, and second is net assessments, taking the threat and basing it against the vulnerabilities of a target.

Mrs. LOWEY. Why don't you do that, and could you do it?

Mr. BRENNAN. We can do anything that we are directed to do and we get the appropriate resources to do. Right now what the arrangement is within the Federal Government is that in the Department of Homeland Security there is the Information Analysis and Infrastructure Protection Directorate that this committee was instrumental in setting up. The infrastructure protection element has the responsibility for assessing the vulnerabilities of U.S. critical infrastructure—

Mrs. LOWEY. Should it be there, or should it be in TTIC?

Mr. BRENNAN. Right now it is there by statute, and what we do is we work very closely with the Department of Homeland Security so that the information is shared back and forth.

There is a lot of work that needs to be done on the information protection side in terms of identifying those targets, assessing what the potential vulnerabilities are and what weaknesses that the terrorists could exploit. So what we are trying to do, I think, with this National Counterterrorism Center is try to identify all the responsibilities that need to be carried out and then have the right framework that can fulfill them.

Mrs. LOWEY. I don't mean to cut you off, but I see the yellow on. I just want to say I am a New Yorker. I lost hundreds of constituents on 9/11. It is 3 years later that we are still getting organized and the Department of Homeland Security is still getting organized. Although I believe we have to act expeditiously to implement the recommendations, I wonder if some of these recommendations couldn't be implemented by personnel or different personnel or additional personnel at the current structures. And I think this is a very important discussion, and it is unfortunate that my red light is on.

The Chairman is not paying attention, so you can respond.

Mr. BRENNAN. Just a quick comment on that. I think the secret is that a lot of the recommendations included in here are already being implemented. A lot of work has gone on as far as information sharing and making structural change. So there is still more work to be done, but a lot of things that are entrained already will, in fact, give us a lot of things that are called for in here.

I am not opposing the idea of intelligence transformation. I am one of the biggest advocates of it, in fact a maverick within my own home organization, but I think there have been a number of things that have been done. We represent here on the panel TTIC, the Office of Intelligence, and the IAIP, a clear manifestation of all the changes that have taken place. So what they are calling for here is a continued sort of strategic path that we need to be on, but a lot of things that are called for here are already done.

Mrs. LOWEY. Mr. Brennan, just in conclusion, with the indulgence of the Chair, I read it a little differently, and as a New Yorker, when I hear from several people on this panel that another attack is imminent, we don't have the luxury, and I keep asking why the current structure can't move more quickly, and why we keep creating bigger structures, and where are we going to get all those people to fill those positions? And this is probably another hour conversation. So I just wish you good luck, and I hope that you move to implement these plans, frankly, before another attack, and I hope that you take an aggressive role in reporting to somebody that they had better take action on recommendations that don't need structure changes, such as having airport workers, all of them who are going into a sterile secure area, go through a metal detector.

There are things that have to be done now, and I, frankly, representing my constituents, am quite worried that we are not doing the obvious. So at the same time I want to thank you, but I hope that will speed up the normal pace of the bureaucracy and make

us all safer now, and, as Mr. Hughes said, hopefully avoid another attack. Thank you very much.

Chairman COX. The gentelady from the District of Columbia.

Ms. NORTON. Thank you, Mr. Chairman, and I apologize to the witnesses. Just as it came my time to speak, I was called away on a matter that I will take as a kind of case in point. I am working with security officials of the Capitol and of the District of Columbia concerning the present orange alert and its effects around this Capitol and on this city. And I take it as a case in point, and my question is really based on what amounts to a case study on how much integration is occurring and how it is implemented in the field. In a real sense it may be the best evidence.

I have now had two meetings with security officials in the Senate, the House, the District of Columbia. One of the first agreements we reached, I think, would astound the public. We reached agreement that the executive branch, the congressional branch, and District of Columbia security officials would develop a citywide plan for protecting the Nation's Capital. That means there was none, gentlemen. What we had and what we have had and what was all too clear following this orange alert is that the executive moved to do what it believed was appropriate, the congressional officials moved quickly and with astounding reaction, and the city believes overreaction, and they moved in very different ways.

And this is why I want to put the question to you, for example, Mr. Hughes, is the information analysis and infrastructure protection at the Department of Homeland Security, they moved in very different ways. This is right here in the Nation's Capital where I would think that attention and planning and integration of threats and how to respond would be at their best. They moved in very different ways. The executive along 15th Street where the Treasury Department is, a few blocks from the IMF and the World Bank, moved obviously with—first of all, there was some consultation with the District of Columbia. There was almost none on the congressional side—with some calculation of risk in deciding what to do. Already trucks don't go up 17th Street, so virtually nothing was done on 17th Street. 15th Street is where the Treasury Department is. What they did on 15th Street was to decide to close the sidewalk on the Treasury Department side of 15th Street. It makes good sense to us; some inconvenience to walk on the other side of the street, but be my guest. They may be doing what they have been doing all along, some randomizing of trucks and larger vehicles, but they calculated that you had to continue to have traffic up 15th Street unless the risk was so great that you wanted to take more severe actions. It is the kind of sensible, but we think assessment—somebody was doing some analysis. Somebody was thinking through all of the factors that had to be considered.

Go to the other side of town, further away from at least the targeted threat, but certainly a place where you would better take some action. One of the reasons why you would better take some action is that terrorists know enough how to play chess rather than checkers and how to move around what they are going to do. So if there is a threat on one side of town, they will ride on this side of town to begin to take action.

But the action was very different from the action taken closer to the threat. The Treasury Department is closer to the IMF, is closer to the World Bank and is arguably more related to those institutions than we are, at least as related. No check points on that side of town. The only reason this city isn't closed down is because it is August, and nobody is here but you all and the few of us who are left. No closing of streets.

This is anathema to any big city, absolutely anathema, and the one thing the city will not tolerate is the last-resort measure that you would expect on a red alert, a closing down of a street leading to the major transportation hub of the District of Columbia, Union Station, rail, Metro, light rail, the whole kit and caboodle. You can't get there from there; the streets to that hub already closed down, the next street down, which is the Senate street, closed down. You have got to go all the way back up and get down. This is not a matter of convenience. We had to even have consultation on making sure emergency vehicles, fire, police, EMS, could get through.

I mean, this is a case study, gentlemen, it seems to me, in whether or not there is any integration of terrorist threat going on and any analysis of response is occurring from the absence of a plan to what appeared to be kind of seat-of-your-pants reactions.

I have to ask you what is your role here? Do you have any relationship to the people on the ground? Is your threat analysis conveyed in such a way that Federal officials on the ground have some basis to take reasonable and coordinative action related to the threat that has been identified? And I would like to know the role of your agency in that regard, particularly here in the Nation's Capital where it seems to me it would be paramount.

General HUGHES. I will start by saying that the Department of Homeland Security gives advice and assistance in these matters. We also provide threat information, and in this case we did provide threat information directly to the many officials involved. There are quite a few.

As you know, this is a somewhat complex jurisdictional issue here in the District of Columbia and the two States that encompass it, Maryland and Virginia. We try to inform everyone involved, and in this case it may not have been a perfect job, but we did the best we could at the time. I have to say that the actions, the decisions and actions, are left to local authorities. In this case that would be both—

Ms. NORTON. I am quite aware of that. That is not my question. I know who did it. I am not accusing you of doing it. I am trying to find out whether or not the nature of the analysis of the threat as conveyed to the people on the ground is such that they are doing anything but acting in an ad hoc and uncoordinated manner. And my question really isn't meant to be recriminatory to you. I am just trying to make a link here to an actual case in point because I think we might learn from it.

And by the way, if I may say so, we are the one jurisdiction that does have a coordinator. It is in the statute. So if anything, it is easier here than it would be elsewhere because there is a paid coordinator who is in the Office of the Secretary himself precisely be-

cause this is the Nation's Capital, and yet this is what has happened here only within the last 2 weeks.

General HUGHES. The answer in this case is that the threat information regarding the International Monetary Fund and the World Bank buildings were communicated directly to appropriate authorities here in Washington, DC.

Ms. NORTON. Does anybody else have anything to say about the relationship between the analysis and how those on the ground who are not experts at analysis and therefore have to depend upon the analysts, about that link which is the link I am trying to get at?

Ms. BAGINSKI. Yes, ma'am. General Hughes and my organization have, in fact, done a series of joint advisories and bulletins for State and local authorities to share as much specificity as we can about the nature of this particular threat that would allow them to take countermeasures. So in this case we have a unique situation in that we have detail. I think the frustration in other cases is there is that lack of specificity to begin with, there isn't a lot of detail, and so the analysis that you can do on an isolated threat is—

Ms. NORTON. But I congratulate you that for the first time you really did have, and we are all grateful for the fact that you had, the most specific information we have had since 9/11, and yet we see this seat of your pants all over the city, do as you care to do without much guidance in the analysis of the threat from somebody who knew more than they knew. That is my—that is what I am focusing on.

Ms. BAGINSKI. We actually think that we did provide this analysis, but I think it is worth our going back and taking a look at it for you.

Ms. NORTON. I would appreciate it.

Chairman COX. The gentlelady's time has expired. Each member of the committee having had the opportunity to ask questions of this panel, I want to at last excuse you long after our intended departure time. I know that several of you had to in real time change your schedules today. I know what is going down at the White House concurrently, and we very much appreciate your being with us here for such a long period of time here today.

At this point I would yield to the Ranking Member.

Mr. TURNER. Thank you, Mr. Chairman. I, too, want to thank the witnesses for your patience and indulgence today. We had obviously such a broad scope of issues to delve into, I am sure we could spend many more hours on these subjects, and I hope we will, in fact. And I want to thank each of you for your dedication, for your service and your commitment to making America safe.

Ms. JACKSON-LEE. Will Mr. Turner yield for a question, please?

Mr. TURNER. Yes, I will yield.

Ms. JACKSON-LEE. I heard Mr. Frank's questioning regarding the peace activists and others. I would appreciate it if the same responses or written answers that you might give to him that you would forward to me as well.

And also I wanted to make sure that the questions dealing with the power of the board governing civil liberties, if you were going to give written answers, if you will include me as well. I know you

might be giving them to the committee. I wasn't sure, and I wanted to make sure that those questions came in. Thank you.

Ms. BAGINSKI. Yes, ma'am.

Mr. TURNER. It would be helpful if you would just send that to all members of the committee.

Ms. BAGINSKI. We will.

Chairman COX. I thank the gentleman.

Again, I thank each of our witnesses for your valuable testimony. The members of the committee may have some additional questions, as Ms. Jackson-Lee indicated. We would ask you to respond to these in writing. The hearing record will be held open for this purpose for 10 days.

[The information follows:]

FOR THE RECORD

QUESTIONS AND RESPONSES FOR THE RECORD

QUESTIONS FROM THE HONORABLE JOHN SWEENEY FOR MS. MAUREEN BAGINSKI

1. Does the FBI have real time secure digital communication networks capable of handling Top Secret SCI level information connected to all 84 JTTFs?

Response: The FBI is connected to the rest of the United States Intelligence Community (USIC) at the Top Secret Sensitive Compartmented Information (SCI) level via the new SCI Operational Network (SCION). SCION is currently available to over 1,000 users at FBI Headquarters (FBIHQ). The FBI has initiated a pilot project whereby SCION will be deployed to the FBI's Field Offices in New York, Boston, and Kansas City, with plans to deliver SCION to all FBI Field Offices as funding becomes available. While in most Field Offices there are two Intelligence Information System Network (IISNET) workstations, which permit communications to the USIC's Intelink system, these are difficult to use and are housed in small SCI Facilities (SCIFs) that are not located near the IISNET users. An impediment to field expansion of SCION is the current lack of SCIF space for Field Intelligence Group and Joint Terrorism Task Force (JTTF) personnel, who are the most likely users. Currently, SCION is available to six of the 100 JTTFs.

2. Will the Integrated Data Warehouse be fully functional and available to state and local analysts by the end of December as Director Mueller promised?

Response: Yes. The Integrated Data Warehouse (IDW) is currently fully functional with approximately 6,000 users, including approximately 2,500 users in state and local law enforcement and numerous federal government agencies. Although IDW can only be accessed from the FBI's internal network, it is available to users in all Field Intelligence Groups (FIGs) and all JTTFs and, through these users, IDW is available to the thousands of federal, state, and local officials assigned to these entities. IDW contains more than 30 million FBI terrorism-related documents and billions of database records relevant to counterterrorism and intelligence.

QUESTIONS FROM THE HONORABLE EDWARD J. MARKEY

3. On page 380 of the Commission's report, the Commission recommended that "The United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists." (emphasis added) The Commission further recommends that these "new principles might draw upon Article 3 of the Geneva Conventions on the law of armed conflict" which notes "was specifically designed for those cases in which the usual laws of war did not apply" and is generally accepted throughout the world as customary international law.

As you know, Article 3 deals with conflicts that are not of an international character, such as civil wars, and it includes a specific prohibition on "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" and "outrages upon personal dignity, in particular, humiliating and degrading treatment."

Can I conclude, based on these passages in its report, that the Commission is recommending that captured terrorists should be afforded these types of protections—protections against murder, mutilation, torture and degrading treatment?

Response: The FBI respectfully defers to the 9/11 Commission regarding the recommendations contained in the Commission's report. With regard to the FBI's participation in the interrogation of terrorists outside the United States, FBI agents deployed outside the United States in connection with the war on terrorism have been directed not to participate in the use of interrogation techniques that would not be permissible if used within the United States.

4. There is another Convention that the Commission did not specifically mention in its report—the UN Convention Against Torture. The U.S. is a signatory to that Convention. Article 3 of the Torture Convention provides that “no state party shall expel, return, or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

Do you also believe that the U.S. should follow this prohibition in dealing with captured terrorist suspects?

Response: It is my understanding that it is the policy of the United States to comply with the United States' obligations under the Convention Against Torture.

5. The Bush Administration unfortunately appears to be pursuing policies that are inconsistent with the Commission's recommendation. Specifically, instead of ensuring that the prisoners captured are treated humanely, the Administration continues to practice a process called “rendition,” in which it sends suspected terrorists to be interrogated in third countries, such as Syria or Saudi Arabia, that our government has determined, within the context of the State Department's Country Reports on Human Rights Practices, are known to practice torture. This practice is very difficult to reconcile with President Bush's own declaration, following the exposure of abuse at the Abu Ghraib prison, that: “We do not condone torture. I have never ordered torture. I will never order torture. The values of this country are such that torture is not a part of our soul and our being.”

Perhaps there are some who would argue that as long as we ask others to do the torturing for us, the U.S. is not, strictly speaking, doing the torturing.

Do you agree that if we are to realize the Commission's goal of having the U.S. serve as an example of moral leadership in the world, we should renounce the policy of rendition, which amounts to “outsourcing torture”?

Response: Your question assumes a number of facts that do not involve the FBI. The FBI respectfully defers to entities in the Executive Branch in a better position to respond.

6. If we are to “develop a common coalition approach toward the detention and humane treatment of captured terrorists”—as the Commission has recommended, do you agree that the U.S. should comply with Article 3 of the Torture Convention and train our service men and women so they understand what is required to comply with Article 3?

Response: It is my understanding that it is the policy of the United States to comply with the United States' obligations under the Convention Against Torture.

7. I have recently introduced H.R. 4674, a bill to stop the rendition to countries that torture prisoners. My bill has been endorsed by Amnesty International, Human Rights Watch, the World Organization for Human Rights, USA, and the New York Bar Association.

Do you think it would be consistent with the Commission's recommendations regarding torture for the Congress to enact this type of bill into law?

Response: The FBI defers to other, more directly concerned parties regarding this question.

Chairman COX. I would like to thank all the members of this committee as well as the witnesses on the first panel, the Chairman and Vice Chairman of the 9/11 Commission for an extraordinary piece of business today which required Members to travel from all over the country to be here, and in some cases from other countries.

There being no further business before the committee today, committee stands adjourned.
[Whereupon, at 4:15 p.m., the committee was adjourned.]

